

**METRO
CHARTER
COMMITTEE**

P.O. Box 9236 • Portland • Oregon 97207
Phone 503-273-5570 • Fax 503-273-5554

AGENDA

DATE: January 2, 1992
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 December 12 meeting
(previously distributed).

6:10 Consideration of discussion draft of Metro functions
outline and outline of Metro structure alternatives.

9:00 Adjourn meeting.

MINUTES OF THE CHARTER COMMITTEE
OF THE METROPOLITAN SERVICE DISTRICT

January 2, 1992

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, John Meek, Wes Myllenbeck, Ray Phelps, Isaac Regenstreif, Mary Tobias, Mimi Urbigkeit

Committee Members Absent: Bob Shoemaker

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

1. Announcements

Janet Whitfield said that she has not received biographies from Ron Cease, Larry Derr, Charlie Hales, Frank Josselson, and Wes Myllenbeck.

Ned Look said that it is important that the members do biographies because the public needs to know the background of the Committee.

2. Consideration of discussion draft of Metro functions outline.

Chair Myers said that the spirit of the summary draft is not meant to represent a concrete decision by the Committee as a whole or any of the members. He asked if there were any comments on the introductory summary on page two.

Isaac Regenstreif said that he had a concern over the word *consensus*. He said that the dictionary definition of *consensus* means that most everyone, but not necessarily everyone agrees. He said that the common definition is that everyone in the group has agreed.

Mary Tobias said that she does not believe that there is anything to indicate that a majority of the Committee agrees, point by point, with the outline. She said that it would be more useful to come back to the summary at the end and determine how accurate the language is.

Chair Myers said that would be fine and asked for comments on *planning powers and responsibilities*, more specifically, *the Future Vision*.

Ron Cease said that on page 3, under *definition of the Future Vision*, the statement that *the Future Vision is a conceptual statement that establishes a population level and settlement pattern* was made plural by the Committee.

John Meek said that there was discussion previously about the terminology in the definition and the possibility that it could be contrived to be a mission that once the population level had been reached, new people will not be allowed in the area. He said that the previous discussion suggested a change in the terminology from *establishing a population level* to *accommodating a population level*. He said that one of the last comments made in the previous discussion was that the Future Vision committee

will discuss whether or not the area is reaching some population levels that will impede the desired quality of life.

Ned Look said that the Future Vision is suppose to address whether or not the area will reach a saturation point of what the area can accommodate and then look to satellite cities rather than just extending the urban growth boundary.

John Meek said that he has no problem with the definition remaining the same if the emphasis of the Future Vision committee is to look at the urban growth boundary.

Ron Cease said that plurals are needed in that statement because certain types of settlement patterns would accommodate one thing, and if they are changed, they would accommodate something else.

Motion: The motion was to change the definition statement *establishes a population level and settlement pattern* to *establishes population levels and settlement patterns*.

Vote on the motion: There was no objection to the motion. There was Committee consensus to make the change.

Mary Tobias said that population level is an arbitrary figure that cannot be set. By the nature of it, if a level is set and reached, then people will have to be rejected. The message is clear that there will be a cap. She said that she would prefer if population levels and settlement patterns should be taken out of the definition and replaced with development pattern.

Larry Derr said that all long range planning involves projections in terms of population levels because there has to be some idea of what is being accomplished. He said that it is not the job of the charter to determine if there is a cap set and a policy. He said that is the job of the Future Vision committee. He said that there are population limits beyond which the area would not like to see the population grow because the results would be unacceptable. If that is the case, people will not be excluded but the settlement patterns will have to change and satellite communities might become very useful. He said that it is a key concept that the population levels be looked at as finite numbers in order to have a starting point for planning.

Charlie Hales said that the Future Vision is not regulatory. He said that the population levels and settlement patterns are currently required in city and county comprehensive plans which are regulatory documents.

Mary Tobias said that what Larry Derr is saying is not being said in the definition. If the Future Vision was to *adopt population level projections*, then it will say what Larry Derr is explaining. She said that it would be fine if the Future Vision was asked to *address settlement patterns*. When the definition says that the Future Vision will *establish population levels*, it is setting a limit.

Larry Derr said that he did not mean that it would project what would happen if no planning occurred. He said that he meant deciding what would be a preferred population level based on the plan.

Ron Cease said that it is important to recognize the relationship between the population level and the settlement pattern. He said that the population level is just a goal and an estimate.

Motion: Mary Tobias moved, John Meek seconded, to change the language in the definition of the Future Vision to read *the Future Vision is a conceptual statement that defines preferred population levels and settlement patterns that*

the regional and adjacent areas can accommodate within the carrying capacity of the land, water and air resources, and that achieves a desired quality of life.

Ray Phelps asked if it would establish the population densities in certain cities in the region. He asked if it would lead itself to dictate the sizing of the cities.

Charlie Hales said that the framework portion of the plan talks about housing densities and provisions for significant centers of urban development. He said that it does lead to the sizing of the cities which he thinks is appropriate.

Vote on the motion:

Jon Egge and Frank Josselson objected. There was Committee consensus to pass the motion.

Ron Cease asked why Jon Egge and Frank Josselson objected to the motion. He asked if it made a difference.

Jon Egge said that it does not really make a difference. He said that he objects to revisiting the issue and beating it to death.

Frank Josselson said that he objects to the motion because he does not understand what the word *defines* means when it is linked together with population levels. He said that the word *prefer* was redundant in the contexts of the paragraph because the last clause says *and that achieves a desired quality of life*. It requires the commission to express a suggested preference as to the population levels that establishes preferred desired quality of life. He said that he also objects because the Committee has worked it over time and time again and he is tired of it.

Motion:

Ron Cease suggested changing the word *defines* to *indicates* in the Future Vision definition.

Vote on the motion:

There was Committee consensus to make the change.

Ned Look said that he sensed that there are some members of the Committee who feel that there is not a need for a Future Vision in the charter at all.

Chair Myers said that if any member wants to delete the Future Vision, a motion should be made.

Frank Josselson said that the word *indicates*, in the Future Vision definition, waters down what the paragraph attempts to get at and the concept of the Future Vision. He said that the Future Vision should be stated clearly and forcefully even if it is done as a planning tool only and not on a regulatory basis.

Ron Cease said that if the Committee gets bogged down with words, the process will not get very far and something important may be lost. He said that the Future Vision is a controversial issue that the Committee has spent a lot of time on. By the time the Committee receives comments back on it, it may look different. He said that if Committee members can be accommodated by a word, the Committee should move on.

Frank Josselson asked if those who support the Future Vision support it with the change in it.

Chair Myers said that unless there is a motion to delete the concept, it will stand as something that the majority of the members are willing to have public comment on.

Ned Look said that if there is not any comment on whether to have a vision or not, then it can be assumed that a majority of the Committee wants to have the vision concept.

Isaac Regenstreif said that he is opposed to the Future Vision process in the charter document.

Motion: Mary Tobias moved, Ray Phelps seconded, that the Future Vision be deleted from the charter.

Mary Tobias said that a document of governance does not appropriately call for a Future Vision. The Future Vision should be an act that is instigated by the governing body itself at a time that is appropriate and there is a need. Future Vision as envisioned in the charter is expensive. It is not appropriate for the charter to put that kind of extra burden on the governing body. Since it has no binding authority, it does not accomplish anything in terms of carrying out planning powers and responsibilities of the regional government.

