

Metro Charter Committee

PO Box 9236 • Portland, OR 97207 • 273-5570

AGENDA

DATE: September 19, 1991
MEETING: Full Committee
DAY: Thursday
TIME: 6:00 p.m.
PLACE: Tigard City Hall, 13125 SW Hall Blvd., Tigard *

- 6:00 Call meeting to order
Correct and adopt minutes from previous meetings.
- 6:15 Election of Charter Committee Vice Chair and Treasurer.
- 6:30 Discussion and adoption of basic principle for allocation of governmental functions regionally, sub-regionally and locally.
Discussion and adoption of criteria to be used in applying basic principle to specific functions.
Initial consideration (time permitting) of regional responsibilities regarding growth management.
- 8:15 Adoption of amended work plan.
- 8:30 Adjourn meeting.

* Directions: From Hwy 217 take 99W and go west. Turn left immediately at Hall Blvd. (Russ Chevrolet is on the left). Go 3/4 mile over railroad tracks and through an S-shaped curve. Just after Burnham Street turn right into Civic Center.

MINUTES OF THE CHARTER COMMITTEE
OF THE METROPOLITAN SERVICE DISTRICT

September 19, 1991

Tigard City Hall

Committee Members Present: Judy Carnahan, Ron Cease,
Larry Derr, Jon Egge, Charlie
Hales, Matt Hennessee, Frank
Josselson, Ned Look, Wes
Myllenbeck, Ray Phelps, Jr.,
Bob Shoemaker, Mary Tobias,
Mimi Urbigkeit

Committee Members Absent: Hardy Myers (Chair), John
Meek, Isaac Regenstreif

Ron Cease called the meeting to order at 6:10 p.m.

Ron Cease introduced Mayor Gerald Edwards of Tigard. Mayor Edwards welcomed the Committee to Tigard. As a member of the Regional Governance Committee, he wished to inform the Committee that RGC is not out to do damage to the Committee or to Metro and was formed to become an information network between local governments and the Committee.

Ron Cease asked Janet Whitfield if there was anything the Committee should be aware of before beginning the discussion on the basic principle for allocation of governmental functions regionally, subregionally, and locally.

Janet Whitfield informed the Committee of the functions list.

1. Sharing of opinions regarding September 14th retreat and discussion of the basic principle for the allocation of governmental functions.

Ron Cease asked for comments in regards to the retreat discussion on Saturday, September 14.

Wes Myllenbeck stated that the retreat was very worthwhile. It was helpful to get to know each other, plus get an understanding of where each other is coming from and an awareness of the frustration that the Committee will encounter.

Charlie Hales stated that the retreat helped to discover how much of a research base is still needed.

Mimi Urbigkeit commented that she enjoyed the exercise but felt disappointed that there was not a feeling that all members were

heading in the same direction at the end of the retreat.

Janet Whitfield informed the Committee that a summary of the retreat is being prepared.

Jon Egge commented that he felt frustrated that the Committee did not come away with a feeling that everyone agreed on any point. A lot was learned about people's views. Jon Egge felt frustrated with the possible progress that could have been made.

Ned Look said that too much time was spent on certain issues which were not beneficial. Ned Look felt there is a need to finish the laundry list of functions.

Ron Cease agreed that there is a need to finish the laundry list but it is up to Chair Myers to determine when the time will be.

Janet Whitfield stated that next week the Committee will move on to the transportation and planning functions.

Ron Cease stated there is a need to have in-depth discussions on some of the functions in order to move away from the larger function issue and focus on the specific functions of Metro. There was frustration on Saturday because the Committee did not have enough information about each individual function.

Ned Look asked to see the retreat summary when it is complete.

Matt Hennessee said there was value to the retreat. A lot of different views were discovered partially due to the regional differences brought to the table. There are differences as to what the functional areas mean or at least different definitions are being applied to them. There is a need to agree or at least to understand where each other is coming from in regards to the definitions.

Jon Egge asked when, if not next in the process, the Committee will complete the laundry list and other items that the Committee did not get to during the retreat. For example, the defining of terms.

Charlie Hales stated that the agenda for the evening's meeting is correct in that the Committee should get back to the laundry list after it adopts a basic principle for the allocation of functions. It is easy to get hung up on definitional disputes over whether certain functions belong in Metro. It is better to wait on determining what functions belong in Metro until after the principle of organizing the functions is determined.

