

Accord Ends City-AATA Dispute 8/14/74

By Lee Wilkins
(News Staff Reporter)

An agreement between the Ann Arbor Transportation Authority and the city which outlines the working relationships between the AATA and the City Council and contains a partial settlement of a lawsuit involving the two groups — has been reached.

Negotiated over the past several months by Mayor James E. Stephenson and AATA Chairman William Drake, the 14-part agreement formalizes many of the existing arrangements between the two groups.

The agreement also provides the city will drop its claims against the authority in a suit brought by Sally Vinter and the League of Women Voters earlier this year in return for the AATA's acceptance of a city deduction of \$221,000 of 1973-74 millage money from the authority account as repayment of a 1970 loan.

But the agreement between the city and the AATA does not at this point mean a halt to the suit filed by Mrs. Vinter.

Arthur Carpenter, law partner in the firm of Carpenter and Virtue which is representing Mrs. Vinter in the suit, said that he could not say

what effect the agreement would have on the suit. But, he added, "I think it deserves careful review by the plaintiffs in the action and we will do that."

Drake said:

"Considering everything, it's a fair agreement that maximizes the benefits to all taxpayers of the city of Ann Arbor. In my opinion it resolves favorably issues concerning future relationships between the city administration and the AATA. If these relationships are left up in the air, it could debilitate our capacity to implement the first class transportation system the citizens have a right to expect."

Stephenson said he had discussed the draft agreement "with some council Republicans" and expected the entire Council to ratify it Monday night.

Drake said he expected the AATA to formally approve the document at its regular meeting Sept. 4.

The AATA and the city have been involved in the three-sided lawsuit over the handling of \$221,000 in funds during 1970. At one time the authority had claimed the money while the city administration had said the money was a city loan to the AATA which had to be repaid. The city

accordingly deducted the amount from the millage money collected by the city for the AATA when that money was turned over to the authority.

Vinter, who has been actively involved in mass transit programs in Ann Arbor, then filed a suit charging the money was not a loan and that it should be given to the AATA. The League of Women Voters joined Vinter in the suit in which both the city and the AATA were named as defendants.

The proposed agreement specifies the AATA relinquishes all claim to those funds, stating: "... that there remain no financial obligations between them (the city and the AATA) arising out of past transactions and occurrences. All previous transfers of funds between the parties are hereby authorized and ratified."

During the legal maneuvering in the law suit, the city filed a legal document called a cross-claim against the authority stating that while the AATA was charged with running the bus system, the 2.5 mill ballot proposal approved by Ann Arbor voters did not specify that the AATA was to collect the millage money. The city further claimed that it was the collection agency for the millage and

that it could, if it so chose, retain the millage money, effectively stripping most financial support from the AATA.

In the proposed city-authority pact, the city has agreed to drop that cross claim.

Both the city and the authority also agree to inform the court of the approved city-AATA pact and to change the legal documents in the case to reflect the terms of that agreement.

Stephenson commented, "Bill (Drake) and I feel it is a fair resolution with what is probably a traditional conflict with any board commission that has achieved independent funding . . . it lays the

ground work for smooth interaction between the two groups and will be a boon to public transit."

Drake added, "It took good will on both sides. . . both groups are very happy with the resolution."

The other area where the proposed agreement differs from the existing relationship between the city and the AATA is that the AATA agrees to pay the city for services it receives from city hall and for the collection of the millage.

The agreement stipulates the authority will pay the city 1 per cent of the total millage money it collects for the AATA as a collection fee.

In addition, for the 1974-75 fiscal year, the AATA agrees to pay the city \$75,800 for city services it receives. Among them: payroll time card auditing and other payroll functions, \$12,000; sales of AATA tickets and passes at the Treasurer's Office, \$4,200; counting and deposit of daily cash revenue, \$4,500; radio installation in AATA vehicles, \$9,100; purchase order processing, \$17,000; maintenance of accounts payable ledgers and preparation of weekly state report, \$10,500; telephone through city hall switchboard, \$1,500; printing, \$4,500; and legal services in labor negotiations etc., \$12,500.

Fees for various city services for the coming year will be negotiated by City Administrator Sylvester Murray and AATA Executive Director Karl Guenther before April 1 of the coming fiscal year.

