

**METRO
CHARTER
COMMITTEE**

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

AGENDA

DATE: March 12, 1991
MEETING: Full Committee
DAY: Thursday
TIME: 6:00 p.m.
PLACE: Room 440, Metro, 2000 SW First Avenue, Portland

6:00 Meeting called to order.

Correction and adoption of minutes from
February 27.

6:05 Adoption of charter drafting decisions for treatment of
specific powers and functions to be initially
authorized for regional government.

9:30 Consideration and adoption of finance provisions for
public comment.

10:00 Meeting adjourned.

MINUTES OF THE CHARTER COMMITTEE
OF THE METROPOLITAN SERVICE DISTRICT

March 12, 1992

Metro Center, Room 440

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

Committee Members Absent: Ned Look, John Meek, Ray Phelps

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

1. Correction and adoption of minutes.

Chair Myers asked for corrections to the February 27, 1992 minutes.

Motion: Jon Egge moved, Mimi Urbigkeit seconded, to approve the minutes as distributed.

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

2. Adoption of charter drafting decisions for treatment of planning powers and functions to be initially authorized for regional government

Chair Myers said that the Committee would begin their work with the procedure for adoption of additional planning responsibilities. He said that the issue had been addressed and resolved earlier. He suggested inserting an editorial reference back to the earlier section so that it is clear. He asked the Committee to move on to *matters excluded from the Regional Framework Plan*.

Larry Derr said that he would suggest not including that provision because the amendments that the Committee has made so far have clarified that the regional plan is separate and apart from the local plans. The relationship between them is consistency, but they are not part of the same piece. It is not appropriate in the charter or the regional plan to say what is or is not in the local plans.

Chair Myers asked the Committee to move on to *procedures for development, adoption and review of the Regional Framework Plan*.

Larry Derr said that, in the previous discussion on the outline, the Committee had put in some time limitations as to the adoption of the Regional Framework Plan and had identified two alternatives to the process. One was that there would be some form of mandate for local government involvement but would fall short of requiring explicit approval. The second alternative was that there would be some explicit approval with a numerical voting process. He said that he came up with his proposal after meeting with RGC and local governments. He suggested keeping the concept of a time frame and make it 42 months, which gives it two years to be implemented after the Future Vision. The 42 months should begin after the adoption of the charter to make it parallel to the beginning of the time

frame for the adoption of the Future Vision. The evolution of the first concept, which includes local government involvement, comes in the form of the RGC suggestion to formalize the role of the RPAC. He recommended that the governing body have sole authority to adopt the Regional Framework Plan, but it must first seek the advice and consultation of RPAC. He said that the other two provisions, *periodic LCDC review of the Regional Framework Plan for Statewide Goal compliance will occur on a schedule established by LCDC and the Regional Framework Plan may be amended on a schedule to be determined by the regional governing body*, should be included in the charter without amendments. He said that the charter could be silent on those issues because they are basically truisms. For the time being, it would be helpful to have them in the outline as an explanation.

Move: Larry Derr moved, Frank Josselson seconded, to include in the charter, as section I.B.5., the following:

5. *Procedures for development, adoption and review of the Regional Framework Plan.*
 - a. *The Regional Framework Plan will be adopted within 42 months after charter adoption.*
 - b. *The governing body, with the advice and consultation of the RPAC, will adopt the Regional Framework Plan.*
 - c. *Periodic LCDC review of the Regional Framework Plan for Statewide 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.*

Vote on the motion:

Judy Carnahan, Larry Derr, Jon Egge, Matt Hennessee, Frank Josselson, Wes Myllenbeck, Bob Shoemaker, Mary Tobias, Mimi Urbigkeit, Norm Wyers, and Chair Myers voted aye. Ron Cease, Charlie Hales, Ned Look, John Meek, and Ray Phelps were absent. All present voted aye and the motion passed.

Chair Myers asked the Committee to move on to the question of whether or not the charter should address city and county plans as part of the Regional Plan.

Larry Derr said that the charter should address city and county plans for the narrow purpose of spelling out that the local plans must be consistent with the regional plan. He said that he has some specific language to deal with that, but the threshold question needs to be answered first.

Motion: Larry Derr moved, Mary Tobias seconded, that the charter should address, in a limited sense, city and county plans.

Vote on the motion:

Judy Carnahan, Larry Derr, Jon Egge, Matt Hennessee, Frank Josselson, Wes Myllenbeck, Bob Shoemaker, Mary Tobias, Mimi Urbigkeit, Norm Wyers, and Chair Myers voted aye. Ron Cease, Charlie Hales, Ned Look, John Meek, and Ray Phelps were absent. All present voted aye and the motion passed.

Larry Derr said that the next question is whether or not the charter should provide that all existing regional planning documents remain in effect following charter adoption and must be reviewed and updated within a specified amount of time. He said that his suggestions address that and provide guidance as to the time table for updating.

Motion: Larry Derr moved, Frank Josselson seconded, that the charter should provide

that all existing regional planning documents remain in effect following charter adoption and must be reviewed and updated within a specified amount of time.

Vote on the motion:

Judy Carnahan, Larry Derr, Jon Egge, Matt Hennessee, Frank Josselson, Wes Myllenbeck, Bob Shoemaker, Mary Tobias, Mimi Urbigkeit, Norm Wyers, and Chair Myers voted aye. Ron Cease, Charlie Hales, Ned Look, John Meek, and Ray Phelps were absent. All present voted aye and the motion passed.

Larry Derr said that the original discussion outline stated that the definition of local plans was *existing city and county plans, amended by the cities and counties as necessary to become consistent with the Regional Framework Plan*. Matters addressed in local plans include *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*. He said this was appropriate when the concept was a dichotomy spelled out in the regional documents between what is local and what is regional. The approach that the Committee has followed consistently so far is to deal with what is the regional and, assuming that what is left, to the extent that local governments have the authority, local governments will deal with them. Adoption and review includes a provision on periodic review which applies to an external review under the LCDC procedures and not something that the regional government would be providing. He suggested modifying and condensing those statements into *local plans must be made consistent with the Regional Framework Plan by the next periodic review. Prior to a determination of consistency by the governing body of the regional government, a local government shall make findings in connection with each land use action demonstrating that the action is consistent with the Regional Framework Plan*. It takes out any reference to what ought to be in a local plan or what a local plan is. It retains the idea of a time limitation and deals with the transitional issue of once the regional framework plan is in place. But before the time limitation comes into effect, which is periodic review, it would be nice to have the regional plan implemented. But it cannot be implemented overnight in the form of modified local plans. He said that putting artificial time limitations on other bodies to comply, historically, has not worked. John Andersen, Manager of Strategic Planning for Gresham, suggested this approach. It is more of a carrot approach than a forced approach. The local governments can go ahead with their existing plans, but they will find quickly that there is an easier way to do it. Every time the cities take a land use action, they will have to explain why it is consistent with the regional plan. The easier way to do it is get the local plans and ordinances consistent and eliminate the findings requirement. He said that is a good compromise and would be an effective way to bring it about fairly quickly without exerting any dictatorial controls.

Motion:

Larry Derr moved, Jon Egge seconded, that the following be included in the charter as I.C.1.:

Local plans must be made consistent with the Regional Framework Plan by the next periodic review. Prior to a determination of consistency by the governing body of the regional government, a local government shall make findings in connection with each land use action demonstrating that the action is consistent with the Regional Framework Plan.

Bob Shoemaker said that he understood Larry Derr to state that it is moving away from having a deadline placed on the local governments to having their plans be made consistent, yet this requires it by the next periodic review. That is a deadline since those are required every 5 years or so. He asked if that was consistent with the idea of getting away from a deadline.

Larry Derr said he is trying not to force an artificial work program on local governments. Local

governments are going to be conducting extensive review of their plans and implementing ordinances for periodic review. It is not a new process, but a new element of the process for them to also consider the consistency of the plans and implementing ordinances with the regional framework plan as well as the LCDC goals. It is a deadline, but it is a reasonable one. It is not imposing a deadline that would come up sooner than that process that would require a separate work plan. Local governments are free to do that work if they choose to in order to avoid the findings of consistency issue, but they are mandated to do it and they may find that it is not necessary to do that until periodic review.

Bob Shoemaker asked what the sanction is if they do not comply.

Larry Derr said that he had not thought of that. He said that the sanction would probably be that the local government would have to continue to make those findings. He said that it guarantees that land use decisions will be made consistent with the Regional Framework Plan. If the rules in place are not consistent, then the individual decisions have to be made consistent.

Bob Shoemaker asked about the current periodic review process.

Larry Derr said that LCDC ultimately makes the decision. They get a staff report from DLCD. The DLCD department staff reviews the local plans in the context of court interpretations and rule interpretations by LCDC that have occurred in the interim since the plan was acknowledged. They suggest areas that are weak and should have been updated the first time around or have gotten out of date and tells them what their work plan should be to beef up the areas. By definition, the plans cannot have anything that is overtly inconsistent with the goals. It is more fine tuning than housecleaning. When that is done, if the local jurisdiction makes changes, or decides that it does not need to and gives the reasons why, it goes to LCDC, which decides if it is acceptable or not.

Bob Shoemaker said that the burden of making findings of consistency until the plan is determined to be consistent shifts to the regional governing body once the local government makes an effort to make the plan consistent. It becomes the local government's responsibility to determine that the consistency exists. If the regional governing body dawdles, then the local government continues to have the findings burden. The local body has made its effort to achieve consistency before the periodic review deadline, then the regional government needs to make a determination of consistency. He asked what would happen if the regional government takes its time in getting around to it. He asked if the local government had to continue to make the findings of consistency on every land use action.

Larry Derr said that there might need to be some time limitation for the regional governing body to act if the plan is consistent.

Mary Tobias said that the DLCD urban growth management subcommittee on infill and redevelopment tagged some carrot approaches to the adoption of the OAR on infill when the next periodic review period comes. She said that John Andersen discovered that periodic review could come within months of the adoption of the language. She said that the best way that the subcommittee could resolve that was to say during periodic review or within three years, whatever is longer. She said that could work in the charter since all the cities are on different periodic review cycles and it is possible that a city could have only six months between the adoption of the charter and periodic review.

Larry Derr said that there is an effort to get all the city and county plan review processes on the same cycle. He said that he did not know how long that was going to take or how its time frame works in comparison to the charter. He said that it would make sense to say *by the next periodic review or X number of years, whichever is longer*.

Friendly amendment to the motion: Mary Tobias suggested, Larry Derr and Jon Egge

agreed, to amend the motion to read: *local plans must be made consistent with the Regional Framework Plan by the next periodic review, or within three years after adoption of the Regional Framework Plan, whichever is longer. Prior to a determination of consistency by the governing body of the regional government, a local government shall make findings in connection with each land use action demonstrating that the action is consistent with the Regional Framework Plan.*

Jon Egge asked if the amendment could conceivably give a local government three years of no burden at all.

Larry Derr said that it only applies when the local governments have to amend their documents to be consistent, but the requirement that their actions in the interim be consistent is demonstrated by findings would fill the gap.

Vote on the amended motion: Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Matt Hennessee, Frank Josselson, Wes Myllenbeck, Bob Shoemaker, Mary Tobias, Mimi Urbigkeit, Norm Wyers, and Chair Myers voted aye. Charlie Hales, Ned Look, John Meek, and Ray Phelps were absent. All present voted aye and the motion passed.

Motion: Larry Derr moved, Matt Hennessee seconded, to include in the charter, as I.C.3.b., the following: *The issue of consistency with the Regional Framework plan is appealable as provided by law.*

Vote on the motion: Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Matt Hennessee, Frank Josselson, Wes Myllenbeck, Bob Shoemaker, Mary Tobias, Mimi Urbigkeit, Norm Wyers, and Chair Myers voted aye. Charlie Hales, Ned Look, John Meek, and Ray Phelps were absent. All present voted aye and the motion passed.

Larry Derr said that the next provision deals with the question of determination of local plan compliance with the Statewide Goals. Positions can range from, its no business of the regional government to speak of it at all, to realizing the benefits of bringing the review down to a closer to home level where people are more familiar with the regional issues--namely, having it transferred to the regional level, and out of LCDC, with stopping points along the way. Theoretically, there are advantages to that. Practically speaking, it would be too much of a leap of faith to ask everyone who has some understanding and ability to deal with the existing process of taking local plans through LCDC to try to have the charter intervene into that and come up with an entirely different system. He said that his recommendation is to continue the LCDC authority to be the reviewing authority. He said that it would be good to use the regional government's planning staff as the reviewing and recommending staff to LCDC. It keeps the authority at the state level, but has some of the hands on analysis and review being done by the regional government staff that ought to be more familiar with regional issues than the state staff. He said that it is a topic that is worthy of discussion but does not necessarily need to be in the charter. He said that he would prefer the charter to be silent on the subject because that would continue the existing authority.

Ron Cease asked if the charter could require that they go through the regional government.

Chair Myers asked if Ron Cease was talking about going through the regional government for review and compliance with Statewide Goals as a way point to LCDC review.

Ron Cease said yes. He asked if that was what Larry Derr was talking about.

Larry Derr said that the extreme version would be that it would supplant LCDC review. The most the charter could probably do would be to empower the regional government to do it. It would be up to the legislature to disempower the state agency.

Frank Josselson said that the position expressed by Larry Derr's recommendation is short of that. It is simply to replace the staff report that is done at DLCD now with a report that is performed by the regional government here. One of the best arguments for that approach is that it eliminates duplication of review of local plans.

Ron Cease asked what the LCDC role would be in reviewing the regional plans.

Frank Josselson said that LCDC would review the report of the region as it would normally review the report of DLCD. Otherwise, the scenario is that it would go to the regional staff for review and report to the regional governing body for a decision. It would then be referred to DLCD for another staff report and then to LCDC for a commission review. The recommendation cuts out a step.