Mary Tobias said her frustration with the retreat was that functions were dealt with at all. It would have been a greater benefit if the retreat had centered around the big picture and

what a regional government should be.

Ron Cease stated that part of the reason there is frustration is that anyone who deals with the functions gets into the swamp. The basis of the function issue is that of values where there is no right or wrong. Certain functions make sense in certain areas. For example, policing is a regional function in Toronto because people are used to it but it would not make sense here. One can talk about scale or effectiveness but it would not explain why a function would make sense in Toronto but not here. It would be helpful to ask how functions become functions that Metro performs. Metro has resumed functions that cities thought were burdens and wanted to get rid of. Cities are nervous because, by reviewing Metro's functions, it seems as if functions will be taken away from cities although that has never been an issue before.

Ray Phelps stated that he gets frustrated because it seems as if the Committee is making decisions that should really be left up to the people. The Committee should be facilitators not decision makers. The voters should make the decision as to what services should be regional. The Committee should establish something as having a regional purpose or regional possibility or regional prospectus, then the voters, acting regionally, will be the better testers than the Committee could be. It would be better to give the voters the maximum opportunity to decide what the regional governance should be. The committee also needs to work with Ballot Measure Five in mind.

Ron Cease stated that the statute lists functions in two areas. The first area lists specific current functions of Metro and functions that it could do without the voters' approval. The second section states that subject to the voters' approval, Metro could do things that are of metropolitan significance.

Ray Phelps said that there is a great possibility to diminish the political aspect of Metro. It would be a great service to the elected officials of Metro as well as the voters if the Committee gave them the opportunity to vote on each function. For example, the voters could approve A, B, C, and D and reject E, F, G, and H. Metro could move on and do functions A, B, C, and D and not worry about the other functions. Eventually, the other functions could be taken back to the voters for approval. The Committee should serve as a conduit to create the broadest forum for the public to speak rather than dealing with the turf battles or the divisiveness. Definitions are needed but they should not be the driver. There should be a forum for the people to make their own choice.

Bob Shoemaker said the Committee was chosen carefully to make recommendations as to Metro's authority and structure. If a laundry list of functions is put before the voters, the advice of

the voters will not be well thought through. One big issue, such as Metro taking over Tri-Met, would have enough controversy that the voters should be able to give well thought out advice. With a laundry list of some important and some not so important functions, the voters may not be interested enough to be informed enough on all the issues.

Ray Phelps replied that the voters have never made a bad decision in the last 20 years. The arguments that will be made in the voters pamphlet will be a good way to convey information to the public. It would be better to let the voters speak fully than to try to second guess the voters.

Ron Cease asked the Committee to think about why Metro has not taken over the functions that it could by law or why issues have not been put on the ballot that could have been. He said Ray Phelps already suggested one reason -- the political factor -- but what are the other reasons.

Ray Phelps responded that the government is fairly new. Metro might offer the full array of functions and phase them in over time rather than state function A will be done this year. Metro has never been made to feel welcome in the area. Metro earns some of its unwelcomeness, but a majority of it is voluntary not earned. Metro is perceived as a function of Multnomah County and the City of Portland. Metro is here to stay. Ballot Measure Five calls for consolidation and Metro will be responsible for more consolidation.

Jon Egge expressed his fear of a vote of no-confidence by the voters. It would have an overwhelming affect on Metro.

Ray Phelps disagreed. Metro is in a hysterical position thinking it should be a council of governments when it knows it should be a government of the people. If all the issues are put before the people and the voters vote 'no' on all the issues, at least the Committee has an answer.

Jon Egge asked if the question was the reason why Metro has not authorized functions that it has the power to authorize. That is the question he was responding to. One reason Metro has not authorized functions it could have is a fear of voter rejection.

Ray Phelps responded that he is saying let's find out what the voters think.

Ron Cease asked what is needed when looking at a function.

Jon Egge replied 'money'.

Mimi Urbigkeit answered 'mandates and support'.

Charlie Hales responded 'authority'.

Ron Cease added that a discussion with the people is needed to determine what jurisdiction does what function. Along with the timing is a need for the other issues of money, support, and authority. What can be accomplished by presenting a laundry list to the voters that is unrelated to the issues?

