

Metro Charter Committee

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AGENDA

DATE: September 26, 1991
MEETING: Full Committee
DAY: Thursday
TIME: 6:00 p.m.
PLACE: Metro, Room 440, 2000 SW 1st Avenue, Portland.

- 6:00 Call meeting to order
- Correct and adopt minutes from August 13, 22, 29 and September 5 meetings (previously distributed).
- 6:15 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.
- 7:15 Discussion of the planning and delivery of a given regional service provided by the same government unit.
- 8:30 Initial consideration of regional responsibilities regarding growth management.
- 9:00 Adjourn meeting.

MINUTES OF THE CHARTER COMMITTEE
OF THE METROPOLITAN SERVICE DISTRICT

September 26, 1991

Metro Center, Room 440

Committee Members Present: Hardy Myers (Chair), Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Frank Josselson, Ned Look, Wes Myllenbeck, Isaac Regenstreif, Bob Shoemaker, Mary Tobias, Mimi Urbigkeit

Committee Members Absent: John Meek, Ray Phelps, Jr.

Chair Myers called the regular meeting to order at 6:05 p.m.

1. Correction and adoption of minutes from previous meetings.

Chair Myers asked for corrections to the August 13, 1991 minutes.

Motion: Wes Myllenbeck moved, Charlie Hales seconded, to approve the August 13, 1991 minutes as distributed.

Vote on the Main Motion: All present voted aye. The vote was unanimous and the minutes were approved.

Charlie Hales said that Jon Chandler and Mike Nelson had responded in a letter to the inquiries made at the September 12, 1991 meeting. The Committee should have the letter for the next meeting.

Chair Myers said that the information could be helpful in discussing the overall responsibilities of growth and development in the region. Chair Myers asked for corrections to the August 22, 1991 minutes.

Motion: Bob Shoemaker moved, Wes Myllenbeck seconded, to approve the August 22, 1991 minutes as distributed.

Vote on the Main Motion: All present voted aye. The vote was unanimous and the minutes were approved.

Chair Myers asked for corrections to the August 29, 1991 minutes.

Jon Egge inquired about Ray Phelps' previously expressed concerns about the minutes.

Janet Whitfield said that Ray Phelps had talked to her and his question was resolved.

Motion: Frank Josselson moved, Jon Egge seconded, to approve the August 29, 1991 minutes as distributed.

Vote on the Main Motion: All present voted aye. The vote was unanimous and the minutes were approved.

Chair Myers asked for corrections to the September 5, 1991 minutes.

Motion: Bob Shoemaker moved, Frank Josselson seconded, to approve the August 22, 1991 minutes as distributed.

Vote on the Main Motion: All present voted aye. The vote was unanimous and the minutes were approved.

Chair Myers explained that rather than move into the first item on the agenda, the second item will be discussed first in order to remain true to the motion made at the last meeting.

2. Discussion of the planning and delivery of a given regional service provided by the same government unit.

Jon Egge said that the motion to discuss the separation of the planning and delivery of service functions came from the discussion at the last meeting regarding the general principles/criteria group statements resulting from the retreat. The characteristics of a good regional government, for which there was some agreement at the retreat, were not discussed.

Larry Derr said that he has been impressed by all the background testimony, especially Professor Toulan's testimony. Professor Toulan had stated that planning is intended for the future vision and needs to be broadly based rather than a regulatory process. Cities and counties recently have separated general purpose functions from long range planning by allowing the governing body to create planning commissions which adopt comprehensive plans. Rather than having the plans go back to the governing body, the plans stopped with the commission which resulted in the court

system becoming involved. The comprehensive plans created by the commissions were not intended to be the rules but the courts interpreted them that way. There is a real need for planning that goes beyond goals and objectives and looks ahead. Some people will say that tradition is for the planning authority to also provide the services. The kinds of planning for functional and facilities planning need to be looked at. There currently are not any in place or in the statutes at a local or state level. Separation of planning from service functions includes where the people are going to go, what the region will look like, what the density will be, future growth, and who should do it.

Bob Shoemaker gave the scenario of the city and county long range planning being done by a Metro planning commission which would submit their work to the Metro Council for approval. After approving the plan, the Metro Council would delegate the execution of the plan to the Executive. The Executive would provide the services and the Metro Council would do nothing more than keep an eye on the Executive and deal with problems when they arise. Bob Shoemaker asked if this scenario would separate planning and service functions adequately.

Larry Derr stated that it may not go far enough. Delegating planning one step away is okay until it comes back to the governing body at the top, where planning can be corrupted if the planning and service providers are the same body.

Jon Egge said that the people of the area are not concerned that a regional government provides the services of the zoo, MERC, solid waste, etc. As long as the services get provided, it does not matter who provides them. The Committee should concentrate on how a regional government should differ from a state or local government. The real function of regional government is the planning. Jon Egge said he could not see how good planning could be done by elected officials if the day-by-day operations are services which could influence the planning process. The amount of authority given by the public is purely proportional to the purity of the process.

Ron Cease said he is troubled by the concept of the purity of an issue when there really is no such thing. Any effort to separate planning and politics is a doomed effort. The two cannot be separated because planning is a political process. Also, a planning function off by itself will have little authority. The planning function could not be effective or have any authority if it is off by itself. One question that must be answered is what to do with the service functions that Metro currently has. With many jurisdictions having many functions, it gets proliferated. With a regional government doing regional services, accountability is gained. The question that is really being raised is what "separated" means. Does it mean separated off by itself or separated within Metro?