Chair Myers said that the question is whether or not there should be some qualifying language in the charter to authorize the regional government, through the staff, to prepare the evaluation for LCDC consideration on the issue of Statewide Goal compliance by local plans. Another question is whether the charter should remain silent on the issue of Statewide Goal compliance.

Janet Whitfield asked if ORS 268.380 requires Metro to review local plans for compliance with Statewide Goals.

Wes Myllenbeck said that they are required to sign off on them.

Janet Whitfield said that they are already required to by statute, so it is not a question of whether they can or not.

Frank Josselson said that it does not supplant the work that is done at DLCD.

Larry Derr said that it would be in lieu of instead of in addition to.

Wes Myllenbeck asked if LCDC can delegate the authority down or if it required legislation.

Frank Josselson said that he is not certain that the staff report is statutory. He said that he did not know of any statutory provisions regarding that. It shortcuts a long and arduous process.

Wes Myllenbeck said that he liked the idea, but did not know how Metro was going to pay for it.

Mary Tobias said that if the charter spoke to this issue, it is parallel to imposing requirements on another agency over which the charter does not have authority. If the regional government is given the authority to review the plan, DLCD's authority to review cannot be taken away. They could continue irregardless.

Larry Derr said that the whole point of doing it would be to reduce work load, not add to it. It could be worded in such a way so that it would only be effective if DLCD agreed to it.

Mary Tobias said that if the charter did anything at all, it should authorize the regional government to negotiate with LCDC to reduce the review process.

Larry Derr said that it could be a straightforward statement that the regional government shall direct its staff to conduct a review of the local plans for periodic review, but it will only be effective if LCDC agrees to accept that staff report in lieu of the DLCD staff report.

Matt Hennessee said that he is concerned that things are getting placed in the charter that do not need to be in the charter. A negotiation between Metro and LCDC to do the staff report does not have to be in the charter if the staff report is not statutory.

Larry Derr said that it is not an element of the planning documents that the Committee is talking about. It is a workload issue for the staff. He said that he agrees with Matt Hennessee. He said that it is an idea that should be pursued and it would be nice to have some way to have some influence on it getting pursued, but he is not comfortable with it in the charter.

Chair Myers asked for a motion to include it in the charter. If there is not a motion, the charter will remain silent on the issue.

Frank Josselson said that there is a danger of being silent because it will be forgotten. He said that he would prefer to include it in the charter.

Matt Hennessee asked if the process is so cumbersome that the Committee determines that it is best done at the regional level rather than have the staff reports coming from the state level.

Frank Josselson said that he is not proposing that the regional government take over LCDC's role.

Motion:

Frank Josselson moved, Larry Derr seconded, to expressly authorize the regional government to prepare and submit an acknowledgement report directly to LCDC with respect to local plans in lieu of a report by DLCD, upon delegation by LCDC.

Jon Egge said that his fear is if both governments have the money to do it, they will both undertake to do it if the charter is silent on it. If both governments do not have the money to do it, the time frame would be elongated by the state's inability to do it in a timely manner. He said that it is important to address it.

Larry Derr said that if the regional government is going to do it, it will have a noticeable price tag with it. When the Committee takes up finance, the Committee should have a position as to whether that is an element of the work plan that needs to be financed. He said that this draft will not be the final version of the charter. If it is left in the draft, it will go before the public and they can comment on it. He said that the statutes state that the regional government should do it now, and instead of making it a dual burden, the charter could make it an either/or statement.

Matt Hennessee said that he recognizes that issues need to go to public debate and the arguments for that have merit. He said that he is always concerned about the question of the charter managing situations which it should not be and it is a question of price tag in terms of burden. There is a problem at the state level, which is also because there are a host of local governments creating a backlog, but that does not mean that it will work at the regional level. The regional government may not be able to respond in the same way that the state government does.

Ron Cease said that he likes the concept but it could be expensive. He said that financing must be

worked out or else it will be a burden on the regional government.

Mary Tobias said that there seems no way to avoid this becoming a political football in times of economic stress. If the current cycle continues, economics will drive who does what. If LCDC does not have the money to do it, the current language could allow LCDC to make it a state mandate for the region. She asked if there was a way to change the language to prevent it from becoming a political football that goes back and forth between the two governments.

Bob Shoemaker asked if the language makes it obligatory on the district to do it.

Frank Josselson said no, it authorizes it.

Bob Shoemaker said that the regional government could accept or decline it. It would give them authority to accept the offer and would show that the matter had been at least thought through.

Frank Josselson said that the theory behind it is that if the plan has to be reviewed for one purpose, it is a lot easier, and less duplicative, to review it for both purposes simultaneously.

Wes Myllenbeck said that he understands the current LCDC review in Metro is that they only have to sign off on it. If they do not have time, they do not have to do an in depth study on an individual plan.

Frank Josselson said that they report to DLCD as to whether or not it satisfies the goals and DLCD conducts a full blown study.

Wes Myllenbeck said that there is currently not a lot of duplication. If Metro is under a time or fiscal restraint, they can currently sign off on it and pass it on to LCDC for a more thorough study. If Metro had to handled it in lieu of LCDC, there would be a lot more work involved.

Frank Josselson said that, in terms of increments, there probably is not that much more work than just for conformity with the Regional Framework Plan.

Larry Derr said that the Regional Framework Plan must be consistent with the Statewide Goals, which has already been addressed by the regional government.

Frank Josselson said that the Regional Framework Plan is going to address many of the goals completely.

Vote on the motion:

Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Matt Hennessee, Frank Josselson, Wes Myllenbeck, Bob Shoemaker, Mary Tobias, Mimi Urbigkeit, Norm Wyers, and Chair Myers voted aye. Charlie Hales, Ned Look, John Meek, and Ray Phelps were absent. All present voted aye and the motion passed.

Bob Shoemaker asked for an explanation as to why Larry Derr moved away from the alternative that *the 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 Statewide Goals.* It was seriously considered in the Committee discussions before.

Larry Derr said that the regional governing body will review local plans for consistency with the Regional Framework Plan, and not compliance. The idea of incorporating the Regional Framework Plan and the local plans into one document called a regional plan and having LCDC review is a neat

package in theory and would make a workable document for the region. Getting there, however, is complicated because all the different jurisdictions have widely varying approaches to their planning documents. Trying to create a package of those plans that could be called one functioning plan and could be reviewed as a package for consistency with the goals would be incredibly complicated and probably could never come together.

Larry Derr said that item *I.C.3.d.* created a lot of discussions of the outline. It requires that *discretionary city and county land use decisions governing the approval and denial of land uses be based on standards and criteria which are included in the local development ordinances and are so clear and objective that they lead to reasonable and predictable decisions. Any standards and criteria for such decisions which do not meet this requirement shall be void and unenforceable.* The proposal ran into resistance with what role the regional government should have as dictating as number one and policing at number two. He said that his recommendation, takes some elements of that concept, but also addresses some different issues. His recommendation gets into the enforcement process. Local governments have pointed out that it is okay to have consistency review and a general statement that local plans have to abide by the Regional Framework Plan, but some teeth is needed in the process. He said that the parenthetical language at the end is a reference to the fact that if the regional government sees an individual decision made which is of metropolitan significance and affects the regional plan and the regional government thinks that it is inconsistent with the regional plan, the regional government could step in and use the normal appeal process as an affected party. That is a case by case process. The recommendation deals with a pattern in practice problem, the sort of thing that lead to enforcement orders by LCDC. To authorize a review of local government land use decisions to determine if those land use decisions are consistent with the Regional Framework Plan and to require changes to standards and procedures, if it is determined that it is necessary to reverse a pattern of practice in inconsistency, is not a direct attack on the decision. It is a requirement that states that the decision is a symptom of a greater ill; the procedures or standards are not up to generating the right decisions. It would be a directive to rework those standards and procedures so that they would lead to consistent decisions. The second element is that one disputed decision would not trigger the process because it has to be a pattern. Local jurisdictions and LCDC have gained some familiarity with the process through the enforcement order of process. There is precedent for the process and it would parallel the state process on the local level in respect to the framework plan.

Motion: Larry Derr moved, Jon Egge seconded, the following provision be included in the charter:

I.C.3.d Provide authority to review local government land use decisions to determine if decisions are being made that are inconsistent with the Regional Framework Plan and to require changes to local government standards and procedures, if necessary to reverse a pattern or practice of inconsistent decisions. (This authority is not in limitation of implicit authority to contest individual decisions allegedly inconsistent with the Regional Framework Plan.)

Ron Cease asked where the local governments stand on the issue.

Larry Derr said that the recommendation concept came out of the Thursday morning sessions where the RGC representatives were present as well as some specific members of local government. It has not gone back to the RGC steering committee.

Mike McKeever, RGC staff, said that as long as the notion is tied to matters of metropolitan concern, then the RGC agrees with it. He gave the example of density along the transit corridor. If the regional plan says that there is suppose to be high density development along the transit corridor, and

the local plan has density standards which are unclear and subjective and repeatedly denies high density development because it is uncharacteristic of the neighborhood, it would be against the regional plan. This provision would give the regional government the ability to fix that.

Ron Cease asked if the provision means that Metro can raise an issue in reference to the local plans not meeting the standards, if it is only dealing with the regional aspects. There could be a situation where standards are required on a regional level, but not on a local level. He said it would make more sense to require the local and regional governments to work together in developing objective standards. Otherwise, they are acting like policemen. Where would the consistency be?

Frank Josselson said that is part of the problem. The question of deferring land use decisions through the use of vague and unclear standards is a source of tremendous mischief and cost. It is a major concern and there is no greater single problem than not having standards in local ordinances to lead to reasonable and predictable decisions. He said that there should be reasonably predictable standards so that before a significant amount of work goes into the project, there is some idea of what should be put on that land.

Janet Whitfield asked if this would give Metro the ability to force a change in land use ordinances.

Larry Derr said that it would if that is where the problem is.

Janet Whitfield said that it would be affecting land use ordinances and comprehensive plans.

Larry Derr said that it would address the problem wherever it arises.

Janet Whitfield said that if there was a region wide density level, then the regional government could address individual ordinances on density levels.

Larry Derr said that the provision follows a determination of consistency and the adoption of the framework plan. It is not saying that the local plan did not purport to do the right thing, it is the way that the local plan is being implemented that does not do the right thing. The problem must be that it did not go far enough. It is not suppose to change the direction that the plan is going. It is suppose to change the direction that the decision making is going in spite of the plan.

Friendly amendment to the motion:

Mary Tobias suggested, Larry Derr and Jon Egge agreed, to amend the motion to read: *Provide regional government with the authority to review local government land use decisions to determine if decisions are being made that are inconsistent with the Regional Framework Plan and to require changes to local government standards and procedures if necessary to reverse a pattern or practice of inconsistent decisions. (This authority is not in limitation of implicit authority to contest individual decisions allegedly inconsistent with the Regional Framework Plan.)*

Mary Tobias said that Mike McKeever said that the provision needs to address matters of metropolitan concern. She asked if Larry Derr intended that.

Larry Derr said that matters of metropolitan concern would be the unstated premise.

Jon Egge said that is implicit in the reference to the Regional Framework Plan.

Mary Tobias said that the two parts of the provision--before and after *and to require*--are inextricably bound. If someone were to decide to challenge a specific land use decision, they could break the two parts apart and use only the first part as the basis for political maneuvering to draw the regional government into review of individual land use decisions. It enables a challenge to be brought up without going through the traditional channels.

Larry Derr said that the parenthetical language is a recognition that the authority is implicit. They could do it separate and apart from the first part.

Mary Tobias asked if there was any potential for them to challenge land use decisions independently without being a pattern or practice in inconsistency.

Larry Derr said yes, but you do not get there because of the suggested addition to the charter. You get there because of the implicit authority that would be in the regional planning body as an entity who could show that it has standing interest on a case by case basis to be a party in a local decision making process and to appeal it. Depending on how it is used, it can be good or bad. The power would be there and the addition of this provision would not add or subtract from that power.

Mary Tobias asked if the phrase *provide regional government with the authority to review local government land use decisions to determine if decisions are being made that are inconsistent with the Regional Framework Plan* is needed. If it is just providing authority to the regional government to require changes if the pattern of decision making indicates inconsistency, that phrase is not needed.

Larry Derr said that is the operative language. The phrase is a lead in phrase that gives the reader a better idea of where it is coming from. He said that it does not have any substantive effect on the power. He said that could be worked out in the detailed drafting.

Bob Shoemaker asked if the regional government has standing to appeal any local land use decision, even if it has not involved itself in the land use decision.

Larry Derr said that it probably would have had to become involved.

Bob Shoemaker asked if it was intended by the first phrase to provide that standing after the fact.

Larry Derr said no. He said that he tried to distinguish between the two processes by the first sentence and the parenthetical language. The first sentence does not get to a decision. It reviews a series of decisions, and if something needs to be fixed, it does not go to an individual land use decision, but to the procedures and standards. The parenthetical language is acknowledging the fact that there are instances in which the regional government could become involved in and attest individual decisions. That is a different process.

Matt Hennessee said that once a pattern of inconsistencies is established, the regional government has the authority to go back and make recommendations or require a change to the regional plan.

Larry Derr said that the regional government would require changes in the standards and procedures in the local planning documents, not to an individual decision.

Matt Hennessee said that as a requirement goes back to change the standards in the local plan, then the local plan has the obligation to do what the regional government says that it must do.

Larry Derr said that is correct.

Ron Cease asked if there was anything in the motion to suggest that Metro would work on standards and procedures that would be available and would require inconsistency across the board for local governments. Under this motion, they would only deal with them based on cases where there is some level of inconsistency.