Jon Egge asked if Ray Phelps was suggesting a phase of the functions over time.

Ray Phelps responded yes, the purpose of his idea is to create a framework. More discussions will occur with a work plan than by having people discuss whether or not the function ought to occur.

Janet Whitfield asked for clarity. Would the laundry list with dates for implementation be in the charter?

Ray Phelps responded that it would.

Charlie Hales said that the Committee was getting ahead of itself. The role of the Committee is to create a charter for a regional governance. The Committee needs to figure out what regional governance means. The Committee needs to establish a principle for Metro and determine if Metro can carry out the mission with the functions it has now or if Metro needs to use the additional authority it has from the statutes but does not use. The functions will divide themselves into those that Metro must do, those Metro should not do, and those that Metro maybe should do. The maybe list should be taken to the voters. There would only be a few functions rather than many for the voters to understand. The way to go is step by step. The functions should be ignored until the concept is complete.

Ray Phelps asked if that was not done last Saturday.

Charlie Hales said that the process was started but it ended with two different versions. Both groups got far with the process but not far enough. The principle for Metro needs to be the beginning of the charter.

Ray Phelps thought Charlie Hales meant that the process should start over.

Charlie Hales replied that he did not mean to say the process should start over. It should continue and get further to finalize it.

Jon Egge stated that it cannot be done without the feedback from the retreat. The Committee agreed with him.

Janet Whitfield stated that Mary Tobias had a summary of the

basic statements.

Mary Tobias asked if copies could be made for the Committee.

Ron Cease felt that it would be fair to say that by the time one got done with a function, there needs to be a general consensus of general approval. Take one function and think how Metro got involved and how Metro should perform. The question of how to divide up functions has been discussed over and over.

Charlie Hales said that in almost every case, the authority for the functions are going to take the vote of the people. The question for this Committee is whether the vote is at the time of the charter or at another election for the specific functions.

Ron Cease stated that one way to have a charter is to put the existing law into a charter and add a laundry list of functions in the charter of what could be taken to the voters. Metro could not add to the list but the voters might be able to by initiative.

Ray Phelps asked why one would want to do that. It would be better to get good, clear answers now rather than get a vague list. The inactive mode of going to the people every time Metro wants to get authority should not be continued.

Charlie Hales commented that the Committee does not have the authority or legal mandate to ask the people to respond to a laundry list. It only has the authority to write a charter.

Ray Phelps disagreed. The Committee has the authority to ask the voters if certain functions should be done by Metro in the charter. This could get the process moving.

Mary Tobias said that menus, or laundry lists, do not work at the local or state level. The feedback that is received is not helpful. The Committee needs to go back to the basics of what is in a charter. A charter defines government then states what it does and who does it. A constitution is different than a statute. The Committee is writing, in essence, a constitution and it needs to begin with a definition of a regional government. The process needs to start with the question of is there a consensus that the Committee wants a regional government. By saying we concur that there is a need for regional government, we are one step closer to saying what it is and how to define it to take it to the people. The statutes do not say what regional government is so the voters are greatly confused now.

Ron Cease stated that Metro now has a charter in the statutes if a charter is defined as a basic law by which a government operates. Currently, it can be changed by the legislature or court case. The question is how specific or basic a charter

should be. If the voters reject it, they are only rejecting the charter, not Metro.

Larry Derr said that the statutes provide a source of authority but there is no single place to get Metro authority. A positive step would be to put the statute functions in the charter in a way that the voters could understand.

Wes Myllenbeck stated the charter allows the region to control its own destiny rather than depend on the whole state to approve the statutes.

Jon Egge said that mandate and legislative authority are vastly different. He asked if Mary Tobias was suggesting that the Committee determine if Metro is a needed government and then see where people drop off.

Mary Tobias said that yes, it seems logical to proceed that way. Each block needs to be built upon. The basic question is whether or not a charter is needed.

Ron Cease stated that it is not a germane question. The Committee has the specific task of writing a charter. The voters need to determine whether or not a charter is needed. The Committee needs to write a charter for the current Metro jurisdiction and determine what is put into the basic document. Not all the statutes at any one time have been put before the voters.

Mary Tobias agreed with Ron Cease. She added that the definition of this regional government needs to be in the charter.

