

MINUTES
MULTNOMAH COUNTY BOARD OF COMMISSIONERS
FEBRUARY 14, 1991 MEETING

Chair Gladys McCoy convened the meeting at 10:36 a.m., with Vice-Chair Rick Bauman, Commissioners Pauline Anderson, Sharron Kelley and Gary Hansen present.

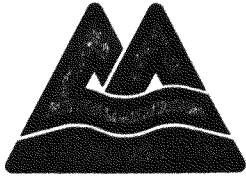
1. Pursuant to ORS 192.660(1)(d), the Multnomah County Board of Commissioners will meet in Executive Session for the Purpose of Labor Negotiator Consultation

There being no further business, the meeting was adjourned at 11:04 a.m.

OFFICE OF THE BOARD CLERK
for MULTNOMAH COUNTY, OREGON

By 

0121C/dr



MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
ROOM 606, COUNTY COURTHOUSE
1021 S.W. FOURTH AVENUE
PORTLAND, OREGON 97204

GLADYS McCOY •	CHAIR •	248-3308
PAULINE ANDERSON •	DISTRICT 1 •	248-5220
GARY HANSEN •	DISTRICT 2 •	248-5219
RICK BAUMAN •	DISTRICT 3 •	248-5217
SHARRON KELLEY •	DISTRICT 4 •	248-5213
CLERK'S OFFICE •		248-3277

AGENDA

MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS

FOR THE WEEK OF

FEBRUARY 11 - 15, 1991

Tuesday, February 12, 1991 - 9:30 AM - Board Briefings. . .Page 2
Tuesday, February 12, 1991 - 1:30 PM - Agenda Review. . .Page 2
Wednesday, February 13, 1991 - 11:30 AM - Public Hearing. .Page 2
Tax Supervising & Conservation Commission
Thursday, February 14, 1991 - 9:30 AM - Regular Meeting . .Page 3
Thursday, February 14, 1991 - 10:30 AM - Executive Session. Page 5

Thursday Meetings of the Multnomah County Board of Commissioners are recorded and can be seen at the following times:

Thursday, 10:00 PM, Channel 11 for East and West side subscribers
Friday, 6:00 PM, Channel 27 for Paragon Cable (Multnomah East) subscribers
Saturday 12:00 PM, Channel 21 for East Portland and East County subscribers

Tuesday, February 12, 1991 - 9:30 AM

Multnomah County Courthouse, Room 602

BOARD BRIEFINGS

1. Status Report on the Current Westside Light Rail Work Program, with Explanation of the Expedited Approval Process for Consideration of the "Preferred Alternative" Alignment. Presented by Tri-Met Staff. (9:30 - 10:15 TIME CERTAIN)
2. Task Force on Child Abuse Report, with Priorities and Funding Strategies for County, State and Federal Governments and Private Business. Presented by Helen Smith and David Fuks, Task Force Co-Chairs. (10:15 - 11:00 TIME CERTAIN)
3. Update on Salem Legislative Session. Presented by Fred Neal, Multnomah County Intergovernmental Relations Officer. (11:00 - 11:20 TIME CERTAIN)

Tuesday, February 12, 1991 - 1:30 PM

Multnomah County Courthouse, Room 602

AGENDA REVIEW

4. Review of Agenda for Regular Meeting of February 14, 1991

Wednesday, February 13, 1991 - 11:30 AM

Multnomah County Courthouse, Room 602

PUBLIC HEARING

1. Review, Discussion and Public Hearing on the Pending \$2,190,540 Supplemental Budget. Conducted by the Tax Supervising & Conservation Commission

Thursday, February 14, 1991 - 9:30 AM

Multnomah County Courthouse, Room 602

REGULAR MEETING

CONSENT CALENDAR

NON-DEPARTMENTAL

- C-1 In the Matter of the Reappointment of Harold McLaurin to the Expo Center Advisory Board for a Term Expiring December, 1993
- C-2 In the Matter of the Appointments of Michael Williams, David Soloos, Lanita Duke, Robin Bloomgarden and Patricia Bozanich to the Citizen Involvement Committee for Terms Expiring February, 1993
- C-3 In the Matter of the Appointment of Richard Pomeroy to the Department of Community Corrections Citizen Budget Advisory Committee for a Term Expiring September, 1991
- C-4 In the Matter of the Appointment of Paul Eisenberg to the Department of General Services Citizen Budget Advisory Committee for a Term Expiring September, 1992