Matt Hennessee said that he agrees with Mary Tobias. He said that the Future Vision is a tool that ought to be used by the governing body as they manage themselves, but the charter is not the appropriate place to call for it. He said that he understood that the charter outline was a product for which to hear public comment. He said that the public has an inherent right to comment on the issue although he is of the opinion that the charter should not call for a Future Vision.

Ron Cease said that the Future Vision does belong in the charter. He said that there might be, before the process is through, a sense to not put the Future Vision in the charter because it will be a burden, but he would like to hear the comments from the public.

Charlie Hales called the Committee's attention to the statement in the charter outline which states *appropriate regional and local government structures and financing to provide the necessary public services in an efficient, effective and accountable manner*. He said that statement was the reason why he would keep the Future Vision concept in the charter. He said that there was discussion in previous meetings about Metro not fulfilling its promise of consolidating local governments. He said that Metro has not consolidated governments nor has it fulfilled the requirement that the public facilities are in place in the local governments that are doing comprehensive plans. He said that no one has been politically able to call for consolidation. He said that a Future Vision commission will be separate and should be better able to speak bluntly about consolidation than an elected body could. The Future Vision would allow for issues to be raised which are too hot for everyone else to handle.

Mary Tobias said that if what Charlie Hales said is true, then the Future Vision must be a regulatory document and binding on the local governments.

Charlie Hales said that the process will occur every few years. He said that future service projections have not been done by Metro to date and no body is now politically equipped or has the information to make those statements, yet there are governmental shortfalls.

John Meek said that the Future Vision will provide something that is different and not self serving.

Vote on the motion:

Matt Hennessee, Ray Phelps, Isaac Regenstreif, and Mary Tobias voted aye. Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Charlie Hales, Frank Josselson, Ned Look, John Meek, Wes Myllenbeck, Mimi Urbigkeit and Chair Myers voted nay. The vote was 11 to 4 and the motion failed.

Larry Derr explained that the italicized first paragraph under *Planning Powers and Responsibilities* is

intended to be a preface to the section.

Motion: Larry Derr suggested that the italicized language under *Planning Powers and Responsibilities* read *the regional government's planning and growth management responsibilities shall include the establishment of a Future Vision conceptual statement and the creation of a Regional Plan consisting of a Regional Framework Plan addressing certain specified matters of metropolitan concern together with coordinated local plans of the cities and counties.*

Larry Derr said that the intent of the change would call out what the outline provides which is that the regional governing body is responsible for having a regional plan with two components. It only adopts one of the components which is the Regional Framework Plan, but the local plans have a role in it.

Vote on the motion: There was Committee consensus to adopt the motion.

Chair Myers asked for comments on page four of the draft.

John Meek said that I.3.a. states that *the Future Vision will be developed by a broad-gauged commission appointed within 90 days of charter adoption.* He said that it is possible that there will not be a regional government council within that time period. He said that there had been previous discussion regarding the time frame.

Larry Derr said that the outline shows what was adopted but John Meek's point is well taken and the issue was discussed previously.

Chair Myers said that the Committee left it with the understanding that there was a problem, but it would be sorted out after there was further comment about what the time period ought to be.

Larry Derr said that there were other time periods in the outline that would have to be changed.

Motion: Larry Derr moved, Matt Hennessee seconded, that the time period in I.3.a. be changed to *90 days from the installation of the governing body.*

Vote on the motion: There was Committee consensus to adopt the motion.

John Meek said that the time period, under I.3.e., of 18 months seems too short for the adoption of the Future Vision.

Motion: John Meek suggested that the time period in I.3.e. be changed to *24 months from the installation of the governing body.*

Vote on the motion: There was Committee consensus to adopt the motion.

Larry Derr said that the time period for adoption of the framework plan is 30 months. To the extent that the Future Vision will provide guidance for the framework plan, the times need to be coordinated. The framework plan will need to be extended out since the time period for the adoption of the Future Vision was extended.

Isaac Regenstreif asked if, under I.3.e., the intent is that the regional governing body will have no option but to adopt the Future Vision.

Chair Myers said that it is implicit that the regional governing body would be able to modify the Future Vision.

Mary Tobias said that the language needs to be clearer. She said that unless people sat through the earlier discussion, they will think that the provision mandates adoption.

Isaac Regenstreif said that he is satisfied as long as that is the intent.

Ron Cease said that the Committee spent an immense amount of time on it and the Committee was split on it.

Chair Myers said that the provision could be made more explicit. He said that the provision, I.3.e., could read *the Future Vision, including any changes made by the governing body, shall be adopted*.

Ron Cease said that he would have no problem with the change, but everyone went away from the previous meeting feeling satisfied that the provision was fine.

John Meek said that he did not want to re-open the issue.

Chair Myers said that it will be an issue that will be subject to public comment. He asked for comment on page five of the document.

Mary Tobias said that she did not understand the *definition of Regional Framework Plan* described in I.B.1.a.

Larry Derr said that the Regional Framework Plan definition states that *the Regional Framework Plan establishes and is limited to the plans and policies for the matters addressed in I.B.2. and I.B.3.* He said that I.B.2 is the laundry list of matters that are addressed and I.B.3 is the provision for adding additional functions.

Mary Tobias said that I.B.2 seems appropriate. She said that the Committee is asking a lot for the people to make a link between the definition provision, I.B.1.a., to an understanding of what follows.

Chair Myers said that it could be reworded to include *matters set forth* in hopes of making the statement clearer. He said that it may be difficult to address the issue in the outline, but the ultimate draft of the charter will address the issue in a clearer sense.

Mary Tobias said that people should not be expected to react to something if there is basic unclarity. She said that the provision is entitled *definition of Regional Framework Plan*, but there is no definition that follows.

Motion: Ron Cease suggested that the language in I.B.1.a. be re-worded to read *the matters addressed in 2 and 3 below*.

Vote on the motion: There was Committee consensus to adopt the motion.

Mary Tobias said that I.B.1.a. is trying to say that the Regional Framework Plan establishes policies for the matters listed in two and three and does the planning of the matters of metropolitan concern listed in 2 and 3.

Larry Derr said that there are two kinds of things listed under I.B.2. Items I.B.2.a-d. are matters that should be done at the regional level. Item I.B.2.e. is a list of things which calls out that only those

aspects of metropolitan concern are meant to be included. For example, *Greenspaces*, provision I.B.2.e.i.e., does not mean greenspaces all encompassing but those aspects of greenspaces which have metropolitan concern.

Mary Tobias said that it would make it clearer if I.B.2.a. said *the Regional Framework Plan establishes regional policy for matters addressed in 2 and 3 below and develops regional plans for I.B.2.a-d and assists with planning for I.B.2.e.*

Larry Derr said that would be getting more detailed than the charter needs to direct the regional governing body. In each subject area, there will be a lot of details about how it is done and what tools are used and whether it is a plan or a policy.

Mary Tobias said that I.B.1.a. does not state clearly that the Regional Framework Plan establishes regional policy nor does it clearly state that the Regional Framework Plan calls out the planning for those items listed under I.B.2.

Larry Derr asked how it could be more explicit.

Motion: Frank Josselson suggested that I.B.1.a. read *the Regional Framework Plan establishes regional plans and policies for, and is limited to, the matters addressed in I.B.2. and I.B.3. below.*

Frank Josselson said that it would establish two principles. First, the Regional Framework Plan establishes plans and policies. Second, it will be limited to those things identified.