Frank Josselson stated that Mary Tobias raised a good question of the need to have Metro. Metro could be eliminated if the Committee simply gives it little or no power.

Ron Cease asked if there was anyone who believes that a regional government is not needed. The Committee agreed that a regional government is needed. The general consensus was that progress had been made due to the question being asked.

Ray Phelps said that it might be helpful to understand the relationship of chapter 268, the initiative referendum, and the ordinance authorities and how one does not beget the other. If Metro does nothing, the legislature will run the government. Ray Phelps asked Dan Cooper, general counsel for Metro, to assist the Committee. Ray Phelps explained that the initiative referendum affects Metro voters in two ways. The amendment of ORS 268 requires a certain kind of action and initiative and referendum ordinance requires a different kind of function. The Oregon legislature can do certain things through ORS 268 but a charter will create a whole new relationship.

Dan Cooper replied that amendment of ORS 268 would require a statewide vote. Provisions in ORS 268 state that there could be a district vote by initiative or referendum based on a change in the distribution of powers and duties of elected officials and the metropolitan aspects of unspecified functions. With a charter, everything will be up for grabs. If a charter is restrictive it would restrict the government and the ability of the people to vote and have input. There are some areas where the legislature pre-empted the ability of the voters to take away authority from Metro.

Jon Egge asked what led to the conclusion on the two limitations.

Dan Cooper said that the statute on solid waste disposal has specific direction for Metro to perform solid waste disposal and planning functions. A local charter is precluded from prohibiting that which the state permits. The same is true with land use planning.

Ron Cease stated that in reference to urban growth, by giving the authority to Metro, it is being denied to local governments.

Dan Cooper stated that the clearest area is the UGB to be run by the regional government. The other issues are gray.

Larry Derr asked if the legislature carves out an issue that gets different treatment in one area of the state, would it be an issue of statewide concern.

Dan Cooper responded that it would be but it is a gray area.

Larry Derr stated that it is not an issue now while the regional government has no self-initiated authority but it will be with the limits of a charter.

Dan Cooper replied that the Supreme Court would not necessarily have a problem with different treatment in different parts of the state but it could.

Ron Cease stated that is true but the voters of Ballot Measure One gave this area the authority to conduct a local charter process.

Dan Cooper added that the authority to write a charter was amended into the state constitution.

Ron Cease said that the state had to come up with the process to apply to Metro.

There was general discussion about the rest of the evening's agenda. Ron Cease suggested looking at criteria and then functions. The Committee came to a consensus that it would be

better to not get involved with functions at all.

2. Discussion of the criteria to be used in applying the basic principle to specific functions.

Ron Cease referred the Committee to the summaries of the basic principles from the two groups at the retreat passed out by Janet Whitfield.

Charlie Hales commented that the two statements could be merged and there was no conflict between the two.

Ray Phelps stated that he participated in group two. The group was conscious of effective and responsive government and wanted it to be clear that cost is not always the number one issue.

Jon Egge commented that there was more to group two's statement that was left off.

Janet Whitfield stated that the statements are what Don Barney wrote on the list not necessarily what the groups came up with.

Mary Tobias stated that the first point, the basic question of government, is parallel. Mary Tobias participated in group one which agreed that there is a role for the local government. The best government is the one closest to the people. The concept of government relating to the citizens governed to governing is important. The language must be clear. One question that must be asked is if the Committee believes that the best government for the citizens is the best one to which they can relate. That question is important to the hierarchy.

Larry Derr asked Mary Tobias if responsiveness, given that it means the government closest to the people is the best, should be moved ahead of effectiveness.

Mary Tobias said that it probably should be because it is an important issue. It depends, though, and probably should be debated.

Charlie Hales stated that the hierarchy of the principles of cost, effectiveness, and responsiveness varies with the functions. Some functions are local in flavor and some are generic.

Mary Tobias believed that the functions still need to be related to the citizens. A linkage needs to be established.

Charlie Hales stated that the principles still vary from one function to another.

Mary Tobias commented that citizens are critical to the success of the government and the government needs to feel comfortable.

Charlie Hales asked if Mary Tobias was mixing citizens and government. The citizens need to feel comfortable with the linkage and Metro.

Mary Tobias stated that citizens are equal to the government.

Ron Cease commented that the statement is theory. Based on that theory, conflict between a county and a city is a conflict among the people themselves.

