

METRO  
CHARTER  
COMMITTEE

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AGENDA

DATE: June 11, 1992  
MEETING: Full Committee  
DAY: Thursday  
TIME: 6:00 p.m.  
PLACE: Metro, Room 440, 2000 SW 1st Avenue, Portland

6:00 Correction and adoption of minutes from April 16, 23,  
30 and May 7.

6:15 Discussion and decisions on pending issues for the  
Charter.

10:00 Meeting adjourned.

MINUTES OF THE CHARTER COMMITTEE  
OF THE METROPOLITAN SERVICE DISTRICT

June 11, 1992

Metro Center, Room 440

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

Committee Members Absent: John Meek, Ray Phelps, Mimi Urbigkeit

Chair Myers called the regular meeting to order at 6:15 p.m.

1. Correction and adoption of minutes.

Chair Myers asked for corrections to the April 16, April 23, April 30 and May 7 minutes.

Motion: Norm Wyers moved, Ned Look seconded, to approve the minutes from April 16, April 23, April 30, and May 7 as distributed.

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

2. Discussion and decisions on pending issues for the charter.

Chair Myers said that he had earlier distributed to the members a list of proposed questions around which to focus the discussion. He said that he also distributed a memo that stressed that it was not intended to be exhaustive of all matters that will be discussed at the next meeting in connection with the actual redraft of the document and does not preclude the Committee from adding to the list or moving items between lists or deferring discussion until the public hearing process. He said that he would like to have a starting agreement on the minimum considerations for the evening. If the Committee finishes within the allotted meeting time, and there are other issues on the list that members would like to take up, those can be addressed then. He said that the proposed agenda for this evening includes the determination of the title and name of the regional government, treatment of the boundaries, whether "metropolitan concern" should be further defined, determination of contracting with local governments, name of the regionally elected official and the official who is elected by the members of the council, and the RPAC issues. He asked if there were any issues that should be deleted or added to the agenda for the evening.

3. Title of charter and name of the regional government.

Ned Look suggested that the name of the government be METRO. He said that it is known as Metro. It does not limit it to spelling it out as Metropolitan Service District does now. It keeps it out of the argument about whether it is a planning or service agency. The name METRO is beginning to be known. He said that other suggestions get pretty cumbersome.

Charlie Hales asked if anyone has made a real case that the name be changed.



Chair Myers said that the Committee is dealing with the issue in a fleeting way at one point or another during the process. He said that, up until now, there has not been occasion to consider the case for or against it. He asked if Charlie Hales was referring to not changing it from Metropolitan Service District.

Charlie Hales said that he likes the idea of formalizing the name METRO and dropping the reference to a Metropolitan Service District. He said that he supports the idea.

Mary Tobias said that she cannot discern whether the regional government fits the traditional concept of a service district with some of the functions that have been added. She said that it is a hybrid. Metropolitan Service District is not an accurate title anymore.

Chair Myers said that if the Committee were to go with a longer name, Metropolitan Regional Planning and Service District introduces the notion of a planning function along with the service function. He said that, personally, he sees merit in staying away from the terms "regional" or "Portland" in the name.

Mary Tobias said that Tri-County Council appeals to her. Tri-County has a nice ring to it.

Motion: Ned Look moved, Norm Wyers second, that the name of the government assigned by the charter would be METRO.

Norm Wyers asked if the title would be all in capital letters.

Ned Look said yes.

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

Mary Tobias asked what the title of the charter would be.

Chair Myers said that the title would be "The 1992 METRO Charter". He said that was implied in the vote for the name of the organization.

#### 4. Determination of Treatment of the Boundaries.

Chair Myers said that, in earlier Committee discussions, the Committee has isolated a couple of major alternative approaches to boundaries. He said that one approach is reflected in the pending draft which cross-references the area of governance to include the territory within the November 3, 1992 boundaries of the Metropolitan Service District. It would include any territory thereafter annexed. The other alternative is to include, as a part of the charter, a metes and bounds description of the region. He said that would duplicate what was in the statutes before the repeal in the last session, but which are now still the actual boundaries of the district. He asked if there were any other approaches to be put on the table.

Tim Sercombe asked if the second approach included that the boundaries would be set in the charter so that there would need to be a charter amendment to change the boundaries.

Chair Myers said that is an implication of that.

Charlie Hales asked if another approach would be to have the charter silent on that issue and the boundaries would be set by council ordinance.

Tim Sercombe said that would be an implication of the first option. The first option is that the area is the present area and then, as they discussed at the Saturday session, further boundary changes would be done by ordinance subject to a vote. The second option is that the boundaries are referred to as part of the charter and a charter amendment would be needed to change the boundaries.

Charlie Hales asked if, assuming the Committee takes the first approach where the charter would reference the 1992 boundaries of the Metropolitan Service District and gave the authority, by implication or by outright statement to the council, to further amend those boundaries by ordinance, would Metro's annexations be subject to state annexation law.

Tim Sercombe said yes.

Charlie Hales said that it would be a conventional annexation by a municipality or any other local government and bound by the same statutes and procedures that would govern any other.

Tim Sercombe said yes, but by putting in the charter that boundary changes must be done by ordinance, it requires that the local and state processes be followed.

Chair Myers said that there is a serious question to whether the Committee wants to put this in the posture where it is going to take an actual charter amendment to change the boundaries of the district. He said that, if the Committee agrees, it would push the second option to the side. He asked if there was a motion to include in the charter a metes and bounds description of the district.

Ron Cease asked if a metes and bounds description is included, then, in order to change it, would the charter have to be changed.

Chair Myers said that it would take a charter amendment. He said that if there is not a proposal to modify the draft, it will be left as it is written.

Mary Tobias asked if the draft, from Saturday's meeting, has been changed.

Tim Sercombe said that he had a note that the Committee talked about changing the sentence "...territory may be withdrawn only as provided by ordinance" to say that any boundary change, whether it be annexation or withdrawal, shall be done by ordinance and that ordinance shall be subject to a vote that does not have an emergency clause on it.

Chair Myers said that, subject to the Committee's review of that revision, the draft provision on the boundaries of the district will become part of the charter.

**5. Determination of whether the regional government should be authorized to contract with local governments for the performance of services.**

Janet Whitfield said that Tim Sercombe said that there might need to be a statement about the regional government's authority to contract with local governments to perform services in order for the regional government to have the authority. She said that, a couple of months ago, there was a motion to prohibit intergovernmental agreements, but the motion failed.



Ron Cease said that the earlier concern was whether that, open-ended, would allow Metro to contract to do something that is not otherwise authorized. He gave the example of taking on the local aspect of a function because a unit wanted to contract for Metro to do with. He said that he is not bothered by it. He asked if there was any way of wording it that would exclude the taking on of additional functions by way of contract, but permitting them to do other things by contract.

Tim Sercombe said that, under current state law, as a unit of local government it is subject to certain statutes that allow municipal governments to contract with each other to perform functions that the other one wants done. The regional government would be subject to those statutes. As a matter of state law, it could perform services by contracting with a governmental unit. He said that the issue really is whether or not this kind of activity is a function. He said that it might be classified as a function if the charter is silent so the government would have to go through the function assumption process in order to contract at all.

Ron Cease said that, even in the cases where Metro has authorization to do something, currently, they may contract with local government to do some aspect of the function. If there is not something in the charter, they would not be able to do that. He asked if Metro has formal contracts with other units of government to do various things.

Ken Gervais, Metro staff, said that there are quite a few formal contracts. He gave the example of the MERC. He said that if the city of Portland has the authority to do something, they can contract with Metro to do that under the current law.

Ron Cease asked if there was not a provision in the charter, would they be able to do what they have done with the MERC. He asked if Tim Sercombe is raising the question if it is not in the charter, then in order to contract at all, that would be another kind of function and they would have to go through the processes to get authorization.

Tim Sercombe said that it is an ambiguity. He said that, for example, if Metro were to do local planning services by contract for a local government, the charter talks about needing voter or RPAC approval for certain types of planning functions. It also says that if it is not a planning function, it can be done by ordinance as long as it is described why it is of metropolitan concern. They would have to go through whatever process necessary in order to take on the function.

Ned Look asked what the present law is that allows Metro to take over MERC.

Ron Cease said that they can contract under current law.

Charlie Hales asked if that is specifically stated or if it is just understood.

Ron Cease said that it is specifically stated. He said that, on the one hand, there is concern that if they are able to contract, they will take on more than their share of something. On the other hand, if they are not authorized to contract, or if it is prohibited, then they would be forced to go back to RPAC for cases where it would not be merited. It would really tie its hands. He said that the organization and the ability of local governments to work with the organization to contract for things that they want to do together is limited. He said that the current law allows them to contract. He said that he does not know of any case where that has been abused. He said that, if they are not given authority, they would have to go back for that function or get authorization in each contractual case. He said that it would be better to give them the authorization to do it.

Chair Myers said that it is a consensual arrangement. By definition, the local government entity has to be a willing partner.

Larry Derr said that it is not a question of whether they have the authority to contract because the statutory authority does give them that now and will continue. The question is whether or not they would have the authority to enter into a particular substantive area of government service which would be, presumably, subject to whatever the charter has said about authority entering into the particular subject areas. Once they have that authority, they can do it by contract or directly, or however they want to do it. He said that, as Tim Sercombe suggests, if the charter was silent on the issue, one possible outcome is that it has contracting authority under ORS 190, but perhaps it does not have authority to do things which it is not otherwise, by the charter, authorized to do. He said that would be his preference.

