

**METRO  
CHARTER  
COMMITTEE**

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**AGENDA**

**DATE:** January 16, 1992  
**MEETING:** Full Committee  
**DAY:** Thursday  
**TIME:** 6:00 p.m.  
**PLACE:** Metro, Room 440, 2000 SW 1st Avenue, Portland

**6:00** Meeting called to order.

Review of Metro's current finance structure.  
Subcommittee appointed to develop report recommending  
finance options to full committee.

**9:00** Meeting adjourned.

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## CHARTER COMMITTEE PLAN January 16 - March 5

January 18 (at PSU)	Public hearing with invited groups: Regional Governance Committee, Multnomah County, Common Ground and Chuck Harrison.
January 21 (at Metro)	Finance Subcommittee meeting.
January 22 (in Portland)	Public hearing, including comments of the Chamber of Commerce for the Portland Metropolitan Area, League of Women Voters, Portland Metropolitan Area Local Government Boundary Commission, and City of Portland.
January 23 (in Wilsonville)	Public hearing, including comments of Tri-Met and the Citizens Crime Commission.
January 30 (in Portland)	Public hearing with Metro Council and Executive officer.
February 6 (at Metro)	Decisions on charter drafting instructions for regional government powers and functions.
February 13 (at Metro)	Decisions on charter drafting instructions for regional government structure.
February 14	Finance subcommittee proposals due.
February 20 (at Metro)	Adoption of finance outline.
Week of February 24	Public hearings on finance outline.
March 5 (at Metro)	Adoption of charter drafting decisions for regional government finance.

MINUTES OF THE CHARTER COMMITTEE  
OF THE METROPOLITAN SERVICE DISTRICT

January 16, 1992

Metro Center, Room 440

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

Committee Members Absent: Larry Derr, Ray Phelps

Chair Myers called the meeting to order at 6:10 p.m.

Chair Myers introduced Norm Myers as the replacement for Isaac Regenstreif.

1. Review of current Metro finance structure.

Chair Myers introduced Don Carlson, Council Administrator.

Don Carlson said that he is a former deputy executive officer and was in charge of the department of finance administration. He referred the Committee to the document entitled *Metropolitan Service District Financial History*. He said that the financial policies of Metro were adopted in 1984 and reflect a multipurpose special district that has the ability to provide a number of governmental functions and regional aspects of functions including planning and service activities. He said that functions are funded primarily through separate sources of revenue that are restricted for those purposes. He said that the first financial principle is that each functional area shall have identified sources of revenue. The second policy is that each functional area shall prepare a five-year financial plan which has been very important with the Zoo and its financing. The third policy is that any new functions assumed by Metro shall have a source of funding.

Chair Myers asked what the present functional areas are that have identified sources of revenue.

Don Carlson said that he intends to go through the principles on a function by function basis after going through the principles. The fourth policy is that the general government and mandated services shall have an external source of revenue to cover direct costs and to pay their share of support services. He said that this principle was written at a time when Metro was making an effort to get the general government activities--the Metro council and executive offices--out of the cost allocation system where it was funded through transfers from the operating funds. The sixth policy is that the support services functions of the general fund shall be totally financed from all operating funds on the basis of actual use. Those costs could be attributed back to the various functions. The seventh policy is that local assistance activities carried out by Metro shall be funded by the jurisdictions and organizations using those services. This policy relates to the local government dues. Metro is required by statute to use those dues for planning activities that provide assistance to the local governments. The last two policies relate to the Zoo: the Zoo relies on property taxes for a portion of its revenues; approximately 50-percent non-tax revenues shall be maintained for funding Zoo operations. He said that the direct services provided by Metro are: the general government, which is funded through excise taxes; solid waste funded by enterprise revenues; planning and development funded by local dues and grants with



transfers from solid waste and the general fund; transportation planning funded by local dues, grants, data sales and transfers from the general fund and solid waste; Metro Exposition-Recreation Commission (MERC) funded by enterprise revenues and a lodging tax; and the Zoo funded by enterprise revenues, property tax, grants, and donations. He said that Metro is receiving federal grants for the Greenspaces program. He said that the MERC is funded from enterprise revenues from the regional facilities run by Metro and a lodging tax that is imposed by Multnomah County and received by Metro through an intergovernmental agreement. He said that the intergovernmental agreement was made as part of the Convention Trade and Spectator facility plan in 1986. Multnomah County agreed to levy a three percent hotel/motel tax and Metro entered into an intergovernmental agreement with Multnomah County to dedicate the tax to the operation of the Convention Center. He said that it is a principle activity of the district that one party could cancel and Metro would have no authority or ability to impose the tax.

Chair Myers asked when the intergovernmental agreement began.

Don Carlson said that it began right around 1986 when the tax was first imposed.

Chair Myers asked why Metro did not undertake the levy at the time.

Don Carlson said that Metro does not have the authority. He said that the revenue authority granted in the statute is very limited. He said that the Zoo is equally funded by enterprise revenues from concession sales and admission fees and property taxes. A small amount is from grants and donations. He said that there are central services such as support services, insurance, and building management. He said that support services include accounting, budget, personnel, and attorneys. He said that the central services are supported entirely by transfers from the operating funds. No tax sources or user charges are budgeted directly into the central service function. He said that central services funding is based upon a cost allocation plan where detailed records are kept of the assistance given to the various functional areas when it is possible to count the assistance on a rational basis, such as printing.

Jon Egge asked what kind of allocation system is used to measure the services that cannot be calculated on a rational basis and cannot be measured against a particular function.

Don Carlson said that, for the most part, things are counted. He said that the real question is whether the counting of an item accurately reflects the time, energy, and resources taken for the charge. For instance, the solid waste system pays a large amount of the accounting division's costs because they add up the number of receivable transactions, payroll transactions by functional area, etc. Whether the percentage paid equates to the time spent may be questioned. It may become problematic whether anything is gained by having everyone record their time. He said that they try to have a quantified method.

Jon Egge asked if he understood correctly that the functions that are unrealistic to measure on a daily basis, there is an effort to try to determine what percentage of the function belongs to the different areas. He said that he wanted to be sure that the allocation was not to the area with the biggest reserve of money and there is a logical conclusion for the allocation.

Don Carlson said that Metro makes a cautious effort not to allocate to the area with the largest amount of money. He said that the caveat is that the allocation system could be argued with. He said the department managers do discuss the allocation process. He referred the Committee to the revenue charts, which graph the amount of revenue received from each source for the years 1980 through 1992, on pages 12 through 18 of the document. He said that the figures for the years 1980 through 1990 are actual figures through audits. The 1991 and 1992 figures are based on budgets. He said that the enterprise revenues are fees for service such as solid waste fees, Zoo admissions, rentals and sales at



the Convention Center, etc. He said that the figures in 1980 were small which reflects the activities of the district. In 1989-1990, the revenue went up which was a reflection of the increased cost of the solid waste disposal system. He said that the solid waste fees were continually ramped up to put money into a reserve pot for the closure of the St. John's Landfill. He said that the chart shows the increased cost of solid waste disposal and the addition of the MERC system.

Frank Josselson asked for the definition of enterprise revenues.

Don Carlson said that it means fees for goods and services. For example, the sale of a hot dog at the Zoo or disposal services at a landfill.

Frank Josselson asked if it is like profits and earnings for a private business.

Don Carlson said no. It is the gross sales.

Chair Myers said that it is different from a tax because it can be avoided by not using the service.

Wes Myllenbeck said that he thinks of enterprise functions as water, sewer, or power.

Don Carlson said that those are the classic utility functions. He said that Metro's solid waste function is one of those.

Frank Josselson asked if there is a difference between a user fee and enterprise revenue.

Don Carlson said that there is not a difference. He said that a user fee is a service charge.

Wes Myllenbeck said that he interprets them as different.

Don Carlson said that user fees are incorporated into enterprise revenues for Metro.

Frank Josselson asked how much it cost to close the St. John's Landfill.

Don Carlson said that about \$32 million was budgeted for the closure.

Chair Myers asked if that includes the funds that are made available to the neighboring area.

Don Carlson said that the money is set aside for putting the final cover on the landfill. It is only for the closure and future management of the landfill. He said that the donation and bequests revenue is relatively small and volatile. It is mostly donations for the Zoo. The Zoo has some minimal amounts of donations by different groups. He said that the Zoo has received donations and bequests for the capital fund. He said that the beaver otter exhibit was built by donations.

Jon Egge asked why the 1991 and 1992 donation projection is much larger than the other years.

Don Carlson said that part of the capital plan is to build a species propagation facility which is a breeding facility. The Friends of the Zoo have taken it on as a project which is projected to be entirely donation funded. The donations revenue for 1991 and 1992 shows the budgeting for that. He said that the federal grants and contracts chart shows a reduction in federal grant programs. He said that the federal government did continue to provide funding to the metropolitan planning organization for transportation planning purposes. 1991 and 1992 reflect the planning for the light rail project. The state and local grants reflect money received from LCDC and ODOT. The larger figures in 1989 and 1990 reflect the \$15 million in lottery money for the Convention Center. Part of the Convention

Center funding package was \$65 million of general obligation bonds, \$15 million from the state for two years, and \$5 million in local fees. He said that Metro gets a considerable amount of money, although not in comparison to its total budget, from property taxes. He said that property tax revenue has been relatively stable with a jump at the end of 1981 reflecting the six years of two separate three-year serial levies for the Zoo. A tax base for the Zoo passed in 1986 which was the same size as the previous serial levies. The added costs of the debt service financing for the Convention Center were added in 1988. The tax base that Metro has is statutory dedicated for the use of the Zoo. The local government dues are defined statutorily as planning charges. The district is authorized to assess local governments 50 cents per capita. The district assessed local governments at the 50 cents level for the period between 1980 and 1990. The increase on the chart shows the increase in population. The rate was reduced to 43 cents for 1991 and 1992. The authority to collect local government dues sunsets in 1993.

Chair Myers said that the local government dues provision has been subject to sunset through its whole existence.

Don Carlson said that was correct. He said it was the service charge that was agreed upon by CRAG. It had been a source of funding for transportation planning.

Chair Myers asked if the reduction in assessment was part of a political agreement incident to the last sunset appeal or if it was a judgement that less money was needed.

Don Carlson said that it was a political agreement. He said that there was a statement made by former presiding officer Ragsdale that was supported by the executive officer in one of the sessions that the assessment would be reduced. The decision of the assessment level was discussed with local governments with the ultimate decision of the rate lying with the Council.

Mary Tobias said that part of the decision was trying to balance all the impacts of Ballot Measure Five.

Don Carlson said that the hotel/motel tax revenue is money received by Multnomah County. Metro does not have any authority to impose a hotel/motel tax.

Janet Whitfield asked if Clackamas County or Washington County provide any money for the Convention Center.

Don Carlson said that they do not to the extent that Multnomah County does. The tax that is imposed by Multnomah County is imposed on behalf of Metro. There is not a similar tax in Clackamas County or Washington County.

Charlie Hales asked if the bonds that financed the Convention Center were revenue bonds.

Don Carlson said that they were general obligation bonds. The debt service is spread out on the property tax payers in the district.

Charlie Hales asked to what extent is the debt being retired by those revenues as opposed to user fees.

Don Carlson said that it is being retired purely by property tax levies. He said that the interest income revenue became a significant source of revenue after 1988 because of the sale of bonds and the time it takes to spend the bond money. The Convention Center project was funded essentially over a three year period so there was interest collected on those investments. The interest income revenue is going down because the cash that was invested is going down as is the interest rate.



Matt Hennessee asked if there is a sunset on the hotel/motel tax of Multnomah County.

