

MINUTES

Eugene City Council
McNutt Room—City Hall
777 Pearl Street—Eugene, Oregon

April 27, 2011
Noon

COUNCILORS PRESENT: Betty Taylor, George Brown, Andrea Ortiz, George Poling, Mike Clark, Chris Pryor, Alan Zelenka, Pat Farr.

Her Honor Mayor Kitty Piercy called the April 27, 2011, work session of the Eugene City Council to order.

A. ACTION:

Adoption of an Ordinance Concerning a Four-Year Income Tax for Schools; Adding Sections 2.2000 to 2.2038 to the Eugene Code, 1971; and Providing a Sunset Date

Ms. Taylor, seconded by Mr. Brown, moved to adopt Council Bill 5046 regarding a four-year income tax for schools, adding sections 2.2000 to 2.2038 to the Eugene Code, 1971; and providing a sunset date.

Mr. Clark, seconded by Mr. Poling, moved to amend Section 2.0026 by adding the following sentence: "However, nothing in the rules may require an employer to withhold wages for this income tax."

Mr. Clark indicated his intent in offering the motion was to ensure that an employer could, but was not required, to withhold wages for the income tax.

Ms. Ortiz determined from Finance Director Sue Cutsorge that staff was in discussions with the City of Portland about the potential that agency would administer the tax.

Mr. Zelenka noted criticism that the City did not know the cost of administering the tax, which he did not think was true. He asked Ms. Cutsorge if she was aware of anything that made her question the City's original cost estimates. Ms. Cutsorge said no.

Mayor Piercy indicated the proponents of the tax were informed by the City of Portland the cost to administer the tax could be five percent of the amount collected. Ms. Cutsorge said that figure was based on the experience of Multnomah County, and Eugene's experience may be different. She added that in addition to those costs, there would be other activities Eugene staff would undertake to administer the tax.

Responding to a question from Mr. Brown about whether Multnomah County required employer withholding, Ms. Cutsorge said Multnomah County, the City of Portland, and the benefitting schools had to withhold, and other withholding was optional. There were few Multnomah County employers who chose to withhold the tax. Mr. Brown did not think withholding would be a burden for most employers given the function was routine and computerized.

Mr. Brown observed some of the cost of the tax was presented as avoidance and evasion, and he questioned whether those represented true costs. He believed the council, through adjustments to the rates, had eliminated most of the evasion and avoidance potential in the tax.

Mr. Farr said at level of five percent, the cost of administering the tax through Multnomah County was \$1.2 million. He determined from Ms. Cutsogeorge that those administrative costs were included in the estimate of gross revenues that would not go to the schools (\$7 million) because of tax evasion, avoidance, or exemption. The net amount that would go to schools was \$16.8 million.

Ms. Taylor asked what difference the amendment made. Mr. Klein said the amendment guaranteed that the City Manager could not authorize rules to require employers to withhold. Ms. Taylor asked who benefited from the amendment. Mr. Klein suggested that both employers and City staff benefited. He noted that the ordinance still allowed for voluntary withholding.

Mr. Clark suggested that because addresses could be located inside the Eugene city limits but the residents living at them were not subject to the tax, it would be burdensome to require employers to withhold.

Responding to a question from Mr. Zelenka, City Manager Ruiz confirmed that it was not his intent to require employer withholding.

The amendment to the motion passed unanimously, 8:0.

Mr. Zelenka, seconded by Mr. Poling, moved to amend Section 3 by adding the following sentence: "It is the intent of the City Council that the sunset shall not be extended or repealed unless approved by the voters."

Mr. Zelenka believed the addition of the sentence created an additional political hurdle for a future City Council when it contemplated the extension of the tax. Mayor Piercy supported Mr. Zelenka's intent.

Mr. Farr determined from City Attorney Glenn Klein that the added sentence would not legally bind future councils.

Mr. Brown concurred with Mr. Zelenka. He said people were spreading false fears that a future council would decide to extend the tax indefinitely without referring it to the ballot. He pointed out the council could have done that already but had chosen not to do so. He had a difficult time believing that a future council would extend the tax without referring it to the voters. Mr. Brown suggested that voters could ask those campaigning for council office if they would extend the tax unilaterally or refer it to the ballot. He speculated the answer would be that they would refer it to the ballot.