Ron Cease said that he would prefer to have it more open. On the other hand, it would be preferable to go Larry Derr's route than to simply not give them any contractual authority at all. He said that he would like it to be worded to make it clear that they could contract in reference to the general functions or powers that they have under the charter.

Larry Derr said that if they could say that they have the authority to contract with governments to carry out services for which they are otherwise authorized to perform, it would make explicit what they assume is the line now.

Janet Whitfield said that not only could Metro contract with another government for Metro to do something, but Metro could contract with another government for another government too take on a duty of Metro's. She asked if that could happen outright, or would it have to go through the process.

Larry Derr said that they were talking about contracting for Metro to perform some function.

Janet Whitfield asked, reversing that, would there still need to be a qualification in the charter to allow it.

Tim Sercombe said that, under the general powers grant in the charter and the statutory authority, the entity can contract to perform services or receive services. In both of those cases, as the charter is presently written, both the performance and receipt of services would have to be in an area that it is otherwise authorized to perform a function in, even if it is an individual government as opposed to providing a service to a class of governments or class of persons. He said that is the implication of the current draft. He said that the only change that is necessary is to change it to say that it can perform any service to local governments whether or not it has functional authority in that general area. If that change is desired, something should be said in the charter. Otherwise, the general powers grant picks it up.

Ron Cease asked how broad the authority is under the general powers grant if the issue is left unstated in the charter.

Tim Sercombe said that if it is an area that they are authorized to operate in, then they could either contract for the receipt of services or contract to provide services in that area.

Ron Cease asked about the situation with the MERC. He said that the MERC has some functional authority under the statute that they have not assumed. He said that there is also some authority that they can take to the voters in order to do it. He said that it is more limited. On the other hand, in a day and age when the governments should work together and they should do things more efficiently, he said that two or more of them could not sit down and do it. If it is left unsaid, in terms of any function that they would have under the charter, they could perform any contract related to those functions.



Tim Sercombe said yes. He said that in the example he was using, if one city wanted to contract with Metro to provide planning services, the way that the charter is worded, that is not one of their functions. It is a local government service function that requires special approval. They could not do that the way that it is currently written. He said that he is not saying whether that is good or bad, but if the Committee wants to do something different, they need to add something.

Chair Myers asked if there is any member who wants to propose a motion with broader authority for Metro to contract beyond contracting in the context of a function which has been assigned or otherwise acquired by virtue of provision in the charter. Otherwise, nothing else needs to be done in relation to the charter. The general powers provision will give them the authority, with respect to functions that they have or can acquire pursuant to the charter, to contract in regard to those.

Ron Cease said that would reduce the authority that they have under current law. He said that the contractual authority that exists under the current law is pretty broad.

Tim Sercombe said that it is similar under the current law for the conferring of certain powers and process for taking on additional powers. There is authority which says "to provide a local aspect of a public service, the district may take over facilities and functions of another public corporation, city or county, to exercise powers in accordance with an agreement by which the district assumes the functions of another corporation, city or county".

Ron Cease asked, under current law, if Multnomah County wanted to contract with Metro to do its parks service, could it do that.

Tim Sercombe said, as he reads the law, yes.

Motion: Ron Cease moved, Wes Myllenbeck seconded, that, in the charter, the regional government shall have the same authority to contract as that in the current statute.

Chair Myers said that the motion would be to authorize Metro in the charter to contract for the provisions of the metropolitan aspect of a function which has not been granted yet by the charter or obtained pursuant to the charter. He said that it would also include the local aspect of a particular issue.

Ron Cease said that his intention is that if the city of Portland wants to contract with Metro for a service, they would be able to do that as they are currently under the existing law.

Ned Look asked, if Multnomah County wanted Metro to take over its parks, could it do that under the draft as it now stands. He said that they could do it under the current law.

Ron Cease said that, as he understands it, if the Committee does nothing, Metro would be able to contract only in those service areas that they are authorized, specifically in the charter, to do. Beyond that, they would not be able to contract. Under current law, if Multnomah County and Metro sat down and said that they wanted a joint arrangement for Metro to do a local function, they could do that. He said that they could also do it under the proposal that he made. If nothing is put in there, they would not be able to do it.

Jon Egge said that is not completely accurate. He said that there is the RPAC process that they could go through in order to undertake local functions or regional functions. It would need to go through RPAC for the assumption of a new power, which is completely appropriate.

Ron Cease said that it also means that anytime that they want to contract on something outside of what was specifically authorized in the charter, they would have to go to the RPAC and get approval. He said that would be very time consuming.

Tim Sercombe said that he may have mispoken in terms of current law. He said that it appears that there are certain functions that are expressly conferred on the Metropolitan Service District and some that are subject to prior approval of the electors. He said that it appears that the statutes may require that the electors of the district to approve the assumption of the functions pertaining to local services and that the contracting power of the government may be subject to that as well.

Ron Cease said that he was under the impression that there is a provision in the current law that would allow Metro to contract with a government.

Tim Sercombe said that the law says "by contract, the district may assume any function of any public corporation in the district that the district has power to assume under this chapter".

Ron Cease said that he thought it was instructive, but Metro has not done any of that.

Charlie Hales said that they have.

Janet Whitfield asked if ORS 190 also applies to Metro.

Ron Cease said that the regional government has not taken over strictly a local part of a function. He said that the concern that they are going to run rampant to take over these functions, historically, is not demonstrated. He said that a desire to provide for a formal structure in all those occasions where the government may want to do something on a cooperative basis simply prevents them from performing those activities that would be easily done if there was an agreement. In any case, if it requires money, the governments will need to work that out. Unless there is a way to finance the function, the regional government will not be able to do it.

Chair Myers asked Tim Sercombe to reread the statute.

Tim Sercombe said that ORS 268.350 said that "the district may contract with public or private agency to operate any facility or perform a function that the district is authorized to operate or perform. By contract the district may assume any function of any public corporation, city, or county in the district that the district has power to assume under this chapter." He said that the statute suggests that as long as it is in the general subject area of the chapter, whether it requires elector approval or not, it could contract to assume that function on a case by case basis. If it is going to provide it on a broader basis, it will take different processes.

Frank Josselson said that he checked ORS 190 to determine the accuracy of the legal advice that the Committee has been given. He said that ORS 190 provides that "a unit of local government may enter into a written agreement with any other unit or units of local government for the performance of any or all functions and activities that a party to the agreement, its officers or agencies, have authority to perform". ORS 190.030 provides "an agreement under ORS 190.010 that has been entered into, the unit of local government, consolidated department, intergovernmental entity or administrative officer designated therein to perform specified functions or activities is vested with all powers, rights and duties relating to those functions and activities that were vested by law in each separate party to the agreement, its officers, and agencies". He said that the statute says that whether Metro is limited to performing functions limited by its own charter, this statute gives it authority to take on responsibilities of any other unit of government that the other unit of government has the authority to perform. Unless the charter provides some limitation on the power of Metro to contract for services,



then ORS 190 will control. He said that it may be as Tim Sercombe is suggesting that the language in the general powers clause or elsewhere in the draft of the charter provides that limitation. If it does not, it would seem that ORS 190 is clear about it.

Jon Egge said that the statute says "that the district has power to assume" and ORS 268 limits itself to the metropolitan aspects of any function. He said that ORS 190 supersedes that limitation and overrides it and says that if either party has the authority to do it, then it is transferable.

Frank Josselson said that is what ORS 190 says.

Larry Derr said that it is an interesting question between ORS 268 and ORS 190 and which controls ORS 268. He said that the more specific nature of ORS 268 might be a limitation on ORS 190, but after the charter goes in place, ORS 268 is gone. He said that, based on what Frank Josselson has discovered, maybe there is a more restrictive contracting power in ORS 268 than what they would have under the charter if the charter was silent. If it was silent, ORS 190 would control.

Tim Sercombe said that ORS 190 is a general authorizing statute that applies to all sorts of governments. It talks about what any of the local governments can do by contract with another government. He said that he believes that if the charter is more restrictive in what this government can do than what ORS 190 generally allows, that the charter would control the government. The charter, as presently drafted, talks about a government of limited functions and the processes for assuming those functions, and it is logical that the provision of services to a local government is a function under this charter. If that is true, then the function assumption process must be followed under the charter in order to do that. Notwithstanding what ORS 190 says, the charter, if it is restrictive in that fashion, would have that affect. He said that he is not recommending that it do that, but it is an implication of the way that it is drafted now. If the Committee wants this entity to be able to contract at will with local governments to provide local services by contract, it should be made clear in the charter that it is one of the things that the government can do.

Chair Myers said that is the thrust of the pending motion as he understands it.

Jon Egge said that he personally thinks that it clearly goes beyond ORS 268 current language and it has been misrepresented as reflecting what the current ORS 268 says. He said that ORS 268 says that "the district has power to assume under this chapter". He said that he would be willing to take the ORS 268.350 section out and set it into the law if that is the intent. He said that he thinks the intent is to broaden the authority of the government to contract for services.

Ron Cease said that his motion was to give the same contracting authority that the current law would authorize. He said that he would not give them any more.

Jon Egge said that it is very clear to him that they will authorize this government to take on the functions that are enumerated in this chapter. ORS 268 does not talk about the local aspects of any function, it only talks about the regional aspects of any function.

Chair Myers asked what the effect is of the existence of the provisions of ORS 190 and ORS 268. Does ORS 190 supplement authority given under ORS 268.

Tim Sercombe said that ORS 190 has been interpreted by the attorney general to not be a power conferring provision. The government has to have some authority to perform that service for it to contract to receive that service, but it can take on the functions of some other government by contract. He said that construction came out in two key attorney general decisions last spring. He said that ORS 268--if it is more specific on what the district can contract about and how it can contract--would

control over the general statute.