Don Carlson said that there is not.

Matt Hennessee asked if the amount of hotel/motel tax revenue continues to go up, to what extent does it actually meet the operating costs of the Convention Center.

Don Carlson said that, based on the work done by the Cliff Carlson Committee on regional facilities and looking at this source of revenue as a method of providing operating subsidies, there appears to be some consensus by some people to look toward the regional government for revenue for the facilities.

John Meek asked what the bond plan is for the financing of the new Metro headquarters.

Don Carlson said that Metro has issued \$23 million worth of revenue bonds to finance the purchase and renovation of the Sears Building. He said that the users of the facility will pay rent for the operation of the facility.

Frank Josselson asked if the users are defined as Metro.

Don Carlson said that it correct. He said that the rent will be based on the square footage.

Frank Josselson asked if the bonds were secured by a cash flow or a pot of money.

Don Carlson introduced Chris Scherer, Financial Planning Manager for Metro.

Chris Scherer said that the bonds are secured by Metro's overall flow of revenue. The ordinance that authorizes the issuance of the bonds provides security for the bond holders. Metro will assess to the departments the amount necessary to pay debt service plus a little extra for coverage in each year. The bond rating was determined by examining all of Metro's revenue sources to establish that Metro has the financial capacity to make the transfers and pay the debt services.

Frank Josselson said that the bond holders are looking to the gross cash flow of Metro. He asked if he understood correctly that, as a practical matter, Metro will allocate the repayment costs depending on how much space each department has in the new building.

Chris Scherer said that was correct.

Frank Josselson asked how much the Sears Building will cost when completed. He asked if the purchase price was \$23 million.

Chris Scherer said that the purchase price was \$5.125 million for the building and attached parking garage. The renovations will push the price to approximately \$19.4 million. He said that the difference between the \$19.4 million and the \$23 million is essentially the financing.

Frank Josselson asked how the cost of renovation was calculated.

Chris Scherer said that the construction budget was determined in consultation with consultants in the construction field and then had a design build competition for the renovation contract. Part of the design build competition was how well the price that was already set by the budget was met.

Frank Josselson asked if it was a fixed price contract.



Chris Scherer said that it was.

Chair Myers asked if Metro will derive revenue from the parking.

Chris Scherer said that there is an attached parking garage and the public and Metro employees will be charged for the parking.

Don Carlson said that, as part of the purchase for the attached garage, Metro picked up a requirement that the State of Oregon had negotiated with the prior owner for use of a certain number of parking spaces for a 10 year period.

Chair Myers asked if Metro will be the only tenant of the building.

Don Carlson said that was correct.

Jon Egge said that the fund balance for Metro revenue is \$71 million. He asked, of that, how much is unspent bond funds.

Don Carlson said that there was an anticipation that the bonds would be sold earlier into the prior year so \$12 million of the \$71 million shows up in the current year budget as fund balance. He said that \$30 some million is part of the solid waste fund of which the bulk is for the closure of the St. John's Landfill.

Jon Egge said that only adds up to \$42 million, which leaves a sizable amount.

Matt Hennessee said that, from his past experience, the fund balance also includes the unfunded liability for the employees and other items.

Don Carlson said that he does not think unfunded liability is included in the fund balance. He said that the next biggest piece would be the Zoo. He said that there is several million in a capital fund for the Zoo. The other big piece would be in the spectator facility funds which would be the carry over from the Coliseum.

Mary Tobias asked where the uncollected taxes are carried. She said that there always is a significant amount of property tax that goes uncollected that has to be carried every year.

Don Carlson said that it would be in two funds--the Zoo operating fund and the Convention Center debt fund.

Mary Tobias said that it would be carried year to year and would not be thrown into the fund balance.

Don Carlson said that it is a piece of estimate fund of the taxes collected each year. Prior to the taxes received from the assessor each year are the current year priorities.

Mary Tobias said that the uncollected taxes are usually higher than the amount that is received each year.

Don Carlson agreed. He said that they may end up on the bottom line at the end of the unspent money, which does show up in the fund balance.

Charlie Hales asked for a general picture of what the trend is with respect to the fund balance of the revenue and the unappropriated balance portion of the expenditures. He asked if it is increasing over

the last couple of years.

Don Carlson said that it is hard to predict, because, when there are large category expenditures, revenue bonds are issued and that money is spent over a number of years depending on timing of the project. The fund balance of the unappropriated amount can go up and the next year's fund balance can go up. Over time, if Metro is not to build any capital facilities, the figure will go down because, over time, Metro will be spending St. John's closure costs. He said that, in the data services area, revenue is received from professional and contract service fees. Metro does contract with some governments and the private sector for data sales and services. He said that it is hoped that it will increase as a revenue source, particularly in the data area, because Metro is spending a lot of money on a geographic information system which should provide useful information to the governments in this region. He said that revenue is received from contractor license fees. It is a new program enacted by the legislature which allows Metro to issue a contractor's license which can be used in varying jurisdictions. It is a self funding program. A Metro excise tax on users of district services and facilities was authorized by the legislature during the 1989 session. The tax is limited, by statute, to six percent of the annual revenues of Metro. The Metro Council imposed the excise tax in 1989 at a rate not to exceed six percent. The first year, it was imposed at five percent and is 5.25 percent this year. It is a tax on users of district facilities such as the user of the garbage system. It is based upon the amount of sales and that is entirely all user fee money, so it is five percent on all those transactions.

Wes Myllenbeck asked if it was like a ticket tax.

Don Carlson said that the users of the Zoo and Convention Center pay the five percent excise tax. The tax is not imposed on city facilities such as the Civic Stadium, Memorial Coliseum, and the Performing Arts Center through an agreement with the City of Portland.

Frank Josselson asked if \$25 of garbage service would be subject to the five percent excise tax.

Don Carlson said that part of the transaction, five percent, would be taxed.

Frank Josselson asked, in respect to enterprise revenues collected as a result of solid waste activities, if an additional five percent is collected as an excise tax.

Don Carlson said that it would be five percent of that transaction.

Frank Josselson asked if some of the solid waste enterprise revenue would be used to fund planning and development for transportation planning.

Don Carlson said that only those transfers are for specific services for the solid waste function.

Frank Josselson said that money would be collected from the user of the system to finance planning activities and an additional five percent tax would be collected on top of that.

Don Carlson said that the money collected to finance planning activities would be for planning of the solid waste system and the five percent tax would go to the general fund.

Wes Myllenbeck said that the document says that, under transportation and planning and development, excess tax from the general fund is used to finance those two.

Don Carlson said that is correct. He said that the revenue source is used to fund some of the planning activities.



Frank Josselson said that the statute says that the district may, by ordinance, impose excise taxes on the person using the facilities. He said that it sounds as if Metro is imposing taxes on revenue, not persons.

Don Carlson said that it is the people who are buying the service that are being taxed.

Frank Josselson said that a tax is being imposed on a person but the amount will vary depending on the amount of the person's cost of using the facilities.

Don Carlson said that the rate is five percent. The amount collected will vary depending on the amount of the purchase.

Jon Egge said that it really is the profit picture that Frank Josselson talked about earlier. The user fee is the enterprise fund and the excise tax might be considered, looking at it from the business standpoint, as the profit on the user fee. It is an additional charge to the actual cost.

Don Carlson said that is correct. It is a tax.

Frank Josselson said that his real question is whether it is a tax on a person or a tax on a tax. He said that it is an issue that could be debated for many hours.

Don Carlson said that the miscellaneous revenue chart shows an increase due to Metro becoming more aggressive and imposing finance charges. The loans and bonds revenue are basically for capital expenditures for the Convention Center in 1988 and two solid waste projects in 1990.

Judy Carnahan asked about the status of Riedel's management of the compost station.

Frank Josselson asked if it is a Metro facility with which Metro has a contract with Riedel to operate.

Don Carlson said that it is a Riedel facility. Metro does not own it.

Frank Josselson asked why Metro is paying capital for it.

Don Carlson said that it is financed by the bank through revenue bonds. The bonds are backed by a bank so that if the contract fails, Metro and the rate payers are not liable for the project. The bonds would be paid off by the bank. The facility is privately owned. He said that the discussion that is currently going on is that the bank has a decision to make whether there should be a change. They have one year to make it work under the agreement with Metro.

Frank Josselson asked if it can be said that Metro is not on the hook for the repayment of the bonds if Metro is guaranteed a flow of materials to run the facility.

Don Carlson said that Metro's guarantee is to provide the facility with garbage.

Frank Josselson asked, if he wanted to get into the garbage business in the metropolitan area, would it be possible to have an assured source, given Metro's relationship with Riedel.

Don Carlson said that the answer would be yes because Metro controls the flow of garbage. Metro has the authority to give out garbage but must balance it with other solid waste commitments.

Chair Myers asked if the payment to Riedel is fixed or if it is contingent on some volume measurement.



Don Carlson said that he thinks it was negotiated to be \$38 a ton.

Ron Cease asked if it would be fair to say, looking at the partners--Metro, the bank, Riedel, and the community--that Metro's interest is that it works. If it does not work, to see that something happens, because, in the final analysis, Metro will be left politically holding the baggage.

Don Carlson said that it is in Metro's interest to have a successful project. He said that it is an innovative endeavor for handling solid waste.

Judy Carnahan asked if it is the first time that Metro has entered into this kind of agreement with private industry.

Don Carlson said that it was. He explained that the variability in total revenue from 1988 on is essentially due to capital projects. He then moved on to the description of expenses by function. He said that the solid waste operations is expensive because of the cost of disposing solid waste. He said that the solid waste operations staff has increased over time as new facilities have been added. The capital expenditures have a large increase in 1990 due to the solid waste projects--the Metro Central transfer station and the composter station.

Charlie Hales asked, given the financial arrangement for the composter, why it is a capital expenditure for Metro.

Don Carlson said that it is a capital expenditure because bonds were sold and the revenue goes through Metro's financial system. They go to the owner of the facilities, but it had to be budgeted by Metro.

Charlie Hales asked if the bonds were actually advertised and sold by Metro.

Don Carlson said that is correct. He said that the bonds are given to a trustee who distributes them.

Jon Egge said that, according to the budget, the fund balance is \$35 million for solid waste which is part of the total revenues. He said that the fund balance includes the St. John's Landfill reserve--the portion of the \$32 million that is unspent.

Don Carlson said that it would show up on the expense side and part of it would be expensed this year and the balance would be in the unappropriated balance.

Jon Egge asked how much of the surplus is unappropriated.

Don Carlson said that it is in the general expenses section of the budget and is about \$21.4 million. He said that the Zoo is a stable institution. The Zoo operations expenses have increased at a stable rate reflecting inflation and the opening of new exhibits. At the time when serial levies were being done for the operation and capital expenses of the Zoo, there was a consistent flow of building a new exhibit about every 18 months. He said that each new exhibit is more elaborate and complex and the operating costs go up. More people are needed as well as more props, such as plants, for the displays. The same increases have occurred with the Zoo staffing. The Zoo capital expenditures are a little more volatile. The slides in expenditures reflect the exhibits and their complexity. The planning expenses are combined for transportation and planning and development because they have only been separate departments for the last couple of years. He said that it reflects the work of transportation planning, urban growth management of the urban growth boundary, and other planning activities. The planning fund expenses match the revenue picture. Grants have decreased causing the expenses to decline because of lack of revenue. 1990, 1991, and 1992 show the increased money for the planning of the

light rail project and the excise tax revenues. \$1.5 million is being transferred into transportation planning and planning and development from the general fund. He said that the planning will increase as long as there is the revenue to do it.