Larry Derr agreed that planning is political. If it was not, people would not be involved. It is a political process that needs to be done by elected individuals who are accountable and visible. There needs to be authority built into the charter so that the plan does have "teeth". Larry Derr explained that when he said planning should not be regulatory, he did not mean it should not be mandatory. It is a question of how it is applied. Commissions are just one idea and it would not necessarily mean that Metro would have more or fewer functions than it currently does. Commissions would move functions one step away from Metro.

Chair Myers asked if it would be within Metro.

Larry Derr replied yes, in that the commission members would be appointed by Metro's elected governing body and accountable to them. The operational function of the commission would be the responsibility of the commission, although it would have to comply with the regional plan. There is also the question of financing. The regional government might have a say in where the financing comes from or directs where the activity needs to occur.

Chair Myers asked what the discussion will draw from the Committee as a whole, as far as a position. It is too early in the process for the Committee to make a sweeping judgement that the service and planning functions cannot be in the same place. Due regard must be given to the potential way in which, in the same government, a planning responsibility and a service responsibility are arranged in order to try to minimize litigated concerns. Therefore, each issue should be addressed one at a time because the answer might be different depending on the issue.

Larry Derr said that the service and planning functions can be in the same organization. To focus on a function individually misses the point. There first needs to be an overall plan to guide the need for the service. Water and sewerage planning cannot be done until growth planning has been done. It is hard to get a grip on services in general, in comparison to planning, if there is not a definition of planning.

Chair Myers said there could be an area of planning responsibility in respect to, for example, the overall region that carries with it no direct service functions. There could also be areas which would have a planning and a service responsibility, such as solid waste. The answer may not always be the same for every issue.

Larry Derr said that it should be the same for all functions. If there is going to be a regional plan, there should be only one. The UGB is the closest function that basically has two separate functions for planning and service delivery. The UGB discussion would surround the questions of should the UGB follow the

provisions of services or should the services follow the boundary. This will lead back to the need for a regional plan. The Committee needs to have a consensus of a need for a regional planning function, not necessarily to have a motion now.

Chair Myers said that the Committee needs to discuss the role of the regional government in relation to the region's growth and development. The question of how any service delivery function is handled can be resolved in that context.

Frank Josselson said that without a regional vision that integrates the functions and natural systems--land, air, water--this area will have the problems that Seattle currently has. Although the problems at this time are okay, sprawl continues. A regional vision should include how the area will look in five years and 100 years. By separating each function, the endeavor gets hurt and the Committee will not get anywhere. A guiding principle is needed for the process which would include regional comprehensive planning. A regional government is needed to plan for the growth. Cities and counties do not have the time to plan for the future. The problem with the current planning process is that it has degenerated to a regulatory process with no vision. The structure to which the power of future planning is delegated is one which will operate politically with great integrity, given the regional political forces. The regional government should not be dealing with the service functions because it is unproductive. This is a total flip-flop on the way the planning function has historically been regarded in Oregon. The only way the public will agree with the idea of a regional government planning for growth is to show the public a government that is responsible and visible. The local services, such as fire, police, and water, should be left at the local level but subject to regional government policies. They are being done well at the local level. The services done currently at the regional level should remain at the regional level, but should not be subject to the day-to-day attention and focus. The local governments need to be told that it is the regional government's turn to do planning and the local governments have an obligation to cooperate. The regional government will try to maintain the local communities' integrity by encouraging local governments to maintain the neighborhood identity. The regional government should do planning directly, with integrity, without distractions, and without being motivated by the size of services.

A proposal from Frank Josselson and Larry Derr was distributed.

Ron Cease said that he did not disagree, but he did not know how Metro would get there. Ron Cease had concerns regarding how the scenario relates to existing functions. It would be a mistake to have the same relationship for all functions. With the old CRAG, the people in the cities and counties did not care about regional

government and the regional view was lost. When citizens want and need a service to be provided by a regional government, Metro should be able and available to do it. Metro needs to be allowed to evolve and change. No one is arguing that police and fire services should be taken over by Metro. In most cases, the voters do not care who is responsible for the service as long as they get it.

Charlie Hales said that he disagreed with Ron Cease. There is an important conceptual question with the separation of planning and service functions that needs to be answered before deciding what function should be operated by a commission. There is currently a Metropolitan Service District which could be changed to a Metropolitan Planning District.

Ron Cease said that Metro is a service district by law but has become a general purpose government. The Committee's responsibility is to write a charter for a service district not a planning district.

Charlie Hales stated that he was not suggesting having only a planning body. It is important philosophically and functionally to have Metro be a planning district first and have the service functions be subordinate.

Ron Cease stated that he agreed Metro should do more planning.

Charlie Hales stated that the only way to do more planning is to make planning superior to the revenue functions.

Chair Myers said there was a need to define, in draft language, the planning responsibilities. The services at a regional level need to be organized as to their relationship to the regional government.

Frank Josselson said that the people are justified to feel nervous with the testimony regarding Willamette County and RUGGO's. Frank Josselson said he was trying to resolve the questions of Metro's planning responsibilities and service functions without immersing the Committee in a swamp.

Chair Myers said that he did not think the Committee would be immersed into a swamp if the Committee can come to grips with the starting issue of the planning responsibilities of Metro. This should be done now before trying to get a broad starting commitment over all the organizational pieces that may relate to how services might be organized. If the proposal is voted on, it presupposes that Tri-Met will become part of Metro.

Frank Josselson said that he had no intention of voting on the issue tonight. His intention was to give the Committee a general framework.

Larry Derr said that he agreed with Chair Myers. The original problem with the process was assuming that all functions were on the same level. This discussion has pointed out that the planning function is on a different level from the other functions.

