

MINUTES OF DIRECTORS MEETING  
LANE COUNTY MASS TRANSIT DISTRICT

ADJOURNED MEETING

February 23, 1982

Pursuant to notice given at the February 16, 1982 regular meeting and distributed to persons on the mailing list of the District, an adjourned meeting of the Board of Directors of Lane County Mass Transit District was held at the City Hall in Eugene, Oregon, on February 23, 1982, at 7:30 p.m.

Present: Janet Calvert  
Kenneth H. Kohnen  
Ted J. Langton, President, presiding  
Polly Nelson  
Glenn E. Randall, Vice President/Treasurer  
Phyllis Loobey, General Manager  
Jo Sullivan, Recording Secretary

News Media Representative:  
Ron Bellamy, Eugene Register-Guard

Absent: Peter M. Brandt  
Janice Eberly, Secretary

INTRODUCTORY REMARKS BY BOARD PRESIDENT: Mr. Langton stated that there was a long agenda for that evening's meeting and asked that people who were present to speak regarding specific issues on the agenda wait until those issues were presented.

AUDIENCE PARTICIPATION: Mr. Langton then called for audience participation regarding items not on the agenda. Jake Jacobson, owner of Santa Clara Texaco on River Road, said he had heard the District was putting a restaurant at River Road and Beltline. Mr. Langton responded that the District will be constructing a park and ride facility there, but no restaurant. Mr. Randall added it is not the District's intent to build a restaurant adjacent to its property there, but didn't know what the owners of that property had planned.

MOTION APPROVAL OF MINUTES: Mr. Randall moved that the minutes of the January 19, 1982 regular meeting and the February 2, 1982 adjourned meeting be approved as distributed. Ms. Calvert seconded, and the motion carried unanimously, with VOTE Ms. Nelson not yet being present at the meeting.

ORDINANCES #23 AND #24--SELF EMPLOYMENT TAX: Mr. Langton opened this subject for discussion by saying that the purpose of these ordinances is to broaden the District's tax base, not to bring new money to the District. He then asked for audience participation.

Art Mehas of 1220 Goodpasture Island Road, Eugene, asked if this proposed tax had been challenged as being legal, and how it would be levied. Paul Shinn, Director of Administrative Services, responded that it would be levied against the net income of self-employed persons, would be another line on the state tax form, and would be administered by the State Department of Revenue. Mr. Mehas said that he would ask the State Attorney General to challenge this tax as an income tax, on his behalf. He also asked why the District was in the situation of needing more money, and Mr. Langton responded that sources of revenue for the District are shrinking due to the economic conditions and there are fewer federal grant monies available. Mr. Mehas commented that there were fewer people in the community and that LTD would be taxing the survivors, to which Ms. Loobey responded that that is not the intent of the ordinance.

Jake Jacobson of 2690 River Road spoke again. He said he had never ridden the buses and hoped he never would have to. He said that bus riders come to his station to get change, use his facilities, and never use his gas, and he is 100% against the ordinance.

Mr. Mehas said he assumed that if people have left the county, there are fewer people riding the buses, and asked why the District didn't reduce expenses rather than raise the taxes, and whether the Board was worrying about District employees or the taxpayers. He stated that his business was not great and he did not want to share more of his money with LTD.

Donald Smith, of 2221 East Irwin Way, Eugene, asked how this tax would be paid, and said he had thought it would be on something other than net income. He said he thought there would still be a lot of freeloaders if it was based on net income.

Mr. Jacobson asked what percentage of people in Lane County use the buses. Ed Bergeron, Marketing Administrator, responded that in a given month from 17% to 20% of the public will use the bus at one time or another.

Gary Brothers spoke from the audience and asked what percentage of the people who ride the bus own real estate or property or are taxpayers who are contributing to society, or if the District was asking self-employed persons to pay taxes so that people who can't afford cars and gasoline could ride the buses.

Mr. Langton pointed out that there is no deficit at LTD because the District had taken some severe steps to reduce expenses and cut costs to keep them in line with the revenue flow. Secondly, he said, this was not a mere tax issue, not a means of increasing District income, but a means of broadening the base of the system. He said that the payers of the payroll tax are a small group of employers in Lane County, and they support the system in excess of 60%, and this issue is merely an attempt to broaden that base of support.