Ron Cease asked how much is spent per year for planning.

Don Carlson said that the transportation planning expenditure is budgeted at \$5 million for this year. Planning and development, which includes Greenspaces planning, urban growth management, housing planning, and water planning is \$3.7 million.

Ron Cease asked how much is covered by the transfer of the excise tax.

Don Carlson said that the transfer to planning and development fund for this year is \$1.4 million. The transfer to the transportation planning fund is \$552,000. The balance is from federal grants. The local government dues are split between the two funds and provide \$600,000.

Chair Myers asked if any portion of the Westside Light Rail planning is funded by agreement with money directed toward Tri-Met.

Don Carlson said that part of the revenue sources is directed for Westside Light Rail. Tri-Met gets part of its federal money through Metro. The same is true with state grants through ODOT. He said that the planning staff was bigger in the earlier years, then decreased, and is now on the rise. He said that the Metropolitan Exposition-Recreation Commission activities began in 1989. The increase in expenses for 1991 reflects the absorption of Portland's facilities. He said that the same applies to the MERC staff expenses. The Convention Center was budgeted through Metro and construction was managed by Metro. The general fund and support services expenditures have only been separated in the last few years. The support services have increased greatly in the last few years because of the addition of the CTS system and an increase of personnel and activities.

Jon Egge asked for a description of general government and support services.

Don Carlson said that the definition of general government includes the direct costs of supporting the Council and the executive officer and staff. In that fund is the office of government relations which is the lobbying function. The general government fund is supported by the excise tax. He said that there is a little piece of the regional facilities that is paid for out of the excise tax money to investigate getting a revenue source and solidifying the system of spectator facilities. The planning studies for that are expensed out of the general fund. The support services fund is the public affairs function, general counsel, accounting, data processing, and part of building management.

Jon Egge asked if the argument can be made that they are all support services.

Don Carlson said that is possible. He said that Metro functioned for many years with the general fund and support services as one. He said that it became a policy to try to reduce a drain on the operating costs of the function. When the overhead is there, it takes away money from the direct operation. The policy of the district became try to pay for the general government costs with a general source of revenue--a tax. He urged the Committee to read the rest of *Metropolitan Service District Financial History*.

Don Carlson said that Metro has been going through a five year financial plan. He said that there have been committees set up to look at the future, particularly in the area of regional facilities. He said that Metro has some immediate financial needs to maintain the services provided by Metro. He said that, in the future, the regional facilities will include the operation of the Convention Center.



Metro will no longer operate the Coliseum if the Blazer proposal is implemented. The Coliseum was a revenue producer for the system. Metro will be operating the Performing Arts Center and the Stadium. He said that Metro projects have shown that additional revenue is needed to subsidize the operation of those facilities--they will not operate out of enterprise or service charge revenue. There have been suggestions that Metro do an End of the Trail project in Clackamas County, although the final planning has not been done. That kind of facility would probably operate some kind of operational subsidy. There are three sources of revenue for Metro currently. Metro can levy property taxes subject to the Constitutional limitation, impose a one percent income tax subject to the vote of the people, and impose the excise tax. The Zoo will need additional operating revenue. The admission fees were raised this year which resulted in a loss of revenue. The projected impacted will be a loss of \$600,000. At some point, that revenue source is not going to be useful for operation. The Arts Plan 2000 is a group of people who want to improve the public commitment to support the arts. They have drawn up the plan and are looking toward Metro to solve the problem. They are suggesting that additional public dollars be raised to support the arts. Metro is working on a Greenspaces plan which, at this point, has been focused on the capital needs. He said that information is being compiled to determine how much money would be raised from a bond issue if the voters approve it. There will be operational costs for Greenspaces also. He said that the work on urban growth management and RUGGO's will be intensified over the next few years and more revenue will be needed. He said that the costs can be added up and it would indicate that Metro is facing the need to raise additional revenue. He said that financing is an issue that needs to be dealt with in the charter.

Chair Myers asked about the work that has occurred to this point that has generated recommended courses of action.

Don Carlson said that he has seen the reports of the Carlson Committee which dealt with regional facilities and the Arts Plan 2000 which had graphs with dollar amounts tagged to it. The Carlson Committee targeted potential sources of revenue.

Chair Myers said that he is interested in studies which have proposed specific courses of action.

Don Carlson said that, for Greenspaces, the physical component has been developed and Metro is moving into the fiscal component in terms of potential dollar amounts for capital needs and an expenditure plan. Metro is working to make the operating costs of the implementation of Greenspaces understandable. He said that there are existing activities and future activities that Metro is interested in which will cost additional operating funds.

Charlie Hales asked Don Carlson to speculate as to the shortcomings of the current financial structure.

Don Carlson said that he personally doubts that Metro will look to the property tax any more as a source of revenue for the operation of functions.

Janet Whitfield asked if the Zoo property tax funding would be phased out.

Don Carlson said no. He said that Metro has a tax base approved by the voters for the Zoo and Metro is going to hang on to it. He said that he doubts that Metro will go to an income tax. He said that there is a psychological barrier of local government moving into the income tax. He said that Metro's future is seeking out and imposing selected sorts of taxes on a smaller scale to fund identifiable things. He said that there is a wide range of potential revenue sources--franchise fees, environmental taxes, video taxes, etc. If Metro has the authority to do it, Metro will seek those sources of revenue by clearly understanding the need and try to match the need with an available source of revenue.

Bob Shoemaker asked if there were any particular taxes that have not been utilized by Metro that are



attractive.

Don Carlson said that it is imperative that Metro get the authority to impose a hotel/motel tax since Metro is already using it through an intergovernmental agreement. He said that a big piece of the function is dependent upon another government to give Metro the money. The Carlson Committee has identified an admissions tax which would be on admissions to events such as a movie.

Charlie Hales asked if Metro had that authority now as an excise tax.

Don Carlson said that the answer is no. Metro's specific authority is for an excise tax on persons using district facilities and services. It could not be on a movie theater. The Carlson Committee recommendation is a general tax on admission to events.

Wes Myllenbeck said that cities and counties have general taxing authorities. He asked what the difference is between Metro's authority and their general authority.

Don Carlson said that the authority that cities and counties have varies based on their charters and statutes. If there is a city that has a general grant of taxation authority, the governing body has the ability to impose a tax subject to initiative and referendum. Metro tax authority is specifically authorized in the statute. Metro has the authority to levy property taxes according to the statute. The property taxes are subject to constitutional limitations. Metro can impose an income tax with a one percent limitation and the vote of the people. The excise tax can be imposed by ordinance adopted by the council, subject to initiative and referendum.

Charlie Hales asked what the revenue productivity is per tenth of a point for the income tax.

Don Carlson said that one percent yields about \$120 million.

Chair Myers asked, if Metro was authorized to levy a hotel/motel tax, would Multnomah County terminate its tax.

Don Carlson said that was his understanding of the discussions and his expectations.

Chair Myers asked if all the revenue from Multnomah County's hotel/motel tax is covered by the intergovernmental agreement.

Don Carlson said that it is a three percent tax that Metro receives. He said that he is not sure whether Multnomah County does anything else.

Frank Josselson said that he understands that the Memorial Coliseum is profitable in the sense that it spins off enough money to fund the operations of the Performing Arts Center, Convention Center, and Civic Stadium.

Don Carlson said, for years, the Exposition-Recreation Commission ran the Memorial Coliseum and the Civic Stadium. Reserves were built up based on the income coming from the Coliseum. He said that the lease was renegotiated with the Blazers during that time. The income went down at the Coliseum. The City of Portland transferred the Performing Arts Center to the Exposition-Recreation Commission. Those events, over time, will turn it into a negative situation. Metro had the ability to build the Convention Center and a deal was struck with Multnomah County to provide the tax subsidy resources.

Frank Josselson asked if, in the next fiscal year, the Memorial Coliseum is taken out of operation, how much more revenue would have to be put in the system to run the Performing Arts Center, Civic

Stadium, and Convention Center.

Chris Scherer said that, by agreement with the Blazers, the Coliseum will go into operation by the Blazers. They will share the profit or losses, after expenses, for the Coliseum with the public. Projections are that there will be nothing left to share. Metro projections are that about \$620,000 per year, at a minimum, is needed to maintain the operational side of the Civic Stadium and the Performing Arts Center. The balance that is currently available to fund the shortfall in operations will be drawn down at the end of 1995.

Frank Josselson asked, when the Blazers are through, who will own the Memorial Coliseum.

Don Carlson said that the City of Portland will. Portland owns it now. The memorandum of understanding that was agreed to by Metro, Portland, and the Blazers, states that the facility will remain in the City of Portland.

Frank Josselson asked how much profit there was to the public in the lease to the Blazers.

Don Carlson asked if Frank Josselson was asking, in the operation of the Coliseum and with the current Blazer lease, what was the profit on the revenue which resulted from the Blazers being there.

Chris Scherer said that the Coliseum made \$800,000 last year.

Frank Josselson said that The Oregonian reported that the Blazers were a net loss to the Coliseum.

Chris Scherer said that, with overhead applied, the Blazers show a net loss.

Frank Josselson said that if the Memorial Coliseum is taken out of operation, creating a \$620,000 shortfall for operating the Stadium and Performance Arts Center, it indicates that the Coliseum is at least generating a profit for the public of \$620,000, plus whatever subsidies are being paid to the Blazers to play there.

Chris Scherer said that last year was a particularly good year. There were a number of large concerts that were large money makers. The \$800,000 for last year does not indicate a trend of revenue.

Don Carlson said that the real concern is that, over time, the new Blazer area which will be bigger and have more amenities, the events will be going there instead of the Coliseum. Right now, the Coliseum is one of the only venues in town to handle certain things.

Bob Shoemaker asked where the discussion was going regarding the financial sources for Metro. He said that it sounds as if Frank Josselson is questioning the wisdom of the deal made with the Blazers.

Frank Josselson said that he is curious about the financing sources. He said that he is just trying to understand the regional facility funding.

Jon Egge asked if Metro would share in the gains and losses of the Coliseum or just the gains.

Chris Scherer said that there is some portion of the agreement that addresses sharing of net revenue of the Coliseum.

Jon Egge said that he is concerned about the sharing of losses that could be generated from the Coliseum.



Chris Scherer said that the memorandum of understanding holds the public harmless.

Don Carlson said that part of the deal places the Blazers responsible for operation of the Coliseum and responsible for any losses, although the public will own it.

Chair Myers asked, on the revenue side of the Blazer arena, if there is some payment to the public or if all gain is to the Blazers.

Don Carlson said that there is an agreement on the part of the Blazers that if Portland or Metro were to impose an admissions tax, the money from the tax on the Coliseum and the Blazer arena would be used to retire any public indebtedness or investment.

Chair Myers asked about the future financing approach for the regional government. He summarized Don Carlson's personal view to be that the foundation of the financing, excluding enterprise taxes, should be expected to lie in various kinds of levies for excise taxes on select transactions. It would be supplemented by the existing property tax authority of the district.

Don Carlson said that Metro will continue to seek and use general obligation bonds which would be supported by property tax.

Bob Shoemaker said that Don Carlson said that Metro would not be pursuing further property taxes.

Don Carlson said that is true in operations. He said that Metro, along with other governments, will continue to seek general obligation bond authority from the voters as a source of income for capital projects.

Bob Shoemaker said that among the finance options listed in the statutes, the vehicle registration fees have not been discussed. He asked for a perspective on vehicle registration fees being a realistic source of revenue.

Don Carlson said that vehicle registration fees have been proposed by groups such as JPACT as a way to fund transportation improvements. He said that it is a viable source for those activities.