Chair Myers said that part of the confusion around the planning service issue was that it sounded as if there would be two separate governments: one for planning and one for services. Looking at the proposal, that is not the point. The relationship between the regional services and the planning function needs to be examined closely. It would be better to define the planning function before working on the relationship between the regional services and the planning function.

Frank Josselson said that he agreed with Ron Cease that it may not always be appropriate to use a commission for a particular function. The proposal was Frank Josselson's way to start with the big picture and refine.

Chair Myers said he needs to start with the big picture also but he defines the big picture as defining planning. A discussion regarding the criteria for regional government functions would be useful.

Mary Tobias stated that the growth rate in the area will increase but it will not be out of control and the existing system can cope with the growth. Local government can do the job and is doing well with the first time testing of the land use system. The local governments should go back to the bottom-up system which originally designed a vision for the communities in the metropolitan area. Mary Tobias suggested never using the word "planning" when defining the planning responsibility. It is very confusing because it sounds as if "planning" could be zoning, vision, coordination. Through the process, it would be better not to use the word "planning" at all because there are too many meanings and connotations.

Chair Myers said that the definition of responsibility is also critical. There needs to be a certain level of specificity if it is going to be a charter position. Definitions are a key component of the discussion. Chair Myers said that Mary Tobias' first point is a preview to a position that would be contested in a real need for a policy in the regional government. Is a certain defined responsibility needed in the regional government?

Mary Tobias said that almost all of the local governments concur with the Committee's comments last week regarding the need for a regional government. People want to keep the regional government.

Ned Look said that there are some people who believe strongly

that there is a need for a regional government with power and an equitable tax base to manage and oversee the functions with a regional constituency. There needs to be a strong regional government. Cities can do their jobs but they are frustrated with the structure. The Committee should figure out what the functions are first. As issues arise, there will be agreement as to what belongs at the regional level. Other functions should be added to Metro's authority only by a vote of the people when they feel the need.

Frank Josselson said that local governments have agreed that they cannot do the job as understood by the testimony of the Metro staff regarding RUGGO's. If the local governments have bought into RUGGO's, and they have, then local governments have agreed they cannot do comprehensive planning.

Charlie Hales said that Ned Look and Frank Josselson are saying the same thing. The cities are doing a good job with city planning but no one is doing regional planning. Charlie Hales said that he had written down some ideas for the basic principle based on the retreat.

Chair Myers said that he had also written down some ideas for the criteria. Chair Myers asked the members to think about the criteria in relation to the question of what considerations might be viewed as tipping toward a regional authority of a function although he does not intend for there to be a vote.

Charlie Hales said that he wrote an overall principle which states "1. Plan, coordinate or implement government programs or functions which equip the region for effective regional growth management. 2. Finance and manage regional public facilities on a regional basis."

Chair Myers asked that his criteria be distributed along with Charlie Hales' principles for the Committee to think about for next week's meeting. The criteria apply to regional functions and are taken from various documents, the retreat, and ideas from Janet Whitfield. One of the ideas is base sharing which would take the assessed value of facilities, probably industrial, and share it over a defined area rather than just the small jurisdiction that it is located in.

Jon Egge said that it revolves around the statements regarding the amount of money that industrial land, commercial land, and residential land generates.

Chair Myers said that base sharing is a base competition in the factor of regional development consideration. The criteria and general principle will be on the agenda for next week.

3. Initial consideration of regional responsibilities regarding

growth management.

Chair Myers asked the Committee what they want in the region in respect to growth and development. What is wrong with the present arrangement that will produce the regional outcome desired in regards to growth and management?

Charlie Hales said that the region must define limits or boundaries of growth, allocate growth within the area of growth, and determine the complexion or nature of growth within the area. Limitation, allocation, and complexion are the three areas.

Jon Egge asked if complexion was a measure of quality.

Charlie Hales said that it was and that complexion is the area where the regional government has done the worst.

Bob Shoemaker asked why the region should involve itself with complexion after it has accomplished the first two.

Charlie Hales said that the region does not have to. The complexion tends to have effects that are regional. For example, developments that are auto dependent put stress on the transit system beyond the local area such as Clackamas Town Center.

Bob Shoemaker asked if, for example, Clackamas Town Center would fall under allocation.

Charlie Hales said that is true but the only allocation effort made so far is housing.

Bob Shoemaker asked if, under the premise that allocation of things such as shopping centers would be regional, there were any good reasons why the local government cannot deal with complexion.

Charlie Hales said that there is a role for the regional government to determine the complexion as well as a local role. If only the region was responsible for the complexion of cities, the entire region would look the same.

Jon Egge said that it would homogenize the entire area and there would be no identity to any communities.

Charlie Hales said that one criticism of the Metropolitan Housing Rule is that the different areas become homogenized.

Jon Egge asked if Clackamas Town Center was moved to a city line or county line, wouldn't there be complexion questions that would not have to be made if the shopping center was in the middle of the county as it is now.

Charlie Hales said another reason to include all three areas is that what has been done so far has not worked.

Chair Myers asked for an explanation of the limitation point.

Charlie Hales said that it is a fundamental principle of the regional urban growth boundary. The region needs to determine the limits of growth. The cities cannot determine the limits of growth because the incentives for inappropriate growth which might have external effects outside of the area are great. Urban uses of the land need to be made regionally. It is a successful assumption that only the regional government can manage the demarkation between urban and rural. Resource land is a shared resource for the state and transcends local boundaries.

Chair Myers asked what, in relation to the three areas, represents shortcomings in the present system which will not allow them to be achieved.