Chair Myers asked if the motion is to provide a specific authorization that Metro, with regard to a function that it could acquire under the charter, would have the authority to enter into a contract for the provisioning of a function, without regard to the RPAC process.

Ron Cease said that, as he understands it, presumably, if Metro has a metropolitan area function, it would be able to, under the general powers grant, to contract with local governments in reference to dealing with that function. The issue gets into the question of whether it could contract with local governments to do something else, including perhaps a case like planning where it has the metropolitan function but not the local function. If a city says that they want to contract with Metro to provide planning at the local level, presumably, the general powers grant would not give them authority to do that. He said that as he understands the current statute, they have authority to contract with local governments beyond their metropolitan functions on a local side if they or the local governments want to do that. He said that his motion simply said that they would be authorized to contract with the local governments to do anything that current statutes would allow them to do. He said that there might be a question as to how extensive that is. He said that he is not suggesting that they are given any more authority.

Chair Myers said that it may depend on what current statute Ron Cease is referring to.

Ron Cease said that he is referring to any of the current statutes.

Chair Myers said that he reads ORS 190 as conferring an authority broader than ORS 268.

Ron Cease said that Tim Sercombe said that it does not apply in this case.

Chair Myers asked, regardless of what applies, if Ron Cease was intending to take the motion as far as ORS 190 would allow, or only as far as ORS 268.

Ron Cease said that he was talking about ORS 268.

Jon Egge asked who Ron Cease was referring to when he said *they*. He asked if Ron Cease was referring to the local governments. In other words, that Metro could contract to perform any services that local government was authorized to perform.

Ron Cease said no. He said that they could contract with Metro to perform the local portion of a regional function if the two parties decided to do that.

Norm Wyers said that *they* is Metro.

Ned Look asked if there is any distinction between Metro initiating to take over local government services and local governments themselves initiating a request for Metro to take over some of their local services. He said that Neil Goldschmidt has a committee charged to look into duplication and simplifying of local government. He said that it is like a cloud over local governments head in that if they do not do something about duplication, they could lose state financing. He said that he did not want Metro to arbitrarily superimpose taking over services that they have not been doing, but that have been done by local government. He said that he is not sure he would want to preclude such a request coming from local governments for them to do it.

Tim Sercombe said that is partially the issue that the Committee is talking about--whether or not Metro takes over things by a matter of exercising its power through RPAC or the voters or whether or



not it favorably reacts to or agrees with a local government after a local government request to do services on behalf of them.

Ned Look said that he is in favor of that one. He said that he does not think he is in favor of the other way around. He said that he wonders if that is a distinction that they are trying to make.

Chair Myers said that the charter will provide a process by which Metro can assume metropolitan aspects of additional functions. He said that the motion, as he understands it, would be to say that without formally going through the assumption process, but with regard to any function which it would otherwise be empowered to get by that process, it can contract with one or more units of local government to perform. He said that is the parameter which could be said to correspond with ORS 268 because it speaks to powers to assume.

Ron Cease said that the RPAC part of that would be to say that, for example, Gresham wanted to contract with Metro to do some planning. It would be precluded from doing that under the general powers arrangement. Requiring the RPAC would be the same thing as saying that here are two units who want to work together to perform those functions--one city says that it wants Metro to do this under contract--and they have to take it to a board of other local governments and the board does not like it and will not agree to have the contract fulfilled even though the two units participating want to do it. He said that is crazy to put the authority in the hands of a group of people who, for whatever reason, do not want to do that in a time when there should be more efficiency and cooperation.

Frank Josselson said that he thinks the debate points out one of the many problems that the Committee will have and that the public will eventually have when the charter is adopted, which is the very broad general powers provisions that the Committee adopted on Saturday. Had the general, very broad powers been limited to the specific functions enumerated in the charter or added, the Committee would not be having this discussion because its ability to contract would be so limited. He said that this is not the first time that the Committee, or its successors, will have problems with the broad, general grant provision. He said that he wants to raise it again as an illustration of the problem with that particular provision. He said that he feels, that rather than have a bunch of lawyers and legislators debate what ORS 190 and ORS 268 may mean, how they are read together, and what the attorney general said in 1973, that the preferable way to handle the situation is to decide and say, in the charter what contracts the government can enter into. He said that he understands Ron Cease's motion is that the government would be entitled to enter into any contracts that it would have been entitled to enter into under ORS 268.

Chair Myers said that he does not think that the discussion the Committee had around the specific wording of the general powers grant really affects this issue under either of those wordings. He said that he thinks it was the view of the Committee that a general powers grant--and either version was tied back to the functions that are assigned or acquired--still leaves a serious question about whether it could undertake, by contract, to perform the service that it had not acquired according to the provisions of the charter, under either version of the general powers grant. He said that the important thing is that the motion invites the Committee to agree on what it can contract on.

Frank Josselson said that the way he would vote on the motion would depend on the accuracy of Chair Myers' interpretation of the general powers clause that the Committee adopted on Saturday. If the general powers clause adopted by the Committee does give the agency only general powers with respect to the enumerated functions, then he will not support the motion because it is a considerably more limited grant of authority to contract than this motion would contemplate. He said that if the Committee agrees that is what the general powers provision means, then he will oppose the motion.

Charlie Hales said that he is confused. He said that he does not think there is conflict between what

the Committee is now discussing and the general powers grant so much as there is a conflict between what the Committee is now discussing and the RPAC process in section nine where it says "before undertaking any additional functions beyond those authorized under sections six, seven, and eight," not beyond those authorized under the general powers grant, but beyond those which are delineated in six, seven, and eight. He said that he does not see how Metro would be able to avoid going to the RPAC to execute an intergovernmental agreement for anything that was not mentioned in six, seven, and eight. If they wanted to contract with Multnomah County to manage local parks programs, they would have to go to the RPAC. If they wanted to contract with Washington County to do migrant worker housing, they would have to go to the RPAC. Contract or no, the Committee has created, in the RPAC, a mechanism that requires RPAC approval before they do anything beyond those listed functions.

Chair Myers said that he thinks the thrust of the motion would be to say that, with regard to a function that Metro could acquire pursuant to the charter, it may, by contract, undertake that activity without going to the RPAC.

Charlie Hales said that the Committee would be laying out an exception.

Tim Sercombe said that it is classifying this with respect to the meaning of function of the charter. He said that it is not a general powers grant issue. It is an issue of whether this type of activity is contracting a function, does it have to go through the function assumption process, and if so, what kind.

Charlie Hales asked if his examples were accurate.

Tim Sercombe said that his examples were correct.

Charlie Hales said that if the motion is adopted, then given that parks are in the purview of those services or functions which could be added generally by RPAC approval, then, specifically, for that county, Metro could go ahead and do it just by executing an intergovernmental agreement.

Chair Myers said that is his understanding.

Larry Derr said that he thinks the Committee should speak in those kinds of terms that Charlie Hales described rather than cross-referencing to ORS 268. He said that he disagrees with Tim Sercombe's interpretation of ORS 268. He said that the language in the section is "those functions which Metro is authorized to perform". He said that he would read authorized to mean not simply as the potential power, but as that has been granted by whatever process is available currently.

Tim Sercombe said that the statute says it "has the power to assume".

Ron Cease said that there is some confusion. Under the current statute, they are authorized to do things that they are doing. Under the proposed charter, it is much more specific language. There is a limit beyond those listed.

Larry Derr said that the first sentence says "is limited to those functions or facilities that the district...".

Tim Sercombe said that is the construct the other way.

Larry Derr said that, in any event, his point is not to quibble over the language, but to make it clear whether or not the Committee is talking about those things that are within its constitutional authority



when done or just those things which have been specifically authorized within the charter and charter processes.

Chair Myers said that the motion is to provide, in the charter, that, with regard to a function that the government could assume pursuant to the mechanisms of the charter, it may, without RPAC approval or a vote of the people, undertake the performance of those by contract.

Ron Cease said that there is enough confusion about this. He asked if it would be better to pass on it and ask Tim Sercombe to review it so that the Committee has a clear indication of what it means. He said that there is uncertainty about what it means. He is concerned and objects vehemently to any arrangement which says that anytime a local government wants to contract with Metro for the local aspect of a regional function that it would have to go to a RPAC composed largely of local governments and make them sit in judgement on that when they have, in a real sense, no particular jurisdiction or interest in it. He said that there is some real confusion about how extensive this is. If that is true, the Committee should come back to it.

Jon Egge said that he wanted to make it perfectly clear that this is the cherry-picking clause. There has been a lot of characterization around the table of what this may or may not do. He said that it puts Metro in an entrepreneurial spirit in terms of acquiring new functions. It is just a subterfuge to the entire RPAC process that the Committee has set up. If there are any perceived efficiencies out of being bigger, he said that he would like to see them. He said that he has not seen any that have worked. He said that he will vehemently oppose any attempt to broaden the authority that currently exists. He said that if the Committee is going to create a general purpose government, let him know now so that he can go out and work against it because he does not think that the people of this region want a general purpose government.

Ned Look said that Ron Cease's comments were in the posture of a local government coming to Metro and asking Metro to assume and carry out a particular service for them. Precluding that from happening under the climate the region is in would be a mistake. He asked Ron Cease his opinion on Metro initiating the take over of a service that is now being performed by local government. He asked if it was possible to make a distinction in the way that the charter is written.

