

MINUTES OF THE COUNCIL INTERGOVERNMENTAL RELATIONS COMMITTEE
OF THE METROPOLITAN SERVICE DISTRICT

November 27, 1990

Council Chamber

Committee Members Present: Jim Gardner (Chair), Richard Devlin (Vice Chair), Larry Bauer, Gary Hansen and Ruth McFarland

Committee Members Absent: None

Other Councilors Present: George Van Bergen

Chair Gardner called the seventh Metro/Tri-Met Merger Subcommittee meeting to order at 4:14 p.m.

Subcommittee Members Present: Councilors Gardner, Devlin, McFarland, Executive Officer Rena Cusma, and Tri-Met Board of Directors President Loren Wyss. Subcommittee Members Absent: None.

Discussion of Final Version of Consultant's Report

Casey Short, Council Analyst, discussed his memorandum on the differences between the Cogan Sharpe Cogan and the Joint Policy Advisory Committee on Transportation's (JPACT) final reports on the proposed merger.

Sumner Sharpe, CSC, discussed their report. He said the authority structure if Metro and Tri-Met merged could be a commission, a departmental authority with limited powers, or a committee of the Metro Council itself. Mr. Sharpe referred to language changes in the report's final version on PERS. He said page 21 stated the Column B of the table published on that page assumed "newly hired employees would be covered by PERS, and currently active Tri-Met employees would be covered by PERS with respect to future benefits only. Credit for vesting and eligibility would be granted for previous employment with Tri-Met for up to five years." He said pages 45 and 46 were more specific on models for the merger. He said planning functions could possibly be transferred to Metro's Transportation Department. He said the balance of the final report addressed the value of having a commission and how to delegate authority. Mr. Sharpe said he contacted Dick Feeney of Tri-Met to check on Tri-Met and Metro contracting practices. Chair Gardner asked if Metro personnel would perform a similar review. Chair Gardner said the CSC report did a good job and displayed breadth especially in view of the tight timeline under which it was performed.

Discussion of Resolution No. 90-1361

Chair Gardner noted at the previous subcommittee meeting held November 13, a series of dates for public hearings were announced. He said after discussion with subcommittee members and in light of potential UMTA funding, it was decided to suspend pursuit of the merger until those funding issues were resolved.

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Mr. Short discussed Resolution No. 90-1361, For the Purpose of Establishing a Work Plan for the Analysis of Issues Related to the Transfer of Mass Transit Services from Tri-Met to the Metropolitan Service District. He said the resolution explained the history of the issues, light rail and UMTA funding, implications of the merger and clarified the title specified "transfer," not "merger," and said the former term was the correct one to use in this case. He said the resolution directed the Executive Officer to prepare a request for funding a study to look at the issues raised by the CSC and JPACT studies; stipulated a time line under which to look at the issues; stipulated the study would commence after UMTA full funding issues were resolved after September 30, 1991; directs that Metro's legislative agenda include an item to speak to any legislation that would appeal or oppose state statutory language which allows Metro's "marriage" clause with Tri-Met or any other issues that might arise to obstruct a potential merger; encourage local government participation in a proposed merger process; and to hold public hearings before Metro made any decisions.

Chair Gardner opened a public hearing.

Main Motion: Councilor Devlin moved to recommend Resolution No. 90-1361 to the Intergovernmental Relations Committee and for that Committee's subsequent recommendation for adoption by the Metro Council.

Councilor Van Bergen expressed concern about resolution language, particularly Whereas Section Nos. 10 and 11. He requested written language to clarify legislative intent and belief as stated in the resolution before the Council voted on the resolution and a definition of regional services. Councilor Van Bergen asked for assurance that Administration could perform the tasks it was called upon by the resolution to do. Councilor Van Bergen asked if a task force would work with the Executive Officer on the merger study. Chair Gardner said that would be decided after UMTA funding issues were resolved. Chair Gardner believed the resolution spoke to services provided on a regional basis or those services that could best be provided by a regional governmental.

Councilor Devlin believed Whereas Section No. 10 referred to powers already given to Metro under the authority of ORS 268. Councilor Devlin stated for the record that Whereas Section No. 13, which discussed any attempts to tamper with the marriage clause between Metro and Tri-Met was not explicit, noted Be It Resolved Section No. 4 was not explicit, and hoped it was implicit that it would be inappropriate to tamper with Metro's ability to merge, transfer with, or to assume existing bonds issued by Tri-Met. He assumed that Be It Resolved Section No. 2 was not an all-inclusive list for study and that any other issues that might arise could be studied also. He said with regard to Be It Resolved Section No. 3, UMTA full funding issues had to be resolved before a study took place.