REGULAR AGENDA

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-1 RESOLUTION in the Matter of Recommending Approval of the Multnomah County Bicycle Capital Improvement Plan: July 1991 - June 1995
- R-2 Ratification of an Intergovernmental Agreement Between Multnomah County and the City of Portland to Provide Funding for the Fair Housing Officer to Conduct Fair Housing Initiatives Program Activities

DEPARTMENT OF HUMAN SERVICES

AGING SERVICES AND JUVENILE JUSTICE DIVISIONS

- R-3 Ratification of a Lease Agreement Between Multnomah County and the State of Oregon for Relocation of the West Branch of Aging Services Division to 1430 SW Broadway

HEALTH SERVICES AND SOCIAL SERVICES DIVISIONS

- R-4 Budget Modification DHS #21 Authorizing Transfer of State Refugee Screening Funds from Temporary to Permanent within the Health Division Budget to Create a Translation Services Coordinator Position in the International Health Center

NON-DEPARTMENTAL

- R-5 Second Reading and Possible Adoption of an ORDINANCE Amending Multnomah County Code Chapter 7.70.300 to Allow the Transfer of Unclaimed Property to Other Governmental Agencies in Addition to the County
- R-6 Second Reading and Possible Adoption of an ORDINANCE Transferring the Budget Office from the Department of General Services to the Office of the Chair and Assigning the Affirmative Action Office to the Office of the Chair
- R-7 Request for Board Approval in the Matter of Pending Legislation: (1) Authorizing Political Subdivisions to Transfer Properties Without Consideration to Non-Profit, Public and Municipal Corporations for Housing and Social Services; and (2) Authorizing Political Subdivisions to Forgive Back Taxes when Properties are Donated to Non-Profit, Public and Municipal Corporations for Housing and Social Services

CONTINGENCY REQUESTS

JUSTICE SERVICES

SHERIFF'S OFFICE

- R-8 Budget Modification MCSO #14 Authorizing Transfer of \$2,047 from Contingency to the Safety Action Team Budgets to Appropriate Expenditures to Match Donations Received for Safety Action Team Activities
- R-9 Budget Modification MCSO #15 Authorizing Transfer of \$159,709 from Contingency to the Multnomah County Sheriffs Office Budget Appropriating Federal Marshal Revenue to Fund 4 Temporary Court Guards, a DUII Sergeant for OTSC Grant Match, and the Increased Cost of the City of Portland Identification Services Contract
- R-10 Budget Modification MCSO #16 Authorizing Transfer of \$19,955 from Contingency to the Multnomah County Sheriffs Office Budget to Fund Deputy Overtime Coverage for Motion Picture and Television Productions

COMMUNITY CORRECTIONS

- R-11 Budget Modification DCC #6 Authorizing Transfer of \$15,000 of County Assessment Funds from General Fund Contingency to the Facilities Management Budget to Fund Unbudgeted Costs of Remodeling Parole and Probation Facility

DEPARTMENT OF GENERAL SERVICES

- R-12 Budget Modification DGS #4 Authorizing Transfer of \$26,450 from General Fund Contingency to the Finance Division to Fund Costs Incurred in Association with Preparation of Certificates of Participation Documents and Legal Counsel

CONTINGENCY REQUESTS - continued

DEPARTMENT OF GENERAL SERVICES

- R-13 Budget Modification DGS #5 Authorizing Transfer of \$32,620 from General Fund Contingency to the Employee Services Division for Funding to Establish a 9 Month City/County Joint Program to Provide Outplacement Assistance to Employees Impacted by Budget Cuts
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Thursday, February 14, 1991 - 10:30 AM

Multnomah County Courthouse, Room 602

EXECUTIVE SESSION

1. Pursuant to ORS 192.660(1)(d), the Multnomah County Board of Commissioners will meet in Executive Session for the Purpose of Labor Negotiator Consultation
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Meeting Date: Feb. 14, 1991

Agenda No.: E-1

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM
(For Non-Budgetary Items)

SUBJECT: Labor Negotiations

BCC Informal _____ (date) _____ BCC Formal _____ (date) _____

DEPARTMENT DGS DIVISION Labor Relations

CONTACT Ellen Ulrick TELEPHONE 248-5135 X2340

PERSON(S) MAKING PRESENTATION Kenneth Upton

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☒ POLICY DIRECTION ☐ APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: 1 hr.

