

MINUTES

Eugene City Council
McNutt Room—City Hall

November 13, 1996
1:30 p.m.

COUNCILORS PRESENT: Tim Laue, Laurie Swanson Gribkov, Shawn Boles, Kevin Hornbuckle, Barbara Keller, Nancy Nathanson, Jim Torrey.

COUNCILORS ABSENT: Pat Farr.

Mayor Ruth Bascom called the meeting to order.

I. BRIEFING ON BALLOT MEASURE 47

City Manager Linda Norris introduced the item, noting that 65 percent of Eugene voters had rejected Ballot Measure 47, the property tax "cut and cap" measure that was passed by a majority of Oregon voters in the November 1996 election. She said that staff was in the process of examining the ramifications of the measure and had identified several long-term financial, legal, and legislative issues it wished to present to the council.

Administrative Services Director Warren Wong reviewed the meeting packet materials.

Mr. Wong said that the executive management team met and identified initial guidelines and assumptions for addressing the impacts of the measure. He said that the City needed to both preserve and enhance its cash position. The executive management team wished to ensure that the City had a service system that was sustainable with resources it knows will be available.

Mr. Wong reviewed the provisions of the measure, cautioning the council that much of the measure's impact was not fully known. He said that it would be interpreted through the implementing legislation and was likely to be litigated.

Responding to a request for clarification from Ms. Swanson Gribkov, Mr. Wong said that the measure stipulated that fees instituted since 1995 will be counted against the property taxes the City would receive. Another interpretation suggested that the City could have to return those fees to whoever paid them. He believed that provision of the measure would be litigated.

Regarding the provision of the measure that called for fees to be voted upon, Ms. Swanson Gribkov asked if that included systems development charges. Mr. Wong said no, adding that the provision addressed property tax-supported fees in the General Fund.

Mr. Wong noted the priority placed by the measure on public safety and education and said that the State legislature would likely determine what the provision actually meant.

Mr. Wong discussed the anticipated impact of the measure on the City's General Fund in fiscal year (FY) 1998 and future years. He said that given the cap of 3 percent and a cost curve of better than 3 percent because of inflation and growth, the impact gets worse in future years. Mr. Wong further noted the possible loss of State shared revenues if the State fully funded education and maintained its own level of operations. Because the City's partners in providing services such as animal control and social services were also largely property-tax supported and will be affected by the measure, the City may have to make decisions about whether it needed those services sufficiently to provide them.

Mr. Wong reviewed the impact of the measure on the budget by service category.

Mr. Wong described immediate administrative actions adopted by the executive managers to address the impacts of the measure: 1) the City will not distinguish between funding sources when considering employee wages and benefits to avoid organizational dissension; 2) the organization will establish an immediate hiring freeze with a case-by-case exception process; 3) all nonpersonnel expenditures have been frozen, including contracts and equipment purchases; and 4) staff was preparing a "hold-the-line" budget for FY98; any moneys that might have been put toward new positions or services will be placed into a reserve for revenue shortfalls. Mr. Wong added that once the benchmark budget was established, the council could make decisions to reduce it.

Mr. Wong identified several possible tasks before the council, saying that the council might wish to 1) consider reductions in the currently approved service system or redefine the core service system; 2) consider a local revenue option; 3) review the current work program and stop or postpone various projects now in process to free up the organization's analytical capacity; and 4) determine the status of the proposed public safety levy.

Intergovernmental Relations Division Director Linda Lynch discussed issues that remained to be resolved by the State legislature and suggested that the City had a role to play in the legislative process. She said that education and public safety must be defined by the legislature. Ms. Lynch proposed that the City work with other jurisdictions to define those terms first and ensure they give the same messages to their legislators. She said that the legislature must decide how to allocate remaining revenues, and that decision can only be made when the impact of the measure is more fully known. Ms. Lynch said that the measure included provisions for levies outside the parameters of the measure's limits. How those provisions will work in practice has yet to be determined. She said that another issue to be resolved was the measure's provisions for fees and charges.

Ms. Lynch discussed specific legislative issues that the measure raised for the City, such as existing legislative preemptions on local revenue raising authority and the possibility that those preemptions could be repealed or the legislature could enact new preemptions. She suggested that the City will want to follow closely how the implementing legislation was crafted, and seek flexibility in the implementing legislation. Ms. Lynch said that the issue of how fees increased or instituted since 1995 would be repaid must be resolved by the legislature. She anticipated changes in State law related to local budget law and budget process, adding that those were issues that the legislature was likely to address first, knowing that local jurisdictions were about to begin their budget review processes. Ms.

Lynch further noted the probable impact of the State-mandated budget priorities, such as prisons, on the legislature's decision-making process. In addition, the measure was likely to have effects on State programs that were important to local government, and local governments were unlikely to be able to afford to replace those functions.