Ron Cease said that it is possible to make the distinction. He said that he thinks everyone is being overly nervous about a piece of this motion. He said that it is not going to happen unless the local governments concerned allows it to happen. In a very time when the state is talking about ways to improve efficiency and more cooperation, it is completely backward to give them less powers than they have under current law.

Mary Tobias said that she does not know how she feels about this. She said that she tends to agree with the suggestion to table it. She said that she thinks that Ron Cease's comments are a very important point in today's world. In response to that, any process where there was a consideration of a contract between two governments--specifically the regional government and a local government--for the performance of a service, the Committee might want to bring it to the regional table. It would bring focus to the table so that, if it were to be brought to the table for discussion, it might be the easiest and fastest way to alert all governments to the possibility of an efficiency that may have never occurred to them before. If it is done piecemeal, there are a couple of odd phenomenon that happen. One, there is a sense of turf in there and a little bit of paranoia that occurs naturally. If the discussion comes to the regional table first and then goes to the contract, there is opportunity to dispel that. The other part of that is the ability to initiate in a much more communicative way. Communication tends to break down and people get very busy within their own sphere of influence, and even though they try to be in the best communication with others, there is a cliff in which information falls off all the time and there are cases where perfectly well intentioned people end up being reactive to a situation in



which they might have been active initially. She said that she is only talking about initiating the discussion at the regional table for the regional significance and impact, not the business of contracting or the process of how the contract process occurs between the two agencies. She said that it would be helpful to bring it to the regional table.

Ron Cease said that he would have a problem if RPAC was required to have to approve the contract. He said that the notion to take the proposal to RPAC for discussion is perfectly reasonable. He said that Mary Tobias' point is well taken.

Friendly amendment to the motion:

Ron Cease amended, Wes Myllenbeck approved, the motion to clarify that the authority is intended to be no broader than the authority under ORS 268 and it would require that a proposal for contracting be brought to the RPAC for discussion.

Mary Tobias said that DLCD is working on an urban growth management study. They have a set of draft recommendations that are out for comment. She said that she had a meeting earlier in the day with a large number of people out of Tualatin Valley Economic Development to discuss the amendments. She said that there are a number of things that they take exception to. Because of the process that is being used, of bringing the whole concept to a large statewide table first for discussion, taking comment generally, going back and revising, and then coming back for discussion and public hearing, they are given the opportunity to be active. If they were only able to address the issue at the statewide table when it went to public hearing, they would be forced to be reactive. Forcing people into the reactive mode because the bigger area for discussion, at a time when not looking at an ordinance, is not developed has caused a lot of knocking of heads and resistance. Anything that the Committee can do to create an active policy mechanism in this region versus a reactive one is an advantage.

Chair Myers said that the modification of the motion is to include a requirement of consultation with RPAC in the context of contracting to perform a function which Metro could otherwise acquire according to the procedures of the charter.

Charlie Hales asked if it would be consultation rather than requiring the consent as is the case with the assumption of functions.

Chair Myers said, as distinct from a contractual arrangement, that is correct.

Larry Derr said that another reason for requiring it to go through procedures for acquiring functions--the total procedures, not just advice--is that he cannot imagine any government taking on a function, even if it is by contract where some part of the function is paid for by the other government without increasing the cost of operating the regional government. He gave the example that the contracting governing says that they will pay for the other government's personnel positions to do the job and provide the people to do the job. There is still the overhead--the personnel operations and management functions of the people. As functions are added to a government, costs and complexities are also added. If the Committee has agreed on processes that must be followed before functions can be added, then one should not be able to make an end run on those processes simply because one unit of local government is willing to agree to hand it over.

Matt Hennessee moved to close debate. There was no second.

Mary Tobias asked to take it out of the context of Metro and the local government. She asked if non-



government corporation A wanted to contract with non-government corporation B, could corporation C veto that.

Tim Sercombe said not as a matter of contract law.

Mary Tobias asked how this holds up to contract law.

Tim Sercombe said that he thinks it relates less to contract law than it does to the process under the charter for assuming functions. Clearly, the government has the authority to contract. The issue is whether or not the function assumption provision in the charter limit it to building a contract in a particular way.

Chair Myers said that it is not the same as private contract law.

Mary Tobias said that she was wondering, if this were to be litigated, if that would be a challenge point.

Tim Sercombe said no. He said that the Committee has talked about it with respect to ORS 268 and the charter. He asked if it was a fair summary to say that the Committee is talking about the contracting ability regarding local aspects of a public service relating to matters of metropolitan concern. The statute, ORS 268.330, currently talks about local aspects of a public service in terms of contracting ability. He said that what the Committee is talking about is contracting ability regarding local aspects of a public service regarding matters of metropolitan concern. Matters of metropolitan concern relates to the Committee's discussion that this pertains to something that it could assume as a matter of function in the charter.

Chair Myers said that, under the present charter language, the formal approval process extends to the assumption of the metropolitan aspect of a function which is not assigned. He said that the motion, at a minimum, would pertain to the metropolitan aspect of a function which could otherwise be acquired by the procedures of the charter. The question is, then, does it also pertain to the local aspects.

Tim Sercombe said that he thought the Committee was talking about contracting for the provision of constituent services with local government.

Charlie Hales said that parks are a matter of metropolitan concern, but if one local government that provided parks wanted to get Metro to manage them, they are talking about local service, which happens to be providing a service which is of metropolitan concern.

Tim Sercombe said that is why he is suggesting local aspects of a public service on matters of metropolitan concern and that the contracting ability be listed as a function that can be assumed with RPAC consultation, which is the motion as he understands it.

Bob Shoemaker said that he thought he heard Ron Cease say that the motion was to continue the present authority of Metro and--added to that by amendment--subject to consultation by RPAC. He said that there is no provision of the present law that makes it be a matter of metropolitan concern. It is simply to provide a local aspect of a public service. He said that he needed clarity as to the motion since the metropolitan concern aspect is not in present law.

Ron Cease said that there is nothing that they could not take on. They could not contract with anyone for metropolitan aspect because that would cover the whole region, they would have to go through the normal process.

Bob Shoemaker asked if the public service that is the subject of the contract is one of metropolitan concern. Does there need to be a finding that the public service is of metropolitan concern? He said that throws a complexity in here and provides an issue for litigation that they do not need.

Tim Sercombe said that the conversation has gone back and forth. At one time the motion was phrased that it should pertain to functions that are allowed by or permitted by ORS 268. At other time, the motion was discussed in terms of anything that it can do under the charter. It can contract with a local government to do that in a particular instance. He said that is why he was asking for clarification earlier if it was more toward the latter or the former. If it is pertaining to ORS 268, then the contracting abilities will be limited to functions which can be assumed under ORS 268 which is a narrower group of things than functions that can be assumed under the charter. The functions that can be assumed under ORS 268 are those that are listed in it and may or may not be subject to elector approval.

Ron Cease said that he is confused. He said that he was under the impression, from Tim Sercombe's earlier comments, that if the Committee did nothing, the broad powers that are approved under the charter would allow them to contract only for the regional aspects of those functions for local governments. He asked if that was correct or if they could contract with local government for any other aspect of those functions.

Tim Sercombe said that, with respect to any function that is approved under the charter by a process, or expressly permitted under the charter, the district can contract in whatever way necessary to carry out that function. He said that Ron Cease is correct in that if they wanted to contract with respect to a local provision of a service, and it did not have function authority under that to provide that service in general or in particular, it would need to go through that process of assuming the function under the charter.

Ron Cease suggested that the motion be removed from the table. He said that it is an important item that the Committee resolve, but it should be removed and the Committee should ask Tim Sercombe to look at this and come back at another time with more information.

Jon Egge said that if the Committee had the information in writing, it would be easier to contemplate.

Chair Myers said that a written version will be drafted.

Frank Josselson asked that, in the record of the proceedings, the opinion of the counsel be recorded that the general powers clause that the Committee had in this draft does what Chair Myers said that it does--provides powers only with respect to the functions that are enumerated in the charter.

Chair Myers said that is what it is intended to say. He said that the language, as modified by the Committee on Saturday, states "when carrying out functions allowed by or under this charter".

Frank Josselson said that is the first sentence. The next three sentences may or may not be modified. He said that is why he preferred the language that he proposed on Saturday because it made it very clear. He asked, once the charter says that it has all the powers that could be conferred by state or federal law, how many more powers are there.

Chair Myers said that the issue is whether or not that is in regard to the functions. He suggested that the Committee hold that question and when they look at the draft, they can see to what extent that is the point of concern and whether the draft needs to be further clarified. He said that he thought the Committee members all understood or intended that, however else it is worded, it is talking about general powers with regard to carrying out the functions under the charter.



Frank Josselson said that the Committee defeated an amendment to the charter that would have done exactly that.

Chair Myers said he did not pick up that that was really the issue. He suggested that the Committee visit it again later.

6. Determination whether "metropolitan concern" should be further defined.

Chair Myers said that the question is whether there is a specific proposal with regard to a further definition. The Committee has talked about the issue quite a bit. If there is not a specific proposal, it will be left as it is in the draft.

Matt Hennessee said that part of the reason he raised the issue at the last meeting was because, although the Committee has labored over defining metropolitan concern and decided that it would be better not to have anything in the charter for a number of reasons, the language that Tim Sercombe proposed, as an opportunity to share some parameters--although clearly not defining a total list of metropolitan concern--made sense. As a result of the Committee's discussion tonight, he said that he construed metropolitan concern to be that of if there is a local government which has a problem and they come to Metro to see resolution, their local problem becomes of metropolitan concern. He said that the discussion has already gone on around the table. He suggested that the Committee's original thought to not define metropolitan concern is still relevant.