Bob Shoemaker asked if the council has considered imposing a vehicle registration fee.

Don Carlson answered yes.

Bob Shoemaker asked when.

Don Carlson said during the 1989 session.

Charlie Hales said that the vehicle registration fee is still subject to the constitutional limitation that it has to be used for used expenditures.

Don Carlson said that those who are interested in a vehicle registration fee are wrestling with that issue and what to do with it.

Charlie Hales asked if Metro has the authority to collect gasoline taxes.

Don Carlson said no.

Charlie Hales asked if it has the provisional authority that it could have for vehicle registration fees,



subject to intergovernmental agreements.

Don Carlson said no.

Jon Egge asked if the vehicle registration fees could be used for transportation planning.

Don Carlson said yes in so far as it relates to roads.

Ron Cease said that the options are pretty limited. He said that the major sources of taxes, except for the bonding side of property tax, are not available for practical operating purposes. He said that Don Carlson is really talking about fees, charges, and special taxes. He asked about the issue of Metro and the local governments going together to have certain taxes. He asked if there had been much discussion about Metro being a regional vehicle for local governments, especially for a gas tax or vehicle registration tax.

Don Carlson said no, not other than transportation. He said that there was preliminary discussion to try to get information together collectively between Metro and local governments as a result of passing Ballot Measure Five.

Ron Cease said that one of the things that complicates the picture is that the units of local government will be looking at the same sources of revenue that Metro is looking at. He asked if it would make sense to try to do some on a cooperative basis or it may end up that no one gets anything.

Don Carlson said that it does make sense. He said that the excise tax came out of a cooperative process where Metro met with local government officials and had a discussion about Metro's future funding needs and potential revenue sources. The consensus was a tax on the users of Metro facilities and services to keep it internal in the system. The local governments were sensitive at the time and everyone wants everyone else to stay out of their potential revenue source. To some degree, as much as possible, coordination discussion makes sense, but governments will go out and try to fund functions that they feel are important.

Mary Tobias said that one of the things that comes up in discussions about Ballot Measure Five is privatization of services that are expected to be government services. She asked if Don Carlson anticipates that Metro will look toward privatization for any of the services that it currently does, in order to reduce revenue, if additional funding cannot be found.

Don Carlson said that a substantial amount of Metro's budget is spent through contracting with private industry. All the solid waste facilities are operated through contracts with private vendors. He said that he is not aware of Metro getting out of any of the services it currently has and letting them get picked up by the private sector.

Mary Tobias said that she realizes that Metro does a lot of contracting. She said that the charter has to provide a way to fund what Metro is doing, but there also must be a sense that if it must scale back, it will be forced to prioritize unless the private sector picks up the ball. She said that the charter must be sensitive to the climate in which it is being created.

Ron Cease said that he agrees that privatization makes sense, but it has to be argued that it could be more expensive if handled completely by the private sector. He said that sometimes the assumption--that if government is divested of a lot of things it could be done less expensively--is not true.

Bob Shoemaker said that he thinks there are several in the room who apparently believe that Metro made a mistake in that direction with the successor to the Coliseum.

Jon Egge said that no one who supports the ability to privatize any service believes that it is a panacea. He said that he supports the option. He said that the existence of the option is the only controlling function on possible uncontrolled growth of costs.

Bob Shoemaker said that, if Tri-Met is taken over by Metro, he assumes that it comes with its own tax structure, including a payroll tax. He asked if there had been any discussion within the Metro Council about the attractiveness of a payroll tax authority.

Don Carlson said that it has not been discussed.

Chair Myers said that the Committee will be asking Metro to compile some of the kinds of information that Don Carlson talked about.

2. Additional business.

Chair Myers appointed the finance subcommittee. The members are: Ray Phelps and Frank Josselson from Clackamas County; Wes Myllenbeck and John Meek from Washington County; and Hardy Myers and Bob Shoemaker from Multnomah County. Bob Shoemaker will be the chair. He said that any other member of the Committee is free to participate in the work subcommittee. He said that he tried to balance the subcommittee on a basis of two per county.

Jon Egge said that it is a public meeting.

Chair Myers said that the subcommittee recommendations in the form of an outline will be submitted by February 14. The Committee, assuming that it is able to work through the other segments of the work plan, will take up the subcommittee report for a first review on February 20. He said that a couple public hearings would follow. He said that there are four meetings for invited and public testimony on structure and function in the next couple weeks. He said that the meetings of January 22 and January 23 are open ended for public testimony.

Ron Cease asked if the Citizen's Crime Commission asked to be put on the agenda of January 23.

Janet Whitfield said that they requested time to discuss regional planning for law enforcement.

Chair Myers adjourned the meeting at 8:40 p.m.

Respectfully submitted,



Kimi Iboshi  
Committee Clerk

Reviewed by,



Janet Whitfield  
Committee Administrator



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Attachments to the Public Record

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**INFORMATION FROM REGIONAL GOVERNANCE COMMITTEE  
TO CHARTER COMMITTEE  
REGARDING FINANCING FOR A REGIONAL GOVERNMENT**

**January 16, 1992**

The appropriate financial structure for a government is very dependent on the functions and structure of that government. The following opinions about appropriate financing for a regional government are based on the premises that the functions it initially delivers are roughly similar to those delivered by Metro today, and that the governance structure provides a true partnership for local government involvement in decision-making. If the final version of the Charter varies from either of these premises then our recommendations for financing would likely also change.

**GENERAL PRINCIPLES**

The way in which the regional government raises and spends money should adhere to the following general principles:

- Appropriate funding for a regional government should be directly related to the functions it provides.
- The potential funding sources of the regional government should be flexible enough to change as its functions change over time.
- Voters should be required to authorize taxes and other discretionary funding sources. This does not include user fees.
- Once a function and a source to fund that function are established, the revenue should be as stable as possible.
- Funding for regional functions should not compete with funding for basic public services provided at the local level. In the post Measure 5 era this means the regional government should not use property taxes for operating expenses beyond those property taxes already in use.
- The funding mechanism for functions of the regional government should be as clear and understandable to the public as possible. The public should know when it pays a fee or a tax what the money will be used to fund.
- Decisions about budgets and revenue sources should be made in an open process which is easily accessible to the public.
- Some formal oversight structure which include local governments and citizens with expertise in financial matters should be required in the budget development process. The regional government should be required to prepare a cost plan to allocate overhead costs. RPAC would provide the oversight function for local governments.
- Independent financial and performance audits should be conducted.
- In any case in which user fees are collected on behalf of the regional government by local governments the Regional Policy Advisory Committee (RPAC) should provide the oversight function of reviewing and advising on the rates.

## **FUNDING FOR SPECIFIC FUNCTIONS**

Costs for general planning, service delivery and overhead of the regional government should be financed as follows:

### **Planning and Coordination**

Some or all of the following revenue sources may be appropriate:

- Continue use of the excise tax on regional government functions. RGC is exploring the merits of sunseting the excise tax in 5 years in hopes that a more suitable, permanent funding source could be identified by then. RGC is analyzing whether such a clause would be consistent with how local governments operate and whether it would be appropriate to replace some or all of the revenues from the excise tax with increases in the per capita tax on local government. The excise tax should have a limit (e.g., 6%) placed on the allowed annual increase in total revenues.
- More permanent revenue sources could include any of the following:
  - User fees from a service which the regional government is delivering. However, the fees would be strictly limited to planning for that service (e.g., solid waste fees would only pay for solid waste planning) and some guidelines would need to be established to limit the amount of money which could be devoted to planning.
  - Local government per capita assessment (tax) consistent with provisions in current state statute.
  - Any general tax except property (e.g., sales, income) which is approved by a vote of the people.

### **Service Delivery**

Some or all of the following revenue sources may be appropriate:

- First choice is user fees when this is possible and they can raise sufficient revenue to pay the full cost.
- Second choice is a general tax (sales, income) which is approved by a vote of the people.

Examples of how these principles might be applied include:

- Solid Waste Facilities - funded entirely through user fees
- Zoo - funded through user fees plus voter approved taxes (property, sales, income, excise)
- Other Regional Facilities - funded through user fees, hotel/motel tax, voter approved taxes

### **Overhead**

- All overhead should be paid by allocating costs reasonably proportionate to planning and service delivery functions. A general revenue source such as the existing excise tax should not by itself be used to pay for overhead.



**SUMMARY AND OUTLINE DESCRIPTION  
OF PROPOSED CHARTER CONTENT  
ON REGIONAL GOVERNMENT POWERS AND FUNCTIONS**

**and**

**REGIONAL GOVERNANCE COMMITTEE COMMENTARY**

**January 16, 1992**

METRO CHARTER COMMITTEE

SUMMARY AND OUTLINE DESCRIPTION  
OF PROPOSED CHARTER CONTENT  
ON REGIONAL GOVERNMENT POWERS AND FUNCTIONS

FOR PUBLIC DISCUSSION AND RESPONSE



**REGIONAL GOVERNANCE COMMITTEE**

**COMMENTS ON  
METRO CHARTER COMMITTEE'S  
SUMMARY AND OUTLINE DESCRIPTION  
OF PROPOSED CHARTER CONTENT  
ON REGIONAL GOVERNMENT POWERS AND FUNCTIONS**

**January 16, 1992**

The summary and outline that follow are the result of initial work by the Metro Charter Committee on the content of a proposed charter for regional government in the Portland metropolitan area. Except where noted, the provisions have the initial support of at least a majority of the Committee. They represent a first effort to distill a desirable framework of regional government from the multitude of ideas and philosophies presented to the Committee.

The Committee solicits written comments on these provisions to assist it in the next phase of deliberation which is to refine the content and develop specific charter language. Persons choosing to comment should be aware that these provisions are open to change as a result of comment and have not been finally adopted.



This document provides a commentary from the Regional Governance Committee on the Metro Charter Committee's work to date. The regularly numbered pages (1,2,3, etc.) on the left-hand side of all facing pages represent the verbatim work of the Charter Committee. The pages numbered 1A, 2A, 3A, etc. on the right-hand side of all facing pages represent the RGC's commentary on the Charter Committee's work.

The RGC believes that the Charter should focus on a governance structure and decision-making process for the regional government. The Charter should not include detailed lists of activities which the regional government must always perform and may not ever perform. A proper governance structure will provide the necessary partnership between regional and local governments and appropriate checks and balances to ensure that the regional government meets the needs of the citizens. RGC's recommendations for implementing these principles of governance are included in separate documents - an outline for a Charter and an accompanying narrative.

The RGC commentary is not a comprehensive presentation of RGC's positions on matters related to the development of a Charter for the regional government. That can be found in the body of work which RGC has developed and presented to the Charter Committee to date. This document is intended to relate that other work of RGC directly to the work of the Charter Committee and at a level of detail that hopefully will be useful to the Charter Committee's deliberations. As with the Charter Committee's work to date this commentary reflects the current opinions of RGC. It is subject to change upon receipt of further input and a better understanding of the Charter Committee's document.

**OUTLINE OF PROPOSED CHARTER PROVISIONS**

POWERS AND FUNCTIONS

**I. Planning Powers and Responsibilities.**

*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 Framework Plan addressing certain specified matters of metropolitan concern, together with the coordinated local plans of the cities and counties.*

**A. Future Vision.**

1. Definition of the Future Vision.

- a. The Future Vision is a conceptual statement that indicates ~~preferred~~ population levels and settlement patterns that the region and adjacent areas can accommodate within the carrying capacity of the land, water and air resources, and that achieves a desired quality of life.
- b. The Future Vision is a long-term, at least 50- year, visionary outlook.