Ms. Lynch reported that Governor John Kitzhaber had appointed a task force to begin to examine the issues raised by the measure that included board members from the League of Oregon Cities and the Association of Oregon Counties as well as special district representatives. The governor wanted the bill that will be developed by the Department of Revenue and eventually introduced to the legislature to include the definitions and solutions preferred by local government. Ms. Lynch said that the State legislature was likely to form a similar committee. No legislators were included in the governor's task force.

Responding to a question from Ms. Keller, Ms. Norris estimated the loss of revenue to Lane County as \$4.5 million; to Springfield as approximately \$2 million; to Eugene School District 4J as approximately \$7.4 million; and to Bethel School District 19 as approximately \$1.3 million.

City Attorney Glenn Klein discussed the legal interpretation of the measure and possible litigation over the measure. He said that the measure was ambiguous, inconsistent and complicated, and he anticipated that many interpretative issues would arise. Mr. Klein said that the relationship of the measure to the passage of Ballot Measure 30 regarding unfunded mandates had not been resolved and had yet to be addressed by the State Attorney General.

In terms of litigation, Mr. Klein anticipated legal challenges to the measure on the basis of its validity and its scope. He said that there were aspects of the measure that raised issues similar to those raised in the challenge to Ballot Measure 8. The Circuit Court ruled that Ballot Measure 8 constituted a revision, rather than an amendment, to the Constitution, and a revision could only be initiated by a two-thirds vote of the two legislative houses. While the courts had not been clear on the distinction, the Circuit Court accepted the argument that where there is a fundamental change in the nature of the Constitution in terms of the structure of government, the change was a revision to the Constitution rather than an amendment.

Continuing, Mr. Klein said that Ballot Measure 47 in several ways fundamentally changes the relationship between local governments and the State. It changes the nature of home rule powers of cities and counties. The measure took decision making about budgeting issues and how local jurisdictions can spend money and transferred that power to the State legislature.

Mr. Klein said another challenge could be made to the measure on the basis of the single subject rule. The measure had several different subjects: the "cut and cap," bonded indebtedness, and how operating levies were adopted. Mr. Klein said that another challenge might be made on the basis of equal protection. Depending on the nature of the challenge, the courts could choose to invalidate some aspects of the measure or the entire measure. He said that discrete challenges to the measure on the basis of individual, interpretative questions could also occur.

Mr. Klein said that the Attorney General's initial opinion about the measure had not responded to 20 of 30 questions submitted by the Oregon League of Cities, and the opinion took a view of the

measure that put the interests of local governments at a disadvantage as opposed to State interests. He said that local governments need to submit a counterpoint opinion, and attorneys from several cities would meet as the Legal Advocacy Review Committee at the League of Oregon Cities to discuss the issues and how to produce that response. Mr. Klein said that if the legislature chooses to accept the Attorney General's opinion, local governments will be disadvantaged as a result.

Ms. Norris reported that she had sent a letter to the chief executives of the school districts, Lane Community College, Lane County, and the City of Springfield to suggest that they meet to discuss the measure's impact. The executives met to discuss their recommendations to their boards, councils, and commissions about their response to the measure and legal issues related to the measure. The executives agreed to stay in contact and meet every few weeks to ensure coordination in their response to internal issues and to avoid making decisions that have a negative impact on another jurisdiction. Ms. Norris said that she met that morning with Springfield City Manager Mike Kelly and County Administrator Bill Van Vactor and they agreed about the need to begin identifying intergovernmental efforts currently in place and possible areas where increased cooperation or consolidation of services could occur. She suggested that the Metropolitan Policy Committee was an appropriate forum for further discussion.

Ms. Norris said that staff proposed to use the months of November and December to gather information for the council for a January discussion of how to proceed.

Ms. Norris said that employees have been provided with updates about the measure's impact and she would hold an all-employee meeting on November 14 to discuss potential ramifications of its passage.

Referring to Attachment I in the meeting packet, Mr. Boles said that the service reduction example it included did not reflect adopted council policy. He said that he expected the policy to be followed unless the council changed it.

Mr. Boles said that the result of the measure in future years on local government should be sobering for the council. The measure could reduce revenues for local jurisdictions by as much as \$50 million in five years. He said that the elected officials from the three jurisdictions should meet to discuss what proportion of the revenue cut they wished to offset with service reductions, and what proportion they wished to offset with new revenue sources. Mr. Boles said that the elected officials should first be asked to meet and discuss whether they could reach common ground. He proposed that Mayor-elect Torrey meet with the mayor of Springfield and chair of the Board of County Commissioners to determine whether they wished to spend any effort on seeking new revenues. Mr. Boles said that the elected officials of other jurisdictions should also be asked about their willingness to consider service consolidation.