Charlie Hales said that, with limitations, the lack of a regional plan has caused the limitation on growth to be a less effective instrument than it could have been with a plan. Equipping the area with the limitations of an UGB was not enough to stop sprawl. For example, the land between I-205 and Lake Oswego.

Jon Egge said it may have encouraged sprawl.

Charlie Hales agreed that it may have encouraged sprawl by severely limiting the amount of developmental land. The price of the land were driven up because of the limited amount of land.

Jon Egge said that economics may prevent expansion.

Charlie Hales said that a shortcoming in the area of allocation is that the Metro Housing Rule has worked well. For example, in the last ten years, Lake Oswego has built ten times more multi-family housing than what would have been permitted under the old ordinance. Allocation for commercial and industrial land has not been dealt with yet and it is where the idea of tax base sharing comes from. The complexion of growth is where the region has failed. Growth could be changed and housing was effectively distributed among the local jurisdictions, but they failed to create a mandate for urban design at the local level.

Jon Egge asked if when Charlie Hales talks about the complexion, is he saying it affects the region.

Charlie Hales said that it affects more than the region. It has a great affect on the local area and state facilities. For example, the shopping centers on the edge of Hillsboro cause people to become auto dependent and increases the traffic on TV Highway, which is a state facility.

Bob Shoemaker asked if the regional government would do the planning of the complexion or if it would perform an oversight function.

Charlie Hales said that the regional government should have at least oversight functions. It is possible that the regional government have a stronger role in comprehensive plans. It is a possibility that the regional government could take over the functions of LCDC.

Larry Derr asked if the citizenry of Hillsboro had decided that they wanted big strip centers on the edge of town and did not see a use for the downtown anymore, and if the impacts of the state highway could be gotten around, where should the role of regional planning come down.

Charlie Hales said that it would be important to figure out how to tax externalities. For example, a gas tax which would penalize auto dependent behavior. The other issue is transportation and light rail. The region should say to Hillsboro, the downtown needs to be transformed into office space or else light rail will not work because there will not be a great enough base.

Larry Derr said that Charlie Hales was tying it into the consequent costs to the community overall as opposed to simply a value judgement.

Charlie Hales said that the region cannot impose an aesthetic value on the local governments unless it is simply an aesthetic issue.

Larry Derr said that when Charlie Hales said complexion, he thought of imposing an aesthetic value on the local governments.

Charlie Hales said that the region cannot impose a NW Portland taste on Gladstone. But it can specify a regional level of transit use through development patterns which could be imposed on both areas.

Chair Myers asked from the standpoint of actually achieving better control over allocation, what are the ramifications of, for example, the way water is handled. For example, what are the ramifications if an intensity of development motivated by transit oriented objectives is strived for but the area refuses to provide water although it has the water authority.

Charlie Hales said that the service ability has not been a blockage to development at planned density.

Wes Myllenbeck said there has been, though, in the past with United Sewage Agency.

Charlie Hales said the region has tended to have a service provision arrangement that was inadequate. Once it was on the verge of collapse, the services would be rearranged to be more effective. The region has not done that good of a job with capital facilities planning but the service providers do a good job of keeping up.

Frank Josselson said that the water problem is a water source problem which is regional not local.

Charlie Hales said that there is more of a shell game going on now than there was when there was plenty of capacity in the system.

Frank Josselson said that it raises many interesting questions. For example, Portland draws profit off of the Bull Run for social service functions. When looking at regional growth planning, and moving water supply to the regional level, Portland will be unable to provide some social service functions.

Jon Egge said that there is a theoretical oversubscription to water basins. The planning process begins and then they say water is needed. The critical difference now is that water source and supply may drive the planning process. There are two problems: one of oversubscription of the water basins and the turning around of the planning process to make sure that water can be provided.

Charlie Hales said another allocation problem is schools. Better allocation could reduce overtaxing the school system. Most of the local governments spend their time managing crises and long term planning for their jurisdictions becomes secondary. Coordination efforts between cities for long term planning is a pipe dream because they do not have the time.

Jon Egge said that a good example of Charlie Hales' point is the inability to come to an agreement in a timely manner, such as on the Tacoma Street overpass, which is a problem in many jurisdictions.

Chair Myers asked the Committee if, for purposes of further discussion, there was general agreement to use limitation, allocation, and complex ion in order to discuss what regional government's functions ought to be in relation to each component.

Matt Hennessee asked if the components were to be used for discussion regarding growth management, whether they not extend to coordinating or enforcing the effort.

Chair Myers said that was correct. It would be framework to discuss what regional government's role should or should not be.

Frank Josselson asked that complexion be defined.

Charlie Hales said that complexion is the next step away from zoning. The regional interest in the complexion of the development might include the amount of single family housing, mixed used land, natural areas, and preservation of neighborhoods and commercial areas without zoning or planning the region from the regional level. It would not be practical or politically plausible to zone on a regional level because it is too big and diverse. Complexion would set parameters and enforce concepts at the regional level and the city decisions would be made on a city level.

Matt Hennessee said that the complexion of the neighborhood brings in negative connotations. By calling it the nature of growth, the level of discussion would be raised to allow for a meaningful discussion.

Chair Myers said that nature of growth will be substituted for complexion.

Ron Cease said that it would be helpful to get a better sense of what the reasons are for local governments to resist a regional government. What is the nature of political resistance from letting Metro do more?

Chair Myers asked who Ron Cease would like to hear from.

Ron Cease said he would like to hear from Metro and local governments.

Chair Myers said that the Committee will ask for input from the Regional Governance Committee and Metro.