2. Matters addressed by the Future Vision will include, but are not limited to:

- a. The use, restoration and preservation of regional land and natural resources for the benefit of present and future generations.
- b. How and where to accommodate the population growth



## I. Planning Powers and Responsibilities

RGC supports assigning clear regional growth management planning responsibilities to the regional government. However, the cause of effective growth management will be best served if this section on Powers and Responsibilities is general and brief. The decision-making process established by the Charter should be the primary vehicle for allocating functions of the regional government, not the Charter itself. This draft is far too detailed.

### I. A. Future Vision

← RGC supports the creation of a vision by the regional government. However, this level of detail about development of the vision is not appropriate in a Charter. Major portions of this section should be deleted and replaced with language which enables the regional government to produce a long-range outlook for the region as it deems appropriate.

← If this section is included in the Charter the following changes should be made:

- Require the revised RPAC (as per RGC recommendation) to advise the METRO Council on the vision prior to acting on it. This would not preclude the Council from appointing the type of advisory commission called for in the draft.

for the region while sustaining and maintaining its livability and quality of life.

- c. Means of developing new communities and additions to the existing urban area in well planned ways.
  - d. Economic growth and educational opportunity.
  - e. Appropriate regional and local government structure-  
sand financing to provide the necessary public serv-  
ices in an efficient, effective and accountable man-  
ner.
3. Development, adoption and review of the Future Vision.
- a. The Future Vision will be developed by a broad-gauged commission appointed within 90 days after installation of the governing body of the regional government.
  - b. The commission members will be selected by procedures to be established by the regional governing body.
  - c. The commission members shall represent private, public and academic sectors.
  - d. One or more commission members must reside outside the boundaries of the regional government.
  - e. The Future Vision shall be adopted by the regional governing body within 24 months of appointment of the commission.

← Delete section I.A.2.e. Requiring one level of government to pass judgment on the efficiency of service delivery functions performed by other levels of government as part of a long-range planning document is inappropriate.



- f. The commission shall be served by independent staff.
- 4. The Future Vision shall be reviewed and amended in the manner of original adoption and at such times as the regional governing body shall determine, but not less frequently than once every 10 years.
- 5. Legal effect; reviewability.
  - a. The Future Vision is not a regulatory document.
  - b. The Future Vision is not reviewable by LUBA or judicially, and is not subject to LCDC acknowledgement or review.
  - c. The Future Vision affects the Regional Framework Plan in the manner described below.

**B. Regional Plan.**

*There shall be a Regional Plan consisting of a Regional Framework Plan adopted by the regional governing body and the existing local plans of the cities and counties within the region as modified over time by those cities and counties to be consistent with the Regional Framework Plan.*

- 1. Definition of Regional Framework Plan.
  - a. The Regional Framework Plan establishes and is limited to plans and policies for the matters addressed in 2 and 3 below, and provides the basis for coordination of local city and county plans.

#### I.B. Regional Plan

- ← Agree that the Regional Framework Plan should consist of goals and objectives, benchmarks for performance and functional plans. It should not be a regional comprehensive plan.
- ← The long lists of topic areas to be addressed by the Regional Framework Plan should be deleted. The general purpose of the Framework Plan (i.e. growth management) should be described. Specific topic areas to be addressed through regional planning should be left to a decision-making process identified in the Charter to determine.
- ← This section should be edited to delete planning phrases, programs and agencies which may cease to exist or be used during the life of the charter. Even such common phrases as “urban growth boundary” probably should not be in the charter, but rather the function it serves. Twenty years from now the region may have a much superior tool to an urban growth boundary

- b. The Regional Framework Plan must be consistent with State-wide Planning Goals and describe its relationship to the Future Vision.
  - c. The Regional Framework Plan will include regional goals and objectives, functional plans and benchmarks for performance as implementation tools.
2. Matters addressed in the Regional Framework Plan.
- a. Regional transportation and mass transit systems.
  - b. Urban growth boundary.
    - i. Management.
    - ii. Amendment.
  - c. Urban reserves.
    - i. Designation.
    - ii. Control of boundaries.
    - iii. Control of land use activities in area, including land division, wells and septic tank placement.
    - iv. Procedure for determining which local government(s) will assume jurisdiction of territory within urban reserves.
  - d. Federal and state mandated planning functions.
  - e. Matters of metropolitan concern within certain designated subject areas.
    - i. Planning within the following subject areas for those aspects having metropolitan concern.



for managing growth. This draft would require the regional government to use an urban growth boundary, urban reserves, etc. even if better tools became available. Phrases such as LCDC and LUBA should also be deleted in case these entities cease to exist.

← Sections I.B.2c.iii. and iv. should be changed. As currently drafted these sections would give the regional government the power to issue land use permits. This is an area traditionally reserved for local governments. The same purpose for controlling development in urban reserve areas can be accomplished by having the regional government establish performance standards which local plans must implement. This approach protects the regional interests while protecting local flexibility.

- a. Water sources and storage.
- b. Housing densities.
- c. Greenspaces.
- d. Planning and provisions for siting of significant, high density, mixed use urban development.
- e. Planning and provisions for siting of commercial/industrial development.
- f. Solid waste disposal, reuse and recycling.
- g. Regional exposition, recreation, cultural and convention facilities.
- h. Regional disasters.
- i. Energy.

ii. Definition of "metropolitan concern".

- a. A land use decision or action of one jurisdiction that will substantially interfere with another jurisdiction's local plan; or
- b. A land use decision or action of a jurisdiction that will substantially interfere with a provision of the Regional Framework Plan.

*The above provisions reflect only the Committee's initial consideration of this definition. The Committee recognizes the*

- ← In order to help ensure that the current greenspaces planning effort continues, RGC would support some reference to greenspaces planning in the Charter. However, if this reference is listed, language elsewhere in the Charter should guarantee that the existing document describing this program, including roles and responsibilities of regional and local governments, is carried forward.
- ← I.B.2.e. i. D and E should be deleted. If not, they should be changed. As currently drafted these sections would give the regional government the power to issue land use permits for major developments. This is an area traditionally reserved for local governments. The same purpose for controlling the siting of major developments can be accomplished by having the regional government establish performance standards which local plans must implement. This approach protects the regional interests while protecting local flexibility.
- ← Sections I.B. 2.e. a through i give the regional government vast powers to plan for subject areas, most of which they have had no involvement with in the past. The only specified role for local governments is in helping select additional subject areas to plan. No role for local governments is specified for developing the plans for subject areas listed in the Charter. This is inappropriate. The Charter should not seek to do the planning for the region, but establish the process for planning. None of the specific subject areas beyond plans already in effect (e.g. solid waste) or underway (e.g. greenspaces) should be listed in the Charter.
- ← Section I.B.2.e.ii. is an inadequate definition of “matters of metropolitan concern”. This definition is the heart of what the Charter should be addressing. The Charter should include general criteria (see RGC recommended language) for identifying matters of metropolitan concern and a very specific process for making this determination.



*definition is incomplete and welcomes public comment on appropriate elements of the definition.*

3. Procedure for addressing additional matters in this Regional Framework Plan.

*The Charter will include a procedure by which planning responsibility for subject areas having metropolitan concern and not specified in the Charter may be incorporated into the Regional Framework Plan subsequent to Plan adoption. The procedure has not yet been established.*

4. Matters excluded from the Regional Framework Plan.

All planning responsibilities not authorized under 2 or 3 above are reserved to city and county plans.

5. Procedures for development, adoption and review of the Regional Framework Plan.

- a The Regional Framework Plan will be adopted, within 36 months after installation of the governing body of the regional government.

- b Adoption alternatives for discussion and input:

- i. Alternative 1: Regional government adoption of the Regional Framework Plan.

← Section I.B.3. Unless the long list of planning responsibilities included in earlier sections is deleted or substantially shortened this section will be largely irrelevant because the Charter will empower the regional government to do most everything of consequence in the planning field from the outset. If that list is deleted or shortened then this section becomes possibly the most important section of the Charter. See RGC's recommended decision-making process. It should be inserted here for making decisions about future planning areas, as well as for executing the planning for any areas assigned outright in the Charter.

← Section I.B. 5. So long as there are statewide planning goals which local plans must conform to, the Charter should require that the Regional Framework Plan be acknowledged by LCDC.

with a charter mandate for local government involvement short of requiring local government approval.

ii. Alternative 2: Regional government adoption of the Regional Framework Plan with local government having some numerical authority in the voting.

c. Periodic LCDC review of the Regional Framework Plan for State-wide Goal compliance will occur on a schedule established by LCDC.

d. The Regional Framework Plan may be amended on a schedule to be determined by the regional governing body.

**C. City and County (Local) Plans.**

1. Definition of local plans.

Existing city and county plans, amended by the cities and counties as necessary to become consistent with the Regional Framework Plan.

2. Matters addressed in local plans.

All matters within the authority of local governments pursuant to state statute and local charters to the extent not dealt with by the Regional Framework Plan.

3. Adoption and review of local plans.

a. Local plans will continue to be adopted and



← Section I.C. RGC supports the concept that local plans should interrelate in a coordinated fashion to ensure that regional needs are met. However, the only reference to local plans in the Charter should be a description of the interrelationship between the Regional Framework Plan and local plans. It is inappropriate for a charter for a regional government to be defining local plans, describing what they can and can not address, and including them as part of a Regional Plan. The objective of ensuring that local plans accomplish regional objectives and performance standards can be accomplished simply by stating that local plans must be in compliance with the regional needs and describing a process for ensuring that this occurs.

amended based on local plan procedures, except that local plans must be made consistent with the Regional Framework Plan at the next local plan periodic review following adoption of the Regional Framework Plan.

- b The issue of consistency with the Regional Framework plan is appealable as provided by law.
- c State-wide Goal compliance review alternatives for discussion and input:
  - i. Alternative 1: By LCDC.
  - ii. Alternative 2: By regional governing body.
  - iii. Alternative 3: Regional governing body reviews for compliance with Regional Framework Plan and incorporates the local plans as a part of the regional plan. Only the regional plan is reviewed for compliance with State-wide Goals.
- d 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

← Section I.C.3.c. Local plans should continue to be reviewed by LCDC. It is appropriate for the regional government to review local plans for consistency with the regional plan. LCDC should have the benefit of the regional government's review prior to acting on the local plans. However, it is not appropriate to give the regional government the authority to approve local plans for consistency with statewide planning goals (to the exclusion of LCDC from this process). At some point in time it may be appropriate for LCDC and the regional government to sign an intergovernmental agreement to transfer some of the staff review function for state goals to the regional government, while retaining final decision-making authority at the state level. The Charter, however, does not need to address this eventuality, except to empower the regional government to enter into intergovernmental agreements if necessary to address a matter of metropolitan concern.

← Section 1.C.3.d. Should be deleted. It is inappropriate for a Charter for a regional government to dictate the form of local government development codes. The enforcement language included in this section could be a threat to the region's quality of life by obligating a local government without completely objective decision criteria to approve every development application or face legal challenge.



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.

D. The Regional Plan (which is a combination of the Regional Framework Plan and the local plans of cities and counties when made consistent with the Regional Framework Plan) must satisfy all State-wide Goals applicable to the region.

E. Development by regional government of recommended model standards and procedures for local land use decision making that may be adopted by local governments.

## **II. Operational and service delivery powers and responsibilities**

### **A. Solid and liquid waste.**

#### **1. The regional governing body may:**

a Build, construct, acquire, lease, improve, operate and maintain landfills, transfer facilities, resource recovery facilities and other improvements, facilities or equipment necessary or desirable for the solid and liquid waste disposal system of the region.

b Sell or dispose of the products or by-products of the regional government's facilities.