Mr. Clark supported the amendment as clarifying the intent of the council. He acknowledged future councilors were not bound by the action. Speaking to Mr. Brown's remarks, Mr. Clark said he did not think it was a false fear that a future council would not allow the sunset to expire. He pointed to the example of the City's gas tax, which was intended to expire but which had been extended by a council majority.

Mr. Zelenka recalled that the council had included a sunset clause in the gas tax in the event the State fixed the transportation funding problem, and when the State did not do so the City was forced to make the tax permanent.

Mayor Piercy observed that the proposed tax was modeled on the Multnomah County tax, which had sunsetted after four years.

The amendment to the motion passed unanimously, 8:0.

Mayor Piercy solicited comments on the main motion.

Mr. Clark said while the quality of schools meant a great deal to him, he opposed the motion. He recalled his preference for taking action to assist the schools in the fall following the completion of the legislative session. He did not think the measure was an effective way to help the schools and thought the tax could potentially harm the schools. He said it could harm the economy and families.

Mr. Farr emphasized the fact that despite the amendment just passed, the council could not stop a future council from extending the tax. He said residents had fears that the council would change things that past councils had done and even things that voters had voted upon. He had concerns about the lack of firm information about the costs of administration of the tax. Mr. Farr had also preferred taking action in November, which would have given staff more time to clarify the details of the tax. He questioned adding to the income tax burden of residents when they already paid some of the highest income tax rates in the country.

Mr. Poling agreed with Mr. Farr about the timing of the issue. He continued to have questions about the mechanics of the tax that staff had been too burdened with work to determine. He also continued to believe the tax was unfair because of the fact that many students lived outside the city limits and their families would not be subject to the tax. In addition, some Eugene residents were inside the Junction City School District and it made no sense to tax those residents for Eugene schools. The tax would not fix the problem, would be a temporary stop-gap, and it was possible passage of the tax would make it easier for the State to avoid addressing the problem. He also questioned the emergency nature of the problem given how long it had been in existence.

Mr. Zelenka averred Oregon had high income taxes because it lacked a sales tax. He said no tax was perfect. However, he believed the proposed tax was workable and it accomplished what the council was trying to accomplish. He concurred that education funding was a State responsibility but the State had failed to solve the problem and did not appear to have a plan to do so. Mr. Zelenka declared "enough is enough." He did not want to see shorter school years or larger class sizes. He believed the structure of the tax was fair and equitable. It was not fair to require those below the poverty line to pay more, and the ordinance removed the burden from those residents and placed it on those who could afford it.

Speaking to the gas tax mentioned by Mr. Clark, Mr. Brown pointed out the council agreed to extend it unanimously. He believed the most unfair thing would be to not pass the ordinance because it would increase classroom sizes and shorten the school years. He believed the system was reaching a crisis point, as evidenced by the loss of 100 teachers and 10 school days and increased class sizes. Mr. Brown emphasized the difference that smaller class sizes made to education.

Mr. Clark agreed with Mr. Zelenka and Mr. Brown about the importance of quality schools and about the consequences of fewer school days and larger classes. However, the council was only considering one side of the balance sheet. He believed the solution was cost control, and that was a legislative function. He said if local school districts could do more to control their costs, such as the cost of PERS and employee compensation, he believed Eugene would have world class schools. However, that was not the case. Because of that, he did not think the council should try to solve the schools' funding problem. It

might have good intentions, but it could do something that harmed the schools by continuing the existing governance and funding structure.

Mr. Pryor did not think anyone was comfortable with the proposed tax. He said it would be great if the school funding problem could be fixed in a different way, but that was not going to happen. The legislature had failed to act for 20 years. He did not necessarily like the proposed tax but supported it because he did not want to harm kids. He said the school districts needed to reinvent themselves in significant ways. The tax was a way to buy time for that process. He would have preferred to wait for the November ballot, but the proponents wanted the measure on the May ballot and he was willing to accommodate them. Mr. Pryor supported the motion but did not see the tax as the ultimate fix.

Ms. Taylor said the temporary tax was all the community had. She said teachers could not do their jobs in the conditions they faced. She also emphasized the importance of a healthy, well-funded education system to the economy. She believed the community was facing an emergency and while it was not ideal, the tax was a partial temporary solution.

Mayor Piercy said the tax was designed to preclude some of the damage from proposed reductions. She pointed out that there an oversight committee to ensure that the funds were spent appropriately. There was transparency and accountability built into the tax.