7. Determination of name for the Region Executive.

Chair Myers said that the title *Region Executive* was chosen by Tim Sercombe as a space filler in the charter until the Committee decided what it wanted to call it. He said that, since the Committee has adopted the name METRO for the government, he would not expect another term, such as *region* would appear in the title. Whatever else the title is, it would be METRO.

Motion: Matt Hennessee moved, Mary Tobias seconded, that the name of the regionally elected METRO official be *METRO President*.

Charlie Hales said that President is the most accurate description of what the office is, but, outside of those who are familiar with the Senate President in the state legislative process, the term President has become associated with the one office of the President of the Federal Government and it will be very confusing to have it used locally.

Bob Shoemaker said that most organizations and companies have a president and people tend to regard that as appropriate.

Vote on the motion:

Judy Carnahan, Ron Cease, Larry Derr, Charlie Hales, Matt Hennessee, Ned Look, Wes Myllenbeck, Bob Shoemaker, Mary Tobias, Norm Wyers, and Chair Myers voted aye. Jon Egge, and Frank Josselson voted nay. John Meek, Ray Phelps, and Mimi Urbigkeit were absent. The vote was 11 ayes to 2 nays and the motion passed.

7. Determination of the name for Region Council President.

Ron Cease asked if that person has a role other than presiding when the regionally elected official is not there.

Charlie Hales said no.

Ron Cease suggested that the position have the title of presiding officer pro temp. He said that since the person is not elected at large, he would not put him/her in the same category as the president. He said that all the other titles are misleading because the person is just the presiding officer when the president is not there.

Bob Shoemaker suggested that the position have the title of vice chair because it does not connote the other powers of president, but is the second rate chair.

Motion: Bob Shoemaker moved, Ron Cease seconded, that the name of the METRO official elected by the council from the councilors shall be *Vice Chair*.

Vote on the motion: Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Wes Myllenbeck, Bob Shoemaker, Mary Tobias, Norm Wyers, and Chair Myers voted aye. Frank Josselson and Ned Look voted nay. John Meek, Ray Phelps, and Mimi Urbigkeit were absent. The vote was 11 ayes to 2 nays and the motion passed.

8. Determination of provisions regarding Regional Policy Advisory Committee.

Chair Myers asked the Committee to look at the name of RPAC first. In the pre-charter drafting discussions, he said that he understood that RPAC stood for Regional Policy Alternatives Committee. JPACT is the Joint Policy Alternatives Committee.

Charlie Hales said that JPACT is the Joint Policy Advisory Committee.

Jon Egge said that TPAC is Transportation Policy Alternatives Committee.

Chair Myers said that the name in the pending draft is Regional Policy Advisory Committee. He asked if there is a motion to modify the name. If not, the name will stand as it now is.

Motion: Bob Shoemaker moved, Norm Wyers seconded, that the name of RPAC be modified to be *METRO Policy Advisory Committee (MPAC)*.

Ron Cease said that *advisory* bothers him because it is more than advisory in some cases. It actually performs a veto role.

Bob Shoemaker said that it does not provide a veto role. If it does not approve the function, Metro can take it to the voters.

Ron Cease said that, for practical purposes, it is a veto power.

Mary Tobias said that, at one time, the constituency of the committee was pretty broad.

Chair Myers said that Mary Tobias is getting out how the composition of the committee will reflect in



the name.

Mary Tobias said that is true. She said that, in terms of Metro being in the title, if the Committee restricts more than they might want to over time. For example, in 100 years, the boundaries of the district may not have changed, but the issues might have which would extend the influence of the committee.

Bob Shoemaker said that the committee would be strictly plugged into Metro and would not have duties that transcend Metro.

Vote on the motion:

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

Chair Myers asked the Committee to move on to the membership of MPAC, specifically, what governmental units ought to be reflected in the membership of the MPAC. He said that he assumed the Committee was talking about special districts, counties and cities. He said that the RGC proposal has Oregon state government as a member of RPAC.

Frank Josselson suggested that the Committee accept the RGC proposal, but modify it to not include the three citizens from each county in as much as there is an elected council of representatives who are presumably representative of the citizens of each county. He suggested that the Oregon state government representative should also not be included.

Motion:

Frank Josselson moved, Matt Hennessee seconded, that the MPAC membership shall consist of one representative from each county, two from the city of Portland, one from the largest city in each county (Portland excluded), one representing the other cities in each county, three from special districts, and one from Tri-Met.

Jon Egge asked if it was implicit that those members are all elected officials.

Matt Hennessee said yes.

Bob Shoemaker said that the Tri-Met member would not be.

Chair Myers asked Frank Josselson if he intended his motion to reach into the further description of the individuals as contained in the RGC proposal.

Frank Josselson said that his proposal did not go that far. He said that he was just thinking in terms of representation and where they ought to come from as opposed to whether they ought to be elected officials as opposed to being people who are appointed by elected officials. He said that he would like to make those separate questions.

Bob Shoemaker asked for the arguments for the exclusions.

Frank Josselson said that, in terms of excluding the citizens, there is an election process to elect representatives to the regional government and adding a citizen from each county is unnecessary. He said that a 19 member council is too big. He said that he would remove the Oregon state government

representative because Oregon state government has plenty of opportunities to influence the council without being a part of the MPAC.

Matt Hennessee said that he seconded the motion because he agrees that the total membership is way too large. He said that he would like to pull a few more out. He said that he always gets concerned when there are citizens who are not elected on boards, sitting around the table with those who are elected, because it does imbalance it. Many times, citizens get overshadowed by elected officials because the opinions of citizens are not always heard in a forum like that. Regarding the Oregon state government, he said that unless it was someone who is elected, it makes no sense to have a state department appointed official sitting on the board for the same reason that it should be totally elected officials.

Frank Josselson asked what other exclusions Matt Hennessee would make.

Matt Hennessee said that he did not know if it made sense to have Tri-Met sitting at the table, particularly with the fact that there could be an issue with Tri-Met coming to the board. He said that perhaps special districts have a reason to be at the table, but he believes there is a way for the special districts to input into the process.

Friendly amendment to the motion: Frank Josselson amended, Matt Hennessee approved, the motion to exclude a representative from Tri-Met.

Ron Cease said that he does not see the members from each county, and two members from Portland as a problem. He is troubled by the fact that there are six other city representative and three special districts, which he assumed would be in the other two counties because there are not many special districts left in Multnomah County. He said that it is pretty heavy on the smaller units. He said that he thinks it is distorted. He said that he realizes that the politics of it is to try to satisfy everyone, but, in terms of representation, it is weighed a little too much toward the small cities. He said that there does not need to be a representative from the largest city in each county and then another representative for the other cities in each county. If there was one representative for all the cities in each county, excluding Portland because it is so big, it would be more balanced.

Matt Hennessee asked if Ron Cease had an amendment.

Ron Cease said that he would prefer one from each county, one from Portland, one representing the cities in each county, excluding Portland, two from the special districts and remove Tri-Met and the state government. It would be a body about half of the size proposed currently.

Friendly amendment to the motion: Frank Josselson amended the motion to state that the MPAC will have a membership consisting of one from each county, one from the city of Portland, one from the other cities in Multnomah County, one each from Clackamas County and Washington County, and two special districts.

Bob Shoemaker said that he would like to hear Mike McKeever's, RGC staff, opinion.

Ned Look said that he has attended, as an observer, many of the RGC meetings as well as meeting with the local governments in Multnomah County. He said that this is an area that both the RGC and cities feel very strongly about. He said that he would like Mike McKeever speak to the present stand and to what extent there are concerns with what has been suggested.



Mike McKeever said that there probably is not a single right answer. He said that one of the two reasons that he would be concerned about taking the last round of amendments from Ron Cease, taking the size down that far, is that the local government representation on the MPAC that RGC proposed was taken verbatim out of a long and hard bought deal that was made between all the local governments and Metro to set up the current RPAC. He said that does not include the special district or Tri-Met portions of the recommendation. The local government division is a precedent that RGC thinks Metro is happy with. The second reason for concern is that some of the powers that MPAC has are very hard hitting. On some of the issues, when expanding a service, this group is empowered to make a decision that, in effect, binds all of the rest of the local governments in the region to transfer a portion of the service that is currently delivered by local governments to the regional government. If the size is cut down so much that very few local governments actually sit and participate in that decision, and then further go with a simple majority, five local governments are empowered to bind 27 or 28 cities and counties and many more special districts through this transfer. He said that is not enough representation to make a hard hitting decision like that.

Ned Look asked Mike McKeever about the state representative. He said that he assumed that the person would be in the area of planning. He asked who it would be from the state and why does there need to be a state representative.

Mike McKeever said that it would be up to the state to determine which agency is represented. He said that is as critical as the rest of the recommendation, as are the citizens.

Ned Look asked how critical Tri-Met is.

Mike McKeever said that he is not sure about Tri-Met. Since there are other regional committees, such as JPACT, which involve Tri-Met, they are a guaranteed regional player. He said that he did not know if it would cause a lot of concern.

Chair Myers asked what the thinking was about the state representative being part of MPAC, apart from how it is appointed.

Mike McKeever said that many of the issues that Metro deals with involve state interest, whether it is planning or solid waste or transportation. He said that he is not sure that it is a real fundamental issue, but there are other avenues to get the state input in the process.