Larry Derr said that is correct, it is only as far as this goes. If the Committee stopped here, the charter would not take on the issue of the regional government taking on an active role in requiring the local governments to have clear and objective standards. That does not mean that the regional government might not choose to incorporate something like that in its plan if it fit in the authorities that the charter grants. It is not being called out as a mandate.

Mary Tobias asked if the open ended authority of the first phrase makes Metro a de facto appellate body.

Larry Derr said no. It comes back to the distinction of reviewing individual decisions and causing them to change versus seeing a pattern in practice in a series of decisions and changing the procedures. The process works after the fact and tries to stop the process in further decisions.

Mary Tobias said that she is not certain that the language is clear, but she supports the concept.

Vote on the amended motion: Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Matt Hennessee, Frank Josselson, Wes Myllenbeck, Bob Shoemaker, Mary Tobias, Mimi Urbigkeit, Norm Wyers, and Chair Myers voted aye. Charlie Hales, Ned Look, John Meek, and Ray Phelps were absent. All present voted aye and the motion passed.

Larry Derr said that he recommends not including the provision of the discussion outline which states that *the Regional Plan must satisfy all Statewide Goals applicable to the region*. The Committee has agreed on eliminating the concept of a regional plan that would incorporate the local plans so the provision is no longer relevant.

Chair Myers said that, since there is not a motion to include the language in the outline of drafting instructions, it will not be included.

Larry Derr said that he suggests not including the provision which states that the regional government may develop recommended model standards and procedures for local land use decision making that may be adopted by local governments. Having a model to look to so that procedures are generally the same is an important concept. It should not be called out in the charter where it would be elevated to that level of a detailed concept. We should recognize the concern of local governments that it might put the regional government into an area that is, by definition, local. Some elements of local standards and procedures are not going to lead to anything that rises to the level of metropolitan concern. The argument can be made that most things in the local government plans do have an impact on the region. The reason for not including it is that it is a controversial matter and this would not mandate it.

Ron Cease said that in passing the last motion, the Committee has said that Metro can do something, but the motion makes it difficult to do by not giving it anything. He said that he is bothered by leaving it out.

Frank Josselson said that the problem this was intended to address was that it is moot from one

jurisdiction to another. Each jurisdiction has a different definition for a R-5 lot. There is no regional uniformity.

Ron Cease said that the goal ought to be to lead and encourage those governments to move in a similar direction.

Motion: Ron Cease moved, Judy Carnahan seconded, for inclusion in the charter the following: *Development by regional government of recommended model standards and procedures for local land use decision making that may be adopted by local governments.*

Vote on the motion: Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Frank Josselson, Bob Shoemaker, Mimi Urbigkeit, Norm Wyers, and Chair Myers voted aye. Wes Myllenbeck voted nay. Ned Look, John Meek, Ray Phelps, and Mary Tobias were absent. The vote was 11 ayes to 1 nay and the motion passed.

Motion: Larry Derr moved, Frank Josselson seconded, the concept that the planning and urban growth management functions of the regional government are the primary functions.

Larry Derr said that he proposed the motion as an effort to tie together everything that the Committee has done so far. It would not go anywhere in the drafting directions, but would allow the Committee to focus the future decisions based on the work that the Committee has already done.

Chair Myers asked what the ramifications were of the motion. He said that the document, in composition of the functions part, the importance of the role will be manifest. He said that he did not understand why adjectives needed to be added to it as opposed to continuing on and beginning to assemble the rest of the functions.

Larry Derr said that he is not proposing it as language that goes into the drafting document. He said he is asking for a poll of the Committee to see whether everyone shares the same priority.

Chair Myers asked if the motion was *one of the primary or the primary*.

Larry Derr said that it is *the primary*.

Ron Cease asked what the ramifications are for the other functions and activities.

Larry Derr said that they would be secondary.

Matt Hennessee said that he has some difficulty with stating what the spirit is of the future decisions because it inhibits him to think beyond the planning and urban growth functions, particularly regarding other functions that will come up down the road.

Chair Myers said that it is not clear as to the consequences of injecting the judgement at this point.

Judy Carnahan asked if Larry Derr was concerned that this type of planning does not directly generate user fees and the emphasis of funding of planning might be lessened by the lack of funds in the future. She asked if Larry Derr was trying to make sure that it got funded.

Larry Derr said that it is a primary concern. The motion is simply an effort to call out the sense of the

Committee. It will only influence the deliberations and nothing beyond. In those deliberations, there needs to be a willingness in providing financial support to make sure that the planning agenda gets done. He said that he is just trying to see if everyone agrees on what has been done so far.

Bob Shoemaker said that the Committee has previously discussed having semi-autonomous commissions for the non-planning functions of Metro. One of the arguments in favor of the commissions is that if the Council was too busy managing all the functions, they would not pay proper attention to the planning responsibilities. Before, he suggested making it clear to the Council that their primary obligation was planning. He suggested that maybe the Committee should go as far as to require that they spend half of their meetings on it as long as it was out there to be done so that they would have a standard to adhere to and not micro-manage a bunch of functions. He said that Larry Derr's proposal is along the same lines. Planning is the regional government's most important responsibility.

Ron Cease said that there is a middle ground. There is a lot of difference between saying *the prime* and *a prime*. He said that he supports adding more planning responsibilities, but does not view it as a substitution for something else. He said that he does not buy the notion that it is *either/or*.

Frank Josselson said that was not his intention in seconding the motion. His intention was to state that this government has a purpose and a mission that comes first. Recently, Metro's entire planning department was cut. He said that it is important for people to see that this is something the Committee is taking very seriously.

Ron Cease asked if what is really being said is that Metro ought to do more planning and planning ought to be viewed as a prime function.

Jon Egge said that he has difficulty saying that it is a prime function. He is not saying that it is *either/or*. To give it a prime position equivalent to all the other service and delivery functions does not do much. He said that there needs to be a mission statement which is where the motion leads.

Chair Myers said that the mission of the government should be formed by deciding what it is going to do. The way that is described, in terms of the kind of criteria that was adopted earlier, will fall into place.

Larry Derr said that, in regards to Ron Cease's comments about *a prime* and *the prime*, the Committee is talking about a ranking. He said that he has a problem with *a prime* because if there are other primary functions, there are other functions that rise to the same level of importance. He said that there should be no other functions that rise to the same level of importance.

Ron Cease said that the intent is not to exclude other functions. He said that he does not have a problem with providing that it does not exclude other functions. It has the minimum that should be done.

Chair Myers asked if it was intended to prejudge the future issues that come before the Committee. He asked if it was implicit in this judgement to take a direction around committing all services to independent commissions.

Larry Derr said that it would not dictate that result or any result, but in keeping in line with other organizational structures, the structure should address the primary function effectively as well as the other functions given to the district. It is a qualifier and a modifier, but will not dictate a result.

Vote on the motion: Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Charlie Hales,

Frank Josselson, Bob Shoemaker, Mimi Urbigkeit, and Chair Myers voted aye. Matt Hennessee, Wes Myllenbeck, and Norm Wyers voted nay. Ned Look, John Meek, Ray Phelps, and Mary Tobias were absent. The vote was 9 ayes to 3 nays and the motion passed.

3. Adoption of charter drafting decisions for treatment of specific powers and functions to be initially authorized for the regional government

Chair Myers said that the question before the Committee is what should the charter provide in respect to certain service authorizations. He said that he thought the consensus of the Committee was that the charter would specifically authorize the regional government to undertake service delivery with respect to the aspects of metropolitan significance. He said that those should not be delineated in any great exactness, but deal with them topically.

Frank Josselson proposed that the regional government be empowered to deliver those services which it is currently delivering as described by Dan Cooper, Metro General Counsel.

Chair Myers said that Dan Cooper's list of functions is by authorization. He asked if Frank Josselson proposal was to incorporate into the charter authorizations to continue doing what they are doing.

Frank Josselson said that was correct.

Matt Hennessee asked if that not to be inclusive of what they are authorized to do.

Frank Josselson said that is right.

Motion: Frank Josselson moved, Charlie Hales seconded, that the charter authorize the regional government to have authority to own and operate the zoo and public cultural, trade, convention, exhibition, sports entertainment, and other spectator facilities.

Vote on the motion: Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Frank Josselson, Wes Myllenbeck, Bob Shoemaker, Mimi Urbigkeit, Norm Wyers, and Chair Myers voted aye. Ned Look, John Meek, Ray Phelps, and Mary Tobias were absent. All present voted aye and the motion passed.

Motion: Frank Josselson moved, Norm Wyers seconded, that the charter shall provide the regional government with the authority to perform all the solid and liquid waste functions that is it currently performing.

Ron Cease asked if there was something in its authority, under the statutes, that it is not currently performing. He suggested that it also include what Metro is authorized to do.

Janet Whitfield said that Metro is authorized to perform the hazardous waste function in a broader sense than it is currently doing.

Ron Cease said that the state has a major role in hazardous waste and he is not suggesting that Metro get into that. He said that, in the solid waste area, what Metro is currently authorized to do by law should be accepted by the Committee.

Friendly amendment to the motion:

Frank Josselson amended the motion to read: The charter shall provide the regional government with the authority to perform all the solid and liquid waste functions that is it currently performing or authorized by law to perform.

Vote on the motion:

Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Frank Josselson, Wes Myllenbeck, Bob Shoemaker, Mimi Urbigkeit, Norm Wyers, and Chair Myers voted aye. Ned Look, John Meek, Ray Phelps, and Mary Tobias were absent. All present voted aye and the motion passed.

Motion:

Frank Josselson moved, Charlie Hales seconded, that the charter provide the regional government with the authority to acquire regional greenspaces.

Frank Josselson said that he interprets greenspaces to be inclusive of parks, open-spaces, and recreational facilities. He said that it is the term that Metro is now using.

Ron Cease asked if the language would be similar to what is currently in the statutes.

Charlie Hales said that the statute now states *acquire, develop, maintain, and operate a system of parks, open spaces, and recreational facilities of metropolitan significance.*

Frank Josselson said that his motion only deals with acquisition of greenspaces. He said that the operation and maintenance of parks is a different issue. The Committee has already given the regional government the power to plan. The motion is the power to acquire.

Ron Cease asked what would happen after the land is acquired. Would it be turned over to local governments to operate?

Frank Josselson said that it would be turned over to local governments or through contracting with local governments or the private sector.

Ron Cease asked why the regional government should be kept away from operating the program. He said that there will not be a program unless the regional government has some authority to operate it.

Charlie Hales said that the motion is a good compromise. Under the current statute, the ability to acquire park land would require elector approval and so would the ability to operate and maintain parks and open spaces. Frank Josselson proposed half of the potential authority that now exists under the statute that would require approval of the voters. The motion allows the regional government to acquire the land, but requires an intergovernmental agreement with local governments, or they could get the approval of the voters to have a regional parks management operation. It is a responsible compromise because it conserves the current ability of the park providers to continue doing what they do, but adds the regional governments's ability to finance the acquisition of additional land.

Jon Egge said that the ability for the regional government to maintain and operate a parks program can be obtained through the RPAC model. They can have the service delivery by approval of the RPAC. He said that there is a lot of talk about authorizing the government to do exactly what it is doing today and this is one minor step beyond that.

Vote on the motion:

Judy Carnahan, Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Frank Josselson, Bob Shoemaker, Mimi Urbigkeit,

Norm Wyers, and Chair Myers voted aye. Ron Cease and Wes Myllenbeck voted nay. Ned Look, John Meek, Ray Phelps and Mary Tobias were absent. The vote was 10 ayes to 2 nays and the motion passed.

Ron Cease explained that his vote was nay because the motion is unnecessary and restrictive.

Wes Myllenbeck agreed with Ron Cease.

Bob Shoemaker said that he understood that the motion increased the authority over the current authority. He said that he is puzzled by Ron Cease's statement.

Ron Cease said that he does not see the reason to split the acquisition and the operation. If they are able to acquire it, they should be able to operate it. They should have a broad authority.

Motion: Ron Cease moved, Wes Myllenbeck seconded, that the charter should provide the regional government with the authority to develop, operate, and maintain acquired regional greenspaces.

Chair Myers said that the motion would add the authorizations of development, operation, and maintenance to the acquisition authority.

Frank Josselson said that every jurisdiction has a regional parks department. To create a regional parks department for greenspaces would be unnecessarily duplicative. Local governments have testified that they would like the ability to control and maintain the parks in their jurisdictions which are subject to financing by the regional government. They do not see a need to duplicate the services that they are capable of providing.

Ron Cease said that the statute currently talks about the regional aspect of parks. He asked if the earlier motion spoke to the regional aspect of parks or just the acquisition of parks.

Frank Josselson said that it was just acquisition.

Ron Cease said that it gets into the issue of local governments and the regional government sharing the responsibility. He said that it does not make a lot of sense for Metro to take on a park that is clearly a local park. Metro has to have the ability to oversee some management of the total program. He said that does not mean that Metro owns or runs all the parks. It does mean that it has the ability to acquire some land and operate some of it, possibly through contracting. He said that he did not understand how it would work with all of the operation being done by local governments without Metro playing a role in overseeing, maintaining and operating it in a broad sense. He said that the first motion was restrictive.

Frank Josselson said that he agrees that there needs to be standards, plans, and policies as to how the parks will be maintained and the purposes of the greenspaces. That authority has already been delegated to the regional government.

Ron Cease said that, with a system with a lot of little pieces that are owned and operated by a lot of different governments, the only way there is going to be any regional assurance that it will be a system would be for the regional government to have the ability to acquire property and have some substantial operation responsibilities.

Charlie Hales said that, regardless of the process, the spectrum issue will need to be addressed on each

topic--should the maximum amount of regional authority be granted to Metro or should the charter state that the function is local and Metro must go through RPAC to acquire it. Frank Josselson's motion brought the issue to the forefront. The missing piece in most parks operations in the Metro area is the ability to acquire additional land. They do not help running the programs. The acquisition and planning of greenspace inside the urban growth boundary is of metropolitan significance. The management of the land can be done anyway that Metro and the local governments choose. The running of a parks system is an inherently local function and does not benefit from the economies of scale that might go along with regionalization of the service.