The motion passed, 5:3; Mr. Poling, Mr. Clark, and Mr. Farr voting no.

B. WORK SESSION:

Adoption of Resolution 5029 Amending Resolution 4281 Providing an Additional Way for Property Owners Subject to a Crest Drive Area Street Improvement Project Assessment to Qualify for the Street Subsidy Program

Ms. Taylor, seconded by Mr. Brown, moved to adopt Resolution 5029 amending Resolution 4281 providing an additional way for property owners subject to the Crest Drive Area street improvement project assessment to qualify for the Street Subsidy Program.

Responding to a question from Ms. Ortiz, Mr. Klein explained that resolution allowed those affected by the Crest Drive Area street improvement project and who had experienced a change in economic status to apply for the program. The council would be changing the rules of the program for residents subject to the Crest Drive assessment.

Ms. Ortiz indicated her opposition to the motion because it changed the program rules for a targeted group and the benefits had not been available to residents of her ward similarly impacted by road improvement projects.

Responding to a question from Mr. Poling, City Engineer Mark Schoening explained that the resolution would not change the allocation of project costs but would reduce the assessment for those who qualified, which increased the City's share. The funding to reduce the assessment came from the Low-Income Subsidy Fund. Mr. Poling asked if the money in that fund could be directed to other projects. Mr. Schoening did not know. He noted that the fund was established in 1991 for the purpose of subsidizing assessment projects and now contained about \$35,000. Responding to a follow-up question from Mr. Poling, Mr. Schoening did not recall that any money being added to the fund since its establishment. Mr. Poling asked if the amount of money in the fund would be increased after the Crest Drive project was

paid off. Mr. Schoening acknowledged that staff had not discussed that question. Mr. Poling was concerned about that as he expected other projects would require such subsidies.

Mr. Poling agreed with Ms. Ortiz about changing the program rules and indicated his opposition to the motion.

Mr. Clark shared the concerns expressed by Ms. Ortiz and Mr. Poling but he also acknowledged greater job volatility in the community. He was generally in favor of adjusting the criteria to account for a person's current economic status. However, he was challenged by the fact the resolution appeared to address one area of the community and a single project. Mr. Clark indicated he could support the motion if changed to read ". . . *for property owners subject to any future street improvement project assessment to qualify for the Street Subsidy Program.*" Mr. Klein indicated that would require another resolution because there were no other street assessment projects where income as of April 11, 2011, was an important factor. If the council chose that approach, it needed to direct staff to produce another resolution, which would result in further delay to the Crest Drive assessments. He indicated the council would act on the actual assessments once applications for the subsidy had been approved.

Mr. Clark said he was unsure about his position on the motion given his concern about changing the rules as proposed and his concern about the affected residents.

Mr. Zelenka suggested the council could adjust the dates for future street assessment projects to accomplish what Mr. Clark wanted to see happen. Mr. Schoening indicated that City policy would have to be changed to accomplish that. Mr. Zelenka recalled that the council had recently changed the code to increase the categories of those who could defer street assessments, which he suggested was also changing the rules in midstream. He did not see much difference between that action and what the council was considering now.

Mr. Zelenka thanked Ms. Taylor for bringing the issue up because it was a real issue for many residents who had lost their jobs.

Mr. Farr determined from Mr. Schoening that 24 people affected by the Crest Drive project had qualified for the subsidy for a total of \$171,000. Mr. Farr determined from Mr. Schoening that there was no difference between the project in question and the Elmira Street project in terms of the project assessment structure. Some residents on Elmira qualified for the low-income subsidy while others financed the improvement through the City. Mr. Schoening acknowledged those residents' financial situations could have changed in the meantime.

Mr. Pryor thought the City's basic policy was a good one. He agreed that it was not usually a good thing to change the rules in mid-stream because it created an appearance of inconsistency, but believed that extraordinary economic circumstances justified the resolution in this instance. He would want more discussion if additional changes were to occur.

Ms. Taylor said the proposal merely required the City to consider current, not past income. She advocated for additional discussion of the subject.

The vote on the motion was a 4:4 tie; Ms. Taylor, Mr. Zelenka, Mr. Pryor, and Mr. Brown voting yes; Ms. Ortiz, Mr. Clark, Mr. Farr, and Mr. Poling voting no. Mayor Piercy cast a vote of support and the motion passed a final vote of 5:4.