Mary Tobias said that she is going to step out of her role of representing the cities in Washington County and speak to this from her perspective in her professional career. She said that she spends a great deal of her time trying to convince business that it is imperative for them to be part of the advanced policy making work in order to really be able to shape public policy from a perspective that serves a growing economy. As part of that, she said that she must work equally hard to convince government that one of the reasons that they are always getting bashed at the end is because they rarely bring people into the process early on. She said that three citizens will not represent the entire constituent base of the region, and it very frequently will self-serve a special interest group, but it does bring another perspective to the government table that does not get there through any other mechanism. She said, going back to the land use planning she mentioned earlier, LCDC made the absolute hardest, widest thrown net to try to involve anyone in Oregon who wanted to be involved. It began, and stayed that way, with professional government planners meeting routinely to talk about planning issues from a planning perspective. When talking about those issues from the perspective of being the one who has to make it work, things change rather dramatically. The earlier the 'real life' element can be inserted into the process of public policy making, then the stronger the outcome. She said that she is not real concerned about the size of the group because, ultimately, regardless of how the structure will work, Metro calls the shots. They either call it through the process and through the



lobby of the MPAC or by feeling so confident in their decision that they go to a vote of the electorate. She said that they have the ultimate hammer and the more input they get and the broader perspective to whatever they decide to do with a matter of metropolitan significance, the better served the region is. She said that she would retain the three citizen appointments. She said that she sat through the RPAC/JPACT/TPAC membership discussions and it was very hard fought. She said that the ultimate compromise has not hurt the region since it is being used at the JPACT level.

Charlie Hales said that he does not think that the citizen representation on the MPAC is all that critical. He said that the reason for creating the MPAC is to place a brake on the acquisitive tendencies of Metro with respect to the local governments. It is primarily a local government sounding board for Metro. A selection of three citizens out of the region and putting them in that context is going to have them be pretty out of place. He said that it is very different from a planning commission or other citizen involvement processes to have three people injected into what is going to boil down to a negotiation between local governments in some sort of collective body and the regional government in the form of Metro councilors.

Mary Tobias said that she disagreed because of her experience. She said that she is the only non-government official that sits with the Washington County managers routinely to discuss issues of regional concern in order to bring those back into the private sector so that the private sector is coming along in decisions at the same time.

Charlie Hales said that it is a different kind of negotiation.

Mary Tobias said that it is an analogous negotiation because eventually it has to be settled in the real world.

Jon Egge said that he agrees with part of what Mary Tobias says for a different reason. He said that the size of this group is much less important than the size of the council that is being put together because the council is meeting at a regular basis trying to decide a multitude of issues all the time. He said that he favors having a broader input. He said that he agrees with Charlie Hales on the citizen representation. He said that the citizen will be totally out of place and there is no reason to have citizens membership. He said that he also does not see a reason to have state membership. He said that he would recommend taking four members out of it which would bring it down to 15. He said that Tri-Met has a real role to play, because Tri-Met will have on a regular basis with any additional functions and powers.

Frank Josselson said that he would like to withdraw his amended motion to restate his original motion, which did not include a Oregon state representative or citizens.

Motion: Frank Josselson moved, Jon Egge seconded, that the MPAC membership shall consist of one from each county, two from the city of Portland, one from the largest city in each county (Portland excluded), one representing the other cities in each county, three from special districts, and one from Tri-Met.

Frank Josselson said that he is persuaded by everything that Mike McKeever has said--it is a local government vehicle and was worked out over a long period of time by Metro and local governments.

Matt Hennessee said that this is politics and that is all it is. He said that anyone sitting around the table now talking about anything else is wrong. He said that these people will be making political decisions. There is a way for Tri-Met to input. He said that it does not matter to him whether or not Tri-Met is at the table. He said that the whole thing gets ridiculous when you start fooling around



with it.

Wes Myllenbeck said that he would like to keep the citizens on it. He said that, having served on a number of committees and task forces, there always needs to be someone to ask questions or raise issues that elected officials might not raise.

Amendment to the motion:

Matt Hennessee moved, Mary Tobias seconded, to amend the motion to include the three citizens, one from each county.

Vote on the amendment:

Judy Carnahan, Ron Cease, Matt Hennessee, Ned Look, Wes Myllenbeck, Bob Shoemaker, Mary Tobias, Norm Wyers, and Chair Myers voted aye. Larry Derr, Jon Egge, Charlie Hales, and Frank Josselson voted nay. John Meek, Ray Phelps and Mimi Urbigkeit were absent. The vote was 9 ayes to 4 nays and the motion passed.

Restatement of amended motion:

The MPAC membership shall consist of one from each county, two from the city of Portland, one from the largest city in each county (Portland excluded), one representing the other cities in each county, three from special districts, one citizen from each county, and one from Tri-Met.

Bob Shoemaker said that the Oregon state representative is the only member from the RGC recommendation that is not included.

Vote on the amended motion:

Larry Derr, Jon Egge, Charlie Hales, Frank Josselson, Ned Look, Wes Myllenbeck, Bob Shoemaker, Norm Wyers, and Chair Myers voted aye. Judy Carnahan, Ron Cease, Matt Hennessee, and Mary Tobias voted nay. John Meek, Ray Phelps, and Mimi Urbigkeit were absent. The vote was 9 ayes to 4 nays and the motion passed.

Chair Myers asked the Committee to review the characteristics of the members. He said that the RGC proposal is that every member is an elected official, except for the three citizens and the Tri-Met representative.

Motion:

Frank Josselson moved, Jon Egge seconded, that every member is an elected official, except for the three citizens and the Tri-Met representative.

Mary Tobias suggested that the Tri-Met representative be a member of the Tri-Met board as opposed to the staff. She said that the Tri-Met person should be a peer, and a staff person is not a peer to the elected officials.

Friendly amendment to the motion:

Mary Tobias amended, Frank Josselson agreed, that the motion also state that the Tri-Met representative be a member of the Tri-Met board of directors.

Charlie Hales said that he assumes it will be mechanically possible to deal with the issue of Tri-Met's absorption here just as it is elsewhere. If Tri-Met goes away or is absorbed by Metro, it will not require a charter amendment to deal with the composition of the MPAC.

Chair Myers said that the composition of this, as described by the RGC proposal, is that there will be a Tri-Met representative while it is not operated by Metro. Once Tri-Met is absorbed by Metro, it will not be a member of MPAC. He asked if that was the Committee's intent.

The Committee agreed that was the intent of the motion.

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

Chair Myers asked the Committee to move on to the appointment mechanisms for MPAC.

Frank Josselson suggested that the three citizens be appointed by the governing bodies of the county from which they are selected and if any county disappears, then all the representatives from that county disappear.

Jon Egge said the part about the county disappearing does not need to be part of the motion because it is implicit.

Motion: Frank Josselson moved, Norm Wyers seconded, that the three citizens be appointed by the governing bodies of the county from which the citizen is selected.

Ron Cease said that he would prefer if they were appointed by the president with council confirmation. He said that the local government people ought to be appointed by the local governments. He said that the way it is done now is that the cities in a county get together to elect a representative and the county commission would get together to elect their representative. In terms of the citizen rotation, there are only three. If there is to be some sort of balance, in terms of who they represent, it is preferable that they are appointed by one authority with some sort of requirement that they have somewhat different backgrounds so there are not three people with the same background.

Chair Myers said that the RGC proposal states that the citizens would be appointed by the Metro council.

Jon Egge said that Matt Hennessee said it eloquently when he said that it is a political event. He said that it ought to be a local government program and the local governments should be allowed to do the appointing. He said that he does not see any reason to have the Metro council or Metro executive involved in appointing membership to the group. He said that it is clearly intended to be a vehicle of local government.

Ned Look said that the local governments are proposing that the government of Metro do the appointing.

Mike McKeever said that the RGC was trying to use as many elements of the existing RPAC--the discussions, negotiations, and arrangements that have been put in place--as possible. He said that the citizen appointments by Metro was part of the arrangement in setting up the existing RPAC. He said that is the fundamental reason for that recommendation. He said that there was no lengthy debate over whether it would change the nature of them, whether they were appointed by Metro or by the local governments.



Bob Shoemaker asked if it is working out alright.

Ken Gervais, Metro staff, said that they really have not done anything.

Mary Tobias said that one of her intents throughout the whole process has been to build a partnership between the regional government and the local government. She asked Mike McKeever if he sees one or the other of the two options furthering that goal more. For instance, if the citizens are brought on by Metro, does that assist that partnership--the evolution of working together--more than if the local governments do or is it neutral?

Mike McKeever said that it is not a significant issue in that regard one way or another.

Bob Shoemaker said that part of politics is the art of persuasion. The presence of citizens on this local government group is to bring in perspective of citizens to the group which may differ from the perspective of elected officials. If the citizens are appointed by elected officials, their fealty is to those elected officials and one cannot count on getting the kind of citizen perspective that is the reason for having them on there in the first place. He said that if they are going to be part of the committee, it makes better sense to let them be appointed by Metro than by the counties.

Charlie Hales said that he agreed. He said that, after this motion, he would suggest that the Committee not take the recommendation about having Metro councilors on the MPAC. He said that Metro councilors should not be advising themselves. Therefore, it is more important that these citizens be appointed by the Metro council than by the counties.

Mary Tobias asked, if the appointing authority is Metro, does it make sense to have the Metro councilors from within that county work together to appoint.

Ron Cease said that, earlier, the Committee made a proposal that the members of the boards and commissions would be appointed by the presiding officer, subject to confirmation of the council. He said that would be preferable if the Committee wanted to remain consistent. He said that it should be clear that there should be one from each county and maybe some requirement for some sort of balance of the membership.

Chair Myers said that the requirement of one citizen per county has already been adopted.