Vote on the motion: There was Committee consensus to pass the motion.

Chair Myers asked for changes on page six of the outline.

Larry Derr said that he had additional language to be added under I.B.2.e.i. to clarify that the provision is calling out the metropolitan concern of the subject areas. Each of the items are subject areas but the planning is only for the components of the subject areas that are of metropolitan concern.

Motion: Larry Derr suggested that the language in I.B.2.e.i. read *planning within the following subject areas for those aspects having metropolitan concern.*

Vote on the motion: There was Committee consensus to pass the motion.

Motion: Larry Derr suggested that, under I.B.2.e.i., the words *having metropolitan concern* be deleted.

Larry Derr said that with the words *having metropolitan concern* in the document, there was redundancy.

Vote on the motion: There was Committee consensus to pass the motion.

John Meek asked what the charter is asking for that is different and above state law in the housing density provision of I.B.2.b.e.i.b.

Charlie Hales said that the provision that applies to plans is an administrative rule adopted by LCDC. Presumably, Metro could change or exceed that rule. He said that Metro could require minimum

density requirements.

Motion: John Meek moved, Mary Tobias seconded, to delete *housing densities*, item I.B.2.b.e.i.B.

Frank Josselson said that the Committee has had much discussion on the issue. He said that state law requires every city within the urban growth boundary to plan for the same number of housing units at the same densities. If the region filled out under the LCDC housing rule, the density in Hillsboro would be exactly the same as Happy Valley and Lake Oswego. By leaving the provision in, the regional government has the ability to say that there will be higher density in some parts of the region and lower density in other parts. He said that it is an important aspect of regional planning power.

John Meek said that there is an aspect for the region to come in and look at the densities so that different communities can adapt as the region grows. He said that it is a facade to say that every community should have certain levels of density. He said that it needs to be planning for housing density and not the aspect that there will be an oversight.

Ray Phelps said that he would oppose the motion because, in the Future Vision, the charter is calling for population levels and settlement patterns and the region must know where to and how to place these people. The housing density provision is needed for the Future Vision to be met and complied with.

John Meek said that the Future Vision is just a projection and is not there to be met or complied with.

Ray Phelps said that he does not understand where the Future Vision interacts if it suggests that the sizes of the communities be regulated, and then the density is not one of the tools to meet the objective.

Ron Cease said that it is important to keep in mind that the region is not going to be operated by itself.

Vote on the motion: John Meek voted aye. Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Frank Josselson, Ned Look, Wes Myllenbeck, Ray Phelps, Isaac Regenstreif, Mary Tobias, Mimi Urbigkeit and Chair Myers voted nay. The vote was one to fifteen. The motion failed.

Chair Myers asked for comments on page 7 of the outline.

Ron Cease said that the definition of *metropolitan concern* under I.B.2.e.ii. is not really a definition. He said that the definition provided under I.B.2.e.ii.B. is not metropolitan concern.

Chair Myers said that, unless there are specific proposals for amendment, he would suggest deleting the statements and insert an explanatory note that the Committee is still considering the elements of a definition.

Mary Tobias said that she objects to deleting the definition that currently exists. She said that the Committee is suppose to be putting forth a document that reflects the thinking of the Committee to date. If it is just left there without any explanatory text, no one is going to be able to comment on it. A blanket statement will only prompt a few select people to comment. The current definition gives some indication of the discussion. It may need to be footnoted that there is no agreement as to the definition and the two provisions are just possible definitions.

John Meek said that he agrees and would like to leave it in. He said that it is a good start.

Chair Myers said that his initial sense was that what is in the provisions had a starting agreement that it was a portion of what the criteria would look like. He said that another alternative would be to leave the factors and insert an explanatory comment that indicated that it is not intended to be a complete list.

Ray Phelps said that he thought there were four or five elements at some time that comprised metropolitan concern.

Chair Myers said that there were more than these two elements that had been on the table. He said that there was a list originally in the contents of giving some basis for the functions that ought to be assigned to the regional government. For the purposes of defining metropolitan concern, the Committee did not get further than what is on the outline.

Ron Cease said that the elements are actually saying that these kinds of actions violate the metropolitan concern issue. The elements, especially I.B.2.e.ii.B., are not metropolitan concern. He said that the definitions do not make any sense.

Larry Derr said that the elements are items which, in a regulatory sense, could become of metropolitan concern because of their effect. They do not define what is preceding. He said that there was some history which led to those points and taking them out does not give those commenting any starting point. If they are left in with a commentary, he said that he would like it to state clearly that the Committee recognizes that this is not an adequate definition of metropolitan concern but they are matters which have been discussed to solicit comment.

Motion: Ray Phelps moved, John Meek seconded, to delete the items under I.B.2.e.ii. and substitute an explanatory comment.

Vote on the motion: Charlie Hales voted aye. Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Matt Hennessee, Frank Josselson, Ned Look, John Meek, Wes Myllenbeck, Ray Phelps, Isaac Regenstreif, Mary Tobias, Mimi Urbigkeit and Chair Myers voted nay. The vote was 1 to 14 and the motion failed.

Chair Myers said that the provision will be kept in the outline with an explanatory statement. He asked for comments on page eight of the outline.

Motion: John Meek suggested that the time period in I.B.5.a. be changed to read *36 months following the installation of the governing body.*

Vote on the motion: There was Committee consensus to pass the motion.

Mary Tobias asked who will be the reviewing body of the Regional Framework Plan in I.B.5.c.

Larry Derr said that it would be LCDC as is the current practice.

Mary Tobias said that state agencies do not review functional plans. She asked since it is being sent to a state agency, is it being sent as a comprehensive plan.

John Meek said that the charter calls for the review of the Regional Framework Plan. If LCDC feels that they are limited to only reviewing comprehensive plans, then that is something that will need to

be addressed.

Mary Tobias said that she understands that the region, under the Regional Framework Plan, would bring all the local city and county comprehensive plans together to ensure that there are no glaring non-conformances between them and that they all meet the goals for the regional goals and objectives and the intent for the region for growth management. LCDC would still review, at the periodic review, the individual local plans. She said that the provision under I.B.5.c. states that a regional comprehensive plan has been created which a majority of the Committee was not willing to agree to. She said that if the framework plan itself is sent up as a document, then it is a comprehensive plan. A regional comprehensive plan is quite different than coordinated local government plans within the region.

Ray Phelps said that he thought the term *Regional Framework Plan* was being used to avoid the term comprehensive. He said that if Regional Framework Plan was to be defined for purposes of the charter, it would be defined as a comprehensive plan. He asked what the difference was between I.B.5.c. and I.B.5.d. He said that he did not understand how the periodic review and amendments work if the periodic review is on a schedule set by LCDC and the amendments are not.

Larry Derr said that I.B.5.d. relates to the ability of the regional government to revisit and change the regional plan on a schedule adopted by the regional body. I.B.5.c. relates to whatever kind of review by LCDC that would occur with the framework plan. The schedule would be set by LCDC.

Ray Phelps asked, when the Regional Framework Plan is amended, does it have to go through the LCDC approval process.

Larry Derr said that it would, but it is different than the periodic review. If it has to comply with the goals, then there has to be a process where an amendment is made.

Ray Phelps said that it would discourage amending the Regional Framework Plan.