Jon Egge said that, because the greenspaces service function is more eminent, the process has been abandoned. By taking this position, the Committee is not saying that local governments will have to perform the function or not perform the function. It is saying that it is something that is going to be left to the process to decide. Rather than making a list of *shalls* and *mays*, the Committee should make a list of currently delivered functions plus the greenspaces function and let the process take care of whatever happens after that point. It is more timeless and charter efficient.

Ron Cease said that if Metro is given the acquisition authority, there has to be money. Some of the local governments are currently having problems maintaining some of the property. It does not make sense to say that Metro can acquire them if there is not any money. If they can find money, they would turn it over to the local governments for maintenance which means that they would have to find the money to do it. The regional government needs to play a role in the facilities and pieces of parks which are regional. The regional government should not be denied the ability to maintain and operate the parks. If they are denied that ability, then the acquisition does not mean anything.

Charlie Hales said that it is not being denied. It is assuring that they negotiate with the local governments over the maintenance and operation because they will have to go through the RPAC process.

Ron Cease asked why they should acquire them if they do not have any money.

Charlie Hales said that there is a bond measure being proposed now to acquire greenspaces land. Indications are that it will pass.

Ron Cease said that Metro will have to be able to tell the government that, if it passes, what kind of system there will be.

Janet Whitfield said that the bond measure will likely provide for about \$150 million of which about 15% will be given to local governments to use for parks as they see fit. The rest would be used for open spaces. Later, if they could get other funds, the funds would be used to maintain the areas and connect them.

Ron Cease asked what would be the management and cooperative aspects of all of that. He said that the separation of the acquisition and the operation does not make sense.

Frank Josselson asked if one of Ron Cease's concerns is that the authority to fund the operation has not been delegated yet.

Ron Cease said that the earlier motion only provided for the acquisition. There is not going to be any acquisition without some up front determination of where the money is going to come from and who is going to maintain and operate the pieces of the system. They should go to the voters for the acquisition and operation or the charter should give them the authorization for the acquisition and the maintenance and operation of all the pieces.

Bob Shoemaker said that he does not think that is necessarily true. There might be an opportunity to protect a green area and put it in public ownership so it cannot be developed.

Ron Cease said that the system cannot be cut up if it is to work. Metro should either have both responsibilities or none.

Larry Derr said that if a government has the authority to acquire a capital asset, then it should have the ability to maintain it unless the intent is that the acquisition would be solely for the purpose of transferring ownership to an entity that has the authority to maintain it. He asked if the thinking was implicit or explicit to have the authority provide for the maintenance and operation by contract or intergovernmental agreement. It is the authority to operate and maintain, but it is narrow.

Chair Myers asked if Frank Josselson's concept of acquisition would not be necessarily for the purpose of ownership transfer to another public body. The regional government would own the property acquired.

Frank Josselson said that the regional government would own the property, but the regional government could have the authority to transfer it. He said that his issue is acquisition and the regional government should have the ability to finance the operation and maintenance. Whether they should have the authority to operate and maintain is a different question. He said that he does not want the regional government to have that authority.

Matt Hennessee asked if Frank Josselson did not contemplate whether the regional government would have the opportunity to operate and maintain.

Frank Josselson said that is correct.

Wes Myllenbeck asked what would happen if the regional government acquires greenspaces and then cannot find anyone to operate and maintain it.

Frank Josselson said that there should not be a regional greenspace system if the operation cannot be financed.

Bob Shoemaker said that if Metro wanted to acquire and maintain a greenspace which is not presently protected, presumably it would not have any difficulty obtaining a majority of the RPAC approval for the maintenance. If it was considering acquiring and wanted a local government to maintain the greenspaces, it would negotiate that before it would acquire it. It would not make sense to do anything else unless it is being protected from future development. He said that Frank Josselson's proposal protects against the possibility of Metro acquiring and operating a local park without going to RPAC or the voters. There could be a lot of arguments against the charter if that could happen.

Ron Cease said that it is a definitional issue. The issue of what does regional really mean is a valid issue in any function. The Committee has agreed that Metro must lay out why additional functions are of metropolitan significance. If a park is designated to be of metropolitan significance and a local government decides that it can no longer afford to run it, then Metro should take it over since it is a regional park. Metro should take them over if there is a good public reason to do so.

Bob Shoemaker said that if the local governments think that it is a good idea, they will go along. The risk is that Metro will decide to take something over that the local governments do not agree should be taken over.

Ron Cease said that Metro will ask the voters to finance an acquisition for a regional park that they

cannot operate.

Charlie Hales said that it is a political question.

Ron Cease said that it would be better to have everyone working it out and giving Metro the authority to own some of the land before they try to sell it to the voters.

Charlie Hales said that Frank Josselson's motion allows RPAC to do that. If Metro should--without coordinated discussion with local governments--go out and create its own parks system, then you want to vote for the motion that is on the floor now. If Metro should acquire the land and coordinate the management of those facilities with the local governments which are now parks providers, you should stay with Frank Josselson's motion.

Ron Cease said that Metro is not going to come out and create a parks system.

Jon Egge said that the Committee should be concerned about that possibility because RPAC puts to bed the paranoia. He said that Bob Shoemaker's example of the regional government taking over a local park is highly unlikely, but local governments have a fear that it will happen. We are not precluding the regional government from operating a regional parks system. If they want to do that, they will have to go through a partnership.

Janet Whitfield asked what would happen if the motion failed.

Chair Myers said that the authority would only be to acquire. It would have to go through RPAC or the voters to operate.

Vote on the motion:

Ron Cease, Wes Myllenbeck, Norm Wyers, and Chair Myers voted aye. Judy Carnahan, Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Frank Josselson, Bob Shoemaker, and Mimi Urbigkeit voted nay. Ned Look, John Meek, Ray Phelps and Mary Tobias were absent. The vote was 4 ayes and 8 nays and the motion failed.

Matt Hennessee said that his intent, when he was voting for Frank Josselson's motion, was that he assumed that it was extending the opportunity for the regional government to operate as well as maintain. When the question was redirected, he understood that they could not operate. He said that it was spun off into another part which states that it means that if Metro goes out for the acquisition, they can do that without RPAC. He said that when RPAC was made a part of the process, it was to lay the fears of local governments that they might be excluded. If there still is a fear that Metro is going to do something without the local government being a part of it, why wasn't the RPAC process part of the motion? He said that he would like to reconsider the motion.

Ron Cease suggested that it be reconsidered at another time because it would probably fail at this point.

Janet Whitfield said that, on the current acquisition of greenspaces, the ballot measure requires that they go to a vote of the people for the operation of greenspaces. They are getting approval to spend the money and to operate the greenspaces in the ballot measure.

Frank Josselson said that, since the Committee has established a procedure for acquiring functions that are currently being performed by local governments, it is unnecessary to say anything more about Tri-Met in the charter. If the regional government elects, in the future, to merge Tri-Met in, then the

appropriate way to do that is through the process that has been established for taking on a function that is currently being performed by local governments. The details of how the merger would occur could be worked out through the same process.

Motion: Frank Josselson moved, Larry Derr seconded, that the charter be silent on the issue of the acquisition of the authority of the transit district.

Ron Cease said that he is against the motion. Earlier, the Committee adopted a two part concept on Tri-Met. The first part was that it left the issue open as to when and if Metro should take it on, but suggested that there was a relationship. The second piece was that, if at some point Metro took on Tri-Met, they would use a commission. He said that he would prefer that the existing statute be retained so that the marriage clause would be retained. The charter should also include that if Metro took on Tri-Met, a commission would be used so that it would ease the transition. He asked if the issue was left out of the charter, would the existing statute and marriage clause be retained.

Frank Josselson said that it would eliminate the marriage clause. It would eliminate the ability of the regional government to decide on its own if Metro should take over Tri-Met.

Ron Cease asked how that could be done if the statute was still in place. He said that he opposes it because it would have to go through the RPAC process.

Janet Whitfield said that the process provides that any function that is provided by a local government must go through the RPAC process. She asked if Tri-Met is being referred to as another local government.

Frank Josselson said that Tri-Met is, by law, a local government.

Janet Whitfield asked if she understood correctly that it is a service that is being provided by another local government. Therefore, it would go through the RPAC process if it was being transferred.

Frank Josselson said that his motion is that it go through the process that the Committee has established for the acquisition of functions that are currently being performed by local governments. He said that he does not want the charter to say anything about the issue.

Janet Whitfield said that, by leaving it out of the charter, Frank Josselson is assuming that Tri-Met is providing the function and that it would be a transfer of a function from one local government to another.

Chair Myers said that the motion assumes that it is one of those types of services which is being performed by one or more other units of government. It is either subjective to the vote of the people or to RPAC.

Jon Egge said that it is important that when the Committee took the action earlier regarding the marriage clause, the Committee had not heard from Tri-Met as to their intentions. He said that the marriage clause is an unwilling marriage clause.

Ron Cease said that Tri-Met wants to be left the way it is just as everyone else wants to be left alone.

Bob Shoemaker said that he agrees with the end result that Frank Josselson is speaking to. Because Tri-Met is so prominent, specifically covered by statute, and may not universally be regarded as another local government, he would be more comfortable if the charter dealt more explicitly with the

regional government's authority to take over Tri-Met. He said that it ought to be subjected to the RPAC or voter process, but it should be explicit and not implicit. He said that it should also have the provision that when and if it is taken over by Metro, the commission shall come with it.

Frank Josselson withdrew his motion.

Charlie Hales suggested that the regional government may, with the advice of the RPAC, order the transfer of the transit system of Tri-Met to the regional government.

Motion: Bob Shoemaker moved, Frank Josselson seconded, that the charter permit the regional government to assume Tri-Met's functions, provided that it gets the approval of RPAC or an affirmative vote of the people. When and if Tri-Met comes in under the regional government, it shall come complete with the commission that is then in place, which would continue as a commission under the regional government to operate the public transportation system.

Chair Myers said that the motion is to provide expressly in the charter that the regional government may assume the functions of the transit district upon approval of RPAC or an affirmative vote of the people. If Tri-Met is taken over, there will be a continuation of the commission that is then in place.

Charlie Hales said that RPAC was created as a check on the relationship between Metro and other local governments. He asked what the rational was for involving that local government forum in the question of the absorption of one already regional service into another regional agency.

Bob Shoemaker said that it is the only alternative that the Committee other than simply going to a vote of the people. He said that he is not sure that he wants to impose that.

Charlie Hales said that it is a diminution of the power that already exists for the Metro governing body to, on its own motion, take over Tri-Met.

Bob Shoemaker said that is true. He said that it does bring another political process into the equation which buffers it from an arbitrary exercise of powers.

Charlie Hales said that if Metro wants to do something that a local government is already doing, the Committee has agreed that they have a right to a seat at the table because their authority is being discussed. They do not run transit agencies, so what is the rational for having the local governments at the table. He said that he does not buy the argument that Tri-Met is a local government.

Bob Shoemaker asked what the Committee decided for functions that are not now being performed by a local government.

Jon Egge said that it was advice of RPAC only and it does not have to go to the people.

Ron Cease said that it is an issue that is very political. He said that it would be safer to accept the process that already exists. The statute should be left alone and if Metro wants to work on it that is fine.

Jon Egge said that the problem he has with that is that it is not a two way deal. It is a one way option. It is the exercise of an option by only one party. Currently, there is a sticky labor dispute and this particular question is being used as a political hammer in the labor dispute. He said that it is timely for the Committee to consider it in a new light rather than accepting the statute the way it has been written. There is no guarantee that there is any wisdom contained in the statute the way it is

written now.

Ron Cease said that the statute has been on the books for 15 years and has not been used and is not a great danger that will be used unless there is a good argument that it makes sense to do it. Metro is currently working on a feasibility study. He said that it is not a one way street. Tri-Met is very much involved in the process because of the retirement and bond issues. Nothing will happen until all of that is satisfactorily worked out. He said that there is a system where both parties and others are at the table to discuss it.

Jon Egge said that it only takes seven votes for it to happen at any meeting, which is a poor way to make a substantive decision.

Chair Myers asked why Metro was vested with the authority, in the way that it was vested, in the first place.

Ron Cease said that at the time the old MSD was created, the legislation of Tri-Met was also going through the process. There was a strong feeling on the part of the Metropolitan Study Commission that if there is a regional body, transit should not be separated outside in a different entity. In order to take care of that, the marriage clause was built into the Tri-Met legislation. The marriage clause says that at some point, if it makes sense and things are worked out, Tri-Met would come into MSD. When Metro was created, the marriage clause was accepted so that there was not an argument and the issue remained open. If the Committee alters it, they are involved in the middle of the politics of it.

Norm Wyers asked what a negative vote on the motion would mean.

Chair Myers said that it would mean that the Committee would work out another way to deal with it.

Vote on the motion:

Jon Egge, Frank Josselson, Bob Shoemaker, and Mimi Urbigkeit voted aye. Judy Carnahan, Ron Cease, Larry Derr, Charlie Hales, Matt Hennessee, Wes Myllenbeck, Norm Wyers, and Chair Myers voted nay. Ned Look, John Meek, Ray Phelps, and Mary Tobias were absent. The vote was 4 ayes to 8 nays and the motion failed.

Motion:

Ron Cease moved, Matt Hennessee seconded, that, in regards to the Tri-Met issue, the language in the statute is retained in the charter. If there is a joining of the two, a commission would be used.

Ron Cease said that he would leave open the issue of what kind of commission. He said that the Committee seems to have agreed on the idea of a commission. He said that this motion does not accept the idea that Metro ought to take over Tri-Met at this point. If there was evidence that it should be taken over, then they could go through the process outlined in the statute.