Mary Tobias agreed that it is often the case.

Frank Josselson stated that government should be at an appropriate level depending on the function so it responds on the appropriate influences. Major issues of policy should not be at the local neighborhood level. There are certain functions that need to be close to the people, such as municipal services. The Committee should be careful when saying that the government closest to the people is the best because the government closest to the people is not always good. The essential function of regional government is to preserve the quality of life and livability in the area that is experiencing great growth. The Committee should think about and design programs to maintain the livability, given the growth issues. Planning functions are the most important functions at the regional level. Many people who have testified before the Committee have said that Metro should plan and coordinate. It is okay to have strong regional planning if the government does competent and accountable work. The current government cannot do that, which is one of the main reasons that he is against the RUGGO's. The analysis needs to start with the idea that the performance of some functions compete with, pollute, and corrupt the planning functions.

Ray Phelps asked why functions in addition to the planning functions pollute and corrupt the planning functions.

Frank Josselson gave the example of Metro receiving at least one-third of the revenue from the garbage tipping fees for solid waste. The larger the stream, the larger the revenue.

Larry Derr said it was a question of functions versus ownership versus contract facilities.

Frank Josselson added that if the purpose of solid waste planning is to decrease the solid waste stream, there is an institutional conflict of interest.

Ray Phelps asked what should be done.

Frank Josselson suggested taking the revenue out of the functions.

Ray Phelps commented that he would like to continue the discussion at another time.

Charlie Hales commented that the provisions in ORS 268 regarding solid waste say "may". Planning provision say "shall" and include functions that are not being dealt with currently. The revenue stream is influenced by the priority of the Council workload.

Larry Derr stated that the reason for the "shall" under the planning function -- "The district council shall review comprehensive plans beginning July 1, 1979 and recommend or require cities or counties to make changes in any plan" -- is because there is nothing to compare it to. Separating functions and planning is a criteria of placing the issues at a regional, local, or other form of government. One idea is for Metro to have commissions which would be its own governing board and would operate the service delivery. Metro would be involved by appointing and coordinating functions.

Ron Cease stated that the commission for the Convention Center is different than the one Larry Derr is proposing in that it operates under the financial responsibility of Metro.

Larry Derr added that the Convention Center is small and could be dealt with differently than big picture items such as transportation and solid waste.

Ron Cease commented that the functions will be given to Metro regardless of how it is divided structurally. The larger question is an issue of the criteria for how the function is done. The first question should be if Metro should do the function.

Larry Derr agreed with Ron Cease. The real issue is if area wide planning should be separate from the services. It might be a good idea to begin the next meeting with a discussion of the separation of planning and services.

Ron Cease said he would pass on the suggestions to the Chair.

Jon Egge asked why there is a need to consult the Chair if there is consensus among the Committee.

Ron Cease responded that he is acting under the chair and will not plan next week's agenda without Chair Myers. Ron Cease will relay the message because the issue does need to be discussed eventually.

Ray Phelps commented that he is interested in the issue of non-planning functions corrupting planning functions because functions drift into the structure. There needs to be a balance between functions. Metro is bound by statute to do solid waste functions and planning.

Ron Cease stated that he understood that each function from Saturday's retreat would be dealt with separately to see how it fits into Metro's structure. If more information is needed, it will be provided. Eventually, every topic will be discussed. The Committee needs a more structured agenda in order to eventually get a resolution.

Ray Phelps suggested using the criteria from group two for purposes of discussing the issue of criteria as a way to look at functions. The group two criteria statement reads: "Effectiveness, responsiveness and cost (scale included) as criteria for allocation of functions between local and regional government".

Jon Egge asked if the work plan could be discussed next week. The Committee is not sticking to it and therefore it should be changed or diverted to the subcommittee.

Ron Cease commented that the work plan gives the Committee a sense of substance that needs to be discussed and a time frame. The Committee should be free at any time to change the work plan. There is a long way to go before a resolution regarding a general notion of functions can be reached.

Jon Egge noted that he thought Larry Derr's discussion of the separation of services and planning is critical of the level of authority for Metro and would be a good starting point for discussion.

Ron Cease responded that it will be discussed.

Jon Egge commented that if the Committee wants to get out of the swamp, the basics need to be agreed upon. So far, nothing is agreed upon.