**C. WORK SESSION:
Ward Redistricting**

Mr. Clark stated his company worked closely with a company that created what he termed the “national gold standard” for redistricting software. He had not been involved in any conversations about the City’s redistricting process and would not profit if the City chose to employ that software.

City Manager’s Office Division Manager Keli Osborn joined the council for the item. She sought direction from the council regarding oversight of the ward redistricting process and feedback on the timeline, which was included in the meeting packet as Attachment D, *2011 Ward Redistricting--Timeline*. She referred the council to Attachment E, *2011 Ward Redistricting—Criteria for Drawing Eugene Ward Boundaries*. She recommended that the criteria be discussed further by the council and tested with the community in May 2011 through an interested parties list, a Web survey, and a drop-in forum. Following that, staff would return to the council in June with draft criteria to guide drawing of the boundaries.

Ms. Osborn called the council’s attention to Attachment C, *2011 Ward Redistricting—Process Alternatives*, which outlined the oversight and public process options.

Ms. Osborn noted that Jason Dedrick, Sarah Zaleski, and Laura Hammond of the Planning and Development Department would assist in the process, and the Lane Council of Governments (LCOG) could serve a consultative role. She reported as part of the public outreach process, Pat Hocken of the League of Women Voters as well as a representative of the Eugene Water & Electric Board (EWEB) were present, and the City had also reached out to many other organizations.

Ms. Osborn called the council’s attention to Attachment B, a ward map showing the locations of the residences of current councilors and Eugene Water & Electric Board commissioners. She also called attention to Attachment A, which provided demographic information about each ward.

In regard to the first request for direction, the council unanimously concurred that that it would oversee the ward redistricting process rather than establish a separate committee. Councilors also concurred with the timeline, with some objection from Ms. Taylor because of her belief the process should be completed in August so potential candidates would know what ward they were in and what council seats they should run for before September 8. Mr. Poling wanted to have the process completed by the time the council went on its summer recess if that was possible.

Mr. Farr expressed interest in knowing why Portland State University’s population figures were different from the population figures provided for this work session. For example, he recalled that PSU had projected a lower population for Ward 3 while the 2010 US Census data for Eugene showed an increase compared to some wards. Ms. Osborn reminded the council that staff had cautioned in February that the PSU figures were preliminary and that Ward 3 included group housing situations that were not fully reflected in those numbers. She said for the purpose of the US Census, college students who lived in Eugene were counted as Eugene residents though they may not always be registered as Eugene voters, which might also add to the discrepancy. Mr. Farr expressed concern that Ward 3 as currently established could have a lower percentage of voters than other wards, for example Ward 6. Ms. Osborn reminded the council that redistricting also was intended to provide equal protection under the law to residents, and that included persons of all ages and non-voters.

Ms. Ortiz asked staff to assist the councilors with their outreach to the community.

Mayor Piercy recommended that groups with interest in the process contact Ms. Osborn. Ms. Osborn noted that interested residents could also consult the City's Web site, which included a link to information about the redistricting process.

Mr. Clark wanted the outcome of the council's efforts to be put out for public comment.

Speaking to Mr. Farr's remarks, Mr. Clark believed the City was legally obligated to use US Census Bureau figures. He noted that the bureau would adjust census numbers for only three reasons. Following the 2000 census, the bureau granted only 39 appeals for adjustments in the entire country.

Also speaking to Mr. Farr's remarks, Mr. Zelenka added that as many as 3,500 people in Ward 3 had perhaps not been counted in PSU figures, which added to the discrepancy between counts that Mr. Farr had mentioned.

The council briefly discussed the timeframes for the State and County processes. , Ms. Osborn pledged that staff would work as quickly as possible to get as much done as possible by the August recess, but she cautioned that it can be difficult to get on the council agenda, summer could be a challenging time for public involvement, and coordination with the State and County may be desirable, so she was reluctant to offer guarantees. She would continue to seek council feedback when possible.

Ms. Taylor, seconded by Mr. Brown, moved to designate the Eugene City Council as the review and decision-making body for ward redistricting criteria, scenarios, and process. The motion passed unanimously, 8:0.

Mayor Piercy adjourned the work session at 1:24 p.m.

Respectfully submitted,

Beth Forrest

Beth Forrest
City Recorder

(Recorded by Kimberly Young)