Larry Derr said that the process is no different than what happens now with cities and counties. He said that the outline separates out the question of what will the character of the regional plan be vis-a-vis' comprehensive and what kind of an LCDC review will it get. He said that is one question where there is not a resolution yet. The assumption is that if it has to comply with the goals and LCDC is going to make that final determination, then it will be on a schedule established by LCDC on a periodic basis. It may be that LCDC will say that if there is not a comprehensive plan, then they will not review it. That question has not been answered. The outline only says that whatever the framework plan is, and it is not yet decided if it will meet all the elements of the comprehensive plan by itself or whether it will meet the elements of a comprehensive plan together with the local plans or if it will meet the requirements at all, but whatever the framework plan is, it will have to comply with the goals and LCDC has the option to be the reviewing body.

Ray Phelps said that he believes that the use of the word regional framework is simply to avoid using the word comprehensive. He said that the outline is representing what it is intended to represent and that it is comprehensive planning.

John Meek said that there is a distinct difference in the adoption process between comprehensive and regional framework. He said that there is a big difference in the drafting of the final document than in the framework state of how it will operate, in comparison to taking all 27 of the plans and pulling out their plan elements that make them of a comprehensive nature and putting it into one shell. He said that he did not know which of the three options listed under I.C.3.c. the local governments prefer. Whether or not there is a comprehensive plan or the Regional Framework Plan will be determined by

whether or not authority is given to the regional government to have whole review power over the local plans or if it will still be under LCDC.

Frank Josselson said that the question of whether the local plans get acknowledged by LCDC or the regional government is a procedural question. The Committee has to decide the answer to that question. The Committee listed alternatives under I.C.3.c. He said that on November 14, the Committee determined that, basically, there would be a Regional Framework Plan and 27 local plans that would collectively satisfy all state, regional, and local requirements in terms of land use planning for the region. The Committee decided that it would not be called a comprehensive plan, but it would be called a Regional Framework Plan. The cities and counties in the region would be the other components of the bundle of 28 plans.

Ron Cease said that the earlier discussion was that most of the Committee wanted the Regional Framework Plan to be more than what there is. There is real disagreement about the question of whether or not it is a comprehensive plan in a real sense. A question of whether or not there will be something that the state will require, that there be recognition and periodic review by LCDC, may be decided by the legislature and not by the charter. He said that a lot of issues were left by the Committee and this one would be better left hanging until there is review.

Ray Phelps said that he is bothered by the fact that the Committee is asking the public to review a Regional Framework concept that could be a comprehensive concept. A definition for it is not provided and the public is being asked to fill in the blank areas and comment on it. He said that the driving force behind the concept is that it is a comprehensive plan.

Frank Josselson said that it is not a comprehensive plan.

Mary Tobias said that I.B.5.c. says that periodic review for state-wide goal compliance will occur on a schedule established by LCDC. She said that when she asked who will do the review, everyone around the table said DLCD and LCDC. She asked if anyone had a different reviewing authority that would be the reviewer of the framework plan. She asked if Metro could do the review itself.

Chair Myers asked if Mary Tobias was suggesting that the reviewing body be made more explicit.

Motion: The motion was to reword I.B.5.c to read *periodic LCDC review of the Regional Framework Plan for Statewide Goal compliance will occur on a schedule established by LCDC.*

Vote on the motion: There was Committee consensus to adopt the motion.

Mary Tobias asked if LCDC reviewed plans other than comprehensive plans.

Frank Josselson said that they do--they review the urban growth boundary. The statute provides that LCDC may acknowledge virtually anything that is submitted to it. The statute does not require acknowledgement of the urban growth boundary. The source of LCDC authority to acknowledge the urban growth boundary has never been clear. He said that the important question is whether or not it will work. He said that if the answer is yes, then it is a good idea. If the answer is no, then it is a bad idea.

Larry Derr said that Frank Josselson's answer is a good answer. He said that it is an appropriate answer to Mary Tobias' question of sending an unintended hidden message by saying that the Regional Framework Plan will have LCDC review if the world believes that only comprehensive plans get LCDC

review.

Mary Tobias said that her experience is that LCDC reviews comprehensive plans--they do not review functional plans. She said that comprehensive plans and the urban growth boundary are limited in terms of the whole picture. If the charter asks for periodic review, her first question was who will do it. If it is sent up to LCDC, does it create a comprehensive plan by default?

Larry Derr said that a comprehensive plan is not created by default.

Chair Myers said that he envisions that the Committee is saying, above all, that it is the intention that the Regional Framework Plan will have to comply with statewide goals. It is not free of that restriction.

Frank Josselson said that this creates a different scenario than what Senate Bill 100 contemplated and it may require conforming legislation. The important question is whether or not the scenario that is now in front of the Committee will do a better job than what is in place now. He said that he believes it will be better.

Chair Myers asked the Committee to move to page nine of the outline.

Mary Tobias said that the language under I.C.2. is confusing. She said that it appears that the regional plan will override city charter and state law. She said that there could be a lot of conflict between a local charter and the Regional Framework Plan.

John Meek said that the language under I.C.2., *...to the extent not dealt with by the Regional Framework Plan*, does not need to be in the outline at this point. He said that it is stated right away, under the *definition of local plans* under I.C.1., that the plan has to be consistent with the Regional Framework Plan. He said that everything in the local plans will be dealt with in the Regional Framework Plan--they have to be consistent, but not necessarily comply.

Mary Tobias said that if it is intended to address the metropolitan concern that was addressed for the regional government, then it should say the local aspects are matters of metropolitan concern. If the intent is to make sure that the whole of the matter is dealt with, then it should say something to that affect.

Ron Cease asked if *matters addressed in local plans*, I.C.2., is needed if there is *definition of local plans*, I.C.1.

John Meek said that I.C.2. was left in because it needs to be clear to the local governments that their charters still stand as does state law.

Ron Cease said that if it said in *definition of local plans*, I.C.1., that local plans are existing plans that are amended to make them consistent with the Regional Framework Plan, then it cannot be continued to say that the local governments have all matters pursuant to state and local charters because they are limited by the Regional Framework Plan. By making a broad statement without further reference to it is putting the two statements in contradiction to one another.

John Meek said that he did not agree. He asked how to come up with a Regional Framework Plan if there is not a local plan adopted. If an issue arises locally, the city will have the authority, through state statute and the local charter, to change to meet that condition. In review of the Regional Framework Plan, that condition then will be brought up under the Regional Framework Plan. Cities and counties will not change their plans based on the framework. There must be give and take on

both sides. He said that the language is there to give independence for the local governments.

Ron Cease said that it needs to be made clear that in this area, unlike other areas where there is state law and charters that refer only to those local governments, they have to be modified by the fact that there is a Regional Framework Plan which does condition and reduce the authority that the local governments have in some respect. He said that if that is not stated, then there is a contradiction between the two provisions.

Larry Derr said that he agrees with Ron Cease. He said that for the two provisions to be mirror images of each other, then there needs to be a grant and limitation in both paragraphs. There can be both local and regional plans addressing the same issue, but at some point on some issue, it will come down to the question of whether there is a difference of controls. The authority must be able to be placed and if it is a matter of metropolitan concern according to the constitutional provision, then the regional plan will control. He said that is the intent of the last phrase.

John Meek said that if a land use decision is not dealt with in the Regional Framework Plan, he would read the provisions to mean that there is nothing that can be done by the city or county government. He said that he heard Larry Derr say something else. He said that his presumption would be that as part of the city, the action could be dealt with and the code and land use designation could be changed. It would then have to be dealt with on the regional level. He said that he read it initially to say that if it had not been dealt with, the local government could not deal with it.