Ron Cease said that the question of having the presiding officer make the appointments subject to confirmation of the council would put it in line with what the Committee has already done with other boards and commissions.

Chair Myers said that he has been assuming, if this motion failed, that would be the alternative advanced--appointment by the Metro president with council confirmation.

Vote on the motion:

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

Motion:

Charlie Hales moved, Ron Cease seconded, that the charter state that the citizen appointments to MPAC be made through appointment by the Metro president with council confirmation.

Vote on the motion:

Judy Carnahan, Ron Cease, Larry Derr, Charlie Hales, Matt Hennessee, Ned Look, Wes Myllenbeck, Bob Shoemaker, Mary Tobias, Norm Wyers, and Chair Myers voted aye. Jon Egge and Frank Josselson voted nay. John Meek, Ray Phelps, and Mimi Urbigkeit were absent. The vote was 11 ayes to 2 nays and the motion passed.

Chair Myers suggested that the Tri-Met position on the MPAC be appointed by the Tri-Met Board of Directors.

Motion:

Matt Hennessee moved, Mary Tobias seconded, that the Tri-Met representative on the MPAC would be appointed by the Tri-Met Board of Directors.

Vote on the motion:

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

Motion:

Matt Hennessee moved, Mary Tobias seconded, that the county representatives would be appointed by the Board of County Commissioners in each county. The city of Portland representatives would be appointed by the governing body of the city of Portland. The representatives of the largest cities, excluding Portland, in each county will be appointed by those cities' governing bodies. The members representing the other cities in each county will be appointed jointly by the governing bodies of those cities in each county.

Vote on the motion:

Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Frank Josselson, Ned Look, Bob Shoemaker, Mary Tobias, Norm Wyers, and Chair Myers voted aye. Wes Myllenbeck voted nay. John Meek, Ray Phelps, and Mimi Urbigkeit were absent. The vote was 12 ayes to 1 nay and the motion passed.

Chair Myers asked the Committee to move on to the special district appointments.

Bob Shoemaker asked if the Special Districts Association could be the appointing body.

Tim Sercombe said that the body is statewide.

Chair Myers asked Mike McKeever if the RGC had any discussion about the mechanics of the special district appointments.

Mike McKeever said that it is a little more cumbersome for the special districts, but it works the same way as the city appointments. Within each county, the special districts select their representative.

Motion:

Jon Egge moved, Matt Hennessee seconded, that the MPAC members from the special districts be selected, one in each county, jointly by the special districts governing bodies in each county.



Ron Cease said that there are not really any special districts left in Multnomah County.

Frank Josselson said that he represents some.

Vote on the motion:

Judy Carnahan, Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Frank Josselson, Ned Look, Bob Shoemaker, Mary Tobias, Norm Wyers, and Chair Myers voted aye. Ron Cease and Wes Myllenbeck voted nay. John Meek, Ray Phelps, and Mimi Urbigkeit were absent. The vote was 11 ayes to 2 nays and the motion passed.

Chair Myers asked if there was a motion to accept the RGC proposal that Metro councilors serve on the MPAC as liaisons.

Charlie Hales said that if the charter is silent on the issue, it will not happen.

Chair Myers asked the Committee to move on to term length. He said that the RGC proposal is three year staggered terms.

Tim Sercombe asked for further explanation.

Chair Myers said that it means that there will have to be a designation in terms of the initial members that one-third will be serving for one year, one-third for two years, and one-third for three years.

Matt Hennessee said that he does not see the need for staggering of terms or for three years.

Larry Derr asked what the point was for having terms.

Matt Hennessee said that the appointing body should make the decision.

Tim Sercombe said that they could be called back at will.

Frank Josselson said that the MPAC could have bylaws.

Chair Myers said that they would, in effect, be serving at the pleasure of the appointing authority.

Ned Look asked what the RGC thinking was on the three year staggering terms.

Mike McKeever said that the RGC made the assumption that terms were needed. He said that it would create the potential for much more lack of continuity on the body if the cities, counties, special districts were allowed to maneuver the people around at will. If there are set terms, there is a much greater chance of that group coming together as a decision making body.

Matt Hennessee said that he does not understand why the terms are staggered. If people are going to sit on the board, let them do their job, and when two or three years are up, let them be gone or have their choice of reappointment.

Chair Myers said that he would assume the reason for the staggered terms is to minimize a large turnover at one time.

Matt Hennessee said that the Committee is worrying about something that he does not know if it is necessary to worry about. He said that if the members change or not, the people that sent them

change.

Larry Derr said that it also gets into the complication where there are elected officials who will run in conflict with their own terms.

Motion: Frank Josselson moved, Charlie Hales seconded, that the MPAC members serve at the pleasure of the appointing authority.

Ron Cease said that Mike McKeever has a point. If the MPAC is suppose to be a significant body, the members should be given set terms. He said that, for the staggered terms, the initial appointments would be made and then straws drawn. He said that the question is whether they should be term or not. If they are given terms, the body will become more significant.

Jon Egge said that the Committee should allow the MPAC some form of self-governance. They should be allowed to define it by their own volition, through their own bylaws. He said that is a preferable way to do it. He said that Larry Derr brings up a good point. There is a situation in the government council right now where someone got voted out of office and he/she put in a year and a half into a rather important endeavor. There is that conflict to resolve. He said that he does not want to get involved in trying to write what is going to resolve that conflict. He said that they should resolve their own internal organization.

Vote on the motion: Judy Carnahan and Charlie Hales voted aye. Ron Cease, Larry Derr, Jon Egge, Matt Hennessee, Frank Josselson, Ned Look, Wes Myllenbeck, Bob Shoemaker, Mary Tobias, Norm Wyers, and Chair Myers voted nay. John Meek, Ray Phelps, and Mimi Urbigkeit were absent. The vote was 2 ayes to 11 nays and the motion failed.

Motion: Jon Egge moved, Matt Hennessee seconded, that the MPAC be allowed to determine terms within their own bylaw structure.

Bob Shoemaker said that the motion should refer to continuity in office so that it does not imply that there shall be terms.

Friendly amendment to the motion: Bob Shoemaker amended, Jon Egge accepted, that the motion be changed to state that the MPAC be allowed to determine *continuity in office* within their own bylaw structure.

Chair Myers said that the thrust of the motion is to put the question of terms and the operation, generally, of the body in its own hands.

Jon Egge said that the motion is broader than just terms.

Vote on the amended motion: Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Frank Josselson, Ned Look, Bob Shoemaker, Mary Tobias, and Norm Wyers voted aye. Judy Carnahan, Ron Cease, Wes Myllenbeck, and Chair Myers voted nay. John Meek, Ray Phelps, and Mimi Urbigkeit were absent. The vote was 9 ayes to 4 nays and the motion passed.

Bob Shoemaker said that he did not think that the Committee provided that the private citizens on



MPAC cannot be members of the Metro Council. He said that they stated that the others must be elected officials, but limitations on who the private citizens may be has not been defined.

Chair Myers said that he thought that was the implicit judgement. He said that it could be made explicit.

Judy Carnahan suggested that the motion not include precinct committee persons since they are elected officials.

Bob Shoemaker said that he was getting at that they not be Metro councilors.

Chair Myers asked if Bob Shoemaker also did not want them to be elected officials of local governments.

Bob Shoemaker said that he doubts that is much of a risk.

Ron Cease said that the motion should exclude party officials. It is really talking about governmental elected officials.

Chair Myers asked about a school board member.

Bob Shoemaker suggested that the citizen members may not be Metro councilors or elected officials of cities or counties or special districts. He said that he did not think that a school district is a special district.

Chair Myers said that, at a minimum, the motion is trying to exclude appointments from the governments that are represented on the MPAC. He said that it maybe needs to be wider than that, but the Committee can revisit it later.

Mary Tobias said that the purpose of having citizens at all is to broaden the perspective of the body. She suggested that any employees of any of the governments also be excluded from being the citizen representative. It limits the access from the outside.

Motion: Bob Shoemaker moved, Ned Look seconded, that the citizen members of the MPAC shall not be Metro councilors or elected officials or employees of cities, counties, or special districts, with the exception of school districts.

Janet Whitfield said that there is wording in ORS 298 which describes the thrust of the motion.

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

Chair Myers asked that the Committee move on to the provision regarding staffing to the MPAC.

Motion: Mary Tobias moved, Bob Shoemaker seconded, that the staffing for the MPAC be provided by the regional government.

Jon Egge said that he opposes the motion. He said that saddling the regional government with the

staffing responsibility for this group is inappropriate and does not keep with the flow that he has kept during the process. If the local governments want to do this, he said that they should come up with their own staff and finance it.

Charlie Hales said that this is not a shadow government. He said that the charter does not need to direct the staffing for an advisory committee to be provided by government to which it is advising. He said that he is sure that the Portland city charter does not specify that the staff of the planning commission is provided by the city of Portland. He said that it is implicit. Any advisory body to a government is going to be staffed by that government.

Ron Cease said that he does not think that there needs to be a provision.

Bob Shoemaker asked if there is any risk that Metro would regard this as an adversarial body and would try to freeze it out by not staffing it adequately. He said that the MPAC will often act contrary to Metro, which is why it is there. He asked if it made sense to have Metro staffing its adversary. He said that this is not a big deal financially. There are a lot of governments and they should be able to figure out how to raise \$50,000 to staff their own policy advisory committee.

Matt Hennessee said that he thinks Bob Shoemaker is on the right track in terms of some of the things that can occur. However, he said that the reason the Committee put the MPAC process in was not to try to push the MPAC away from Metro, but to bring the issue of regional discussion to a regional table and bring everyone together. He said that it should not be set up in such a way that it truly separates them and creates the adversarial nature that may happen on certain issues anyway.