CHECK IF YOU REQUIRE OFFICIAL WRITTEN NOTICE OF ACTION TAKEN: _____

BRIEF SUMMARY (include statement of rationale for action requested, as well as personnel and fiscal/budgetary impacts, if applicable):

Request executive session pursuant to ORS 192.660
(1)(d) to discuss labor negotiations.

(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL _____

Or

DEPARTMENT MANAGER Jinda Alexander

(All accompanying documents must have required signatures)

BOARD OF
COUNTY COMMISSIONERS
1991 FEB - 6 PM 1:45
MULTNOMAH COUNTY
OREGON

Leaders of Legislature propose state worker pay freeze

Senate president says Democrats unwilling

By JEFF MAPES

of The Oregonian staff

SALEM — House Speaker Larry Campbell and Senate President John Kitzhaber both said Tuesday that they would like state employees to forgo pay increases because of Measure 5.

However, Kitzhaber said Senate Democrats are unwilling to take a cut in their own pay. Legislators this month received an automatic 4 percent raise.

Gov. Barbara Roberts has proposed \$66 million in pay raises for the 1991-93 budget year. The exact amount of the increase — and how it will be distributed — has to be

negotiated with public employee unions. Kitzhaber, D-Roseburg, said the ability of the Legislature to freeze salaries is "somewhat limited" because of collective bargaining agreements.

Campbell, R-Eugene, said he planned to approach Roberts to see whether an agreement could be worked out on limiting pay increases. But he said he didn't have a specific plan at this time.

"It would be great if the public employees would step forward and say, 'We're going to share in the process. We don't like the cuts being made and we're going to share,'" Campbell said.

"I personally would have no problem with freezes across the board, including the Legislature, if we could get public employees to participate in that," Kitzhaber said.

However, the Senate president added with

obvious chagrin that a majority of his caucus voted against a Republican proposal to cut legislative pay by 10 percent.

Kitzhaber declined to defend the decision by his caucus, although Sen. Grattan Kerans, D-Eugene, called a 10 percent legislative cut as "just playing to the galleries" and said it wouldn't produce much in the way of savings.

Senate Republicans were quick to denounce the Democrats, saying the Legislature should share in the pain of budget cuts. Senate Minority Leader John Brenneman, R-Newport, said legislators "can't advocate fairly for budget cuts if we're not willing to take the hit ourselves."

With their new raise, legislators now make \$1,029 a month while the Legislature is in session.

Brenneman and seven other Senate Republicans called Monday for a salary

freeze on all state employees because of the budget reductions being required by passage of the new property tax limitation. And Campbell said that House Republicans are increasingly concerned about holding the line on salary costs.

However, the governor is firm on her proposal for \$66 million in salary increases, said a spokeswoman, Sarah Carlin Ames.

"We aren't even meeting the cost-of-living increase in our proposal," Ames said.

Officials from state employee unions also said they didn't think their members should have to forgo salary increases in the next two years.

"The position we've taken is that you cut programs, you cut employees. ... The folks that are left are going to get paid what they are worth," said Mary Botkin of the American Federation of State, County and Municipal Employees.

Bentley Gilbert of the Oregon Public Employees Union, the largest state-worker union, said a wage freeze would hurt morale at a time when workers are being pressured to do more because of planned budget cuts.

Officials from the major public employee unions met before the session and agreed that they would call for service cuts and layoffs instead of wage freezes or benefit reductions.

They said they accepted wage freezes during the recession in the early 1980s but don't believe that they should bear the brunt of cuts caused by passage of Measure 5.

Asking state employees to freeze their salaries also is complicated by the fact that AFSCME is in the middle of a three-year contract that includes an increase July 1.

"If they don't fund our salary increases, they have broken the law," Botkin said.

