

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

September 25, 1990

Council Chamber

Committee Members Present: Jim Gardner (Chair), Larry Bauer and Gary Hansen

Committee Members Absent: Richard Devlin (Vice Chair) and Ruth McFarland

o Metro/Tri-Met Merger Subcommittee (Fifth Meeting)

Chair Gardner called the Metro/Tri-Met Merger Subcommittee to order at 6:03 p.m. Subcommittee members present: Metro Councilor Jim Gardner and Executive Officer Rena Cusma. Subcommittee members absent: Chair Gardner noted Metro Councilors Devlin and McFarland and Loren Wyss, Tri-Met Board of Directors president, were excused from attendance at this meeting.

o Update on Project Timeline

Sumner Sharpe, Cogan Sharpe Cogan (CSC), distributed an updated project timeline. He said CSC would research the issues during October and prepare a work plan. He said CSC would assemble all costs, benefits or disadvantages in early November. He said the Subcommittee could then decide whether to pursue the merger on, or one week after, November 13. He said CSC was available for presentations to other Council committees. He said the Subcommittee could introduce an ordinance in late December. He said after November 13 the schedule could be tightened further if necessary. The Committee, Mr. Sumner and Council staff discussed scheduling.

o Review of General Counsel's Analysis

Dan Cooper, General Counsel, referred to his letter to Chair Gardner dated September 21, 1990, on the proposed merger. The letter described the historical and legal background of such a merger; continuation of payroll and other taxes; various financial issues; Public Employees Retirement System (PERS) issues; boundaries; and other miscellaneous issues.

Mr. Cooper said legislative issues addressed in the letter were before the 1988-89 Interim Task Force on Regional Governments chaired by Senator Glenn Otto or had been identified when Metro addressed merger issues in 1983. He noted staff addressed merger issues in summer 1990 as well. He said one important question to ask was what would happen to existing Tri-Met ordinances, contracts and litigation if the merger took place. He said his opinion differed from previous Metro legal opinion which had stated it would be necessary for Metro to re-adopt all Tri-Met legislation to make it Metro legislation. Mr. Cooper said all legislation would automatically continue and all tangible assets would

automatically transfer to Metro. He said the letter addressed those issues at length.

Mr. Cooper said the 1988-89 Task Force noted \$30 million in Tri-Met bonds issued in 1985 would be due and payable if transfer of those bonds to another entity took place. He said that could mean involuntary bankruptcy on Tri-Met's part. He said Metro had every ability to refinance the bonds and noted Metro had extensive bond issue experience because of the Oregon Convention Center and solid waste facilities financing. Mr. Cooper discussed 1983 statutory language related to outstanding bonds. He said the 1985 Tri-Met refinancing meant that statutory language was no longer applicable.

Mr. Cooper discussed PERS, personnel issues and labor contracts. He said Tri-Met employees did not have the right to join Metro's existing pension plan or to automatically join PERS. He said Metro had to honor the existing Tri-Met retirement and benefits plans. He said eventually all employees had to be brought under PERS' auspices and Metro would have to recognize the Tri-Met bargaining unit. He said ORS 242 clearly stated Metro must recognize the existing union and bargaining unit.

Mr. Cooper discussed boundary issues. He said Metro and Tri-Met shared a majority of the territory under discussion. He said some areas, such as Wilsonville, were inside Metro boundaries and outside Tri-Met boundaries and the reverse was true also. He said there was no constitutional provision that precluded differing boundaries. He said different boundaries presented problems for election purposes. He said Tri-Met would not extend into Metro boundaries. He said the boundary issues could be resolved after the merger took place and Metro could shrink Tri-Met's boundaries, but Metro had to resolve how to provide service to outlying areas. He said boundaries could be expanded for election purposes only.

Mr. Cooper discussed the proposed merger's effect on the Metro excise tax. He said Metro had the authority to impose the excise tax on users of the Metro system. He said the Council had to determine and vote on excise tax issues. He said CSC could evaluate the excise tax imposed on the Tri-Met fare box as related to the excise tax imposed on other Metro services.

Mr. Cooper discussed the status of Metro as a metropolitan planning organization (MPO). He said that issue would be more thoroughly researched although it appeared Metro was independent in that regard. He said Metro's legal designation as an MPO would not change. Chair Gardner asked if Metro's current authority allowed Metro to perform the analysis described on the fare box. He asked if Metro could levy a different revenue rate opposed to the one levied on the Metro Washington Park Zoo. Mr. Cooper said a different rate could be levied. Andy Cotugno, Director of Transportation, asked how that could be

accomplished. Mr. Cooper said statutory language could expand Metro's boundary for Tri-Met purposes. He said in excise tax issues, the boundary would extend to the largest area or boundary. He said all previous functions would stay within the old boundary.