Mr. Torrey asked Mr. Wong to describe the process of redefining the core service system. Mr. Wong anticipated that City analysts would design a process by searching out both private and public organizations that had gone through such an experience. He likened the process to the development of a mission statement and strategic plan.

Mr. Torrey asked if Eugene was involved in the governor's task force. Ms. Norris said that the City had no direct representative. The interests of local government were represented by a member of the

League of Oregon Cities Board of Directors. The board would meet during the upcoming League of Oregon Cities Conference to discuss its positions. Mr. Torrey believed the City needed to be more directly represented on the task force. Ms. Norris said she shared Mr. Torrey's concern and had questions about the issues the task force would be working on. She said that the City planned to meet with board members and people with influence on the board during the conference. She believed that cities could also contact the task force directly with their concerns. Ms. Bascom suggested that ensuring that the City had a member on the board would be useful.

Mr. Torrey urged staff to keep the lay members of the Budget Committee informed about the ramifications of the measure.

Mr. Laue asked Mr. Klein to discuss the impacts of Ballot Measure 30. Mr. Klein said that the measure had not been closely examined yet. It precluded State government from adopting new programs or expanding existing programs without providing funding to local governments. He said that he had not yet had a chance to determine whether the language in the measure would allow the City to argue that where the State was taking away local revenue, it had an obligation to reduce the mandates it had already placed on local government.

Mr. Laue asked Mr. Klein if measure 47 deleted the home rule provision in the State Constitution. Mr. Klein said that the measure did not specifically address the provision but effectively eviscerated it, leading to the argument that the measure revised, not amended, the Constitution.

Ms. Swanson Gribskov suggested that as many as 150 City positions would be lost as a result of the measure. Ms. Norris said that analysis indicated that as many as 200 positions could be lost. Ms. Swanson Gribskov said that it was critical that the council recognize the degree of personal and professional loss to employees and was sensitive to that loss.

Ms. Swanson Gribskov concurred with Mr. Boles' suggestion for a elected officials meeting and his remarks about service consolidation.

At the request of Ms. Swanson Gribskov, Mr. Wong reviewed the budgetary time line, saying that no revenue would be lost during the current fiscal year. The City has \$11.4 million in cash reserves and staff hoped to add to that amount, which would determine how far into the next fiscal year the current service system could be carried forward. Mr. Wong said that major policy and financial decisions must be made, because while the system could be carried forward to FY98 with existing resources, that would leave the organization with no cash reserves. He said that the executives would likely recommend that the organization make reductions as soon as possible in the current fiscal year. Responding to a follow-up question from Ms. Swanson Gribskov, Mr. Wong said that wholesale program reductions were unlikely to occur until fall 1997.

Ms. Keller concurred with Ms. Swanson Gribskov's remarks about the need to be sensitive to employees' feelings of loss.

Ms. Keller said that addressing the ramifications of the measure would be a large council work item that would have an impact on its work program. She asked staff to outline for the future council what the work load impact would be, and what items might need to be removed from the work

program. Ms. Keller also asked staff to outline for the council the immediate legislative issues that must be addressed and what role the council might play in that process.

Regarding reductions, Ms. Keller asked staff to look proactively at the organizational work program and determine items that could be dropped or postponed so that the City could build its cash reserves.

Ms. Keller advocated for immediate discussion of new revenue sources, noting the community's opposition to Ballot Measure 47 and suggesting that voters might be responsive to a request for new revenues, such as a capital bond measure. She said that the voters should be informed of the ramifications of the measure and given the opportunity to offset those losses.

Ms. Keller said that staff should also consider maintaining services by privatizing them and contracting out functions to private providers, who were not precluded by the measure from raising fees. She suggested that the urban renewal districts could be closed, and current property tax exemptions stopped. Ms. Keller said that staff should also examine the possibility of selling the Hult Center and the airport.

Mr. Hornbuckle reminded the council of his long-standing interest in an income tax and his advocacy of a shift away from the property tax base. He said that dependence on the property tax base had given the "right-wing element like Bill Sizemore and his gang of capitalists the fodder to load up a cannon and shoot up against the public interests." The City Council, he said, had made matters worse by continuing to increase user fees, which is regressive taxation, and propose bond measures, which increase the cost of housing. Mr. Hornbuckle further criticized councilors who likened the City organization to a business and suggested that councilors were interested in the privatization of public services to repay those interests who supported them with campaign funds. He said that his proposals for an income tax base "would fly in the face" of the private interests who finance campaigns for public office at all levels. Mr. Hornbuckle said that without a change in the basic political structure "we're going to keep having more gasoline thrown on the fire." He said that the staff proposals for service reductions in response to the direction of elected officials was another indication of the depth of the structural system corruption. He pointed out that a majority of the council refused to include a question in the annual community survey to gauge the public's reaction to an income tax to support General Fund services, which suggested to him that the City Council had no interest in letting the voters have a voice in solutions.