§5.4 / Collective Bargaining Process

"An employer has no duty to bargain with an organization which has not been recognized by the employer or certified by the [ERB]." *Wallowa County Deputy Sheriffs Assn. v. Wallowa County*, C-122-83 (unpublished dismissal 1983). However, once voluntary recognition is extended to a labor organization, an employer may not unilaterally withdraw such recognition. *Oregon Public Employees Union v. Marion County Juvenile Department*, 6 PECBR 5140, 5150 (1982). A recognized union may petition for certification by the ERB. *East County Bargaining Council v. Gresham Union High School District 2J*, 5 PECBR 4139 (1980).

B. (§5.4) Certification

A labor organization certified by the ERB or recognized by the public employer is the exclusive representative of the employees of a public employer for the purposes of collective bargaining with respect to employment relations. ORS 243.666(1). Once certified, a labor organization may be decertified by the ERB only after the processing of an appropriate petition or disclaimer by the exclusive representative. See ORS 243.682(2); Chapter 2, *supra*.

C. (§5.5) Duty to Bargain with Certified or Recognized Representative

An employer has a duty to bargain in good faith with the certified or recognized exclusive representative of its employees. ORS 243.672(1)(e). This duty exists with or without continuing majority status because more than a presumption of continuing status exists under the PECBA. *Klamath Falls Employees Association, Local 2451, AFSCME, AFL-CIO v. City of Klamath Falls*, 1 PECBR 285, 289 (1975). "Oregon law does not require an employer to recognize the labor organization with which the incumbent certified or recognized labor organization has affiliated." *Oregon Public Employees Union v. City of Ontario*, 7 PECBR 5741, 5757 (1983). However, the incumbent may petition for ERB-certified affiliation. *Oregon Public Employees Union, supra*. See OAR 115-25-008.

When a question concerning representation exists, an employer has an obligation to be neutral and suspend bargaining. ORS 243.672(1)(b); *Oregon School Employees Association Ch. 7 v. Salem Sch. Dist. 24J*, 8 PECBR 6625, 6628 (1984). A representation question arises in this context when a rival union timely files a representation petition. The employer must cease bargaining to comply with the neutrality doctrine set forth by the National Labor Relations Board (NLRB) in *Midwest Piping and Supply Co.*, 63 NLRB 1060, 17 LRRM

40 (1945), as adopted by the ERB in *Municipal Employees, Laborer's International Union of North America, Local 483 v. Unified Sewerage Agency of Washington County*, 3 PECBR 1716 (1978), and reaffirmed in *Oregon School Employees Association Ch. 7, supra*.

D. Demand to Bargain

1. (§5.6) Initial Contracts

The negotiations for the initial contract between the parties begin after the certified or recognized exclusive representative of the employees makes a demand to bargain. The demand may be verbal, but it is generally in writing and delivered by mail or in person to the employer or its representative.

2. (§5.7) Notice for Successor Contract Negotiations

The form of the demand to bargain is generally defined under the terms of the parties' existing contract, if any. Often the contract provides for a deadline for issuance of a notice by either party of an intent to negotiate a successor agreement. Some contracts include a deadline for the commencement of actual negotiations. Other contracts provide for an automatic renewal of the existing contract if no request for negotiations is made by a specified date.

3. (§5.8) Timeliness of Notice; Waiver

Giving notice for successor contract negotiations must be timely or a waiver of bargaining rights for the balance of the contract term may occur. *Teamster Local 670 v. City of La Grande*, 6 PECBR 4803 (1981); *Oregon Nurses Association v. Polk County Board of Commissioners*, 3 PECBR 1975 (1978). In *Teamster Local 670, supra*, the union mailed a notice before the contractual deadline to request that negotiations be reopened, but the employer did not receive the notice until after the deadline. The ERB found the notice was not timely and the employer was not obligated to bargain over matters included in the contract. In *Oregon Nurses Association, supra*, the notice of a party wishing to renegotiate was to have been given by January 1, with negotiations thereafter to begin on February 1. The employee representative met the January 1 deadline but did not submit bargaining proposals until March 6. The ERB ruled that the employer was under no duty to bargain over the proposed modifications.

The ERB will find a waiver only if the contract language is clear and unmistakable. In *Corvallis School District 509J v. Oregon School Employees Association, Chapter No. 2*, 6 PECBR 5409 (1982), the