Larry Derr said that whether it has been dealt with disposes of the issue, then the local government does not need to see if it is consistent with the regional plan. The starting point authority for local government planning is unchanged except to the extent that the regional government has stepped in.

Frank Josselson presented his amendment which would be a new I.C.3.d. The amendment would have the charter *require that discretionary city and county land use decisions governing the approval and denial of land uses be based on standards and criteria which are included in the local development ordinances and are so clear and objective that they lead to predictable decisions. Any standards and criteria for such decisions which do not meet this requirement shall be void and unenforceable.* He said that one of the greatest problems in the planning process is that it is extremely unpredictable. He said that one of the purposes of Senate Bill 100 was to require cities and counties to introduce a level of some predictability in certain land use decision making. There would be standards and criteria for making the decisions. He said that there are not any land use zoning ordinances in the metropolitan area which have standards that meet these criteria. He said that it is important to the integrity of the process that land use decisions be made on the basis of sound planning principles as opposed to political factors that are so easy to introduce into land use decision making processes.

Ron Cease asked what such a statement in the charter would mean in reference to the state law. He said that another problem is that the state is not as clear as it should be in many cases, because in the process of making law, there has to be compromising between various interests. Law is sometimes left deliberately vague because agreement cannot be reached on a clear standard.

Frank Josselson said that, in terms of legal implications, this is saying that it is a matter of metropolitan concern. It would say that there are decisions which are governed by standards and criteria as opposed to purely political factors. Compromises need to be made when the plans are being prepared and not put off until there is a subsequent conditional use permit procedure.

John Meek said that the difficulty is that about half of the codes written by cities and counties now are decisions coming out of LUBA. He said that those decisions are the laws that have been clarified by the courts. He said that it is necessary to still allow discretionary interpretation because not

everything in the code will be covered. It is too large a task for local and regional government. The higher into the system it gets, the tougher it gets to make those kinds of decisions. It will wind up in LUBA and they will come up with more confusing decisions.

Charlie Hales said that it is possible to have clear and objective ordinances for controversial issues, but it is not done most of the time. The standards in the local development codes are left murky so that they are decided at LUBA on a random basis. He said that it is in everyone's interest that the policy be enforced. He said that he does not see any other way of enforcing the policy unless it is put in the charter. He said that this requirement is state law just as the density requirement is. The metropolitan housing rule says that local approval criteria and standards and procedures that govern the approval of needed housing shall be clear and objective, but it is not enforced. The only way to enforce the provision is to make it part of Metro's comprehensive plan for review. If that is the case, then the authority will have to be given to Metro in the charter.

John Meek said that if it has not been and is not enforced, it would have been taken to task years ago and would still be in court trying to come to a resolution which it is not. It is being enforced to the best possible ability of every local government.

Charlie Hales said that it could be argued in the courts, but it would be better for the region to decide to what extent there has to be clear and objective standards in order to achieve the vision or the plan and then to what extent does that have to be required of local governments.

Jon Egge said that when Oregonians in Action and 1000 Friends testified, they said that they wanted something with predictability. Whether or not it is a part of the charter, it should be in the outline to get comment from the public. If the public does not like it, it can be taken out.

Larry Derr said that he agrees with Jon Egge. He said that he does not share Frank Josselson's optimism that the procedure will work, but he does share the concern of the problem.

John Meek said that he does think that the amendment should proceed through with the outline. He said that the Committee is a long ways from putting it in the charter. He said that he would like to see uniformity in the process. He said that local efforts to get to the point of uniformity have been squelched unmercifully by the courts.

Charlie Hales said that the language should be put aside and the Committee should deal with the concept. The metropolitan housing rule language does not talk about land use decisions, it talks about local approval criteria which governs the approval of uses. The overarching question is what does Metro need to be equipped with in the charter. Does Metro need the power to enforce this kind of clarity and objectivity in local approval mechanisms in order to carry out Metro's planning responsibilities for the region? If the answer is yes, then what needs to be put in the charter to accomplish that? He said that he would rather debate the yes/no question first. Metro now has its Regional Urban Growth Goals and Objectives, and in the future, it will have a Future Vision, goals and objectives, and the implementing mechanism of the regional framework plan. He asked if Metro will need to enforce clarity and objectivity in each local government's development code in order to carry out that authority.

Ron Cease said that he agrees with Larry Derr that if the discretionary factor is taken and carried to the extreme, all authority can be moved from the political bodies of local and regional government. He said that the Committee is reviewing a document where all the pieces have been brought up before and is ready to be sent out for comment. He said that the amendment would be more appropriately raised later when the Committee comes back to it.

Frank Josselson said that he did raise the issue earlier and was told that it would come up before the document went out. He said that it is important to get the response from local government.

Mary Tobias asked if the Committee can give Metro the authority, under the state constitution and state law, to require that local government comprehensive plans have standards. She said that she does not think that the Oregon constitution allows the regional government to interfere in local government.

John Meek said that one of the important aspects of the issue of regional government is what is of regional significance. To the extent that those issues are defined, the Oregon constitution will allow the regional government to dictate to local governments if allowed for in the charter.

Chair Myers said that it may be a legal question that will have to be analyzed further.

Mary Tobias asked that the Committee have legal counsel, which is not affiliated with the Committee, begin a legal analysis of the document. She said that by the time the public hearing process is complete and the Committee revisits the issues, there will be a number of issues that need to be analyzed from a legal counsel perspective. Legal counsel is needed to comment on and give direction to the Committee on whether or not constitutional amendments or statutory changes are being asked for and what the inconsistencies are.

Chair Myers said that he agrees with Mary Tobias and will come before the Committee at the next meeting with a recommendation for legal counsel.

Jon Egge said that independent individual legal advice may not mean a lot.

Mary Tobias asked that Frank Josselson explain the last sentence of his amendment.

Frank Josselson said that the second sentence puts meat into the first sentence. If a standard of criteria is not clear and objective to lead to a predictable decision, then it shall be unenforceable. He said that by predictable he means reasonably predictable. He said that there is no mathematical certainty in planning, but there ought to be some reasonable predictability. He suggested adding the word reasonably before predictable to make the statement clearer.

Motion:

Frank Josselson moved, Jon Egge seconded, to add section I.C.3.d. which would read *require that discretionary city and county land use decisions governing the approval and denial of land uses be based on standards and criteria which are included in the local development ordinances and are so clear and objective that they lead to reasonable and predictable decisions. Any standards and criteria for such decisions which do not meet this requirement shall be void and unenforceable.*

Vote on the motion:

Judy Carnahan, Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Frank Josselson, Isaac Regenstreif, Mimi Urbigkeit and Chair Myers voted aye. Ron Cease, Ned Look, John Meek, Wes Myllenbeck, Ray Phelps, and Mary Tobias voted nay. The vote was 9 to 6 and the motion passed.

Ron Cease said that he might agree with some of the motion later but he voted against the motion because it would put something in the outline that the Committee does not yet understand or know the consequences or implications of it.

Wes Myllenbeck said that he agrees with Ron Cease and is not sure that the charter is the proper place for it.

Mary Tobias said that, under II.A., *solid and liquid waste*, the sentence stating *the charter will list the exact statutory provisions* needs to be specific. She said that people are being asked to react, but they are not being told what they are reacting to.