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Councilor McFarland noted Councilor Van Bergen's comment on legislative belief. She said she was told the marriage clause was passed at the time with the intent that the State Legislature would go back at a later date and remove it. Councilor Van Bergen noted testimony he heard other than Commissioner Earl Blumenauer's at the November 13 Subcommittee meeting was Dick Feeney's given at the State Legislature and that Commissioner Blumenauer's and Mr. Feeney's testimony had varied on the issues. Councilor McFarland noted Mr. Feeney had never served as a member of the State Legislature.

Councilor Devlin said Whereas language could be reworded to obtain a more accurate portrait of legislative intent. Chair Gardner noted everyone had different views on legislative intent. He said the best method was to go to the primary source and ascertain what was said at the time and who was for or against legislation rather than asking someone ten years after the fact what they meant when they voted. He said Councilor Collier, Executive Officer Cusma, and staff and he had met with legislators who had stated regional services should eventually be provided by regional government, although opinions varied on when those services should be provided. Councilor McFarland said she was not privy to the meetings Chair Gardner referred to, but would be willing to study written material or allowing a full study to take place and then reviewing the results of a full study.

Mr. Wyss said the status of Tri-Met and Metro ten years ago was quite different from their current status. He said legislators 10 years ago were unable to foresee subsequent development of the two agencies to their current status. He said the resolution, aside from certain Whereas language, was timely and supportable. He said it was never Tri-Met's intent to attempt to change legislation as it currently existed. He said resolution language would force the State Legislature to assess whether action taken 10 years ago was currently appropriate. Mr. Wyss objected to Whereas Section No. 12 language. He said the CSC report questioned whether there would be potential benefits or instead difficulties from the transfer and objected to language that stated the transfer was in the "best interests of the citizens of the region" in Whereas Section No. 13. He said that statement was a conclusion that could well be reached but said there was no evidence it was true from the CSC report.

Councilor McFarland believed the resolution would be more serviceable if it were rewritten. She agreed with Mr. Wyss that the function of this Subcommittee was to assess the pros and cons and not build in assumptions that indicated Metro was leaning toward a transfer. She did not believe enough research had been done to see whether a merger was to the benefit of the taxpayers. Councilor Devlin said Resolution No. 90-1361 was the beginning document in a process that would not terminate until 1992. Councilor Devlin asked Mr. Wyss whether he objected to retention of Whereas Section No. 13. Mr. Wyss said the language already stated a transfer was in the best interests of the region. Chair Gardner believed the language spoke to the study of a transfer at some date. He said any Whereas language could be removed without changing

the impact of the resolution, but noted that language was explanatory to the resolution's intent.

First Motion to Amend: Councilor Devlin moved to amend Resolution No. 90-1361 by deletion of Whereas Section Nos. 10, 11, and 12.

Mr. Wyss believed the resolution was improved without the three Whereas sections, but said he was uncomfortable with the value judgment expressed by "best interests of citizens of the region" in Whereas Section No. 13 which he said had little to do with the transfer itself. Councilor Devlin said the first part of the sentence could be removed and the section could begin with "Whereas, Attempts to eliminate or modify the transfer provisions of existing statutes of the 1990-91 Legislative Session would be inappropriate and counterproductive."

Restatement of First Motion to Amend: Councilor Devlin restated his previous motion to amend with the addition and deletion of language as stated in the previous paragraph.

Councilor McFarland suggested language to state, "Whereas, Metro should retain its ability to transfer the transit system of Tri-Met to the Metropolitan Service District." The Subcommittee discussed all suggested language changes. Councilor Devlin accepted Council McFarland's language as a friendly amendment to his motion to amend.

The Subcommittee asked staff to restate the motion to amend. Mr. Short said Councilor Devlin moved to delete Whereas Section Nos. 10, 11 and 12 and to amend Section 13 to read: "Whereas, Metro should retain its ability to transfer Tri-Met to the Metropolitan Service District; and"

Mr. Wyss suggested instead "Whereas, Metro's ability to transfer the transit system from Tri-Met to the Metropolitan Service District now exists, and attempts to eliminate or modify the transfer provisions of existing statutes in the 1991 Legislative Session would be counter-productive." The Subcommittee discussed and agreed upon Mr. Wyss' recommended language.