Bob Shoemaker said that one could assume that it would be resistance and impositions without local control.

Charlie Hales said that it is more than that. The power base in cities tends to be single family homeowners who do not want industry around their homes. The Metro Housing Rule worked because the growth was distributed without the cities having to say anything. Part of the resistance will be toward a super regional authority who will tell cities to do their fair share.

Mary Tobias said that the biggest problem, before JPACT, was that the local governments were never at the table to develop policy unless they were asked to testify. The biggest resistance is because local governments are afraid they will not have a say. The local governments have a responsibility to translate the public policy to the citizens. Cities want to be partners in the system. The government has evolved into something different in the last five to ten years because the federal government is not

forcing things down to local government.

Ron Cease said that the neighborhood associations have authority. On some issues, the regional government is not paying enough attention to the local government. A good balance would be helpful.

Jon Egge said that the most important political insight might come from members of the Committee and there may not be a need to get a lot of outside information regarding the political resistance.

Chair Myers said that the Committee should work without diversion and not have invited testimony. The Committee should come up with some starting concepts for which people could give reactions. With the area of present activity, it would be helpful to have Metro staff available to answer questions. The Committee should proceed by working mainly with themselves and their knowledge.

Chair Myers asked how the role of regional government in relation to limitation ought to be defined to strengthen the region as part of a vision.

Charlie Hales said that the UGB is not fully developed as it should be in statute. It is not a component of a regional comprehensive plan because there is not a regional comprehensive plan nor is it a component of each local jurisdiction. The question of "whose boundary is it" has not been answered. There is a dangerous assumption that the UGB is a fence not a tool. The UGB was designed as a planning tool. The UGB is a good idea and works but it is in danger of being loved to death. It must be properly placed in a regional planning framework.

Chair Myers asked what "properly placed" meant.

Charlie Hales said that the UGB has not been defined. It has been a temporary expedient without a process for amendment and making it a regional planning tool. The issue of moving the boundary for subregional need has just arisen in the last couple of years. The UGB cannot be maintained unless it is connected to the regional plan and there needs to be a clear process for management of the UGB. The question of where should the region grow and where should it not grow needs to be answered. All land is not equal but there is no bias in the process currently to protect good land.

Larry Derr said that part of the problem of changing the UGB is the uncertainty that the boundary should be changed. The only reference to changing the UGB is Goal 14 which only says when it cannot be changed. To be in compliance with Goal 14, the jurisdictions should decide what their population high should be

and when they reach it, they should not expand the UGB.

Frank Josselson said that Nohad Toulan said that expansion of the UGB is a decision that the local governments should make. The UGB should maintain the quality of life and growth. Part of the work of regional government is to say that the UGB will stop somewhere and will not spread over the state.

Larry Derr said that the UGB does not necessary have to be fixed. The Committee's job is to set up a framework to resolve the UGB issue.

Ned Look agreed with Frank Josselson.

Charlie Hales said that the issue of the UGB gets to the issue of the ultimate authority of Metro.

Frank Josselson said that historically, Oregon cities can plan into the counties. There is nothing that says the regional government cannot do the same.

Wes Myllenbeck said that the extra-territorial jurisdictions did not work in planning.

Ron Cease said that there would be a natural conflict between the cities, counties, and the regional government with extra-territorial jurisdictions.

Frank Josselson said that it should be done with LCDC. LCDC should help with the higher density communities.

Charlie Hales said that it is difficult to have foresight regarding the growth that will come. The area inside the Portland regional UGB accommodates half of the state's population but it comprises .3% of the state's land area. The tools of today's Metro will not be adequate for the additional growth.

Jon Egge said that it will be easier to come up with a vision for the region from the growth standpoint than giving the power to someone else to come up with a vision.

Charlie Hales said the question that they are agreeing on is what is in the tool kit now versus what will be in the tool kit in the future.

Chair Myers said that the next meeting will continue with the functions pertaining to growth management. At the next meeting, the Committee will try to get more concrete regarding the functions of regional government as it pertains to the three areas and how it is described.

Mary Tobias asked if by limitation, Charlie Hales meant the

limitation of population in the area.

Charlie Hales said that limitation meant, geographically, where urban growth should occur and where it should not occur and the division between the two. The carrying capacity is floating around in planning circles but that is not what he meant.

Chair Myers suggested that the Committee define limitation to clear up any misunderstanding that there could be.

Jon Egge asked if carrying capacity was a good definition.

Bob Shoemaker said that was exactly the opposite of what limitation is.

Chair Myers said that it is an area that will need to be discussed but it is not limitation.

Bob Shoemaker asked about the termination of the UGB as a definition for limitation.

Chair Myers said that it was one step above that.

Charlie Hales said that it was the demarkation, designation, and separation of urban land and rural land. The UGB alone should not be the definition because there are concepts such as giving Metro reserve authority outside the UGB.

Janet Whitfield asked if it was an overall, average density spread out to the regions.

Charlie Hales said that would be allocation. Limitation is the line on the map.

Janet Whitfield said that it is what is rural and what is urban.

4. Additional business

Mary Tobias asked to start a glossary to guarantee that everyone has the same definitions.

Ron Cease said that on the principle list that was handed out, there is no accountability. On the criteria sheet, there is a trade-off in reference to criteria. At this point, the Committee is only talking about assignments to the regional level and not specific functions. It is not talking about the structure but the criteria.

Chair Myers said that was correct. At this point, he does not know how far to go into criteria. Chair Myers asked Ron Cease if he is saying that performance at the regional level would increase accountability.

Ron Cease said that he meant whether performance at the regional level would increase or decrease accountability.