Mr. Randall added that he wanted to make it clear to everyone present that it was in the agenda that the staff recommended lowering the tax rate for the payroll tax payers, so the self-employment tax would not increase the District's income.

Steve Wheeler, of Post Office Box 2542, Eugene, asked if reducing the payroll was being done to help "sell" the self-employment tax, and once it was collected, the payroll tax would be raised to the legal maximum again. He said that the business people of Lane County are cutting back as a matter of survival and he didn't know why the bus system should be run any differently. Mr. Langton repeated that the District had cut back considerably, to which Mr. Wheeler responded that LTD shouldn't need to ask for more money at a time like this.

Mr. Randall stated that there was no guarantee that the payroll tax wouldn't go back up if the need was there, and that LTD was not an ordinary business but a public service much like firefighters and policemen, and the running of the buses is to provide transportation to those who want it or need it, whether or not they take it. He said that the Board understood the desperate economic conditions of the county, and repeated that the District had already cut back and would be prepared to do so again if it became necessary.

Steve Wheeler thought that the District should not reduce the fare from 60¢ to 50¢, ask for more money from the self-employed people, and then run empty buses around town. Mr. Langton replied that ridership is up 10%, not down, probably due to the economic conditions in the area. Secondly, he stressed, the self-employed group is not a select group that should be avoided or ignored, because the support of the system so far has been upon the shoulders of the payroll tax payer.

Mr. Langton then asked the District's legal counsel, Randall Bryson, to explain the income that would be taxed under this ordinance. Mr. Bryson stated that it would tax exactly what the Federal government does when it taxes net earnings for self-employment. He said it would affect people who own businesses and professional people who have had to pay the payroll tax on their employees. Presently, he said, attorneys who are incorporated have to pay taxes on their own incomes, whereas attorneys who are not incorporated are free of tax on their incomes, so this tax would have a leveling effect and would make things more equal.

In response to a question from the audience regarding how the District had projected that there was any money to be collected this way, Mr. Bryson stated that staff had a rough estimate, based on Department of Revenue figures, of \$380,000, which would be used as replacement dollars when lowering the payroll tax base.

Mr. Jacobson asked if LTD had ever been profitable, to which Mr. Langton replied that it has always been subsidized and that fare revenues generate 20% of the cost of operation.

Richard Gilbert, a real estate broker whose address is 84601 Weatherberry Lane, Pleasant Hill, asked to give the Board some background on why he felt the program was before the Board from the Legislature. He said that as the broker for Gilbert Realty, three years ago he filed an action against the State of Oregon Department of Revenue, on behalf of himself and the independent contractors who worked for him. The decision, he said, was handed down in his favor and he received \$2,300. There was a projected loss of \$7-10 million from LTD and Tri-Met.

Mr. Gilbert agreed with Mr. Mehas that ridership may be up 10% but the District's spending was probably up 20%, and he didn't think a tax on self-employed persons was fair now or in the future. He thought the District should be dealing from the present economic levels of the county, and said he hoped the Board would consider tabling this matter.

In response to questions from the audience, Mr. Langton explained that the payroll tax rate was presently at the maximum, had been raised and lowered several times, and has been lower more than it has been at the maximum.

An unidentified woman spoke from the audience and said she thought that people may incorporate in order to keep their money in the corporation and only pay themselves a certain rate, to avoid paying taxes on the total. She added that as a sole proprietorship, she pays taxes on her employees, and she thought there should be a limit.

Ms. Calvert asked the members of the audience if they thought it was equitable to have only the current employers pay the taxes. Mr. Wheeler responded that he currently pays taxes on his employees, and said a payroll tax is based on the amount of work done, not on the creativity of the person who runs the company. He said that the more efficiently he runs his business and the better he does, the more he is going to be taxed.

Mr. Kohnen stated that he thought there was a misconception; the tax is on self-employment income, which is not necessarily net income. He explained that it would be based on the government definition of self-employment income, which is the same income on which Social Security taxes are paid.