Chair Myers said that he agreed and said the existing authorities should be recapped and put in the outline. He said that could be an unfair posture because no one on the Committee is precisely aware of all the statutory provisions that deal with solid and liquid waste. He suggested that the specific provisions be spelled out in the outline.

Mary Tobias said that when the statutory provisions are cited, it should be clear which ones are *may* provisions and which ones are *shall* provisions.

Frank Josselson said that he and John Meek were asked by Chair Myers to prepare a memorandum on solid waste. He distributed the memorandum. He said that the memorandum recommends that the charter concur all existing solid and liquid waste authority that Metro has on to the regional government. During previous Committee meetings, there was discussion about additions to existing statutory authority that ought to be considered. He explained that the five paragraphs in the memorandum are areas that the Committee discussed. He said that he discussed the issues with Bob Martin, Metro Director of Solid Waste, and Dan Cooper, Metro General Counsel, to determine if the issues were appropriate and desirable. He said that the response he got was that Metro would like too have the additional authorities. He said that the *reduction of the solid waste stream* would give the regional government regulatory authority over packaging, junk mail, and impose other sorts of source reduction measures. *Additional flow control authority* would expand the regional government's authority to include the flow of recyclable materials collected at the curbside. The purpose is to see that recyclables get recycled and are not sent to waste disposal sites. *Environmental cleanup of regional solid waste sites* would expand the regional government's authority over the cleanup of regional solid waste sites. The fourth area is *policing to keep the system crime-free*. He said that crime is associated with the solid waste system from hauling to disposing. *Improved enforcement capability* is the fifth category. He said that Metro has indicated that its present civil penalties process is cumbersome and difficult to administer. He said that Metro needs a better civil penalties process.

Chair Myers said that the fifth recommendation does not offer particular language but invites the Committee to ask Metro to make a specific proposal to the Committee.

Motion: The motion was to invite Metro to make a specific proposal to the Committee regarding *improved enforcement capability for solid and liquid waste*.

Vote on the motion: There was Committee consensus to pass the motion.

Ron Cease said that Metro should have more authority in solid and liquid waste, but the proposed additions have taken almost all the authority of DEQ on a statewide level and given it to the regional government. He said that it would be helpful to have Metro's input. He said that he would also like information on what is a state responsibility, what is a local responsibility, and what the relationship is between the two. He said that it makes him uncomfortable to include something in the outline at the last minute when the other aspects of the outline have been gone over by the Committee.

Amendment to the motion: Chair Myers suggested that the motion be amended to invite Metro to make specific proposals to all five concepts: *reduction of solid waste stream, additional flow control authority,*

environmental cleanup of regional solid waste sites, policing to keep system crime-free, and improved enforcement capability.

Chair Myers said that if the existing authority for liquid and solid waste is viewed by the existing regional government as inadequate, for purposes of a future regional government, the existing regional government could tell the Committee specifically how it ought to be augmented.

Charlie Hales asked under what authority Metro currently enforces the phosphate ban. He asked if it was delegated authority from DEQ or police power of its own. He asked if it is covered in the transfer of existing authority in solid and liquid waste that is in the first section of the outline.

Dan Cooper, Metro General Counsel, said that the phosphate ban was adopted under the Oregon statute to regulate surface waters and their flow. He said that it is in ORS chapter 268. He said that there is reference to authority over water issues that the police power clause, in one of the statutes in ORS 268, grants authority to adopt the ordinance. He said that there is authority in the present statute that gave a good argument to allow Metro to adopt a phosphate ban. With the adoption of the legislature's phosphate ban, Metro's may never be challenged. He said that there is present statutory authority that says that Metro has the police power authority to carry out its specific powers by adopting the ordinances. He said that he did not know the answer to whether the authority could go as far as regulating packaging or other source reduction measures.

Ron Cease said that the material is very conflicting. He said that he did not know what the statutory authority specifically is in reference to Metro and DEQ for *environmental cleanup of regional solid waste sites* for the question of St. John's landfill. Other sites in the region are DEQ responsibility. He said that the amendments will substantially alter the authority for solid and hazardous waste to the regional government.

Frank Josselson said that what the amendment is saying is that it would be nice to concur upon Metro the authority to conduct cleanup activities on closed or abandoned regional solid or liquid waste sites. He said that he only knows of two sites. It may be that this should be expanded to give Metro the authority to clean up certain orphaned dump sites that are not regional disposal sites.

Motion: Frank Josselson moved, John Meek seconded, to include the four amendment concepts of *reduction of solid waste stream, additional flow control authority, environmental cleanup of regional solid waste sites, and policing to keep system crime-free.*

John Meek said that he worked with Frank Josselson on the amendments and concurred that they needed to be brought before the Committee. He said that there are some difficulties with the amendments. He said that one problem is the statewide issue that Ron Cease mentioned earlier. The second problem is that there needs to be comment from the local government as to how the amendments would affect them in their franchise agreements with the haulers--especially to the extent that the authority of the regional government is expanded for flow control. He said that he agrees with Frank Josselson that the environmental cleanup provisions are not clear and the charter is the best place to clear up the issue. He said that the word *regional* should be taken out of the phrase *closed or abandoned regional solid or liquid waste sites*. He said that there are not any sites that are exclusively regional. There are sites that are under the authority of the region, but they collect waste from all over. He said that there is also a problem in the region with policing because each governmental entity has its own group of franchisers. He said that he is leery of having the charter give the regional government more regulatory authority. He said that comments have shown that the regulatory authority should be contained.

John Meek withdrew his second to allow the matter to await a hearing.

Ron Cease said that Metro should have more authority and that a lot of the recommendations in the amendment proposal makes sense. He said that there are also a lot of things in the proposal which do not make sense. He said that the Committee has gone over the other details in the outline as a group and, although members may not agree with the end result, they were part of the process and can explain the thinking and reasoning to the local governments. With the solid waste amendments, the Committee cannot defend them because they have not researched them enough or gone over them and it would be a mistake to include them in the outline. It would degrade the other issues where much time and effort was spent.

Frank Josselson said that it is in the public's interest to have a longer outline than a shorter outline. The more points that are in the outline allow for a greater opportunity for public discussion. He said that if the Committee discusses an issue, as it did at previous meetings with the first four concepts, then the public should have an opportunity to comment.

Motion: Frank Josselson moved, Ned Look seconded, to include the four amendment concepts of *reduction of solid waste stream*, *additional flow control authority*, *environmental cleanup of regional solid waste sites*, and *policing to keep system crime-free* in the outline of charter functions.

Mary Tobias said that there could be problems with first amendment rights with the concept of *reduction of solid waste stream*. She said that Metro does not have the right to regulate junk mail or any authority over the U.S. mail. She said that other concerns are shipping packaging through the U.S. postal service and packaging on the shelf for the national market. She asked what would happen if Metro was granted the authority to cleanup on solid and liquid waste sites under *environmental cleanup of regional solid waste sites* and the site is a superfund site. She asked if it gives the EPA leverage to withdraw funding of the superfund site by saying that Metro is mandated by its charter to do that, therefore the EPA will not help.

Frank Josselson said that it will not happen because it does not deal with federal or state statutes.

Mary Tobias asked what would happen if there was a major site and the charter dictates that Metro is the authority responsible for the cleanup of that site. If the cost of cleanup was expensive and another funding source is needed, would the charter provision provide other agencies with a way to get out of assisting.