Chair Myers said that the discussion draft said that *the regional government may order transfer of the transit system of Tri-Met to the regional government, but any transfer must include continuation of a transit board of directors*. He asked if that is the intent of the motion.

Ron Cease said that it is his understanding of what the statute provides. He asked if the statute could be referenced.

Chair Myers asked if the substance of the motion is to continue the existing authorization but subjected further to the continuation of the board of directors.

Ron Cease said yes, if they merge. The commission make up would be determined by Metro.

Jon Egge said that, by having a marriage clause, it creates more political baggage than if the charter addresses the issue and says that it will happen by a process. He said that he is not set to the RPAC process and would go along with advice of the RPAC or another process. With the current statute, there is one side making a decision.

Ron Cease said that, before Tri-Met can be taken over by Metro, there are a couple of major provisions that will need to be worked out to make the merger feasible. One is the issue of retirement and the other is the assumption of the bonds. Both of those would have to be satisfactorily worked out. He said that the motion is buying the current process and adding the proviso that a commission is used. Regardless of whether the charter fails or succeeds, the process would be the same for Tri-Met. The problem with Tri-Met is that it is a regional entity with a board appointed by the Governor. Because it is already there, it does not make sense to use the same process as for functions where the local governments clearly have a role. He said that it would save the Committee a lot of difficulty and problems by simply accepting the motion. He said that it is possible that the regional government may never be taken over by Metro.

Larry Derr said that adding the requirement of the commission helps because it needs to be more than a simple process to take that kind of a major step. He said that he shares Jon Egge's concern that the current process is too simple. The commission, presumably, would make it less desirable for Metro to jump into it just for the purpose of being able to take something over. He said that it falls into the category of functions not currently being performed. He agrees with Charlie Hales that this is not really a local government function. The process for acquisition of local government functions does not make a lot of sense. He said that he is not comfortable with the process that the Committee came up with for Metro to establish new functions not currently being provided. The process of acquiring advice, but not consent, of RPAC is probably too easy for that major of a change. He said that he has not seen a process that he feels comfortable with for adding new functions and he would put Tri-Met in that category. He does not support the motion, but does not have a good alternative.

Charlie Hales said that he supports the motion. He said that counsel should be consulted to see if there is implementing language necessary regarding the statute and the material in the statute pertaining to being responsible for liabilities and obligations.

Chair Myers said that he took that as implicit.

Janet Whitfield said that the statutes still have to be followed.

Charlie Hales said not necessarily. He said that the one main policy difference is that, under the statute, the board is extinguished. Under the motion, there is an analogous commission created.

Bob Shoemaker said that he agrees with Larry Derr. He is not willing to leave it hanging the way it is now, but is not comfortable with advice but not consent for new functions. He said that more thinking needs to be done about that. The motion should be defeated and the issue returned to another night after the Committee has gone through other functions. Maybe the Committee will come up with another process for brand new functions.

Jon Egge said that he is uncomfortable making a generic statement about the commission. The Council could render the commission more impotent than the Committee is contemplating. There should be clear guidelines as to how to appeal the actions of the commission. He said that he is not comfortable with any suggestion that he has heard tonight.

Frank Josselson said that Tri-Met is one agency in the region that is not broken and does not need to get fixed. He said that there probably would be consensus for that around the table. The danger of the existing marriage clause is that Tri-Met could be brought in under circumstances which would disrupt its functioning. He said that his preference to any kind of marriage clause or procedure is to have Tri-Met tell the Committee how to bring them into the regional government now without disrupting the functions and to do that in the charter. However, the Tri-Met board has refused to do that. He said that would be the final solution to the Tri-Met issue--bring them in under the regional government. It is clearly a regional function that is being performed by an agency that may be called local by lawyers but is truly regional. He said that would be the sensible way. He agreed to defer the issue until the Committee figures out a satisfactory procedure for taking on new functions that are not currently being performed.

Ron Cease said that the problem with the issue is that if it is made explicit in the charter, the charter will not be discussed on the basis of the charter. It will be discussed on the basis of Tri-Met.

Mimi Urbigkeit said that it would be better not to mention Tri-Met at all then.

Ron Cease said that he is suggesting that you do as much of that as you can without leaving it out there without any reference to the future. He wants to leave the issue now as it is so that if it is a desire in the future, it can be done. He said that there probably is an issue with the process, but the process has been on the books for 15 years and it has not been used. It has not been used because there has not been the support of Metro and there is not a sense of support now.

Frank Josselson said that the Council issued an RFP to study the transfer of Tri-Met. It was reported in the press that if the report comes back positive and the decision is sound, then the two need to merge.

Ron Cease said that it was time that Metro look at the issue realistically.

Vote on the motion:

Ron Cease, Charlie Hales, Matt Hennessee, Wes Myllenbeck, Norm Wyers, and Chair Myers voted aye. Judy Carnahan, Larry Derr, Jon Egge, Frank Josselson, Bob Shoemaker, and Mimi Urbigkeit voted nay. Ned Look, John Meek, Ray Phelps, and Mary Tobias were absent. The vote was 6 ayes to 6 nays and the motion failed.

Chair Myers asked the Committee to move on to the Boundary Commission.

Ron Cease said that the Boundary Commission is currently a state agency whose financing is, according to state law, provided by fees and charges. By state law, the board is selected by Metro. He asked what would happen if the charter made no reference to it. Since the Boundary Commission is directly tied to Metro through the board selection, what would happen with the board?

Chair Myers said that is a question that will need to be answered. He said that, maybe subject to confirmation, either the charter would provide nothing if that would allow Metro to continue to appoint a separate Boundary Commission or that, at the most, the charter would authorize or provide for that appointment. He said that he understood the thrust of Ron Cease's question was what would it take to preserve the status quo.

Ron Cease said yes.

Chair Myers said that is a question that will have to be resolved. It can be tested as a policy approach

that the Committee would like to take. Then the Committee can resolve whether there is anything that the charter has to say to achieve that.

Ron Cease said that there are several options--the function and the process can be eliminated all together, the status quo could be maintained, the operation could be more fully integrated into Metro, or a different vehicle or mechanism can be used to do the same function.

Charlie Hales said that an issue that the Committee needs to deal with is whether or not the charter stands on its own or if it stands a little on the remains of state statute and a little on what is in the charter. He said that he would like to make the charter whole, regardless of whether or not it is legally necessary. It would not send a good message or be very effective if Metro were to rely both on the statutes and the charter.

Ron Cease said that the Boundary Commission is tied to the state statutes for annexation and incorporation. He said that there needs to be some incorporation, by reference possibly, because it cannot be absorbed without carrying over the functions and activities. The Boundary Commission will have to use state law.

Charlie Hales said that he would rather refer to statutes and be redundant than have it be propped up here or there by statutes from different directions.

Chair Myers suggested determining what option for the Boundary Commission that the Committee favors and then determine what has to be done to translate that.

Bob Shoemaker said that if the Committee does not want to make any changes in the way that the Boundary Commission functions and is organized, then there still is the question of whether or not future changes will be under Metro's authority or under the Legislature's authority. He said that he would be more comfortable putting it under Metro's authority. It is clearly a matter of metropolitan concern and should not be at the whim of the legislature.

Ron Cease said that the whole principle of the boundary changes are a state responsibility. Home rule charters do not have any authority over boundaries.

Charlie Hales said that this is the only place with a regional government.

Ron Cease said that the state has abrogated to itself the control over local boundaries--it is not given to local governments. The Committee will not be able to change the state law on what they have to go through for land use changes. He said that he does not think that the Committee has any authority to put anything in the charter that will overrule that.

Larry Derr said that the Boundary Commission process lays over the annexation process. When talking about the Boundary Commission, he does not understand that the Committee is referring to the voting and petitioning process. The Committee is talking about the overlaying judgement of Boundary Commission and whether or not that leads to an efficient and desirable form of government. He said that the Committee had this discussion a couple months ago and it raises an interesting question of whether or not it is really an issue of metropolitan concern rather than statewide concern, given the fact that the Legislature has appointed regional boundary commissions and has empowered the regional government to do the appointments. He said that he would go a step further than saying that, at a minimum, it is a regional concern and the regional government ought to dictate any changes that ought to be made. If the Boundary Commission is to continue in some form, there is a potential that the regional government could embark upon a plan through the Regional Framework Plan and have the Boundary Commission decide that elements of the plan cannot be implemented. The process

has to come together at one place at the top. Whether that means that there is a Boundary Commission with decisions appealable to the regional government or whether the regional government will perform the functions of the Boundary Commission or whether it is wrapped up in the regional planning process, the end result should be that the Boundary Commission decisions are not independent of the regional planning decisions.

Bob Shoemaker said that is why he thinks it should be under the ultimate jurisdiction of the regional government.

Chair Myers asked if it should be by the continuation of a separate body appointed by the regional government.

Bob Shoemaker said yes. If, as time goes on, it looks like there is a conflict between the Boundary Commission policies and decisions and urban growth management policies and decisions, then the Metro Council is in a position to do something about that if any changes in Boundary Commission authority is within Metro.

Larry Derr said that his point is that the conflict is inherent in a system where the one decision maker is not answerable to the other and where the standards that are being applied are not the same.

Chair Myers said that one approach to resolving that is to bring the Boundary Commission function into Metro in the sense that it seems to be a state agency, but will be part of Metro itself.

Larry Derr said that, at a minimum, decisions of the boundary Commission ought to be appealable to the regional governing body and that the Regional Framework Plan should be among the standards applied.

Ron Cease said that has some merit.

Chair Myers said that one of the major concerns is the need to maintain some independence or separation of the actual decision making process from directly elected officials. He said that would not exclude the review process.

Ron Cease said that it is essentially a quasi-judicial function. The whole issue of appeals is currently done through the courts. He said that there is merit to Larry Derr's suggestion of tying it into the Regional Framework Plan and having the appeal process being with the regional governing body.

Chair Myers said that, at the next meeting, the Committee will pick up with the Boundary Commission. They will then return to the Tri-Met issue and move on to the other functions. He said that he would like to complete that in the first hour and a half to two hours. The second half of the meeting will focus on structure.

Charlie Hales asked the Committee to think about taking Larry Derr's suggestion of having the administration of the Regional Framework Plan be inter-tied with the function of the Boundary Commission within Metro. He asked that consideration of the urban growth boundary amendments be done by the Boundary Commission in the new structure so that they would be appealable to the Boundary Commission and then on to LUBA. Now, those decisions are made by a hearings officer, appealable to the governing body and then on to Metro. Could the urban growth boundary amendment process be improved by having it administered by the same body that approves other boundary changes?

4. Presentation of the Finance Subcommittee Report

Bob Shoemaker said that the finance subcommittee report recommends four major points. First, *the regional governing body may continue to impose revenue-raising devices currently imposed by Metro.* The subcommittee was unanimous on their agreement that this provision was appropriate. Second, *the regional governing body may enact all revenue-raising devices currently permitted for Metro's use by Oregon statutes.* He said that there was argument that some of those devices ought to be prohibited so an amendment of the charter would be required before those could be enacted. That argument did not prevail. Third, *imposition of the following types of taxes will require voter approval: personal income tax, business income tax, payroll tax other than as now imposed by Tri-Met, property tax, and sales tax.* The debate in the subcommittee was whether it went far enough or whether those kinds of taxes ought to require a charter amendment. A majority of the subcommittee felt that a vote of the people was enough and is really what a charter amendment would require. Fourth, *any other revenue-raising or financing device may be authorized by council ordinance, with a 90-day delay to allow for referendum to the people.* This includes a host of nitch taxes that hit a relatively small group and should be allowed by ordinance, but always subject to referendum. He said that, during the subcommittee meetings, Jon Egge made the point that forcing the Metro Council to stand up and be counted on the taxes may be more politically difficult than simply allowing them to refer it to the people. The people are likely to decide yes if the tax is not on them. He referred the Committee to the report and the list of revenue options to see how those apply to the particular possible taxes that are available.

Ron Cease asked if the last recommendation included anything that other local governments can do if they are not covered in the first three recommendations.

Bob Shoemaker said yes.

Motion: Matt Hennessee moved, Norm Wyers seconded, that the Committee approve the finance subcommittee report for purposes of submission to public hearing.

Jon Egge said that it is extremely difficult to get a feel for the subcommittee's beginning discussion. He said that he is concerned that this is being done without the benefit of what the whole government is going to look like. Until the mission of the government is addressed, all of the financing mechanisms are being looked at on a small scale. The big picture needs to be looked at.

Bob Shoemaker said that all of the votes are subject to that narrow view. Every vote hinges on the decisions for other issues that the Committee has not discussed yet.

Ron Cease said that Metro currently has a problem with financing. The subcommittee reports carries the current financing options but Metro needs more since the Committee has already placed it with additional planning responsibilities. The list of taxes that would require voter approval are controversial and probably would not get passed. In order to find financing, the regional government is forced into the fourth recommendation, to find a source of revenue that will support it. He said that they will probably be the nitch taxes.

Charlie Hales said that is problematical. Given what happened recently with the loss of revenue in tipping fees that cut the planning department, he would rather have the tax structure push the government toward general taxation. He said that the subcommittee has given Metro a broad grant of authority with restrictions in each case, but it pushes them in the direction of nitch taxes rather than pushing the Council to go to the voters for a general tax. Nitch taxes are politically convenient, but may not be effective and breed resentment.

Bob Shoemaker said that Charlie Hales seemed to accept the concept that, for broad base taxes, the Council would go to the voters. He said that is what the recommendation says.

Charlie Hales asked why the regional government should not have to go to the voters for everything, including the nitch taxes.

Bob Shoemaker said that it is cumbersome, expensive, and an abdication of responsibility that belongs in the governing body.