Mr. Mehas asked if the District would consider cutting back service, to which Mr. Langton replied that it already had. Mr. Mehas then suggested that the Board raise the fares.

Mr. Gilbert asked what groups would be exempt from paying the self-employment tax. Mr. Langton said that governmental payrolls are exempt, but since they pay an in-lieu-of-tax payment, no one is actually exempt.

Ms. Loobey then explained that the procedure regarding this ordinance would be to have the first reading at this meeting and the second reading and possible adoption at the next regular Board meeting in March. If the Board adopted the ordinance in March, there would then be a 60-day referendum period, and if someone could gather enough signatures opposing the ordinance, it would go on the ballot and the tax would be in abeyance until the next election.

Mr. Langton remarked that there was no doubt in the Board member's minds that the audience was vehemently opposed to this ordinance.

Mr. Langton then closed this topic for audience participation. Mr. Kohnen stated that he thought there should be a higher minimum income to match the \$3,500 requirement for married couples filing joint income tax returns.

In response to Ms. Calvert's question regarding apportionment, Mr. Bryson responded that some people have earnings from within and without the District, and the ordinance would tax only those earnings within the District, on a formula determined by legislation. Mr. Shinn added that the Department of Revenue would prefer that the District collect on a sales apportionment basis because that is the way Tri-Met does it, and Ms. Nelson stated that the sales apportionment factor should be about the same as payroll.

MOTION VOTE Mr. Randall moved that Ordinance #23 be read by title only. Mr. Kohnen seconded, and the motion carried unanimously, with Ms. Nelson now being present at the meeting. Copies of ordinances #23 and #24 were handed out to interested members of the audience who did not already have them. Mr. Langton read the title: "Lane County Mass Transit District Ordinance No. 23, An ordinance imposing a tax on net earnings from self-employment and providing for administration, enforcement and collection of the tax."

MOTION VOTE Ms. Calvert moved that the minimum tax base level in the ordinance be \$3,500 net earnings, and that the factor for apportionment be a sales factor. Mr. Kohnen seconded the motion. Ms. Nelson asked a question regarding net earnings versus sales, and Mr. Langton explained that net earnings would be the base of the tax, but how much of the net earnings would be taxable would be based on the percentage of sales within the District. With no further discussion, the motion carried on a unanimous vote.

Mr. Randall stated that he is opposed to making this shift from the "Mom and Pop" operators of a grocery store to the service station owners to the small, private entrepreneur, to take away from them and give money to "Ma Bell" and Georgia Pacific and Weyerhaeuser. He thought that, inasmuch as the District was not gaining any income from this tax, it would be unfair to shift from the large corporations to small, struggling business persons.

Mr. Langton asked about the small corporations, and Mr. Randall said he thought that more small people would be hurt by making the shift.

Mr. Kohnen asked legal counsel if the Board would be able to make changes in the ordinance. Mr. Bryson replied that the Board could make changes now and next month, and then act on the ordinance with those changes.

MOTION VOTE Mr. Randall moved, and Mr. Kohnen seconded, that Ordinance #24 be read by title only. The motion carried on a unanimous vote, and Mr. Langton read the title: "Lane County Mass Transit District Ordinance No. 24, An ordinance imposing an excise tax on employers, providing for administration, enforcement and collection of the tax, and conditionally terminating the application of Ordinance No. 20."

LCC TRANSIT SITE IMPROVEMENTS: In introducing this topic, Mr. Langton remarked that there is an element of safety with regard to the physical setup at Lane Community College, since it is a very active, busy spot.

MOTION Mr. Kohnen made a motion in three parts: (1) that the staff be authorized to pursue an amendment to the current Section 18 grant to allow the District to make improvements to the existing LCC transit station; (2) that a maximum budget of \$34,000 be authorized, of which \$6,800 would be local match; and (3) that staff be directed to work with LCC to develop improved LCC facilities, using LCC design services as local match whenever possible. Ms. Calvert seconded the motion.