Frank Josselson said that, from an academic standpoint, authorizing Metro to pay for a cleanup does nothing in respect to the status of the site, superfund, any environmental cleanup requirements, or the responsibilities of the owners, operators, transporters who contributed to the problem of the site. In regards to junk mail, there are certain aspects of junk mail that are not expression.

Charlie Hales said that he is going to vote against the motion because he agrees with Mary Tobias' concerns with the concepts of *reduction of the solid waste stream* and *environmental cleanup of regional solid waste sites*. He said that if the motion failed, he would make a motion to include *Additional flow control authority* and *policing to keep system crime-free*.

Larry Derr said that he would like to be consistent in the outline and the items he voted for in the outline, he voted to put them out for comment and because he agrees with them. He said that he does not know enough about the amendments to be able to say that he agrees or disagrees with them. He suggested that there be a second category that would be items that have not been fully debated or had enough information on. The second category would be explained as a list that the Committee would

like comment on in addition to the items which have a majority opinion.

Jon Egge said that a concern similar to Ron Cease's on *reduction of solid waste stream*. He said that the regional government should have the authority to impose source reduction measures. He suggested that the provision not include the other issues of regulating packaging and junk mail. The regional government could then do what is politically appropriate.

Amendment to the motion:

Frank Josselson amended the motion, seconded by Ned Look, to have the amendment concepts of *reduction of solid waste stream, additional flow control authority, environmental cleanup of regional solid waste sites, and policing to keep system crime-free* be added as a different section of additional matters, not to be included in the outline, which have been proposed to the Committee and which the Committee seeks comment on. The amendment concept of *reduction of solid waste stream* was reworded to read *regional government should have the authority to impose source reduction measures*. The amendment concept of *environmental cleanup of regional solid waste sites* was reworded to read *the Charter should confer authority to conduct cleanup activities on closed or abandoned solid or liquid waste sites and illegal dumps.*

Vote on the motion:

Mary Tobias objected. There was Committee consensus to pass the motion.

Mary Tobias said that she objects to the motion because it has not been out for consideration before.

Chair Myers asked the Committee to move on to the *zoo and other public facilities* provision.

Jon Egge said that the previous discussion centered around regional facilities and other cultural, convention, exhibition, sports, and entertainment facilities. He said that regional needs to be in the provision somewhere to prevent the siting of a local ball park.

Motion:

The motion was to reword the provision to include the word *regional* so that the provision would read *...and other regional cultural, convention, exhibition, sports and entertainment facilities*.

Vote on the motion:

There was Committee consensus to adopt the motion.

Chair Myers asked for comments on the *sources and storage of water*. Hearing none, he asked the Committee to move on to *sewage*. He said that it was not clear from the minutes whether the Committee was going in any particular direction in respect to sewage. He asked if there was a specific proposal that the Committee would like to add for the sewage provision. If there is not a proposal, then the category could be deleted from the outline and comments could be received on its deletion.

John Meek said that the extent of the previous conversation was that there is a need and a role for the regional government in the treatment and disposal of waste water. The role of the regional government could be in either the form of goals or a regional facility. Once it leaves the treatment facilities, it becomes a regional issue because the water then flows through the region. He said that Metro's role should be in the water quality of the affluent and disposal of the facility once the water leaves the treatment facilities.

Jon Egge asked if the federal provisions of 208 handle the issues that John Meek is discussing. He said that he understands that it does handle the concerns mentioned by John Meek. He asked if there would be a metropolitan role up to the processing point.

John Meek said that there is not a problem with the collecting of the waste once it reaches the plant. He said that the problem arises with the new water quality standards and when the water leaves the treatment facilities.

Jon Egge asked if John Meek's concern was with the funding and implementations of the mandates that may be passed down by the federal government.

John Meek said that was correct.

Mary Tobias asked if the issue was the regional aspects of water quality rather than a sewage issue.

John Meek said that part of the solution of the water quality issue may be the collection on a regional basis and may be a regional treatment facility. He said that there could be a regional four stage treatment facility to cut down on the costs and make it possible for more of the water to go through a four stage treatment.

Ron Cease suggested that instead of deleting the reference to sewage, that the heading is left there and there be a statement to the extent that the Committee has not yet come to any resolution, but comments are appreciated.

Chair Myers agreed.

There was Committee consensus to leave the *sewage* heading and include an explanatory phrase in the outline.

Ned Look said that Wes Myllenbeck should be consulted as to the statement that is placed in the outline because he has had much experience with the issue.

Chair Myers asked the Committee to move on to *transportation*.

Ron Cease said that he is not sure that the statement that is in the outline is accurate. He said that the motion he had made during the previous decision had a second piece which stated specifically that a commission should be used to operate Tri-Met.

Larry Derr said that the statement was not put in the outline because it was relocated to the structure section. He said that could create a problem because there will not be a section of structure that will go out with the functions outline.

Chair Myers said that there will be some alternatives on structure, but it will not be specific to Tri-Met. He said that it should be added back in so that it is clear for public review.

Mary Tobias said that she did not remember the Committee agreeing to the statement that *the regional government, within a time period specified by the charter, shall order transfer to the regional government of the transit system of Tri-Met in which the regional government functions.*

Chair Myers read the motion from the December 5, 1991 minutes--*the motion was to include, in the draft, provisions that renew the authorization of the regional governing body to assume the responsibilities of the transit district. There would be a further provision stating that the execution of*

that authority would require the continuation of the commission.

Mary Tobias said that her understanding of renewing the authorization leaves the issue in the may category and does not make it a mandate.

Ron Cease said that the previous discussion also brought up the issues of whether or not the existing Tri-Met board would be used and what the nature of the time frame would be. He said that there were two principles that were adopted--to maintain the potential marriage relationship and that a commission would be used.

Chair Myers said that the outline draft will be modified to read that *the regional government may order transfer to the regional government of the transit system of Tri-Met to the regional government, but any transfer must include the continuation of a transit board of directors.*

Ron Cease said the statement should also say that the question of whether or not it should be a mandate and a specific time frame if it is a mandate are issues left open for further discussion.

Chair Myers said that is the intent of the provisions. He said that the motion was to include provisions which renew the authorization to assume the responsibility.

Chair Myers asked the Committee to move onto *Parks and Open Spaces.*

John Meek said that the word *regional* should be included in the title to have it read *Regional Parks and Open Spaces.*

Jon Egge said that he agrees with John Meek's statement. He said that it might be an approach that could be used under the heading of *III Zoo and other public facilities* to have it read *Zoo and Other Regional Public Facilities.*

Motion: The motion was to include the word *regional* in the heading of *zoo and other public facilities*. It would read: *zoo and other regional public facilities.*

Vote on the motion: There was Committee consensus to make the change.

Motion: The motion was to insert the word *regional* before the word *parks* in the heading and the body of provision VII.

Vote on the motion: There was Committee consensus to make the change.

Frank Josselson said that *regional parks and open spaces* would allow the regional government to have a parks department which would operate and maintain parks and duplicate services which can be performed at the local level with regional financing.

Jon Egge asked if the word *operate* was in the original motion for *regional parks and open spaces.*

Chair Myers said that the previous motion was to include the statutory provision of *parks and open spaces* in the outline. He said that the statutory provision includes the term *operate*.

Ron Cease said that if the term *operate* is not put in the provision, it means that the regional government can acquire and develop a regional park, but then must turn it over to a local government. In some cases, that might be the last thing that should be done.