← Section 1.C.3.E. is inappropriate for a Charter.

The service delivery section of the Charter should be similar to the planning powers and responsibilities, short on specific responsibilities and long on the process to be used over time to make these decisions.

← Section II.A. should be shortened substantially to generally describe solid waste powers. This language includes references to outdated issues (e.g. siting of solid waste landfills other than those approved by the EQC) and issues which are far too specific (e.g. pilot projects for recycle containers). This entire section is an excellent example of how quickly a charter which relies on specific detailed grants of authority can become dated. METRO should have the existing general authority to provide for and regulate the disposal of solid waste and promote waste reduction, recycling and reuse through programs, incentives and education.

- c. Require any person or class of persons who generate solid or liquid wastes to use the disposal, transfer or resource recovery sites or facilities of or designated by the regional government.
- d. Require any person or class of persons who pick up, collect, or transport solid or liquid wastes to use the disposal, transfer or resource recovery sites or facilities of or designated by the regional government.
- e. Regulate, license, franchise and certify disposal, transfer and resource recovery sites or facilities; establish, maintain, and amend rates charged by disposal, transfer and resource recovery sites or facilities; and otherwise control and regulate the establishment and operation of all public or private disposal, transfer and resource recovery sites or facilities located within the boundaries of the regional government. Licenses or franchises granted by the regional government may be exclusive.
- f. Prescribe a procedure for issuance, administration, renewal or denial of contracts, licenses or franchises granted under Subsection e.





- g. Regulate the service or services provided by contract, license or franchise and order modification, additions or extensions to the equipment, facilities, plan or services deemed to be in the public interest.
  - h. Receive, accept, process, recycle, reuse and transport solid and liquid waste.
  - i. Provide for the disposal of solid waste from Clackamas, Multnomah or Washington County at a disposal site or sites other than the site selected by the Environmental Quality Commission.
- 2. Establishment, modification or extension of any public or private disposal, transfer or resource recovery site or facility will be prohibited within the boundaries of the regional government without the prior approval of the governing body of the regional government.
- 3. If the regional governing body sends solid waste generated within its boundaries to a regional disposal site, the regional governing body shall:
  - a. At least semiannually operate or cause to be operated a collection system or site for receiving household hazardous waste.
  - b. Provide residential recycling containers as a pilot project.





- c. Provide an education program to increase participation in recycling and household hazardous materials collection programs.

B. Zoo and other regional public facilities.

The regional government may acquire, construct, alter, maintain, administer and operate metropolitan zoo facilities and other regional cultural, convention, exhibition, sports and entertainment facilities.

C. Sources and storage of water.

1. The regional government may acquire or develop sources of water for domestic, industrial, agricultural or recreational use.
2. The regional government may acquire, develop, construct, alter, maintain and operate reservoirs or other water collection and storage facilities for domestic, industrial, agricultural or recreation use.

D. Sewerage.

*The Committee has not preliminarily determined what provisions, if any, the Charter should contain relating to sewerage.*

E. Transportation.

The regional government may order transfer of the transit system of Tri-Met to the regional government, but any transfer must include

- ← Section II C. is a major expansion of current METRO powers. It would allow the METRO Council by a simple majority, using no decision criteria, to get in the water supply business. The current statute requires a vote of the people for this to occur. This section, along with several others in this portion of the draft, should be deleted. In its place should be a decision-making process which would require consultation with local governments and provide the mechanism as the need arises for the regional government to address water or any other issues which are determined using decision criteria and a collaborative process to be “matters of metropolitan concern”.
  
- ← Section II.D. should not be listed separately in Charter. The decision-making process can determine if and when regional involvement in sewerage issues is warranted.
  
- ← Section II E. should be amended to leave Tri-Met as it is, to be changed only after going through a decision making process.

continuation of a transit board of directors.

F. Parks and open spaces.

The regional government may acquire, develop and operate regional parks, open space and recreational facilities.

G. Boundary commissions.

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

*The Committee has yet to determine if the functions of the local boundary commission should continue under the charter.*

H. Marketing of geographic data.

The regional government may impose and collect reasonable fees, based on market prices or competitive bids, for geographic data that are developed with a significant expenditure of public funds and that are an entire formula, device, technique, process, data base or system.

I. Miscellaneous.

1. The regional government may contract with any public entity or any private entity or individual to operate all or part of any facility the regional government is authorized to operate; or to perform all or part of any other function the

← Section II F. probably should not be listed separately in the Charter. As currently drafted this section is a major expansion of the authority of the regional government. It would allow the METRO Council by a simple majority, using no decision criteria, to get in the parks business. The current statute requires a vote of the people for this to occur. However, RGC in no way wants the Charter to impede progress on the current plan to submit an open space bond levy to the voters in the near future. Language should be added elsewhere in the Charter which guarantees that existing programs, agreements, plans, ordinances, etc., are carried forward to the new regional government. If it later is determined that such language will not sufficiently protect the ability of the regional government to sell the open space bonds, then RGC would be willing to reconsider its position on whether open spaces should be listed as a specified service delivery responsibility.

← Section II H probably is too detailed for treatment in a Charter. However, if it is included it should not directly or indirectly limit local governments' ability to receive fees for data they develop, or provide to the regional government.



regional government is authorized to perform.

2. The regional government may exercise police power for the purposes of the authorized functions of the regional government and, in so doing, may adopt ordinances for the proper functioning of the regional government.
3. To the extent necessary to carry out any function the regional government is authorized to perform, the regional government 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.

J. Additional functions.

1. Unless the function is reserved by the charter to local government, the regional government may assume any other function of metropolitan concern by vote of the electors of the regional government.
2. 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.

K. Additional matters.

*The Committee agreed to send forward for comment*

← Section II.J.2. should be deleted. It is inappropriate for a government which the constitution only authorizes to be involved in "matters of metropolitan concern" to assume local concerns, even with the consent of an individual local government.

*the following proposals for additional regional government authority in regard to solid and liquid waste disposal. They are not included in this outline's initial discussion of solid and liquid waste because committee members lacked sufficient time to consider them.*

1. Reduction of solid waste stream.

The regional government should have authority to impose source reduction measures.

2. Additional flow control authority.

The regional government's flow control authority should be extended to include the flow of recyclable materials collected at curbside, and other source-separated systems, to assure, among other things, that recyclables get recycled and not trashed.

3. Environmental cleanup of regional solid waste sites.

The regional government should have authority to conduct cleanup activities on closed or abandoned solid or liquid waste sites and illegal dumps.

4. Policing to keep system crime free.

The regional government should have responsibility to police all aspects of the solid and liquid waste system,

1. This is more detailed than necessary in a Charter. Unless there is clear evidence that the Regional Government should immediately be imposing certain source reduction measures, this type of function should be handled through a decision-making process and not listed in the Charter.
2. This language clearly puts METRO in the garbage collection business, an area to date reserved for local governments. The current system is working and does not, at this time, need to be changed. That system provides for METRO to set standards and guidelines for local government solid waste reduction plans. Those plans are then executed by the local governments, in many cases, through their authority to regulate franchises for the solid waste collection industry.
3. This, too, is not necessary to include in a Charter. If the regional government needs to conduct such activities it should do so through a decision making process.
4. This language should be deleted. Law enforcement is the responsibility of local, state and federal governments.



from collectors to haulers to disposal sites, in order to maintain a clean, honest system free of corruption and corrupting influences.



# **CHARTER OF THE CITY OF GRESHAM OREGON**



**ADOPTED MAY 2, 1978**

NOVEMBER 4, 1980

NOVEMBER 8, 1983

MAY 15, 1984

MAY 20, 1986

NOVEMBER 4, 1986

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NOTE: Parenthetical notations at the end of sections indicate the most recent amendments to those sections. All sections without notations are from the original 1978 charter. Several sections have been amended more than once. See the "History of Changes" section at the end of the charter.



To provide for the government of the City of Gresham, Multnomah County, Oregon; and to repeal all charter provisions of the city enacted prior to the time that this charter takes effect.

## **CHAPTER I**

### **NAMES AND BOUNDARIES**

Section 1. TITLE. This revision may be referred to as the Gresham Charter of 1978.

Section 2. NAME OF CITY. The City of Gresham, Multnomah County, Oregon, shall continue to be a municipal corporation with the name of "City of Gresham."

Section 3. BOUNDARIES. The city shall include all territory encompassed by its boundaries as they now exist or hereafter are modified by voters, by the council, or by any other agency with legal power to modify them. The repository of city records shall include at least two copies of this charter, each containing an accurate, up-to-date description of the boundaries. The copies and descriptions shall be available for public inspection at any time during regular office hours.

## **CHAPTER II**

### **POWERS**

Section 4. WHERE POWERS VESTED. Except as this charter provides otherwise, all powers of the city shall be vested in the council.

Section 5. POWERS OF THE CITY. The city has all powers which the constitution, statutes, and common law of the United States and of this state expressly and impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

Section 6. CONSTRUCTION OF CHARTER. In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city has all powers necessary or convenient for the conduct of its affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state constitution.

## CHAPTER III

### FORM OF GOVERNMENT

Section 7. CITY COUNCIL. The council shall consist of a mayor and six councillors elected from the city at large. (Amended May 20, 1986, effective June 1, 1986)

Section 8. COUNCILLORS. At each biennial November election commencing in 1986, councillors shall be elected from six positions by a plurality of the voters for terms of two years. (Amended November 4, 1986, effective November 5, 1986)

Section 9. MAYOR. At the November election held in 1986 and every fourth year thereafter, a mayor shall be elected for a term of four years.

The mayor in office when this charter is amended shall continue in office for the term for which then elected.

At each biennial November election, a mayor shall be elected, if necessary, to fill any vacancies pursuant to Section 32 of this charter.

(Section 9 amended May 15, 1984; effective June 1, 1984)

Section 10. SALARIES. The compensation for the services of each city appointive officer and employee shall be the amount fixed by council. (Amended May 15, 1984; effective June 1, 1984)

Section 11. QUALIFICATION FOR COUNCIL. No person may be eligible to serve on the council unless at the time of their election he or she is a qualified voter under the meaning of the Constitution of Oregon and has resided in the city at least one year immediately preceding the election. For the purpose of this section, city shall mean any area included in the corporate limits as of the date of the election. (Amended November 8, 1983; effective January 1, 1984)

## CHAPTER IV

### CITY COUNCIL

Section 12. MEETINGS.

(a) REGULAR. The council shall hold a regular meeting at least twice each month in the city at a time and at a place which it designates. It shall adopt rules for the government of its members and proceedings.

(b) **SPECIAL.** The mayor, upon his or her own motion, may, or at the request of three councillors shall, by giving at least 24 hour notice thereof, call a special meeting of the council. Emergency meetings of the council may be held at any time by the common consent of a majority of the members of the council. (Amended November 8, 1983; effective January 1, 1984)

**Section 13. QUORUM.** A majority of members of the council shall constitute a quorum for its business, but a smaller number may meet and compel the attendance of absent members as provided by ordinance.

**Section 14. RECORD OF PROCEEDINGS.** The council shall cause a record of its proceedings to be kept.

**Section 15. PROCEEDINGS TO BE PUBLIC.** Except as state law provides otherwise, the deliberations and proceedings of the council and other deliberative bodies of the city shall be public.

**Section 16. MAYOR'S FUNCTIONS AT CITY COUNCIL MEETINGS.** The mayor shall be chairperson of the council and preside over its deliberations. The mayor shall have a vote on all questions before the council. The mayor shall have authority to preserve order, enforce the rules of the council, and determine the order of business under the rules of the council.