Matt Hennessee said accountability was added at the last meeting.

Ned Look asked if the minutes from tonight could be done before the next meeting. Ned Look would like to attach to the minutes a summary of some thoughts he had from last on regional government.

Chair Myers said that other meeting locations are being looked into.

Chair Myers adjourned the meeting at 9:00 p.m.

Respectfully Submitted,



Kimi Iboshi
Committee Clerk

Reviewed By,



Janet Whitfield
Committee Administrator

Materials following this page represent
Attachments to the Public Record



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September 27, 1991

Memo to: Regional Governance Committee Steering Committee

Subject: Meeting notes from Charter Committee September 26 meeting and additional materials for September 30 Steering Committee meeting

From: Mike McKeever, RGC staff

I attended last night's Charter Committee meeting. A brief summary of the highlights follows. I have also attached three hand-outs from the meeting which are relevant to the Steering Committee's work next Monday.

REGIONAL GOVERNMENT STRUCTURE: PLANNING VS. SERVICE DELIVERY FUNCTIONS

Larry Derr proposed that planning functions and service delivery functions be separated to the greatest extent possible. The primary rationale seemed to be that when a single entity is responsible for both that: 1) the self interest of the service delivery arm of the government distorts pure planning; and 2) the day-to-day requirements of service delivery (e.g. processing development applications) demands so much time of staff and elected officials that they have no time for planning.

Frank Josselson supported the proposal and disseminated a chart (attached) which would establish a "Regional Governing Body" with responsibility and authority for planning. Certain services would be delivered through this regional government also, but they would be overseen by Boards or Commissions. The Boards or Commissions would be appointed by the regional government. One analogy to this organizational arrangement might be local Planning Commissions, which are appointed by the elected body but then operate semi-independently from it.

Josselson advocated for this proposal on the premise that regional comprehensive planning is "an idea whose time has come". He stated that cities, counties, and special districts are "utterly incapable" of planning for the 500,000 people projected to move to the metro region. Josselson said that local governments support for METRO's RUGGOs was a self admission that they were incapable of conducting regional planning. John Egge supported the proposal.

Mary Tobias disagreed, arguing that growth is not out of control and that local governments can do their job of managing growth. She requested clear definition of what is meant by use of the term "planning". Is it zoning, defining a regional vision, regional regulation, regional coordination, or something else?

The Committee deferred action on the proposal.

BASIC PRINCIPLE AND DECISION CRITERIA

The Charter Committee is developing an overall basic principle and several decision criteria to guide its development of the charter. Charlie Hales proposed a basic principle (hand-written and attached). Hardy Myers handed out the attached "Criteria for Potential Assignment of Functions to Regional Government". There was little discussion of either document, and it is not clear when the Committee intends to act on them. Steve Stolze requested earlier yesterday through Janet Whitfield, Charter Committee staff, and Mary Tobias that the Charter Committee give the RGC Steering Committee time to meet and prepare comments before acting on this issue.

Ron Cease requested that the issue of accountability be added to the criteria. He explained that if regionalizing a function came at a cost of reduced accountability to citizens that the Charter Committee needed to consider this effect in its deliberations.

GROWTH MANAGEMENT

The Committee began its discussions of functions with growth management. Charlie Hales suggested that the growth management issue could be categorized into three areas: 1) defining boundaries (e.g. urban growth boundaries, urban reserves); 2) allocating growth; and 3) determining the nature of growth. The Committee has decided to use these categories to organize its analysis of growth management functions. Highlights of the discussion included:

- METRO's current authority to manage the urban growth boundary may not be sufficient to comprehensively manage the division between urban and rural lands. Some form of authority to establish urban reserves and/or other tools may be necessary. This may have implications for what METRO's boundaries should be.
- The existing Metropolitan Housing Rule (50% multi-family, 50% single family in each jurisdiction) currently is a good example of effective allocation of growth. The rule allows local governments to withstand local opposition to multi-family housing by pointing to LCDC as the source of the rule.
- The region is doing a poor job handling the nature of growth. Nature of growth was defined as density, mix of uses, and location of growth within a jurisdiction. Transportation and air quality impacts were cited as the primary regional implications of this issue. Hillsboro's healthy "strip centers" and struggling downtown were cited as examples of poor planning.

The Committee reached no closure on this issue and will devote the majority of its next meeting to the growth management issue.