Mr. Sharpe asked about the two existing retirement plans. Mr. Cooper explained two statutes were in effect. He said a 1969 statute was in effect as well as one written in 1989 specifically for Metro which could be extended indefinitely as long as the intent remained to incorporate all employees into PERS.

Mr. Sharpe distributed a questionnaire and contact list. He said CSC did not think it was appropriate for them to talk to the involved unions at this time. He said contacts would be surveyed twice and responses measured by weights and values. The Committee, Mr. Sharpe and staff discussed the questionnaire briefly. Chair Gardner said the questions addressed the important issues.

Chair Gardner adjourned the Metro/Tri-Met Merger Subcommittee at 6:36 p.m.

Chair Gardner called the regular Intergovernmental Relations Committee meeting to order at 6:50 p.m.

1. Consideration of September 11, 1990, Minutes

Motion: Councilor Hansen moved for approval of the minutes.

Vote: Councilors Bauer, Gardner and Hansen voted aye. Councilors Devlin and McFarland were absent. The vote was unanimous and the minutes were approved.

6. Resolution No. 90-1234, Confirming Appointments to the Natural Areas Policy Advisory Committee

Rich Carson, Director of Planning & Development, noted the Council had already approved the list of members to serve on the committee and discussed the resolution briefly.

Motion: Councilor Hansen moved to recommend the full Council adopt Resolution No. 90-1234.

Vote: Councilors Bauer, Gardner and Hansen voted aye. The vote was unanimous and the motion passed.

2. Resolution No. 90-1315, Adopting the Annual Transportation Improvement Program

Mr. Cotugno explained adoption of the annual Transportation Improvement Program (TIP) was done annually and listed pending projects as well as past actions, and gave current information on costs and scheduling changes where federal funds were spent. He said the Transportation Policy Action Committee (TPAC) recommended Resolution No. 90-1315 be approved and adopted.

Motion: Councilor Bauer moved to recommend the full Council adopt Resolution No. 90-1315.

Vote: Councilors Bauer, Gardner and Hansen voted aye. The vote was unanimous and the motion passed.

3. Review of TPAC Preliminary Designation of Highways of National Significance

Mr. Cotugno said formal Council adoption was not required. He said a motion of support was requested because the Federal Highway Administration (FHWA) had requested Metro submit a preliminary "Highways of National Significance" list for the Portland metropolitan area within the Federal-Aid Urban boundary. Staff was concerned about designating such a system without being fully cognizant of how the Surface Transportation Act (STA) would use such a system. The Committee and staff discussed the resolution further.

Motion: Councilor Bauer moved to support Councilor George Van Bergen's letter dated September 13, 1990, to the Oregon Department of Transportation (ODOT); to endorse Transportation staff's efforts on the issues; and to develop a strong resolution to support Metro's position on the issue.

4. Review and Comment on Draft State Highway Plan

Mr. Cotugno reviewed his comments in his letter dated September 13, 1990, to ODOT on the Draft State Highway Plan. Mr. Cotugno said the Plan did not have the necessary detail to demonstrate how it would affect the highway program. The Committee and staff discussed the Plan briefly.

Motion: Councilor Bauer moved to approve submittal of staff's comments via Mr. Cotugno's letter.

Vote: Councilors Bauer, Gardner and Hansen voted aye. The vote was unanimous and the motion passed.

5. Resolution No. 90-1326, For the Purpose of Authorizing Entering into an Intergovernmental Agreement Regarding Coordination of Decision-Making for the Westside Project and the Hillsboro Project

Mr. Cotugno said the resolution authorized intergovernmental agreements with all other jurisdictions involved in the Westside Corridor Project for the West Side Light Rail, Highway 26 and 217 improvements, and the Hillsboro extension. He said the resolution laid out the process for decision making on the projects to ensure they complied with state land use law because state land use law could not be interpreted clearly with regard to transportation improvements and projects. He noted the Land Conservation and Development Commission (LCDC) would develop administrative guidelines but Metro and other entities had to develop their own guidelines at this time. He said he expected similar documentation for the Western Bypass Project. The Committee and staff discussed the resolution briefly.

Motion: Councilor Bauer moved to recommend the full Council adopt Resolution No. 90-1326.

Vote: Councilors Bauer, Gardner and Hansen voted aye. The vote was unanimous and the motion passed.

7. Reaffirming Council Support for the November 6 Light Rail Bond Measure, Ballot Measure 26-1

The Committee and staff briefly discussed Agenda Item No. 7. It was noted the Council had previously supported the light rail bonds by adoption of Resolution No. 90-1300 on July 12, 1990.

Motion: Councilor Bauer moved, seconded by Councilor Hansen, to recommend the full Council adopt Resolution No. 90-1327.

Vote: Councilors Bauer, Gardner and Hansen voted aye. The vote was unanimous and the motion passed.

Chair Gardner adjourned the meeting at 7:35 p.m.

Respectfully submitted,



Paulette Allen
Committee Clerk
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