Mr. Shinn explained that the District wanted to construct a new LCC transit station three years ago; LCC said the District could improve the present location, but there was no money for the project. Ellen Bevington, Planning Administrator, stated that LCC administration sees shelters, sidewalk amenities, etc., as an extra service to the student body. Ms. Calvert asked how much time it would take to change the Section 18 grant. Mr. Shinn replied that staff thought about two months; the program is administered by the State Transit Division, who would decide if they would rather let LTD use the money for this project or give it to someone else.

VOTE Mr. Kohnen called for the question, and the motion carried 4-0, with Mr. Randall being absent from the meeting room, and Calvert, Kohnen, Langton, and Nelson voting in favor.

TRAVEL POLICY: Ms. Calvert asked if the administration had established some type of minimum/maximum expenses allowed per day when people travel. Ms. Loobey said that that had not been done in the past; that meetings were budgeted in the budget process according to where they were located and the expenses normal for those locations; and that for in-state meetings, staff try to cut expenses as much as possible, by staying with relatives, etc. Ms. Calvert thought that a per diem allowance might be helpful when setting up a travel policy. Tim Dallas, Director of Operations, said that the District's experience as a small agency had been that staff had a tendency to err on the low side. He thought that setting a per diem might encourage staff to spend that much money instead of striving to spend as little as possible.

Mr. Randall stated that he was not totally happy with the report, and wondered why LTD would pay any part of the cost to send our General Manager to another property to explain transit issues to them. Ms. Loobey replied that she had learned as much from the transit people in Alaska as they had from her. Mr. Randall thought it wasn't enough to set a dollar limit, but the District should look toward what benefit it gets and the justification to the taxpayer. He also thought the Board and staff should confine their activities to conferences of a general nature unless the cost to the District was nothing.

Mr. Randall asked if the Acting General Manager received his own salary or that of the General Manager during the General Manager's absences. Ms. Loobey replied that they receive their own salaries.

Mr. Randall then stated that he had not had time to read all the agenda material on this subject and asked that it be held over until the next meeting. Mr. Langton suggested that it be held over and that Mr. Randall come back to the Board with a new policy. Mr. Randall said he would write a policy and get it to staff in time to prepare for the next meeting.

MOTION POLICY MANUAL--CHAPTERS 2 and 3: Mr. Randall moved that the Board adopt Chapters 2 and 3 of the policy manual. Ms. Nelson seconded the motion. Mr. Kohnen said he had noticed some inconsistencies in section 2.040--Representatives of Board of Directors, regarding appointing committees or representatives.

Mr. Kohnen also said that the chapter stated that all actions of the Board other than ordinances should be by resolution, and the Board had never really done that. He thought that while starting a policy manual, it would be a good time to begin using resolutions to establish (as opposed to implement) policies, and to keep them in a book so changes could be clearly identified. Mr. Shinn replied that Chapter One of the Policy manual included a provision that the General Manager would provide substitute or additional pages to the holders of the Policy Manual, and that the manual would be republished annually.

MOTION TO AMEND VOTE Mr. Randall moved that the motion be amended to delete subsections 2.042(d) and 2.042(e) of Chapter 2 of the Policy Manual. Mr. Kohnen seconded the amendment. Mr. Randall remarked that this deletion would make section 2.040 conform with subsections 3.041(b) and 3.042(b) of Chapter 3. Mr. Kohnen called for the question, and the amendment passed on a unanimous vote.

VOTE The vote on the main motion was then taken, and Chapters 2 and 3 of the Policy Manual, as amended, were adopted unanimously.

TDP GOALS: Mr. Langton informed the Board that the TDP goals in the agenda packet had been revised to include the comments and suggestions made by the Board at the TDP work session. Ms. Calvert said that basically the things she noted had been incorporated quite well. However, on page 90 of the agenda packet, she thought the goal should state that the District will actively seek land use planning which supports mass transit, not seek active land use planning.

Ms. Calvert also thought that the Board had decided to include a provision in the 2-5 year goal for completing a phase-out of state and federal funding (on page 90 and also on page 92) to address the issue when the cost-benefit analysis is not favorable. Mr. Shinn agreed that the goal on page 92 addressed using a cost-benefit analysis for a particular facility and did not address using a cost-benefit analysis for a specific type of funding.