The AATA will continue to retain its own attorney, former city attorney Jerold Lax, for some matters.

In addition, the AATA has agreed to provide the City Council with a copy of its proposed budget by April 1 of each year and request council comment on the budget proposals.

The AATA still retains final approval over its budget and program.

S T A T E O F M I C H I G A N

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

SALLY VINTER, et al,

Plaintiffs,

v.

No. 74 8553 AW

THE CITY OF ANN ARBOR, et al,

Defendants.

O P I N I O N

At a session of said Court held in the
City of Ann Arbor, Washtenaw County,
Michigan, on January 10, 1975.

PRESENT: HONORABLE PATRICK J. CONLIN, CIRCUIT JUDGE

This case is before the Court on plaintiffs' motion for Summary Judgment. Defendant City of Ann Arbor, on brief, agrees that the case is ready for decision, but asks that summary judgment be entered against plaintiffs.

The gravamen of the complaint is that defendant City has illegally appropriated \$221,048.24 comprising part of the proceeds from a 2.5 mill annual property tax levy imposed by the electorate explicitly for the purpose of operating a public transportation system for the City. The City admits having withheld this sum from the Ann Arbor Transportation Authority (AATA) but denies any illegality, asserting that this money was kept to satisfy a pre-existing debt for loans made to AATA by the City. Plaintiffs' response characterizes these payments as "grants" or "subsidies" rather than loans. This issue is the only real disagreement between the parties.

There is considerable evidence in the record bearing on the proper characterization of these payments. Analysis of the

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evidence is aided by reference to Deposition Exhibit #1 (a copy of which is appended to defendant City's brief). Line items 1, 2, and 3, totalling \$213,072.24, were payments from the City to the AATA for the purchase of buses (defendant's brief at 2 and Jedele deposition). Line items 4 through 9 are simply transfers from one City fund to another routed through AATA for bookkeeping purposes, and may be disregarded. Line item 10 represents the first of three planned yearly payments to a "creditor" City fund from the City's General Fund (Jedele Deposition at 49; Attachment A to plaintiffs' Exhibit I, appended to the complaint). (The original "creditor" was the Capital Projects Fund, which had provided the actual money needed to purchase the buses, but subsequent transactions - line items 4 through 9 - resulted in the Sewage Fund's assumption of "creditor" status).

At this point in time, net payments to AATA amounted to \$142,048.24 (\$213,072.24 less \$71,024.00 "repaid" by line item 10). The City asserts that this amount was a "loan" for the purchase of buses, but the evidence leads to a contrary conclusion. Payment of the local share of money to purchase new buses pursuant to a Federal Department of Transportation capital equipment grant was explicitly authorized by City Council (plaintiffs' Exhibits B-2, B-3, and B-4). The Council used only the word "appropriate" to describe the payment of money for purchase of buses. Nowhere is there the slightest hint that this money would ever be repaid to the City. Nothing suggested that this "appropriation" was anything other than a grant to AATA to enable it to upgrade its service. Moreover, line item 10 - the first of three planned installments that were to settle the accounts arising from purchase of the buses - was admittedly a budgeted City payment to AATA (Jedele Deposition at 48). If the payment of money for the buses had been intended as a loan to AATA, this item would have been balanced by a contemporaneous item showing a "Loan from" the General Fund (compare line items 4 and 5; 6 and 7; and 8 and 9). The lack of such a balancing item shows

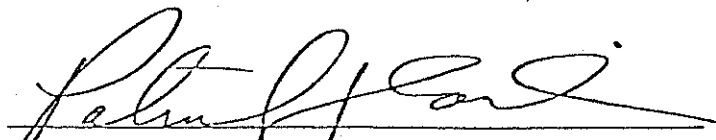
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that the original appropriation for buses was a grant, not a loan.