Charlie Hales said that it has always been politically convenient to tax a small group for a general government function, knowing that they are not a majority.

Ron Cease said that Charlie Hales is right, but the regional government will not get the funds for the planning function if they must go to the voters.

Charlie Hales said that the planning function is a general fund function of Metro.

Ron Cease said that the nature of the organization is such that, for most of the major sources of revenue, the regional government will not get them. The question then is how are you going to fund it.

Janet Whitfield asked if the income tax was allowed by ordinance, would the state legislature allow it.

Ron Cease said that the cities and counties have the same authority by ordinance, but they have not done it because they know that the voters will not vote for it.

Larry Derr said that one of the ways that the hotel/motel tax in Washington County was made county-wide was, where there were already local hotel/motel taxes, getting those entities together and deciding to collect it county wide and then dividing up the proceeds in a way that everyone can sign off of. There are income type taxes throughout the region, but not universally and that drives, to some extent, the location of businesses. He asked if the subcommittee had any discussion about that same kind of process--the entities that are using it now would be melted into one consistent regional tax--for an income tax.

Bob Shoemaker said that the subcommittee did not discuss that.

Jon Egge said that the subcommittee might have thought about that with the hotel/motel tax. He said that the revenue issue is the biggest issue. The question of financing carries with it some huge policy issues that can go along with it. The Committee can establish policy by how the government is financed.

Matt Hennessee said that he commends the work of the subcommittee.

Vote on the motion:

Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Frank Josselson, Bob Shoemaker, Mimi Urbigkeit, Norm Wyers, and Chair Myers voted aye. Ned Look, John Meek, Wes Myllenbeck, Ray Phelps, and Mary Tobias were absent. All present voted aye and the motion passed.

Chair Myers said that the finance public hearings will be held on March 30 and March 31.

Chair Myers adjourned the meeting at 10:00 pm.

Respectfully submitted,

Kimi Iboshi
Kimi Iboshi
Committee Clerk

Reviewed by,

Janet Whitfield
Janet Whitfield
Committee Administrator

Materials following this page represent
Public Testimony

**TESTIMONY TO CHARTER COMMITTEE
FROM REGIONAL GOVERNANCE COMMITTEE
REGARDING GOVERNANCE OF TRI-MET
MARCH 19, 1992**

We understand that at the March 12 meeting of the Committee, questions were raised regarding the appropriateness of using the RPAC process to evaluate a merger of Tri-Met and Metro/the regional governing body.

It is our belief that local governments do, in fact, have a very strong interest in the delivery of regional transit services. Indeed, no other service currently being provided in this region is of more vital interest to local governments. The entire regional land use planning process which will be occurring over the next few years will be driven by the issue of integrating transit and land use planning. As we struggle with very limited resources to provide services to the expected population growth in this region, our need for Tri-Met to operate well is critical to our success.

Therefore, any decision to change the governance for provision of that vital service certainly should be reviewed through the RPAC process adopted by your Committee on February 20, 1992 or referred to a vote by the citizens of the region.

In his January 23 appearance before the Charter Committee, Tri-Met General Manager Tom Walsh testified that local governments and special districts are a fundamental constituent of Tri-Met and the regional government. We wholeheartedly agree. There is a built-in dependency between local governments and Tri-Met, with each having a stake in the other's success.

The working partnership through JPACT of local governments, Tri-Met and Metro has produced one light rail line built with dollars from a withdrawn freeway, and we have a second light rail line poised and ready to go into construction. If there is to be any change in the balance of that very successful partnership as we work toward a rail system for the entire region, then local governments through the RPAC process should and must have a voice in that decision.

Thank you very much for your consideration of our comments. We greatly appreciate the Committee's willingness to continue to analyze these difficult issues until a solid answer can be found. We will continue our analytical work in that same spirit.

Materials following this page represent
Attachments to the Public Record

FINANCE SUBCOMMITTEE REPORT

To the Metro Charter Committee

Date: March 5, 1992

Finance Subcommittee Members:

Bob Shoemaker, Chair
Jon Egge
John Meek
Hardy Myers
Wes Myllenbeck
Ray Phelps

On February 24, 1992, the Finance Subcommittee adopted its recommendations for regional government financing powers to be made to the Charter Committee:

1. The regional governing body may continue to impose revenue-raising devices currently imposed by Metro.
2. The regional governing body may enact all revenue-raising devices currently permitted for Metro's use by Oregon statutes.
3. Imposition of the following types of taxes will require voter approval: personal income tax, business income tax, payroll tax other than as now imposed by Tri-Met, property tax and sales tax.
4. Any other revenue-raising or financing device may be authorized by council ordinance, with a 90-day delay to allow for referendum to the people.

The discussion that follows describes how the Finance Subcommittee arrived at these conclusions.

* * * *

After considering different types of revenue-raising devices, the Subcommittee examined a variety of revenue-raising options and discussed whether they were appropriate for use by this regional government. A list of the revenue options considered is attached.

Following that, the subcommittee studied Metro's current revenue raising practices and authority in order to determine what should be carried over by the charter.

REVENUE DEVICES NOW IMPOSED BY METRO ARE CONTINUED

A majority of the Subcommittee supported continuing the current revenue-raising devices now imposed by Metro, as follows:

AD VALOREM TAX

Property taxes are now imposed by Metro at an annual rate of 15 cents/\$1000 of property value. The revenue received may be used only for funding the Zoo and retiring bonds used to build the Convention Center.

All members of the Subcommittee would allow the regional government to continue to impose ad valorem taxes at the current authorized rate, with proceeds dedicated to the Zoo and to retiring Convention Center bonds.

Subcommittee conclusions:

Continue of the ad valorem tax at its current rate for its current purpose.

Unanimous support

EXCISE TAX ON METRO FUNCTIONS

Metro is allowed to impose an excise tax on people using Metro services, functions and facilities. This has been applied, for example, on Zoo admissions, Convention Center use, and solid waste services. Solid waste is the biggest provider, accounting for about 88 percent of Metro's excise tax revenues.

The total excise taxes that Metro may collect is limited by statute to 6 percent of gross revenues the district receives in any fiscal year. This is not a limit on the excise tax rate that may be charged for a service. Gross revenues include revenues from all sources other than the excise tax. Gross revenues include federal and state grants, taxes received from other sources, service and user charges, and includes revenues from Metro facilities--such as the Performing Arts Center--which are not hit with an excise tax. It is legally possible for excise tax rates to be much higher than 6 percent and to vary from function to function.

What is possible by statute, however, is restricted by Metro ordinance. The Council has established a 6-percent limit on any excise tax imposed by Metro. In FY 91-92, excise taxes were set across the board at 5.25 percent.

John Meek proposed that the charter do the same and provide a flat rate limit that may be imposed on individual functions. Jon Egge agreed, fearing that the regional government might find a high-paying "cash cow" and over use it.

Ray Phelps disagreed, saying there were political aspects to establishing certain rates. He said this was a management and political issue that should not be micro-managed in the charter.

Subcommittee conclusions:

Add a rate limitation.

Support: Egge, Meek

Against: Shoemaker, Myers, Myllenbeck, Phelps

PLANNING SERVICE CHARGES ON LOCAL GOVERNMENTS (PER CAPITA)

Metro imposes a charge on local governments for planning services the district provides. This charge (or "head tax") is levied against individual governments on a per capita basis, not to exceed 51 cents a year. The FY 91-92 charge was 43 cents.

The statutory authority for this tax sunsets July 1, 1993. A majority of the Subcommittee recommends permitting the continuance of the tax.

Subcommittee conclusions:

Continue use of tax.

Support: Shoemaker, Egge, Myers, Myllenbeck, Phelps
Against: Meek

SERVICE AND USER CHARGES

Metro is allowed to impose charges for the use of its services. Charges may be imposed annually at a higher amount than the current actual cost of delivering a certain service. The reason for doing this, according to Dan Cooper, Metro general counsel, is to develop reserves to fund future high-cost needs, such as St. Johns Landfill closure or building a roof for a facility. Frank Josselson, who attended several meetings of the Subcommittee, said that these extra charges, which he called "enterprise revenue," were not adequately identified for the public. Bob Shoemaker proposed that service charge "enterprise revenue" be identified in the annual financial audit. Hardy Myers agreed, but cautioned against the charter imposing very many procedural requirements.

Subcommittee conclusions:

Imposition of service and user charges should be continued with identification of enterprise revenue in each annual financial audit.

Unanimous support

By statute, Metro may use most service charges as general revenue to finance the district's various functions. However, service charges derived from solid waste disposal are specifically limited to solid waste functions (ORS 459.310). Frank Josselson proposed removing that limitation so that enterprise revenues derived from solid waste disposal could be applied to other Metro functions, such as planning. Dan Cooper stated that it would probably require a change in statute to remove the limitation. The Subcommittee took no position on this proposal.

John Meek proposed limiting service charges to the cost of the service for which the charge was made.

Subcommittee conclusions:

Limit amount of charge to cost of service for which charge is made.

Support: Meek
Against: Shoemaker, Myers, Myllenbeck, Phelps
Maybe: Egge

REVENUE BONDS

The district may issue revenue bonds to construct facilities and to carry out any of its functions. Voter approval is not required.

John Meek suggested that the charter limit the issuance of revenue bonds only for specific functions identified in the charter. The sale of revenue bonds to fund construction of the proposed new Metro headquarters would constitute a misuse, in his opinion. Metro would be creating a revenue stream by leasing space to its own departments. This would have the effect of using other Metro revenues to retire revenue bonds sold to construct Metro's headquarters. Dan Cooper said he believed

that financing the construction of general purpose projects in this way is commonly done by municipalities. The last session of the Legislature, in response to Ballot Measure 5, adopted specific authorization for governments to issue very broad-based revenue bonds backed by virtually anything but a pledge to raise additional ad valorem property taxes.

Subcommittee conclusions:

Continue authority without change.

Unanimous support

GENERAL OBLIGATION BONDS

Subject to voter approval, Metro may issue general obligation bonds to fund any of its functions. General obligation bonds, however, are subject to Ballot Measure 5 restrictions, such that any GO bond issue, that would be paid from property taxes in excess of an existing tax base or the \$10/\$1000 limit imposed on local governments as a whole, is limited to the funding of capital improvements and construction.

Subcommittee conclusions:

Continue authority

Unanimous support

* * * *

**REVENUE DEVICES NOW AUTHORIZED BUT NOT NOW USED BY METRO
ARE CONTINUED**

Metro has authority to impose certain taxes which the organization has not yet enacted. The subcommittee discussed whether the charter should continue to authorize the imposition of these revenue options. They are listed below.

AD VALOREM TAX, BEYOND CURRENT IMPOSITION

With voter approval, Metro is authorized to impose property taxes up to \$5/1000 property value. There was division among subcommittee members whether this authority should be continued beyond the current use. Except for property taxes to retire general obligation bonds, Ballot Measure 5 has limited the amount of ad valorem taxes that can be received by local governments at \$10/\$1000, an amount that must be divided among all jurisdictions in the region which tax a particular parcel of property.

John Meek argued for prohibiting Metro's use of ad valorem taxes, except to the extent they are currently used to fund the Zoo and retire general obligation bonds issued to build the Convention Center.

Wes Myllenbeck argued for maintaining Metro's current ad valorem taxing authority. He said that property taxes would have to be considered as a funding source if, in the future, the regional

government should get into human services, libraries or corrections functions.

Subcommittee conclusions:

Continue authority to impose ad valorem property taxes beyond the current rate, subject to voter approval and as otherwise limit by statute.

Support: Shoemaker, Myers, Myllenbeck, Phelps
Against: Egge, Meek

PERSONAL INCOME TAX

The district may impose a personal income tax on every resident and on non-residents who derive income within the district. Oregon statutes limit the rate to 1 percent. Voter approval is required.

Jon Egge and John Meek would prohibit this tax, thus requiring a charter amendment to permit it. Other members believe that requiring voter approval is sufficient protection and not substantially different from charter amendment.

Subcommittee conclusions:

Continue authority.

Support: Shoemaker, Myers, Myllenbeck, Phelps
Against: Egge, Meek

BUSINESS INCOME TAX

Metro may impose a business income tax on every business, limited to 1 percent of net income. Voter approval is required.

Jon Egge and John Meek indicated they would advocate prohibition of this tax.

Subcommittee conclusions:

Continue authority.

Support: Shoemaker, Myers, Myllenbeck, Phelps
Against: Egge, Meek

VEHICLE REGISTRATION FEE

Metro has the authority to impose a vehicle registration fee not to exceed the amount imposed by the state (currently \$30) and dedicated to highway and road use, as provided in the Oregon Constitution. Before the registration fee can be imposed, the district must get voter approval, as well as establish intergovernmental agreements with the local governments in the region.

Wes Myllenbeck indicated he supported enactment by council ordinance, rather than voter

approval as required by statute.

Subcommittee conclusions:

Continue authority.

Support:	Shoemaker, Meek, Myers, Phelps
Against:	Myllenbeck
Maybe:	Egge

SPECIAL ASSESSMENTS

Metro may levy special assessments against property that is directly benefitted by infrastructure projects.

Subcommittee conclusions:

Continue authority.

Unanimous support

EXCISE TAX ON FUTURE METRO FUNCTIONS

Subcommittee conclusions:

Allow authority.

Unanimous support

* * * *

SPECIFIED TAXES TO BE PROHIBITED WITHOUT CHARTER AMENDMENT

The Subcommittee discussed whether to recommend that certain taxes be prohibited by the charter. That way, those taxes could only be imposed through charter amendment.

John Meek supported this point of view. He said, by requiring charter amendment, there would be more scrutiny and public involvement in the process of enacting certain taxes. The organization would have to build consensus by going through a charter amendment to authorize imposition of a particular tax and then referring the resulting tax ordinance out for a vote of the electorate.