Chair Myers asked the Committee to move onto the boundary commission.

John Meek said that he thought that the boundary commission was eliminated upon adoption of the charter.

Chair Myers said that issue was left open.

John Meek said that having a boundary commission is contrary to what was concluded under *urban growth boundary*.

Chair Myers said that there were several motions in the previous discussion of *boundary commissions*. He said that the provision in the outline adequately represents the Committee decision.

Frank Josselson said that the statement in the outline is word-for-word out of the minutes of the Committee's previous discussion of a boundary commission.

Jon Egge said that it might be word-for-word out of the minutes, but it does not reflect a couple of key words that were in the motion. He said that he thought the Committee decided not to use the words boundary and commission together, but to use the term boundary authority.

Chair Myers said that the broadside motion, which did not pass, was that the *charter declare that the boundary commission is of regional concern, which this region chooses not to enter into*. He said that the motion was then changed to drop the expression of no intention to enter into the function under Metro and to preserve the statement that it is a matter of metropolitan concern.

Ned Look asked if regional and metropolitan were being used interchangeably. He said that it would be helpful to use one or the other.

Janet Whitfield said that the constitution has the charter defining what are matters of metropolitan concern.

Larry Derr said that the effect of the sentence is to say that the fate of boundary commission activity is in the hands of the metropolitan government, not the state legislature. Metropolitan concern is what the regional government has the authority to deal with.

Chair Myers read the motion that passed: *the charter would have a declaration stating that the exercise of any functions presently performed by the state and local government boundary commission is a matter of metropolitan concern*.

Jon Egge said that the missing word is *functions* rather than the *commission*. He said the problem with the wording in the outline is that it keeps things status quo which was not the intention of the Committee.

Larry Derr said that the sense of the discussion was the *boundary review functions* not the commission activities.

Chair Myers said that he did not understand that from the motion language.

Janet Whitfield said that if it is declared a matter of metropolitan concern, Metro could then possibly take it over.

Motion:

Frank Josselson suggested that the *boundary commission* provision read the

exercise of any data review functions presently being performed by local government boundary commission is a matter of metropolitan concern.

Vote on the motion:

There was Committee consensus to adopt the motion.

Ron Cease asked if the Committee has the authority in the charter to abolish the boundary commission since the boundary commission is a body created by state law.

Chair Myers said that the answer, quite probably, is no. He said that the overarching point is that the issue should be addressed in the charter even if it takes further legislative action.

Ron Cease said that the function should be maintained.

Chair Myers said that the Committee will hear from the boundary commission and other sources familiar with the process during the hearing process.

Chair Myers asked the Committee for comment on IX. *marketing of geographic data*. Hearing no comment, he moved on to *miscellaneous provisions* and *additional functions*.

Frank Josselson said that XI.B. *The regional government may assume the local aspects of authorized functions of metropolitan concern only on the basis of agreements between the regional government and other public corporations, cities, or counties* is a provision that authorizes the metropolitan government to cherry-pick local services that they would like to perform.

Mimi Urbigkeit asked for clarification on X.C. *to the extent necessary to carry out any function the regional government is authorized to perform, may acquire real or personal property within or outside the area of the regional government, including property of other public corporations, by purchase, condemnation, gift or grant.*

Chair Myers said that it would make the statement clearer to add *the regional government* before the second half of the statement--*may acquire real or personal property within or outside the area of the regional government, including property of other public corporations, by purchase, condemnation, gift or grant.*

Mary Tobias said that IX *marketing of geographic data* is too specific. She said that she would move to strike it or move to change the idea to be that if Metro has a product of value that will have a market, and is not protected by the public rights law, that Metro has a right to sell it.

Jon Egge asked if Mary Tobias meant that the regional government may impose and collect reasonable fees based on market prices or competitive bids for data that are developed by the regional government.

Mary Tobias said that is correct.

Larry Derr said that it stemmed from the public records law that says that anything that is public record must be given away for the copying fee, unless there is authorization to charge for it. The problem with making the issue wide open is that they could charge market prices for something that should be public record available without a fee.

Chair Myers said that he is uncomfortable opening up the issue without giving real thought to the issue. He said that it probably should be broader, but it should be left in because it is a current statutory provision and it can be further discussed, whether or not it should be modified.

Chair Myers said that the outline with the changes should be done tomorrow, January 3, 1992. He said that the outline needs to be sent out by the first of the week.

Larry Derr suggested that anyone who would like to sign-on to the narrative should tell Janet Whitfield by Monday.

Ron Cease asked what was the significance of the narrative.

Chair Myers said that it would stand as the supplemental views and explanations of those members of the Committee who wish to sign it.

Larry Derr said that it is purely optional. He said that he will make any conforming changes that were made during this meeting.

Ned Look asked how those members who left the meeting will get a copy of the narrative.

Chair Myers said that staff can send the narrative and outline by fax or messenger to those members who are absent. He said that staff will also send the updated outline to all the members. If there are any errors based on tonight's discussion, he asked that those changes be called in.

Ron Cease said that it is very important that the narrative agree with what is said in the outline. If there are contradictions, there will be the question of what was the work of the Committee.

Chair Myers said that the narrative will be clearly denominated as the supplemental document of those members of the Committee who signed it.

Larry Derr said that it is not important whether or not the narrative has a majority of the members signatures. It is important if a Committee member feels that it expresses his/her views, then it lets the public know that.

Chair Myers said that when the functional outline is distributed to the public, there will be an indication that there is a supplemental segment of information regarding the structure to follow. The next meeting will center around the structure alternatives.

Janet Whitfield said that she will call the members before 5:00 p.m. Monday to get their opinion on the narrative paper.

Chair Myers adjourned the meeting at 10:05 p.m.

Submitted by,

Kimi Iboshi

Kimi Iboshi
Committee Clerk

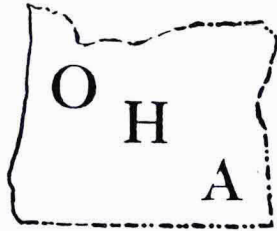
Reviewed by,

Janet Whitfield
Janet Whitfield
Committee Administrator

Materials following this page represent
Attachments to the Public Record

OREGON HOMEOWNER'S ASSOCIATION
TOGETHER-WE-STAND-FOR-OREGON-HOME-OWNERSHIP

RECEIVED DEC 31 1991
RECEIVED DEC 31 1991



8435 S.E. 17th Avenue
Portland, Oregon 97202
Phone (503) 233-4841

December 27, 1991

Metro Council
2000 SW First
Portland, Or. 97201

Our Board of Directors has instructed me to advise you of the following:

1. We will support a Metro Library Levy if all City, County and State of Oregon Library materials are centered into a new Central Library with branches in Gresham, Portland, Beaverton, Hillsboro, Clackamas and Tualatin.

A. This levy should be phased in over 4 years and all properties of those libraries now housed transferred to Metro for re-sale to apply to new Capital Construction if needed.

B. We believe transportation systems now make neighborhood access easy and expenses of operations controlled to better stock library needs and future technical journals etc. A branch in every neighborhood is unrealistic.

This is a merger service authorized in your original vote to form Metro. We believe merging current levies, buildings, personal inventory, etc. will better serve the Metro public.

We also suggest that Library personnel be accountable to the Metro Council, not its elected Director. This removes the political bad taste that will make our suggestions a success.

Clyde V. Brummell
Clyde V. Brummell
President