Another change that Ms. Calvert had thought was going to be made was in the second Year 1 goal under Service Levels and Priorities found on page 93 of the agenda packet. It was agreed that the goal should include the words "high ridership growth potential" rather than "high growth areas."

MOTION VOTE Ms. Calvert moved that the TDP goals, including the changes discussed at this meeting, be approved. Mr. Kohnen seconded, and the motion carried 4-0, with Mr. Randall not being present during the vote, and all others voting in favor.

APPOINTMENT OF SUBCOMMITTEE ON ADMINISTRATIVE SALARIES: Mr. Langton said that he would like to appoint Polly Nelson and Peter Brandt to a subcommittee on administrative salaries, with himself as an ex-officio member. Mr. Shinn commented

that there would be approximately four 1½ hour meetings at midday or at the pleasure of the subcommittee. Ms. Loobey said she would contact Peter Brandt regarding the appointment.

ROUTINE ACTION ITEMS: Paul Shinn commented that staff had not received a budget committee nomination form from Peter Brandt, but one from Polly Nelson was included in the packet. Mr. Kohnen moved that the Board approve the three routine action items (Budget Committee Appointment, Signatory Resolution, and Resolution of UMTA Grant) as stated in the agenda notes. Ms. Calvert seconded and the motion carried on a 4-0 vote, with Mr. Randall not being present in the room during the vote. Copies of those three items are attached to the minutes.

MOTION

VOTE

ITEMS FOR INFORMATION:

Acting General Manager: Ms. Loobey informed the Board that while she is attending the APTA Legislative Conference in Washington, D.C. March 8, 9, and 10, Paul Shinn will be the Acting General Manager. She said also that she will be visiting with the Oregon congressional delegation, and she had made an appointment with the Solicitor General of the Department of Labor and Transportation.

Accountant: Ms. Loobey introduced Karen Brotherston, the District's new Accountant, to the Board members.

Budget Committee Meeting: Mr. Shinn informed the Board that the first budget committee meeting, originally scheduled for March 2, would be held on March 23.

Eugene Mall Transit Site: Mr. Langton mentioned the joint meeting of the Boards of the Eugene Renewal Agency (ERA), Downtown Development Board (DDB), and LTD to be held on Wednesday, March 24, at 7:30 p.m. in the McNutt Room at City Hall, to discuss the issue of the downtown transit site. He directed the Board's attention to the memo from Ellen Bevington, Planning Administrator, on page 101 of the agenda packet. Ms. Bevington then explained the three memos contained in the supplemental packet delivered with the agenda packet. She introduced Elaine Stewart and Mike Tharpe of HCC, and used large drawings to show the two alternatives (improvements to the north or the south side of 10th) that the joint staffs are recommending to the Boards. She said that the critical issue is where the LTD Customer Service Center will be located; LTD staff think this issue should be an integral part of any adopted plan. Another issue for the Board to consider would be how much importance it places on a priority lane for buses.

Ms. Bevington went on to explain the pros and cons of the north and south side alternatives and possible locations for the Customer Service Center (CSC). She stated that there is a staff preference for the north side, but that staff would prefer either the north or south side to no decision at all.

There was consensus among Board members that the issue of space for the CSC should be resolved before the Board would make a commitment for either alternative. Mr. Langton thought that having space for the CSC should not become an absolute condition; rather, the District could agree to go ahead with the improvements with



a commitment from the other Boards to help LTD find space for a CSC. In response to a question from Mr. Kohnen, Dick Bryson stated that the District could probably not legally lease a large space with the intent to rent it out to other businesses.

Ms. Nelson asked about the relative costs of the alternatives. Ms. Bevington replied that it is estimated that the south side improvements would cost about \$347,000 for the total project, and that the north side would be approximately \$412,000.

It was agreed that the Board members who would be attending the joint meeting the following evening would determine what is reasonable for the District.