**Section 17. PRESIDENT OF THE CITY COUNCIL.** At its first meeting each year, the council shall elect a president from its membership. In the mayor's absence from a council meeting, the president shall preside. Whenever the mayor is unable to perform the functions of his or her office, the president shall act as mayor.

**Section 18. VOTE REQUIRED.** Except as this charter otherwise provides, the concurrence of a majority of the members of the council present at a council meeting shall be necessary to decide any question before the council.

## **CHAPTER V**

### **POWERS AND DUTIES OF OFFICERS**

**Section 19. MAYOR.** The mayor shall with the consent of the council, appoint the committees and commissions provided by the rules of the council and ordinances of the city. The mayor shall sign all records of proceedings approved by the council. The mayor has no veto power and shall sign all ordinances passed by the council within three days after their passage. After the council approves a bond of a city officer or a bond for a license, contract, or proposal, the mayor shall endorse the bond.

**Section 20. CITY MANAGER.**

(a) **OFFICE.** The manager shall be the administrative head of the government of the city. He or she shall be chosen by the council without regard to political considerations or residency, and solely with reference to his or her executive and administrative qualifications. Before taking office, he or she shall give a bond in such amount and with surety as may be approved by the council. The premiums on the bond shall be paid by the city.

(b) **TERM.** The manager shall be appointed for an indefinite term and may be removed at the pleasure of the council. Upon any vacancy occurring in the office of the manager, the council shall appoint another manager as expeditiously as possible.

(c) **POWERS AND DUTIES.** The powers and duties of the manager shall be as follows:

(1) Devote entire time to the discharge of official duties, attend all meetings of the council unless excused therefrom by the council or mayor, keep the council advised at all times of the affairs and needs of the city, and make reports annually, or more frequently if requested by the council, of all the affairs and departments of the city.

(2) See that all ordinances are enforced and that the provisions of all franchises, leases, contracts, permits and privileges granted by the city are observed.

(3) Appoint and may remove appointive city officers and employees and have general supervision and control over them and their work.

(4) Supervise the departments to the end of obtaining the utmost effectiveness.

(5) Prepare the annual budget.

(6) Make all purchases.

(7) Act as business agent for the council for the sale of real estate and other matters relating to franchises, leases and other business and property transactions.

(8) Prepare and furnish all reports requested by the council.

(9) Perform such other duties as the council directs.

(10) Direct, organize and, as he or she deems necessary, disband or reorganize the various city departments. The manager shall have no control over the council or the judicial activities of the municipal judge.



(d) **SEATS AT CITY COUNCIL MEETINGS.** The manager and such other officers as the council designates shall be entitled to sit with the council but shall have not vote on questions before it. The manager may take part in all council discussions.

(e) **MANAGER PRO TEM.** Whenever the manager is temporarily disabled from acting as manager, or whenever his or her office becomes vacant, the council shall appoint a manager pro tem who shall possess the power and duties of the manager. A manager pro tem shall not serve for a term in excess of six months and shall not be reappointed as the manager pro tem.

(f) **INTERFERENCE IN ADMINISTRATION.**

(1) No member of the council shall directly or indirectly, by suggestion or otherwise, attempt to influence or coerce the manager in the making of any appointment or the removal of any officer or employee, or in the purchase of supplies, or attempt to exact any promise relative to any appointment from any candidate for manager.

(2) A violation of the foregoing provisions of the section forfeits the office of the offending member of the council or mayor after a public hearing by the council is held and a determination of guilt is established.

(3) Nothing in this section prohibits, however, the council, in open session, from fully and freely discussing with or suggesting to the manager anything pertaining to city affairs or the interests of the city.

(g) **INELIGIBLE PERSONS.** Neither the manager's spouse nor any person related to the manager or his or her spouse by consanguinity or affinity within the third degree may hold any appointive office or employment with the city.

(Section 20 amended November 8, 1983; effective January 1, 1984)

**Section 21. JUDGES, POWERS, PROCEDURE.**

(a) The council may appoint one or more municipal judges, for terms and at salaries as it specifies. A municipal judge shall hold court in the city at such a place as the council directs. The court shall be known as the Municipal Court.

(b) The court may impose sanctions on any person who violates a city ordinance within the court's jurisdiction, issue process for the arrest of any person accused of any such violation, commit such a person to imprisonment or admit the person to bail pending trial, issue subpoenas to compel witnesses to appear and testify on the trial of any cause before the court, enforce obedience to the subpoenas, and issue process necessary to carry into effect the judgment of the court.



(c) All proceedings in the municipal court shall be governed by the general laws of the state governing justices of the peace and justice's courts, except as city ordinance prescribes to the contrary. A municipal judge has the jurisdiction and authority of a justice of the peace in and for Multnomah County, in both civil and criminal matters, and when exercising that jurisdiction and authority is subject to the general laws of the state prescribing the duties of a justice of the peace and the mode of performing them. The city may have the duties of a municipal judge performed by the regular and pro tempore judges of a state court.

**Section 21A. CITY ATTORNEY.** The city shall have a city attorney and such assistant city attorneys and other staff members as the council deems necessary. The city attorney and the city attorney's staff shall be appointed and removed by a majority vote of the entire council. (Added May 15, 1984; effective June 1, 1984)

**Section 22. RECORDER.** The manager shall appoint a recorder of council meetings. The recorder shall keep a journal of the council proceedings, including any vote taken.

## **CHAPTER VI**

### **ELECTIONS**

**Section 23. REGULAR ELECTIONS.** The manager, pursuant to directions from the council, shall give notice of each regular city election in such manner as may be provided by ordinance and state law. (Amended November 8, 1983; effective January 1, 1984)

**Section 24. SPECIAL ELECTIONS.** The council shall provide for holding any special election as may be provided by ordinance and state law. The manager shall give notice of each special election in the manner provided by ordinance and state law. (Amended November 8, 1983; effective January 1, 1984)

**Section 25. REGULATION OF ELECTIONS.** Except as this charter or city ordinance provides otherwise, the general laws of the state shall apply to the conduct of all city elections, recounts of the returns therefrom, and contests thereof.

**Section 26. ELECTION RESULTS.** The state laws governing the filing of election results by the county clerk shall apply. The results of all elections shall be entered in the record of the proceedings of the council. The entry shall state the total number of votes cast for each person and for and against each measure, the name and office of each person elected, and each measure enacted or approved. The manager shall make and sign a certificate of election of each person elected and deliver the certificate to him or her within one day after the results are entered in the council record. A certificate so made and delivered shall be prima facie evidence of the truth of the statements contained in it. (Amended November 8, 1983; effective January 1, 1984)

**Section 27. TIE VOTES.** In the event of a tie vote when there are only two candidates for an elective office, the successful candidate shall be determined by a public drawing of lots in a manner prescribed by the council.

**Section 28. COMMENCEMENT OF TERMS OF OFFICE.** The term of office of each elective officer chosen at a regular city election shall commence at the first regular meeting in January immediately following the election.

**Section 29. OATH OF OFFICE.** Before entering upon the duties of their office, each officer shall take an oath or shall affirm that they will support the constitution and laws of the United States and of Oregon and the charter and ordinances of the City of Gresham and that they will faithfully perform the duties of their office.

**Section 30. NOMINATIONS FOR ELECTIVE OFFICES.** The council shall provide by ordinance the mode for nominating elective officers.

## **CHAPTER VII**

### **VACANCIES IN OFFICE**

**Section 31. OFFICE VACANCIES.** An elective office becomes vacant upon its incumbent's death, removal of residence from the city, resignation, or ceasing to be a qualified elector of the city. An elective office becomes vacant whenever its incumbent is absent from the city for a period of 45 days except that the council may grant the incumbent a leave of absence of not more than 90 days. An elective office may be declared vacant whenever its incumbent fails to attend three consecutive regular meetings of the council, unless absent upon leave of the council is first obtained, or whenever the incumbent moves his or her residence from the city. (Amended May 20, 1986, effective June 1, 1986)

**Section 32. FILLING OF VACANCIES.** Vacant elective offices in the city shall be filled by appointment by a majority vote of the council. The appointee's term shall begin immediately upon his or her appointment until the beginning of the year following the next biennial November election or until his or her successor is elected and qualifies therefor. An elected successor for the unexpired term shall be chosen at the next biennial November election. During the temporary disability of any officer or during his or her absence temporarily for any cause, his or her office may be filled pro tem by a majority vote of the council. (Amended May 15, 1984; effective June 1, 1984)

## CHAPTER VIII

### ORDINANCES

**Section 33. ENACTING CLAUSE.** The enacting clause of all ordinances hereafter enacted shall be "THE CITY OF GRESHAM DOES ORDAIN AS FOLLOWS:"

**Section 34. MODE OF ENACTMENT.**

(a) Except as paragraph (b) of this section provides to the contrary, every ordinance of the council shall, before final passage, have a first and second reading on two different days. (b) An ordinance may be enacted at a single meeting of the council by majority vote of all council members present only if:

(1) a copy is provided for each council member and copies provided for the public in the office of the manager not later than one week before the reading of the title of the ordinance; and

(2) notice of availability of the ordinance is posted at the city hall; and

(3) the title of the ordinance is published in a newspaper of general circulation in the city; and

(4) a copy is available for public use in the council chambers at the meeting of the council.

(c) Any section of an ordinance changing substantially the legal effect of the ordinance as previously circulated shall be read in full in open council meeting prior to being adopted by the council.

(d) Upon the final vote of an ordinance, the ayes and nays of the members shall be taken and entered in the record of the proceedings.

(e) Upon the enactment of an ordinance, the manager shall sign it with the date of its passage and his or her name and title of office, and immediately thereafter the mayor shall sign it with the date of his or her signature and the title of the office. All ordinances enacted by the council shall take effect thirty days after their passage unless a later date is fixed therein, in which event they shall take effect at such later date, subject to referendum if legislative. Provided, however, an ordinance, (1) making appropriations and the annual tax levy, (2) relative to local improvements and assessments thereof, or (3) emergency ordinances, shall take effect immediately upon their passage, or any special date less than thirty days after passage, specifically fixed in such ordinance.

(Section 34 amended November 8, 1983; effective January 1, 1984)



**Section 35. EMERGENCY.** The council may in an emergency provide a different effective date for an ordinance or that it take effect immediately upon its final passage. The emergency shall be clearly stated within the ordinance itself and the reason for the emergency.

## CHAPTER IX

### PUBLIC IMPROVEMENTS

**Section 36. CONDEMNATION.** Any necessity of taking property for the city by condemnation shall be determined by the council and declared by a resolution of the council describing the property and stating the uses to which it shall be devoted.

#### **Section 36A. URBAN RENEWAL**

(a) As used in this Section:

(1) "Urban renewal plan" and "plan" have the meaning given those terms in ORS Chapter 457 as it now exists or may hereafter be amended, or a similar plan adopted under any other provision of law.

(2) "Substantial change" means any change proposed to be made to an existing urban renewal plan which deals with any matter other than (A) correction of typographical errors, (B) clarification of language or procedures or (C) minor modifications in details which will not change the basic planning, engineering or financing principles of the plan.

(b) (1) The council shall refer to the electors any ordinance adopted after November 1, 1986, approving an urban renewal plan or a substantial change in such a plan.

(2) A non-substantial change in an existing plan shall be approved by the council by an ordinance which shall be subject to a referendum ordered by the people.