Mr. Short restated language as recommended by Mr. Wyss: "Whereas, Retention of Metro's ability to transfer the transit system from Tri-Met to the Metropolitan Service District now exists and attempts to eliminate or modify transfer provisions of existing statutes from the 1991 Legislative Session would be inappropriate and counter-productive; and" Mr. Wyss noted he left out "retention of." For purposes of clarification, Councilor Devlin restated his previous motion(s) and stated his motion to amend should be split into two motions.

Withdrawal and Restatement of First Motion to Amend: Councilor Devlin withdrew his previous motion language and moved to delete Whereas Section Nos. 10, 11 and 12 from Resolution No. 90-1361.

Chair Gardner argued for retention of Whereas Section No. 12 because CSC's report concluded the merger could result in improved regional

coordination in land use and transit. He said the operative phrase was "could result" and the language in that Whereas section stated "poses additional benefits." He said Whereas Section No. 12 language mirrored CSC's reports' conclusions. Mr. Wyss said JPACT expressed more discomfort about that part of suggested reorganization more than any other. He said JPACT members believed existing regional procedures worked very well. Chair Gardner believed two different types of coordination were being discussed and said he referred to land use coordination. Councilor Devlin expressed his full support for the amendment.

Vote on Restatement of Motion to Amend: Councilor Devlin, Executive Officer Cusma and Mr. Wyss voted aye. Councilor Gardner voted nay. Councilor McFarland was absent. The vote was 3 to 1 and the motion to amend carried.

Second Motion to Amend: Mr. Wyss moved to amend Whereas Section No. 13 with the addition and deletion of language: Whereas, [retention of] Metro's ability to transfer the transit system from Tri-Met to the Metropolitan Service District [is in the best interests of the citizens of the region] now exists and attempts to eliminate or modify the transfer provisions of existing statutes in the 1990-91 Legislative Session [would] may be counter-productive; and

The Subcommittee briefly discussed the second motion to amend.

Vote on Second Motion to Amend: Councilors Devlin, Gardner and McFarland, Executive Officer Cusma and Mr. Wyss voted aye. The vote was unanimous and the motion to amend passed.

Vote on Main Motion as Amended: Councilors Devlin, Gardner and McFarland, Executive Officer Cusma and Mr. Wyss voted aye. The vote was unanimous and the motion passed.

Mr. Wyss expressed surprise the resolution made no reference to advantages or disadvantages to Tri-Met ridership. He said that issue should be examined and noted CSC said the transfer would create higher costs and raise the excise tax. He asked who would pay for higher costs, who would benefit from higher costs and asked whether the attendant benefits were worth the effort. Councilor Devlin stated for the record he did not wish to see the excise tax applied to the fare box. He said other exceptions had been made for Metro services. He noted the resolution charged the Executive Officer with carrying the study forward after UMTA funding issues were resolved. He recommended the Subcommittee meet again and give Tri-Met the opportunity to comment on budget and other issues.

Discussion of the Future of the Subcommittee

Chair Gardner said the Subcommittee had a specific charge; to oversee and receive the consultant's and JPACT's report. He said with the

recommendation of the resolution the Subcommittee had fulfilled its charge. He said the Subcommittee could meet again during the budget process with Tri-Met to discuss funding and other pertinent issues. Councilor Devlin said Tri-Met should have a chance to comment on the work plan before the budget process. Mr. Wyss said the Subcommittee had been increasingly sensitive to the substantive problems Tri-Met faced when the transfer issues had first been raised. He said the issues should be thoroughly studied before any substantive decisions were made.

Chair Gardner adjourned the Subcommittee at 5:25 p.m.

Chair Gardner called the regular Council Intergovernmental Relations Committee meeting to order at 5:44 p.m.

1. First Quarter Program Progress Report: Transportation Department

Andy Cotugno, Director of Transportation, gave the Transportation Department's first quarter program progress report.

2. First Quarter Program Progress Report: Planning & Development Department

Richard Carson, Director of Planning & Development, gave the Planning & Development Department's first quarter program progress report.

3. Urban Growth Management Plan

Ethan Seltzer, Senior Regional Planner, reviewed the Urban Growth Management Plan and RUGGO issues.

Chair Gardner adjourned the meeting at 7:39 p.m.

Respectfully submitted,



Paulette Allen
Committee Clerk
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