Hence, the \$142,048.24 still listed as "loans" to AATA as of May 30, 1972 were in reality subsidies that AATA had no obligation to repay. As to this portion of the total \$221,048.24 in dispute, summary judgment for plaintiffs would appear to be appropriate. On the other hand, the character of the remaining payments to AATA is somewhat obscure. Line items 11 and 12 are not discussed at all in the Jedele deposition or elsewhere. ~~Line items 17 and 18 are further inter-fund transfers that may be ignored. The remaining line items are all payments to AATA by the City for the purpose of covering AATA bank overdrafts.~~ There is no explicit City Council authorization for these payments in the record, but neither is there any conclusive showing that they were loans, or unauthorized actions of the City Administrator or City Controller. As ^{to} these payments there remains a genuine issue as to a material fact, making full summary judgment inappropriate.

While, as noted above, partial summary judgment for plaintiffs as to \$142,048.24 of the disputed sum would seem to be in order, the lack of any explanation in the record for line item 12 - a \$4,000.00 "repayment to" AATA - leaves open the possibility that only \$138,048.24 of the original grant for purchase of buses remains as part of the disputed sum.

Therefore, partial summary judgment for plaintiffs is granted to the amount of \$138,048.24. As to the balance of the claim, the motion for summary judgment is denied.


Patrick J. Conlin
Circuit Judge

Twenty-Second Judicial Circuit
Washtenaw County, Michigan } ss.

I hereby certify that the foregoing is a true copy of the original on file in this Court and cause.

Dated: February 7, 1975
ROBERT M. HARRISON, County Clerk
By Sathya Ann Vitmer
Deputy

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S T A T E O F M I C H I G A N
I N T H E C I R C U I T C O U R T F O R T H E C O U N T Y O F W A S H T E N A W

SALLY VINTER, et al,

Plaintiffs,

v.

THE CITY OF ANN ARBOR, a Municipal
corporation, et al,

Defendants.

FILED
JUL 2 5 06 PM '75
ROBERT M. HARRISON
COUNTY CLERK
No. 74 8553 AW

O P I N I O N

At a session of said Court held in the
City of Ann Arbor, Washtenaw County,
on the 2nd day of July, A.D. 1975.

PRESENT: HONORABLE PATRICK J. CONLIN, CIRCUIT JUDGE

After both sides to this controversy had moved for summary judgment, stating that the issue was ripe for decision and that no further evidence was contemplated, the Court issued an opinion and order granting partial summary judgment for plaintiffs in the sum of \$138,048.24. Defendant City of Ann Arbor now brings a motion for rehearing, alleging that it has now "discovered that the record before the Court did not include important documentation which should have been in the Court's file", and that the Court misconstrued the documents that were on file. The City has also urged that the joint deposition of Messrs. Booth and Jedele, filed after the Court's opinion was entered, is essential to a proper understanding of the case. While it would seem to be improper to base a motion for rehearing on such late-coming evidence, the Court has nevertheless considered the Booth-Jedele deposition. There is no resulting prejudice to plaintiffs, as the Court is of the opinion that the motion for rehearing must be denied.

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AGREEMENT BETWEEN CITY OF ANN ARBOR
AND THE ANN ARBOR TRANSPORTATION AUTHORITY

WHEREAS the City of Ann Arbor (hereinafter referred to as "City") by resolution dated July 15, 1968, incorporated an entity known as the Ann Arbor Transportation Authority (hereinafter referred to as "AATA") for the purposes of acquiring, owning, operating, or causing to be operated a mass transportation system under provisions of ACT 55 of P.A.1963, and

WHEREAS the AATA has been operated within the administrative structure of the City until 1973, when with the passage of a 2.5 millage the City was authorized to collect non general fund monies to be allocated specifically for public transportation services and the authority gained an administrative staff apart from the City proper, and

WHEREAS, the City has provided the AATA with valuable services which the AATA desires to continue to receive, and

WHEREAS, the City owns certain transportation equipment, to-wit: 16 buses and one van equipped for handicapped persons, which the AATA desires to acquire; and

WHEREAS, the City and the AATA desire to hereby resolve any questions concerning obligations either party may have to the other arising out of previous transactions and occurrences, and

WHEREAS, it is deemed in the public interest to formally outline the operational relationship between the City and the AATA,

NOW, THEREFORE, IT IS AGREED

1. SERVICE AGENCY The City recognizes the AATA as the operating agency of the City to provide mass transportation service to the public. These services shall include surface bus and any other form of transportation the AATA may decide to render in accordance with the AATA Articles of Incorporation.