(Section 36A added November 4, 1986, effective immediately)

**Section 37. IMPROVEMENTS.** The procedure for making, altering, vacating, or abandoning a public improvement shall be governed by general ordinance or, to the extent not so governed, by the applicable laws of the state. Street, sewer, sidewalk, water, storm drainage and such other public improvements as the council deems necessary may be undertaken on the motion of a majority of the council or on petition of a majority of the owners of the property to benefit specially from the improvement. A remonstrance of a majority of the owners of the property to benefit specially by such improvement shall defeat such a motion or petition, in which event no further action to effect the improvement shall be taken for six months. (Amended May 15, 1984; effective June 1, 1984)

Section 38. SPECIAL ASSESSMENTS. The procedure for levying, collecting, and enforcing the payment of special assessments for public improvements or other services to be charged against real property shall be governed by general ordinance.

Section 39. CONTRACTS. Contracts shall be governed by ordinance and resolution, and by applicable state law. (Amended November 8, 1983; effective January 1, 1984)

## CHAPTER X

### MISCELLANEOUS PROVISIONS

Section 40. DEBT LIMIT.

(a) Indebtedness of the city may not exceed the limits on city indebtedness under state laws.

(b) Approval by the voters of city indebtedness need not be in the form of a charter amendment.

Section 41. EXISTING ORDINANCES CONTINUED. All ordinances of the city consistent with this charter and in force when it takes effect shall remain in effect until amended or repealed.

Section 42. REPEAL OF PREVIOUSLY ENACTED PROVISIONS. All charter provisions of the city enacted prior to the time that this charter takes effect are hereby repealed.

## CHAPTER XI

### ORDINANCE POWER, INITIATIVE, REFERENDUM AND RECALL

Section 43. ORDINANCE POWER. The ordinance power of the city, except for the initiative and referendum powers reserved to the people, is vested in the council.

Section 44. INITIATIVE. The people reserve to themselves the initiative power, which is to propose ordinances and amendments to the charter and enact or reject them at an election as provided by ordinance, the Oregon Constitution and state law. (Amended May 15, 1984; effective June 1, 1984)

Section 45. REFERENDUM. The people reserve to themselves the referendum power, which is to approve or reject ordinances and amendments to the charter at an election as provided by ordinance, the Oregon Constitution and state law. (Amended May 15, 1984; effective June 1, 1984)



**Section 45A. CHARTER AMENDMENTS.** Any measure which proposes to amend, repeal or replace this Charter shall take effect only if it is approved by at least 60 percent of the electors casting votes for or against such measure. (This Section added November 4, 1986; effective November 5, 1986)

**Section 46. RECALL.** The citizens of the City of Gresham shall have the power and authority to recall an elected officer of the city. The manner and effect shall be that prescribed by state law except for the number of signatures necessary to order a recall. A petition signed by 10 percent of the number of persons registered to vote in the city at the last general election is necessary to order the recall of the mayor. A petition signed by 10 percent of the persons registered to vote in the district from which the councillor was elected at the last general election is necessary to order the recall of a councillor. The petition shall set forth the reason for the recall. If the official affected by the petition for recall offers his or her resignation to the council, it shall be accepted and take effect on the day it is ordered and be effective for the remainder of the term. (Amended November 4, 1980; Effective December 15, 1980)

**Section 47. CONFLICT OF INTEREST.** No councillor may be pecuniarily interested in any contract, the expenses of which are to be paid by the city. No councillor or member of the planning commission shall participate in the discussion or vote on any subject in which he or she is pecuniarily interested. (Amended November 8, 1983; effective January 1, 1984)

**Section 48. PRESUMPTION OF VALIDITY OF CITY ACTION.** In any proceeding in any court which concerns the exercise or enforcement by the city, its officers, employees or agencies, of any power granted by this charter, there shall be a presumption that such exercise or enforcement is valid, and, no error or omission in any such act shall invalidate it unless the person attacking it alleges and proves that he or she has been misled by the error or omission to his or her damage; and the court shall disregard every error or omission which does not affect a substantial right of the person. Any action by this charter committed to the discretion of the council, when taken, shall be final and shall not be reviewed or called into question elsewhere.

**Section 49. TIME OF EFFECT OF CHARTER.** This charter shall take effect on the 1st day of June, 1978.

## HISTORY OF CHANGES

The following sections show the amendments made by Gresham Voters to some Charter sections since the Charter was adopted on May 2, 1978. The current language of these sections is in the body of the Charter, and is not repeated here.

Sec 7. CITY COUNCIL. The council shall consist of a mayor and six councillors. (May 2, 1978)

CITY COUNCIL. The council shall consist of a mayor and six councillors. Councillors shall be elected from six districts. The city council shall divide the city into six districts and establish the boundaries thereof by June 30 of each even numbered year. District boundaries shall accord citizens equal protection of the laws and recognize neighborhood groupings, compactness of area, and regularity of boundaries insofar as can reasonably be attained. (November 4, 1980)

Sec 8. COUNCILLORS. On the second Tuesday of September, following the adoption of this charter, three councillors shall be elected by position, by a majority of the voters, for a term of four years. At each biennial May election thereafter, three councillors shall be elected by position, by a majority of the voters, for a term of four years.

If no candidate for a position receives a majority of the votes cast, the councillor for that position shall be elected at the ensuing biennial November election from the two candidates with the highest number of votes in the preceding election.

Councillors in office when this charter is adopted shall continue in office for the term for which then elected.

At each biennial May election, the number of councillors to be elected to fill vacancies pursuant to Section 32 of this charter shall be elected. (May 2, 1978)

COUNCILLORS. At each biennial November election commencing in 1982, councillors shall be elected from three districts. A councillor shall be elected by a plurality of the voters for a term of four years. Except as provided below, each councillor shall reside in the district for which elected or appointed.

A councillor who does not change residence may be a candidate for reelection for the district from which elected even if boundary changes place the councillor's residence in another district.

Sec 10. SALARIES. The compensation for the services of each city officer and employee shall be the amount fixed by the council. (May 2, 1978)

Sec 11. QUALIFICATION OF OFFICERS. No person may be eligible to fill an elective office unless at the time of their election he or she is a qualified voter under the meaning of the Constitution of Oregon and has resided in the city at least one year immediately preceding the election. For the purpose of this section, city shall mean any area included in the corporate limits as of the date of the election. (May 2, 1978)

Sec 12. MEETINGS.

(a) REGULAR. The council shall hold a regular meeting at least twice each month in the city at a time and at a place which it designates. It shall adopt rules for the government of its members and proceedings.

(b) SPECIAL. The mayor, upon his or her own motion, may or at the request of three councillors shall, by giving notice thereof to all councillors then in the city, call a special meeting of the council for a time not earlier than three nor later than forty-eight hours after the notice is given. Special meetings of the council may also be held at any time by the common consent of a majority of the members of the council. (May 2, 1978)

Sec 20. CITY MANAGER

(a) Office. The manager shall be the administrative head of the government of the city. He or she shall be chosen by the council without regard to political considerations or residency, and solely with reference to his or her executive and administration qualifications. Before taking office, he or she shall give a bond in such amount and with such surety as may be approved by the council. The premiums on the bond shall be paid by the city.

(b) Term. The manager shall be appointed for an indefinite term and may be removed at the pleasure of the council. Upon any vacancy occurring in the office of manager, the council shall appoint another manager as expeditiously as possible.

(c) Powers and Duties. The powers and duties of the manager shall be as follows:

(1) No member of the council shall directly or indirectly, by suggestion, or otherwise, attempt to influence or coerce the manager in the making of any appointment or the removal of any officer or employee or in the purchase of supplies, or attempt to exact any promise relative to any appointment from any candidate for manager.

(2) A violation of the foregoing provisions of this section forfeits the office of the offending member of the council or mayor after a public hearing by the council is held and a determination of guilt is established.

(3) Nothing in this section prohibits, however, the council, in open session, from fully and freely discussing with or suggesting to the manager anything pertaining to city affairs or the interests of the city.

(4) Neither the manager nor any person in the employ of the city shall take part in securing or contributing any money toward the nomination or election of any candidate for a municipal office.

(g) Ineligible persons. Neither the manager's spouse or any person related to the manager or his or her spouse by consanguinity or affinity within the third degree may hold any appointive office or employment with the city. (May 2, 1978)

Sec 23. REGULAR ELECTIONS. The manager, pursuant to directions from the council, shall give at least ten days' notice of each regular city election by posting notice thereof at a conspicuous place in the city hall and in such other manner as may be provided by ordinance. The notice shall state the officers to be elected at the election, the ballot title of each measure to be voted upon at the election and the time and place of the election. (May 2, 1978)

Sec 24. SPECIAL ELECTIONS. The council shall provide the time, manner, and means for holding any special election. The manager shall give at least ten days' notice of each special election in the manner provided by the action of the council ordering the election. (May 2, 1978)

Sec 26. CANVASS OF RETURNS. In all elections held in conjunction with state and county elections, the state laws governing the filing of returns by the county clerk shall apply. In each special city election the returns therefrom shall be filed with the manager on or before noon of the day following. Not later than



**Sec 32. FILLING OF VACANCIES.** Vacant elective offices in the city shall be filled by appointment by a majority vote of the council. The appointee's term shall begin immediately upon his or her appointment and shall continue until the beginning of the year following the next biennial May election and until his or her successor is elected and qualified therefor. The successor, for the unexpired term shall be chosen at the next biennial May election after said appointment, or at the next biennial November election if no candidate receives a majority of the votes. During the temporary disability of any officer or during his or her absence temporarily from the city for any cause, his or her office may be filled pro tem in the manner provided for filling vacancies in office permanently. (May 2, 1978)

**Sec 34. MODE OF ENACTMENT:**

(a) Except as paragraph (b) of this section provides to the contrary, every ordinance of the council shall, before final passage, be read fully and distinctly in open council meeting.

(b) An ordinance may be enacted at a single meeting of the council by majority vote of all council members present, upon first being read by title only if:

(1) a copy is provided for each council member and copies provided for the public in the office of the manager not later than one week before the reading of the title of the ordinance; and

(2) notice of availability of the ordinance is posted at the city hall; and

(3) the title of the ordinance is published in a newspaper of general circulation in the city; and

(4) a copy is available for public use in the council chambers at the meeting of the council.

(c) Any section of an ordinance changing substantially the legal effect of the ordinance as previously circulated shall be read in full in open council meeting prior to being adopted by the council.

(d) Upon the final vote of an ordinance, the ayes and nays of the members shall be taken and entered in the record of the proceedings.

(e) Upon the enactment of an ordinance, the manager shall sign it with the date of its passage and his or her name and title of office, and immediately thereafter the mayor shall

- Sec 45. REFERENDUM. The people reserve to themselves the referendum power, which is to approve or reject at an election, any ordinance or part thereof, as provided by general law. (May 2, 1978)
- Sec 46. RECALL. The citizens of the city of Gresham shall have the power and authority to recall an elective officer of the city in the manner and with the effect prescribed by state law excepting a recall may be ordered by a petition signed by three percent of the number of persons registered to vote at the last general election. The petition shall set forth the reasons for the recall. If the official affected by the petition for recall offers his or her resignation to the council, it shall be accepted and take effect on the day it is ordered and be effective for the remainder of the term. (May 2, 1978)
- Sec 47. CONFLICTS OF INTEREST. No councillor may be pecuniarily interested in any contract, the expenses of which are to be paid by the city, or vote upon any subject in which he or she is pecuniarily interested. No elected official of the city or member of the planning commission shall vote on any city business or conduct themselves officially in such a manner as to place, or to appear to place, their personal or financial welfare above the unbiased performance of the duties of their office. (May 2, 1978)