Matt Hennessee asked if Jon Egge was suggesting putting the issue of separation of planning and service functions at the top of next week's agenda.

Jon Egge said that was correct.

Ron Cease asked what the agenda is for the September 26th meeting.

Janet Whitfield responded that the discussion will start off with planning issues and move to transportation functions.

Motion: Frank Josselson moved, seconded by Larry Derr, to begin the discussion at next week's meeting with the separation of planning and service delivery functions.

Janet Whitfield commented that the planning and transportation issue will take a long time. The discussion in the motion could take up half of the meeting.

Ron Cease stated that planning will be the first issue on the agenda next week. It must be resolved one way or another.

Ken Gervais, Metro staff, noted that one reason for Chair Myers' decision about next week's agenda is that RUGGO's will be discussed by the Metro Council at the same time.

Ray Phelps called the question.

Vote on the Motion: Judy Carnahan, Larry Derr, Jon Egge, Matt Hennessee, Frank Josselson, Ned Look, Mary Tobias, and Mimi Urbigkeit voted aye. Ron Cease, Wes Myllenbeck, and Ray Phelps voted nay. The vote was 8/3 and the motion passed.

Ron Cease asked if there needed to be nine votes. He commented that it does not seem necessary for this issue.

Janet Whitfield commented that the bylaws state that nine affirmative votes are needed.

Mary Tobias stated the nine affirmative vote statement only applies when things are being added to the charter.

Matt Hennessee asked to have accessible and accountable added to the general statement of criteria for future discussions.

Jon Egge stated that some characteristics for regional government should be looked at before the criteria.

Ron Cease commented that Ray Phelps' suggestion regarding the general statement of criteria for group two was accepted as the beginning for future discussions.

Matt Hennessee asked if there was more information from the retreat than just the one sentence summary.

Jon Egge replied that there is more information.

Ned Look asked when the Committee will get the summary.

Janet Whitfield explained that the Committee should have the

summary next week after Chair Myers reviews it.

Ned Look commented that his whole basis of frustration is not having the summary in front of the Committee during the discussion.

Ron Cease stated that the Committee needs to be free to discuss anything but there needs to be some structure or else the Committee will go off on a tangent. Ron Cease commented that he will pass on the ideas for next week's meeting to Chair Myers. Ron Cease was troubled that staff will not be available because the Committee members do not understand everything.

Matt Hennessee commented that it is good to have the discussion regardless if staff is present.

Frank Josselson agreed with Matt Hennessee.

3. Election of officers

Ron Cease noted that the bylaws state that there should be one officer from each county. Chair Myers is from Multnomah County. Ron Cease opened the nominations for Vice Chair.

Matt Hennessee nominated Mary Tobias from Washington County as Vice Chair.

Hearing no other nominations, Ron Cease declared that Mary Tobias from Washington County is the Committee's Vice Chair.

Ron Cease asked for nominations from Clackamas County for the Secretary-Treasurer position.

Jon Egge nominated Ray Phelps from Clackamas County as Secretary-Treasurer.

4. Additional Business

Wes Myllenbeck asked where the location of next week's meeting will be. If it is at Metro, there may not be any parking.

Janet Whitfield stated that Metro room 440 is reserved because staff will be available if there are any questions. Parking will be arranged.

Janet Whitfield drew attention to the regional government comparison sheet which compares by category the different regional governments. If the members have any suggestions, let Janet Whitfield know.

Wes Myllenbeck asked if the bold typed Metro is the Metropolitan Service District.

Janet Whitfield replied that it was.

Mary Tobias requested that the staff try to locate the report from the Kennedy School of Government in the last NARC news letter.

Matt Hennessee requested a copy of the demographic changes from the 1990 consensus to see where the region is now.

Matt Hennessee also requested that the Metro in the Nashville and Davidson County area be added to the regional government comparison sheet.

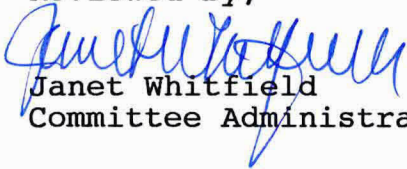
Ron Cease adjourned the Committee at 8:15 p.m.

Respectfully Submitted,



Kimi Iboshi
Committee Clerk

Reviewed by,



Janet Whitfield
Committee Administrator