Ms. Nathanson asked Mr. Klein about the timing of a possible legal challenge. Mr. Klein said that it was possible a challenge could be filed by January and a Circuit Court decision could be rendered as early as March. He added that a bill had been passed following Ballot Measure 8 that provided direct review of the measure by the Oregon Supreme Court. Mr. Klein said that similar legislation would be useful if a challenge was mounted to Ballot Measure 47.

Ms. Nathanson asked when the council would be briefed on the status of major contracts and capital projects, and if the list could be segregated into those projects that could be halted administratively and those that require council action. Mr. Wong said that staff was examining the list of capital projects in the General Fund and determining if the project was a life safety structural project. If projects were not related to life safety issues, it was possible work would be stopped. Ms. Nathanson asked about the status of professional services contracts. Mr. Wong said that the executive managers

would begin examining those contracts later in the week and would have a preliminary recommendation in early December. He added that major projects currently underway or about to get underway, such as the Growth Management Study and the Telecommunications Plan, would be reviewed by the council at a trimester session. Ms. Nathanson suggested that a trimester session might be a little late.

Ms. Nathanson expressed interest in Mr. Boles' suggestion for an elected officials meeting, and stressed the need for a meeting structure that created a proper environment for an open discussion and brainstorming of solutions.

Ms. Nathanson asked staff to consider reviewing revenue options developed in the past to determine whether any could be applied on a countywide basis so the elected officials could consider services in an intergovernmental context.

Ms. Norris said that staff was not considering the impact of the measure only in terms of service reductions, but were also looking at revenue options, legal issues, legislative options, privatization, consolidation, and nonprofit service delivery organizations.

Regarding the issue of service categories as defined in the council's financial goals and policies, Ms. Norris said that when she had discussed Ballot Measure 47 with the Budget Committee she had discussed the difficulty in employing those categories strictly when contemplating a reduction of the magnitude that might occur. When staff tried to use the service categories to develop the analysis of reductions, it discovered that one of the lower service categories included building permits and code enforcement. Ballot Measure 47 would not reduce construction activity in Eugene, and other general fund services will be affected by growth. She said that staff also found that a reduction in one service category often led to increased costs in another, higher priority service category. Ms. Norris recommended that the council review the service categories and consider modifying them for the purpose of further analysis.

Responding to a question from Mr. Torrey regarding the status of the Fire Redeployment bond, Ms. Norris said that there were legal restrictions on how and when the funding could be used, and she had asked Mr. Wong to look into the topic. Mr. Wong added that the City sold the bonds in May and had already received the proceeds and begun excavation at the site at 2nd Avenue and Chambers Street. He said that the Federal government stipulates that 90 percent of the proceeds must be used in three years, or the bonds must be defeased.

Mr. Torrey suggested the possibility the City Council might look to new sources for service delivery, and asked if Mr. Wong would discuss with the bargaining units the possibility that existing staff could bid to provide those services. Mr. Wong said that the executives could raise the topic, noting that the City's contract with AFSCME included provisions specific to the topic. He said that further analysis was needed. Mr. Wong noted that the City had contracts with four bargaining units that included bumping ladders, adding that the process was traumatic and inefficient; since the inception of the ladders, the City and unions had developed transition agreements to overlay the contracts. He anticipated that the City would provide services such as financial counseling, resume writing classes, and out placement assistance to all affected employees. Mr. Wong said that all executive managers would be meeting with their staffs within the week to discuss the measure.

Mr. Torrey asked if the City could retroactively remove property tax exemptions. Ms. Norris said that staff was looking into the question.

Ms. Bascom noted the possibility that animal control could be privatized and delivered by Greenhill Animal Shelter.

Ms. Nathanson, Ms. Keller, and Mr. Hornbuckle left the meeting at 3:05 p.m.

Mr. Boles reiterated his previous points about the need for staff to follow council policy in its service reduction example and said that if council wanted to make changes it should make those changes and not leave them to staff. He said that the council may have to make the decision it could not support growth with General Fund revenues, but those decisions should not be made on an ad hoc basis.

Mr. Boles suggested the possibility that Ballot Measure 47 may force the community to a metropolitan government.

Ms. Swanson Gribskov reviewed Elizabeth Kubler Ross' six stages of grief and suggested that they had relevance in terms of people's reaction to the passage of the measure.

The meeting adjourned at 3:09 p.m.

Respectfully submitted,

Linda H. Norris

Linda Norris
City Manager pro tem

(Recorded by Kimberly Young)
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