WATER

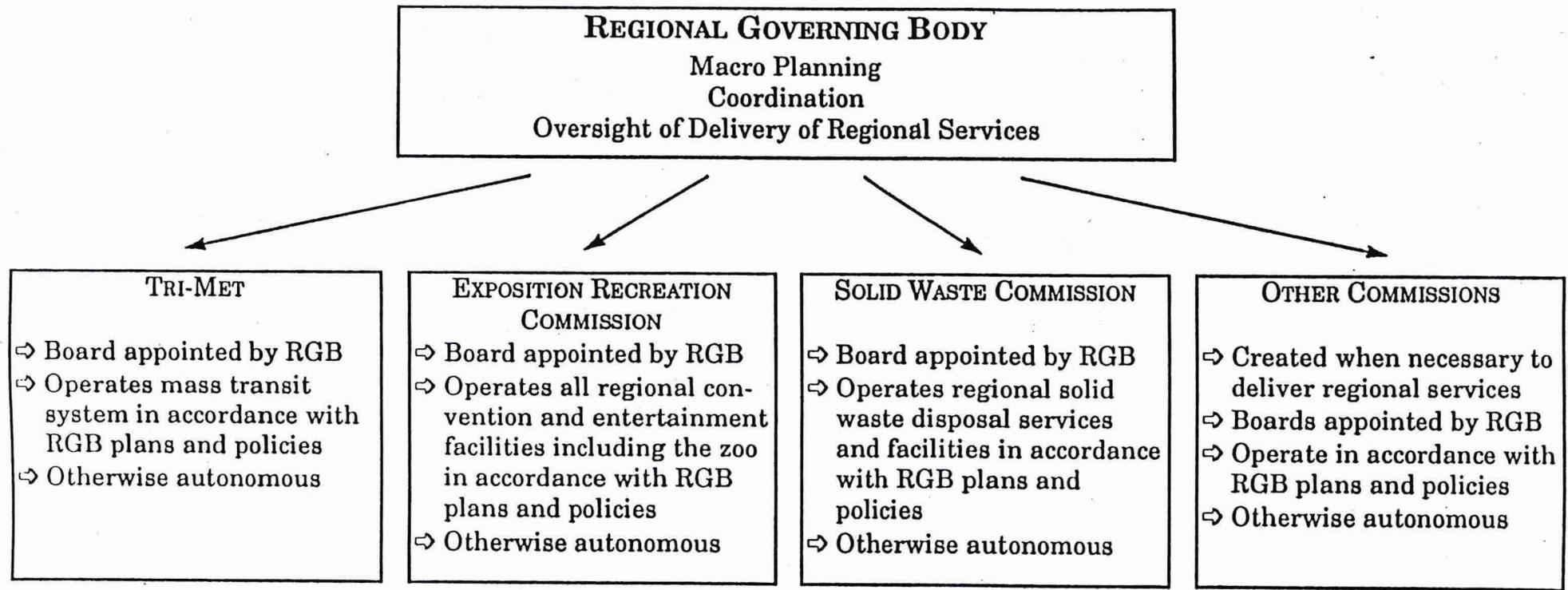
The Committee briefly discussed the merits of regional service delivery for water. Josselson claimed that the Portland Water Bureau sells Bull Run water and uses the proceeds to pay for social programs on Burnside. He indicated that regional water service delivery would avoid this problem.

PROCESS

Ron Cease indicated that he wanted to know as specifically as possible the reasons why local governments would object to regionalizing certain functions. Hardy Myers indicated that the RGC could help in this regard. John Egge indicated that the Committee has a wide diversity of people and that he thought they could adequately assess the nature of any resistance to regionalizing government functions. Hardy Myers said that he wants to limit outside testimony at the next few meetings to give the Committee an opportunity to discuss issues and make some progress. Then a draft of a proposal would be presented for reaction and testimony. I spoke with Hardy after the meeting and he has invited an RGC representative to make a brief (5 minutes) presentation on what RGC is and how it would like to work with the Charter Committee at the next Committee meeting. He indicated that RGC should channel its comments on substantive matters through written testimony for the next few meetings, and that their would be opporunity for verbal testimony before any final actions were taken.

CRITERIA FOR POTENTIAL ASSIGNMENT
OF FUNCTIONS TO REGIONAL GOVERNMENT

- I WHETHER PERFORMANCE AT REGIONAL LEVEL IS REQUIRED TO CARRY OUT FUNCTION AT ALL
- II WHETHER PERFORMANCE AT REGIONAL LEVEL IS REQUIRED BY STATE OR FEDERAL GOVERNMENTS
- III WHETHER PERFORMANCE AT REGIONAL LEVEL IS REQUIRED FOR REGIONAL OR LOCAL FUNDING ELIGIBILITY
- IV WHETHER IMPACTS OF THE FUNCTION EXTEND BEYOND ONE JURISDICTION
- V WHETHER BENEFITS OF THE FUNCTION EXTEND BEYOND ONE JURISDICTION
- VI WHETHER PERFORMANCE AT REGIONAL LEVEL WILL BE MORE COST-EFFICIENT THROUGH (A) ECONOMIES OF SCALE AND (B) AVOIDANCE OF DUPLICATION AND OVERLAP
- VII WHETHER PERFORMANCE AT REGIONAL LEVEL IS REQUIRED TO CARRY OUT FUNCTION EFFECTIVELY BECAUSE OF ONE OR MORE OF THE FOLLOWING: (A) GEOGRAPHIC EXTENT OF THE FUNCTION; (B) NEED FOR REGIONAL STANDARDS; (C) NEED FOR REGIONAL CONSISTENCY; (D) NEED FOR REGIONAL GOVERNMENT'S FISCAL, TECHNOLOGICAL OR OTHER CAPACITIES; (E) NEED TO AVOID OR RESOLVE CONFLICTS BETWEEN JURISDICTIONS
- VIII WHETHER PERFORMANCE AT REGIONAL LEVEL IS NEEDED TO ACHIEVE EQUITABLE FUNDING OF FUNCTION



CITIES, COUNTIES, AND SPECIAL DISTRICTS

1. Continue to provide municipal services including police, fire, domestic water supply, sanitary sewer, etc.
2. Cities and counties continue to make site specific land use decisions.
3. Cooperate with RGB in development of all regional plans and policies.
4. Free to consolidate and enter into governmental agreements with one another to deliver services in the most appropriate way.

BASIC PRINCIPLE

①

-draft-

Plan, coordinate or implement government programs or functions which equip the region for effective regional growth management.

② Finance and manage regional public facilities on a regional basis.



COMMON GROUND:

The Urban Land Council of Oregon

September 28, 1991

Hardy Myers, Chairman
METRO Charter Committee
2000 S.W. First
Portland, OR 97201

Dear Chairman Myers and members of the Committee:

At the conclusion of our testimony before the Charter Committee, we were asked to provide specific proposals for the Committee to consider. The request is appreciated; I hope this letter will help in the Committee's deliberations.