Frank Josselson agreed. He said a prohibition on certain taxes would be preferable from a political point of view. It would give the voters the comfort of knowing that it is as difficult as possible for this government to impose a sales, income or property tax.

Wes Myllenbeck disagreed. He said that, right now, we don't know what events might trigger the need for a broad-based tax. Requiring an amendment to the charter is cumbersome and could open the charter to other proposed amendments as well.

The following taxes were proposed for prohibition:

PERSONAL INCOME TAX

Committee conclusions:

Do not prohibit.

Agree: Shoemaker, Myers, Myllenbeck, Phelps
Disagree: Egge, Meek

BUSINESS INCOME TAX

Committee conclusions:

Do not prohibit.

Agree: Shoemaker, Myers, Myllenbeck, Phelps
Disagree: Egge, Meek

PAYROLL TAX, USED FOR PURPOSES OTHER THAN FOR TRI-MET AT THE CURRENT RATE

Committee conclusions:

Do not prohibit.

Agree: Shoemaker, Myers, Myllenbeck, Phelps
Disagree: Egge, Meek

EXCISE TAX ON CONSTRUCTION

Committee conclusions:

Do not prohibit.

Agree: Shoemaker, Egge, Myers, Myllenbeck, Phelps
Disagree: Meek

AD VALOREM TAX, PROHIBITED BEYOND ZOO USE

Committee conclusions:

Do not prohibit.

Agree: Shoemaker, Myers, Myllenbeck, Phelps
Disagree: Egge, Meek

SALES TAX

Committee conclusions:

Do not prohibit.

Agree: Shoemaker, Myers, Myllenbeck, Phelps
Disagree: Egge, Meek

SPECIFIED TAXES WILL REQUIRE VOTER APPROVAL

In the first meeting of the Finance Subcommittee, Chair Shoemaker suggested that imposition of broad-based taxes should require a vote of the people. These are taxes derived from a wide range of the taxpayers and may be used to fund several functions, some of which may not have a revenue stream of their own.

Subcommittee members came to agree and recommended that imposition of the following taxes require approval by the voters:

PERSONAL INCOME TAX

Subcommittee conclusions:

Specify that it requires voter approval.

Unanimous support

BUSINESS INCOME TAX

Wes Myllenbeck stated that he would support enactment by council ordinance.

Subcommittee conclusions:

Specify that it requires voter approval.

Support: Shoemaker, Egge, Meek, Myers, Phelps

Against: Myllenbeck

PAYROLL TAX

Although Metro is not currently authorized to use this revenue-raising device, Tri-Met is. With the possibility of a future merger of the two organizations, thus combining taxing authorities, there was concern by subcommittee members that Metro might eventually increase the payroll tax and use it to fund other functions. Ray Phelps suggested that, if Metro does take over Tri-Met, whatever tax rate being charged at the time would be transferred with the organization. Jon Egge supported an additional restriction of requiring the payroll tax to be exclusively reserved for public transit purposes.

Following subcommittee consideration of the payroll tax, it was pointed out by Metro staff that it is possible for Tri-Met's payroll tax rate to increase beyond its statutory limit of .6 percent (.6 of 1 percent). Jurisdictions within Tri-Met's boundaries are allowed to withdraw from Tri-Met services and also may withdraw their funding of the operation. If that occurs ORS 267.260 allows Tri-Met to increase the rate of any tax currently collected to compensate for revenue formerly contributed by the withdrawing areas. The Subcommittee determined that Metro should maintain that capability. The whole committee should consider whether--if public transit is taken over by the regional government--any withdrawal from public transit should be allowed.

Metro staff also pointed out that Tri-Met is authorized to impose a payroll tax on employees.

The Subcommittee determined that this would not be appropriate for the new regional government.

Subcommittee conclusions:

Payroll tax, used for purposes other than for Tri-Met and at the current rate, will require voter approval. The one exception to this is to allow the organization to make up payroll tax revenues lost because of the withdrawal of a local jurisdiction from transit services.

Unanimous support

AD VALOREM TAX

Subcommittee conclusions:

Specify that it requires voter approval.

Unanimous support

SALES TAX

Subcommittee conclusions:

Specify that it requires voter approval.

Unanimous support

* * * *

**ALL OTHER TAXES MAY BE AUTHORIZED BY COUNCIL ORDINANCE
WITH A 90-DAY DELAY TO ALLOW FOR REFERENDUM**

A majority of the subcommittee voted to authorize Metro to enact any other tax by ordinance and that the charter should state that no tax ordinance could take effect within 90 days of passage to allow for referendum to the people.

Jon Egge said that many taxes may be more politically difficult to enact by ordinance than by a vote of the people. It is easy for elected officials to avoid political heat by simply referring a proposed tax to the voters. And it is easy for the voters to approve a "niche tax" which is not imposed on them. To counter this tendency, Jon Egge favors requiring council members to vote yes or no on the merits of any proposed tax which is not broad based.

In arriving at this recommendation, the subcommittee looked at several revenue options. Their conclusions on these follow.

SYSTEMS DEVELOPMENT CHARGE

Subcommittee conclusions:

Allow by ordinance.

Unanimous support

PER CAPITA TAXES ("HEAD TAX") ON GOVERNMENTS FOR SERVICES RENDERED

Such a tax could facilitate the transfer of local functions to the regional government since it offers a mechanism to pay for providing that function without also transferring to the regional government the local government's financing mechanism, often the property tax. Metro counsel advises that such an imposition probably would require statutory authority; although the constitutional amendment authorizing a home rule charter may be sufficient authority to enact such a tax, since it gives the regional government "jurisdiction over matters of metropolitan concern, as set forth in the charter of the district."

Subcommittee conclusions:

Allow by ordinance.

Support: Shoemaker, Egge, Myers, Myllenbeck, Phelps

Against: Meek

HOTEL/MOTEL TAX

John Meek proposed the prohibition of this tax. He argued that if it was used to fund the Convention Center or Center for the Performing Arts, it would be difficult to understand how a motel in Forest Grove, which would pay the tax, could benefit from increased attendance at these facilities.

Chair Shoemaker argued that the economy of the entire region depended upon substantial businesses locating here. The executives who decide on plant and office location are often influenced by the availability of entertainment (cultural and otherwise). Only if there is a healthy economy will there be clientele for a motel in Forest Grove.

Subcommittee conclusions:

Allow by ordinance.

Support: Shoemaker, Egge, Myers, Myllenbeck, Phelps

Against: Meek

RESTAURANT TAX

The Subcommittee considered this to be a tax applied to the retail level and not based on gross receipts.

Hardy Myers would require voter approval, since this is a sales tax.

Subcommittee conclusions:

Allow by ordinance.

Support: Shoemaker, Egge, Myers, Myllenbeck, Phelps

Against: Meek, Myers

ADMISSIONS TAX ON NON-METRO FUNCTIONS

Subcommittee conclusions:

Allow by ordinance.

Support: Shoemaker, Myers, Egge, Myllenbeck, Phelps

Against: Meek

REAL ESTATE TRANSFER TAX

Jon Egge distinguished this from a "niche" tax since most voters would regard a real estate transfer tax as a tax they might well have to pay some day.

Subcommittee conclusions:

Allow by ordinance.

Support: Shoemaker, Myers, Myllenbeck, Phelps
Against: Egge, Meek

TAX INCREMENT FINANCING

Tax increment financing is most commonly applied by urban renewal districts. Property tax revenues derived from the increase of property values within the area, as it is "renewed," are first used to pay for those infrastructure improvements which caused values to rise.

The Subcommittee also discussed the possibility of applying tax increment financing to other revenue devices, such as hotel/motel taxes. Here, increased revenues gathered due to improved conditions in any area could be reinvested to further improve the area.

Frank Josselson suggested that the regional government be given authority to establish urban renewal districts throughout the region as a way of directing the location of development. Bob Shoemaker agreed, and said if tax increment financing could be used regionwide, development might be accomplished more intelligently rather than opportunistically.

Subcommittee conclusions:

Allow by ordinance.

Unanimous support

BUSINESS LICENSE FEE

Subcommittee conclusions:

Allow by ordinance.

Consensus support

HEATING ENERGY TAX

Subcommittee conclusions:

Allow by ordinance.

Support: Shoemaker, Egge, Myers, Myllenbeck, Phelps
Against: Meek

FRANCHISE FEES

Metro currently has franchising authority, but only for solid waste facilities. Some committee members would like this authority increased so that the district could issue franchises on other activities.

Frank Josselson and Jon Egge specifically supported franchising off-street parking. Frank

Josselson said that a private company currently has a virtual monopoly on Portland's parking lots and that it is government's responsibility, when faced with a monopoly, to do two things: break it up or regulate it. He said that paid parking could be licensed and regulated, much as a franchise, to assure a reasonable rate of return for the operator. It would also enable government to impose a tax and to provide control over parking costs, which are closely related to transit.

In responding to subcommittee questions on franchises, Dan Cooper, Metro general counsel, said that what gives a local government the ability to create a franchise is usually that it has jurisdiction over an area--such as streets--which allows it to take compensation for the use of that area. It would be difficult to show that the regional government would have jurisdiction over parking lots. He said, however, that it might be possible for the regional government to use its functional planning power to deal with regulatory issues about the number of off-street parking lots and spaces within the downtown area.

Subcommittee conclusions:

Allow establishment of franchises by ordinance.

Unanimous support

EXCISE TAX ON CONSTRUCTION

Members of the subcommittee expressed interest in a construction excise tax used in Montgomery County, Md. It is a tax levied, not on a property's value, but on the amount of floor area in a building. Exemptions are made for multi-family housing. Frank Josselson said he would like to see this tax applied here and imposed with the intent of controlling development in the area. Well-located, appropriate construction would have a lower construction surcharge, he said. Poorly located construction would have a higher surcharge. This would provide an opportunity for the regional government to reinforce important planning concepts that are embodied in the regional framework plan.

Jon Egge said that a tax such as this could work well if development could be influenced beyond the urban growth boundary where the control over locating infrastructure is most needed. He said a construction excise tax would not be sufficient to redirect policy within the urban area.

Committee conclusions:

Allow by ordinance.

Support:	Shoemaker, Myers, Myllenbeck, Phelps
Against:	Egge, Meek

* * * *

Respectfully submitted,

Bob Shoemaker
Chair

REVENUE OPTIONS

AD VALOREM TAX

Authority: Cities, counties, county service districts, school districts, Metro (268.500), special districts.

Metro uses for funding the Zoo and retiring debt on the Convention Center.

Obstacles: Voter approval required. Limits of Ballot Measure 5.

BUSINESS LICENSE FEE

Authority: Cities and home rule counties.

Note: Metro administers a contractors' and builders' license fee program for cities in the region, Portland exempted. Metro retains administrative costs for the program (701.015).

EXCISE TAXES

Description: Taxes levied on specific commodities or services. Metro may impose them for the use of Metro facilities and services, limited to 6% of the gross revenues collected by Metro (268.507). Current tax rate (FY '91-92) is set at 5.25%. The tax is not imposed on the Coliseum, Stadium or PCPA under the terms of agreement with Portland.

Hotel/motel

Authority: Cities and home rule counties.

Note: Multnomah County transfers 3% of its 9% hotel/motel tax to MERC.

Revenue production: 1% on all of the region's hotels could raise about \$1.5 million.

Gasoline

Authority: Cities and home rule counties.

Obstacles: Proceeds restricted to fund highway and road construction and maintenance.

Note: Multnomah County (at 3%) and Washington County (at 1%) are the only jurisdictions in the area to use the tax.

Revenue production: One penny/gallon could raise \$3.1-4.2 million/year.

Rental car

Used by Multnomah County at 10%.

Revenue production: 1% on rentals in the region could raise \$1-1.6 million.

Entertainment admissions

Used by Metro, capped at 6% of gross revenues collected, and limited to Metro facilities. Could be added to movie theaters, night clubs.

Prepared food

Fuel oil

Revenue production: 1% could raise \$19-37 million/year.

Video rental

Video poker

Parking spaces

Real estate transfer

Used by Washington County at .1%. Statute moratorium (306.815) until 1994 prevents other jurisdictions from taking advantage of it.

Revenue production: 1% could raise \$19-38 million/year.

Solid waste

Metro imposes on publications, disposal and user fees, regional transfer charges, franchises, salvage revenue, tarp sales and sublease income.

Zoo

Metro imposes on admissions building and conveyance rentals, food service, retail sales, tuition and lectures, exhibits, and railroad rides.

Building management

Metro imposes on subleases and parking fees.

Planning and Development

Metro imposes on conference fees and Urban Growth Boundary fees.

Transportation

Metro imposes on contract services and publications.

Convention Center

Metro imposes on building and equipment rental, utility service, parking, and labor reimbursement.

Construction (gross value)**Construction excise tax scheme (gross floor area), from Montgomery County, Maryland**

Imposes an excise tax on persons who build or add to a building.

Tax is based on the square feet of gross floor area, not on property value.

Tax rates are lower on buildings owned by non-profit organizations compared to rates of those owned by businesses. Tax rates are also lower on multi-family housing as compared to single-family dwellings.

"Gross floor area" doesn't include unfinished basements, parking garages or areas, or heating and air-conditioning equipment.

Exemptions are allowed for initial amounts of space in certain types of buildings. The tax does not apply to the first 1,200 square feet in any non-residential building, nor to the first 1,200 of each dwelling in a multi-family building.

Government buildings and buildings used for religious activities are exempt from the tax.

VEHICLE REGISTRATION FEES

Authority: State, counties, mass transit and transportation districts, and Metro (268.503, by voter approval). Metro doesn't use. State imposes a \$30 fee.

Obstacles: Constitution (Article IX, Section 3a) limits to highway and road use.