MOTION EXECUTIVE SESSION PURSUANT TO ORS 192.660(1)(h): Mr. Randall moved that the Board adjourn to Executive Sesion pursuant to ORS 192.660(1)(h) to discuss pending litigation or possible pending litigation. Ms. Calvert seconded the motion and the meeting adjourned to Executive Session on a unanimous vote.  
VOTE

MOTION RETURN TO REGULAR SESSION: After returning to regular session, Ms. Calvert moved that the District petition the Court to set a bond of \$100,000 to cover the cost of arbitration. Ms. Nelson seconded, and the motion carried unanimously.  
VOTE

MOTION Mr. Randall then moved that the District appeal the decision of the judge in regard to the preliminary injunction. Ms. Nelson seconded, and the motion carried on a unanimous vote.  
VOTE

MOTION Mr. Randall moved, and Mr. Kohnen seconded, that the Board authorize the General Manager to select an arbitrator to represent the District in the 13(c) arbitration process. The motion carried unanimously.  
VOTE

MOTION ADJOURNMENT: Mr. Randall moved that the meeting be adjourned to Wednesday, March 24, at 7:30 p.m. in City Hall. Mr. Kohnen seconded the motion. With no further discussion, the meeting was duly adjourned.  
VOTE

  
Secretary

Attachment to Minutes

R E S O L U T I O N

BE IT RESOLVED that the funds of Lane County Mass Transit District on deposit at Bank of the Northwest may be withdrawn in amounts not exceeding \$10,000.00 on any one instrument of checks, drafts, receipts, or advises of debt given or signed in the District's name by any two of the following:

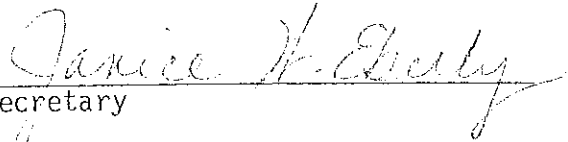
Ted J. Langton, President  
Glenn E. Randall, Treasurer  
Phyllis P. Loobey, General Manager  
Paul L. Shinn, Director of Administrative Services  
Karen R. Brotherston, Accountant

and the funds of the District on deposit at Bank of the Northwest may be withdrawn in amounts exceeding \$10,000.00 on any one instrument of checks, drafts, receipts, or advises of debt given or signed in the District's name by any two of the following:

Ted J. Langton, President  
Glenn E. Randall, Treasurer  
Phyllis P. Loobey, General Manager

and,

BE IT FURTHER RESOLVED that Phyllis P. Loobey is authorized to provide to Bank of the Northwest such further evidences and documents as it shall require and to do and perform such other acts and things and to execute and deliver such other documents as may in her discretion appear reasonably necessary or proper in order to carry into effect any of the provisions of this resolution.

  
Secretary

February 23, 1982

Date

Attachment to Minutes

INITIALS

NOMINATION FOR BUDGET COMMITTEE  
LANE COUNTY MASS TRANSIT DISTRICT

Manager \_\_\_\_\_  
Planning \_\_\_\_\_  
Treas \_\_\_\_\_  
DEC 10 1981  
Admin \_\_\_\_\_  
\_\_\_\_\_

ELIGIBILITY REQUIREMENT

BUDGET COMMITTEE APPOINTMENT QUALIFICATIONS:  
ORS 294.336 Budget Committee: (2) The budget committee shall consist of the members of the governing body and a number, equal to the number of members of the governing body, of qualified electors of the municipal corporation appointed by the governing body . . . (5) the appointive members of the budget committee shall be appointed for terms of three years. The terms shall be so staggered so that one-third or approximately one-third of the appointive members end each year.

BOARD MEMBER: Polly Nelson

DATE OF NOMINATION: 12-15-81

TERM OF BUDGET COMMITTEE APPOINTMENT: 2/23/82 1/01/85  
Effective Date Term Expiration Date

APPROVED BY BOARD: 2/23/82  
Date

NOMINEE'S NAME: Mary Porter Leistner

HOME ADDRESS: 2433 Pioneer Pike, Eugene, OR 97401  
Phone Number: 342-4282

BUSINESS ADDRESS: 767 Willamette #302, Eugene, OR 97401  
Phone Number: 683-8200

PREFERRED MAILING ADDRESS: 767 Willamette #302, Eugene, OR 97401

OCCUPATION: Attorney

Brief statement of nominee's background which is relevant to budget committee appointment: Ms. Leistner is an attorney & a partner in the law firm. She rides the buses frequently and pays LTD taxes.