One of the most significant problems facing METRO is its unwillingness to be perceived as the "heavy" vis a vis local governments. In part this stems from METRO being viewed and, to a certain extent viewing itself, as an overgrown CRAG and therefore the creature of local governments: in part, it comes from a lack of certainty as to what the parameters of METRO's authority are, and an institutional predilection to err on the side of deference to local governments. As is discussed below, the Charter can address this issue by clarifying the intergovernmental relationships, but some structural adjustments would assist in providing the necessary political insulation.

A. Clarify the relationship between Metro and local governments: This is a simple point, but one which has been lacking. It is unclear as to exactly where Metro falls in the governmental pecking order; is it more than a city but less than a county? like a county, but not really? or is it a surrogate for the state, but without the state's authority? It is our view that Metro, in order to perform the job conferred on it by statute, needs to have the authority to compel both cities and counties to take specific actions where needed. Consequently, Metro's charter should make it plain that within its areas of jurisdiction, Metro is, so to speak, the biggest dog.

B. Give Metro specific authority in land use regulations: At the present time, Metro has the authority to "manage" the Urban Growth Boundary, but has been unwilling to exercise the statutory authority which it has been given to do so in ORS 268.380. It is our position that Metro has been empowered already to do more than it has, but one function which the Charter could perform would be to underscore the statutory grant. We offer the following specifics:

1. Formation of a regional planning commission: This body, which would replace Metro's R-PAC, could either be appointed by Metro or by the constituent jurisdictions, but would have authority to adopt both a regional plan and the rules for its implementation. The regional plan would address issues of intergovernmental coordination, provision of service, urban form, the linkage

between transportation and land use, and the like. The rules would make it clear that local government plans needed to be consistent with the regional plan.

2. Give Metro specific periodic review and post-acknowledgement authority over comprehensive plans of the region's governments: Under state law, all local governments must submit their comprehensive plans to LCDC for periodic review, which (in theory) allows the commission to examine the plans for compliance with the Goals, for consistency with other jurisdictions, and for conformity to land use law. Likewise, jurisdictions who amend their comprehensive plans or land use regulations must send those changes in to LCDC for review. The suggested change is merely an amplification of the existing statutory obligation placed upon Metro, but since Metro's management of the UGB necessarily involves issues of coordination and conformity of local government plans with the regional plan, Metro needs to perform periodic and post-acknowledgement review of plans within its UGB. This authority could be shared with LCDC (i.e. Metro review for conformity with regional planning, and LCDC for conformity with state-wide concerns), or performed in toto by Metro with oversight by LCDC, but in either event, Metro would be able to ensure that local planning remained consistent with that of the region.

In this same regard, the Charter Committee should take the opportunity to inquire as to why Metro's existing statutory authority to review local plans has not been used.

3. Metro should be specifically authorized to participate in enforcement order proceedings where appropriate: Enforcement orders are the primary tool available to LCDC to compel local governments to perform their obligations. Metro should be expressly given the ability to petition to LCDC for an enforcement order against any local government which fails to comply with the regional plan or with Metro's proper exercise of its authority.

4. Metro should be given authority to require or, if necessary, to adopt and implement regional plans for the provision of water, sewer, streets, and parks: Local governments and service districts are already required by state law to enter into coordination agreements concerning who will provide what services. Unfortunately, this requirement is rarely complied with and never enforced. Yet, without such agreements, and without a regional plan providing direction, there will be inevitable turf battles and inefficiencies. Metro should be given the authority to compel the execution of these agreements, the right to review them for compliance with the regional plan, and, where necessary, the power to do the planning for the recalcitrant jurisdictions. It might even be desirable to give Metro the right to take over the delivery of services in a given situation upon a proper showing of a need to do so, given the adopted regional plan.

Metro has had for many years, pursuant to ORS 268.390, the authority to adopt functional plans with regard to air quality, water quality, and transportation for the region. We would suggest that the Committee consider adding parks to this list, and that the Charter address the issue of what is meant by a "functional plan" (i.e. is it a master coordination agreement, or is it a part of a regional comprehensive plan?). The Charter should then set specific time frames for the adoption of these functional plans, and the relationship between these plans and those of local governments and service providers.

C. UGB expansion should be based on objective evidence and established policy, not politics: We recognize that the Metro Council will be a political body, and as such will be subjected to the normal political processes. We also recognize that UGB expansions, whether legislative or quasi-judicial in nature, will often be controversial. Nevertheless, the Charter process should ensure that the bases for boundary expansion should be clear, objective, and as mechanical as possible, thereby minimizing the possibility for partisan mauevering.

Some of these suggestions will require changes in state law in order for them to be implemented. This should not, however, dissuade the committee from adopting them as part of the charter process. It is our belief that, unless Metro is given increased authority and jurisdiction as outlined in this letter, there will be very little hope that Metro's management of the UGB will be anything other than an exercise in good intentions. As stated in our testimony, there is more to management of the boundary than simply adopting rules and holding hearings -- it requires an activist approach to regional planning and the teeth necessary to compel cooperation and compliance. If Metro is given the proper land use planning tools, the Portland region can actually begin to function as an organic whole, which would certainly be in the region's best interests.

Thank you again for the opportunity to provide these comments. If further information would be useful, please do not hesitate to let us know.

Very truly yours,



Jon A. Chandler
Common Ground Staff Attorney



Mike Nelson
Home Builders Association of
Metropolitan Portland