PAYROLL TAX

Used by Tri-Met at .615%.

PERSONAL INCOME TAX

Authority: Home rule charter and Metro (268.505, with voter approval).

Note: Not utilized by any jurisdiction other than the state.

BUSINESS INCOME TAX

Authority: Cities, home rule counties and Metro, with voter approval (268.505).

Note: Multnomah County levies 1.46%.

Revenue production: 1% could raise \$19-37 million.

SALES TAXES

Authority: Home rule charter

Note: Not used by state or local governments.

Revenue production: 1% could raise \$1-1.5 million/year.

SPECIAL ASSESSMENTS

Description: Levied on properties that are directly benefitted by infrastructure projects. Funding for these projects may be structures as pay-as-you-go or proceeds used to pay debt service on bonds.

Authority: ORS 268.46 enables Metro to establish special assessment districts, but not used currently.

Obstacles: Assessed property owners may resist.

Local improvement districts

Description: Used by cities (ORS 223.387) to fund infrastructure projects such as streets, sidewalks, water and sewer improvements, and neighborhood recreational facilities and equipment. Formulas for assessments on properties are usually based on frontage, square footage or combination of the two.

Economic improvement districts

Description: Assessments on lots which are benefitted by development improvements. Projects include parking lot improvements, landscaping of public areas, or business promotional activities. May be levied for a maximum of 5 years, not to exceed 1% of the true cash value of the property in any year.

Authority: cities.

Obstacles: Can't be levied against residential property. Subject to Ballot Measure 5 limitations.

TAX INCREMENT FINANCING**Urban renewal districts**

Description: Established to benefit "blighted" property conditions within an area of a community. Funds derived from the increase of property values in the district are reinvested to pay for infrastructure improvements in the district, further increasing the property values. Tax increment funds are often used to pay bonded indebtedness incurred at the formation of the districts.

Authority: Cities and counties (ORS Chapter 457 and Oregon Constitution Article IX, Section 1c).

Obstacles: Vulnerable to variations in tax rate. Subject to Ballot Measure 5 limitations.

Hotel/motel taxes

Taken on increases in proceeds. Being used to finance Curry County Convention Center project.

Sales taxes

Taken on increases in proceeds. Used in Baltimore to fund its Convention Center.

Payroll taxes

Taken on increases in payrolls due to business development.

USER FEES AND SERVICE CHARGES

Authority: Municipal corporations, including Metro (268.515).

Note: Metro may impose and collect in payment for its services, and dedicate it to financing planning, construction and maintenance of its facilities.

Freeway use

Add coin boxes at freeway on-ramps.

SYSTEM DEVELOPMENT CHARGES

Authority: Cities, counties, certain special districts, not Metro.

Note: Assessed against new properties to provide infrastructure needs.

Obstacles: Can only be used to fund capital improvements in connection with water, transportation, and parks and recreation. Can't be applied against schools.

IMPACT FEES

Charge to cover costs for added infrastructure needs, such as increased road use.

DEVELOPER EXACTIONS

Authority: Cities and counties

Developer payments to help defray infrastructure costs. Negotiated on a project-by-project basis.

TRANSFERS FROM THE STATE

Gasoline taxes

24% shared with counties and 15.6% with cities. Must be spent on roads.

Cigarette taxes

About 15% shared with cities and counties.

Liquor taxes

About 45% distributed to cities and counties.

FRANCHISE FEES

Authority: Cities, on electric, natural gas, telephone and cable TV utilities, as well as on garbage collectors. Metro may adopt a franchise system for the disposal of solid and liquid waste (268.318).

TIMBER REVENUES

US Forest Service timber revenues

Go to 31 counties with timber sales.

O & C Lands

Distributed to 17 counties.

PAYMENTS IN LIEU OF PROPERTY TAXES

Private timber owners/timber severance taxes

Tax based on stumpage value of timber at harvest time.

Publicly owned electric utility and cooperatives tax

Operators of leased port property

Operators of rural telephone exchanges

GRANTS

Obstacles: Lack of resources from state and federal governments. Application preparation is costly.
Creates an incentive to be needy.

REVENUE SHARING SCHEMES

Minneapolis\St.Paul

Description:

Revenue redistribution to local communities within the regional area.

Derived from 40% of commercial and industrial property tax base growth.

Growth is determined by subtracting commercial-industrial (C-I) tax capacity for 1971 from the current C-I tax capacity.

C-I property in place prior to 1971 is exempt.

Revenue is redistributed based on local fiscal capacity, which is derived by dividing the value of real property in a city by the city's population and then comparing it with the average fiscal capacity of the metro area. Cities with below-average fiscal capacity receive a larger contribution from the pool.

Missouri

Plan adopted by the legislature to distribute local general sales taxes to municipalities in two ways--"point-of-sale" and "pool."

"Pool" jurisdictions--cities and unincorporated county areas--share sales tax proceeds on a per capita basis. All area incorporated since 1983 must be a "pool" city.

The remaining jurisdictions are "point-of-sale" cities--currently 37. They are allowed to keep all sales tax proceeds generated within the cities' boundaries.

The system creates inequities, such that the 1987 pool allocation was \$71 per capita, however, one point-of-sale city received \$2,800 per capita.

From a county perspective, any annexation or incorporation is a direct revenue loss.

REVENUE OPTIONS

AD VALOREM TAX

Authority: Cities, counties, county service districts, school districts, Metro (268.500), special districts.

Metro uses for funding the Zoo and retiring debt on the Convention Center.

Obstacles: Voter approval required. Limits of Ballot Measure 5.

BUSINESS LICENSE FEE

Authority: Cities and home rule counties.

Note: Metro administers a contractors' and builders' license fee program for cities in the region, Portland exempted. Metro retains administrative costs for the program (701.015).

EXCISE TAXES

Description: Taxes levied on specific commodities or services. Metro may impose them for the use of Metro facilities and services, limited to 6% of the gross revenues collected by Metro (268.507). Current tax rate (FY '91-92) is set at 5.25%. The tax is not imposed on the Coliseum, Stadium or PCPA under the terms of agreement with Portland.

Hotel/motel

Authority: Cities and home rule counties.

Note: Multnomah County transfers 3% of its 9% hotel/motel tax to MERC.

Revenue production: 1% on all of the region's hotels could raise about \$1.5 million.

Gasoline

Authority: Cities and home rule counties.

Obstacles: Proceeds restricted to fund highway and road construction and maintenance.

Note: Multnomah County (at 3%) and Washington County (at 1%) are the only jurisdictions in the area to use the tax.

Revenue production: One penny/gallon could raise \$3.1-4.2 million/year.

Rental car

Used by Multnomah County at 10%.

Revenue production: 1% on rentals in the region could raise \$1-1.6 million.

Entertainment admissions

Used by Metro, capped at 6% of gross revenues collected, and limited to Metro facilities. Could be added to movie theaters, night clubs.

Prepared food

Fuel oil

Revenue production: 1% could raise \$19-37 million/year.

Video rental

Video poker

Parking spaces

Real estate transfer

Used by Washington County at .1%. Statute moratorium (306.815) until 1994 prevents other jurisdictions from taking advantage of it.

Revenue production: 1% could raise \$19-38 million/year.

Solid waste

Metro imposes on publications, disposal and user fees, regional transfer charges, franchises, salvage revenue, tarp sales and sublease income.

Zoo

Metro imposes on admissions building and conveyance rentals, food service, retail sales, tuition and lectures, exhibits, and railroad rides.

Building management

Metro imposes on subleases and parking fees.

Planning and Development

Metro imposes on conference fees and Urban Growth Boundary fees.

Transportation

Metro imposes on contract services and publications.

Convention Center

Metro imposes on building and equipment rental, utility service, parking, and labor reimbursement.

Construction (gross value)**Construction excise tax scheme (gross floor area), from Montgomery County, Maryland**

Imposes an excise tax on persons who build or add to a building.

Tax is based on the square feet of gross floor area, not on property value.

Tax rates are lower on buildings owned by non-profit organizations compared to rates of those owned by businesses. Tax rates are also lower on multi-family housing as compared to single-family dwellings.

"Gross floor area" doesn't include unfinished basements, parking garages or areas, or heating and air-conditioning equipment.

Exemptions are allowed for initial amounts of space in certain types of buildings. The tax does not apply to the first 1,200 square feet in any non-residential building, nor to the first 1,200 of each dwelling in a multi-family building.

Government buildings and buildings used for religious activities are exempt from the tax.

VEHICLE REGISTRATION FEES

Authority: State, counties, mass transit and transportation districts, and Metro (268.503, by voter approval). Metro doesn't use. State imposes a \$30 fee.

Obstacles: Constitution (Article IX, Section 3a) limits to highway and road use.

PAYROLL TAX

Used by Tri-Met at .615%.

PERSONAL INCOME TAX

Authority: Home rule charter and Metro (268.505, with voter approval).

Note: Not utilized by any jurisdiction other than the state.

BUSINESS INCOME TAX

Authority: Cities, home rule counties and Metro, with voter approval (268.505).

Note: Multnomah County levies 1.46%.

Revenue production: 1% could raise \$19-37 million.

SALES TAXES

Authority: Home rule charter

Note: Not used by state or local governments.

Revenue production: 1% could raise \$1-1.5 million/year.

SPECIAL ASSESSMENTS

Description: Levied on properties that are directly benefitted by infrastructure projects. Funding for these projects may be structures as pay-as-you-go or proceeds used to pay debt service on bonds.

Authority: ORS 268.46 enables Metro to establish special assessment districts, but not used currently.

Obstacles: Assessed property owners may resist.

Local improvement districts

Description: Used by cities (ORS 223.387) to fund infrastructure projects such as streets, sidewalks, water and sewer improvements, and neighborhood recreational facilities and equipment. Formulas for assessments on properties are usually based on frontage, square footage or combination of the two.

Economic improvement districts

Description: Assessments on lots which are benefitted by development improvements. Projects include parking lot improvements, landscaping of public areas, or business promotional activities. May be levied for a maximum of 5 years, not to exceed 1% of the true cash value of the property in any year.

Authority: cities.

Obstacles: Can't be levied against residential property. Subject to Ballot Measure 5 limitations.

TAX INCREMENT FINANCING**Urban renewal districts**

Description: Established to benefit "blighted" property conditions within an area of a community. Funds derived from the increase of property values in the district are reinvested to pay for infrastructure improvements in the district, further increasing the property values. Tax increment funds are often used to pay bonded indebtedness incurred at the formation of the districts.

Authority: Cities and counties (ORS Chapter 457 and Oregon Constitution Article IX, Section 1c).

Obstacles: Vulnerable to variations in tax rate. Subject to Ballot Measure 5 limitations.

Hotel/motel taxes

Taken on increases in proceeds. Being used to finance Curry County Convention Center project.

Sales taxes

Taken on increases in proceeds. Used in Baltimore to fund its Convention Center.

Payroll taxes

Taken on increases in payrolls due to business development.

USER FEES AND SERVICE CHARGES

Authority: Municipal corporations, including Metro (268.515).

Note: Metro may impose and collect in payment for its services, and dedicate it to financing planning, construction and maintenance of its facilities.

Freeway use

Add coin boxes at freeway on-ramps.

SYSTEM DEVELOPMENT CHARGES

Authority: Cities, counties, certain special districts, not Metro.

Note: Assessed against new properties to provide infrastructure needs.

Obstacles: Can only be used to fund capital improvements in connection with water, transportation, and parks and recreation. Can't be applied against schools.

IMPACT FEES

Charge to cover costs for added infrastructure needs, such as increased road use.

DEVELOPER EXACTIONS

Authority: Cities and counties

Developer payments to help defray infrastructure costs. Negotiated on a project-by-project basis.

TRANSFERS FROM THE STATE

Gasoline taxes

24% shared with counties and 15.6% with cities. Must be spent on roads.

Cigarette taxes

About 15% shared with cities and counties.

Liquor taxes

About 45% distributed to cities and counties.

FRANCHISE FEES

Authority: Cities, on electric, natural gas, telephone and cable TV utilities, as well as on garbage collectors. Metro may adopt a franchise system for the disposal of solid and liquid waste (268.318).

TIMBER REVENUES

US Forest Service timber revenues

Go to 31 counties with timber sales.

O & C Lands

Distributed to 17 counties.

PAYMENTS IN LIEU OF PROPERTY TAXES

Private timber owners/timber severance taxes

Tax based on stumpage value of timber at harvest time.

Publicly owned electric utility and cooperatives tax

Operators of leased port property

Operators of rural telephone exchanges

GRANTS

Obstacles: Lack of resources from state and federal governments. Application preparation is costly.
Creates an incentive to be needy.

REVENUE SHARING SCHEMES

Minneapolis\St.Paul

Description:

Revenue redistribution to local communities within the regional area.

Derived from 40% of commercial and industrial property tax base growth.

Growth is determined by subtracting commercial-industrial (C-I) tax capacity for 1971 from the current C-I tax capacity.

C-I property in place prior to 1971 is exempt.

Revenue is redistributed based on local fiscal capacity, which is derived by dividing the value of real property in a city by the city's population and then comparing it with the average fiscal capacity of the metro area. Cities with below-average fiscal capacity receive a larger contribution from the pool.

Missouri

Plan adopted by the legislature to distribute local general sales taxes to municipalities in two ways--"point-of-sale" and "pool."

"Pool" jurisdictions--cities and unincorporated county areas--share sales tax proceeds on a per capita basis. All area incorporated since 1983 must be a "pool" city.

The remaining jurisdictions are "point-of-sale" cities--currently 37. They are allowed to keep all sales tax proceeds generated within the cities' boundaries.

The system creates inequities, such that the 1987 pool allocation was \$71 per capita, however, one point-of-sale city received \$2,800 per capita.

From a county perspective, any annexation or incorporation is a direct revenue loss.