Mary Tobias said that all the local governments do contribute to the support of Metro, currently at the rate of about 45¢ per capita. She said that is an investment in the region and it fluctuates. She said that there is a sunset on the provision, but she suspects that it will not be sunsetted over time. There is a contribution being made that helps to do all the regional planning things. She said that she does not see why that would apply to the staffing of the MPAC. She said that it helps to separate roles if it is known where the staffing is coming from.

Larry Derr said that the Committee ought to be silent on it so that they do not create the implication that, unless Metro can provide for staff, there is not any. He said that he agrees with Matt Hennessee's view that it is a process of bringing local government and regional government together, not creating an adversarial situation. If it becomes that, the members of MPAC would have the capacity to go to their own staffs.

Ron Cease asked if Mary Tobias would be willing to modify the motion to say that Metro shall provide for staff in consultation with the MPAC. He said that he can conceive of situations where Metro would take a staff person and assign him/her to MPAC part time. He said that a staff person is being put in a very difficult position when there is conflict. If there is a provision which states that Metro has to provide some sort of staff assistance, and they will do it after they consult with MPAC, they should work it out.

Mary Tobias said that she has no objection to doing that, except that she really does concur with Charlie Hales. She said that the Committee is better off to not say anything.

Mary Tobias withdrew the motion.

Chair Myers asked the Committee to move on to the MPAC composition review. He said that the RGC proposal suggests that the composition of the MPAC would be reviewed every five years and changed through two-thirds vote of all members of the MPAC and the Metro council. He said that



would provide a recurring reexamination of how the body is constituted and the opportunity for the two bodies--the regional council and the MPAC--to revise its membership.

Matt Hennessee said that if it is not stated in the charter, the group can make recommendation or change.

Chair Myers said that it would take a charter amendment to change it.

Matt Hennessee said that the reason for having it there would be to get the issue on the table. He asked if there was a reason for doing a review every five years. He said that the census date, relative to Metro's configuration, would be a better date in time.

Mike McKeever said that there is nothing magic about the five years. He said that the intent is that if the number of governments in the region changes and this particular balance of representation does not make sense in ten years, there needs to be a way to change it.

Motion: Matt Hennessee moved, Frank Josselson seconded, that the composition of MPAC be reviewed every five years and changed through two-thirds vote of all members of MPAC and the METRO council.

Charlie Hales asked if Matt Hennessee would like to change the time of review to every 10 years.

Matt Hennessee said no. He said that he understands Mike McKeever's point about having the review every five years. He asked why the change requires a two-thirds vote and not a majority.

Friendly amendment to the motion: Frank Josselson suggested, Matt Hennessee accepted, that the motion read that the composition of MPAC be changed at any time by majority vote of all members of the MPAC and the METRO council.

Vote on the amended motion: Judy Carnahan, Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Frank Josselson, Ned Look, Bob Shoemaker, Mary Tobias, Norm Wyers, and Chair Myers voted aye. Ron Cease and Wes Myllenbeck voted nay. John Meek, Ray Phelps, and Mimi Urbigkeit were absent. The vote was 11 ayes to 2 nays and the motion passed.

Frank Josselson asked if, in the original motion for one member from each county, two from Portland, one from largest city in each county, the Committee provided for additions to METRO's boundaries. He said that if the boundaries change--the addition of Yamhill County for example--the MPAC should change to include representatives of those counties and those cities within the county. He asked if the motion is so recorded as to reflect that or if it should be taken up as a separate issue.

Chair Myers said that it was his understanding that the motion would reach that kind of revision as well as changes in the numbers of individuals.

Frank Josselson said that the last motion, calling for a majority vote for changes in the MPAC, would clearly provide for it. He asked if the original motion establishing the composition of the MPAC do it automatically.

Charlie Hales said yes. The Committee did not specify a number in the motion, they specified a composition formula of one from each county without specifying the counties.

Chair Myers said that the composition the Committee has adopted only provides for county representation from each county that is the Metropolitan Service District. To that extent, it would not reach the situation Frank Josselson is talking about.

Charlie Hales said that Frank Josselson is talking about a situation where, for example, Yamhill County came into the district. Yamhill County would automatically be added to the formula.

Tim Sercombe said that there could be a problem if a tiny portion of Yamhill County comes into METRO. He asked if that meant that the largest city in Yamhill County gets a vote and other cities in Yamhill County gets a vote even if it is only about two square miles of Yamhill County that comes in.

Frank Josselson said that the same question arises with the portions of Clackamas County and Washington County that are outside the Metro boundaries today.

Chair Myers said that, as he understood the composition, those cities will participate.

Frank Josselson said that is the question that he is raising.

Chair Myers said that it might be simpler to deal with it under the provision which allows for change and set up a starting membership on the basis of the existing district. He said that the Committee needs to be sure that they are not having a misunderstanding about the intention of whether, in terms of the starting membership, all of the cities of a county which is now part of the district will take part in the selection of the city representatives or if the Committee means to include only those cities within that part of the county which is within the district.

Motion: Frank Josselson moved, Jon Egge seconded, that the MPAC representation of special districts and cities contemplate special districts and cities within the territory of METRO in whole are in part. It does not contemplate special districts and cities that are beyond the boundaries of METRO.

Bob Shoemaker asked if the motion included that it would be limited to those counties and cities which are in Metro at the conception of the charter.

Frank Josselson said yes.

Ron Cease said that the motion gets at the issue. He said that there should also be a motion that all the members of MPAC have to be residents of METRO.

Friendly amendment to the motion: Ron Cease suggested, Frank Josselson and Jon Egge accepted, an amendment to the motion to add that, at charter adoption, all member of the MPAC must be residents of METRO.

Tim Sercombe said that if the area of Metro were to expand by annexation within the current counties to take in an additional city. He asked if that city would not be included in the city representatives unless done by a bylaw change.

Frank Josselson said that is correct.

Chair Myers said that future eventualities will be dealt with by the modification process.

Janet Whitfield asked what would occur if the boundaries were to go into Yamhill County or Marion



County. Would they change it to allow for another representative?

Chair Myers said that it would be the responsibility of the revision process.

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

Chair Myers asked if special districts include the Port of Portland.

Frank Josselson said that the Port of Portland is not a special district.

Ron Cease said that it should be clear that school districts are not intended to be special districts.

Janet Whitfield asked if there should be something in the charter that prevents the government from creating different types of MPACs. She said that they created JPACT which is a form of RPAC. She asked if the jurisdiction of the JPACT would interfere with the authority of the MPAC.

Chair Myers asked, if there is a description of the duties of this body in the charter, would that preclude those functions from being undertaken by another body.

Tim Sercombe said no, not unless they are made exclusive.

Janet Whitfield asked if the MPAC could object to the authority that the JPACT has, as far as the JPACT approving certain planning functions that Metro does in transportation. JPACT also coordinates local government in that area.

Tim Sercombe said that the functions of MPAC that are described in the charter as necessary--that is, that the council must get their approval, or that of the voters, or else the service cannot be done--would be exclusive to them. The MPAC also plays the role of providing advice to the council in other areas and the council could set up other committees to provide advice as well. In terms of their function assuming role, the charter would make that role exclusive, or an alternative to the voters.

Janet Whitfield said that the JPACT makes decisions on how money is divided among local governments. She asked if the MPAC could conceivably demand to have authority or have approval authority on how that is done, or are they doing a function.

Tim Sercombe said that he does not know enough about what JPACT does now to understand or give advice on whether or not that could be taken away through the charter and exclusively given to MPAC. The only charter function of JPACT right now is to advise the council on the assumption of duties of a mass transit district.

Mary Tobias said that JPACT comes through another authority.

Wes Myllenbeck said that it is a federal requirement.

Charlie Hales said that it is a good question, but his understanding of the committee structure is that the council is free to set up other committees and appoint them according to the process described. JPACT membership would be appointed that way too.

Wes Myllenbeck said that the representation is spelled out pretty much as a carry over from the old council of governments.

Charlie Hales said that he does not know how JPACT is appointed now. He asked if that conflicts with the appointment process that is described in the charter for advisory committees in general.

Janet Whitfield asked if they are talking about duties that might be MPAC duties.

Charlie Hales said that he is less concerned about the duties in that the duties of the MPAC are described in the charter, and to a limited extent, one duty of the JPACT is described in the charter. Therefore, they are free to assume other duties as assigned by the council. If the JPACT is a federally mandated, specifically representative body, has the Committee screwed that up by the appointment process that is in section 17?

Janet Whitfield asked if the JPACT is mandated by the federal government for a regional government to do and the regional government decides how that is drawn up.

Chair Myers said that he does not think that the federal government mandates JPACT. He said that the federal government mandates that there be a body. Metro is the body that has taken the role that is mandated by the federal government.

Wes Myllenbeck said that, from his understanding, it still has to have representative from counties, cities, and Tri-Met.

Mike McKeever said that, as he understands it, and attorneys disagree over this, there has to be a metropolitan planning organization in order to receive federal funding. The governor of Oregon designates the metropolitan planning organization. He said that there is disagreement as to whether that organization, now, is JPACT itself or Metro or both. The local representation on JPACT is appointed by the local governments, it is not appointed by the Metro council. He said that the answer to Charlie Hales' question, of whether that is in conflict with appointment for commissions, is not necessarily a conflict, but it is different than the appointment process than the Committee set out.

Chair Myers asked if the appointment of JPACT was specified by ordinance.

Mary Tobias said that JPACT and TPAC have their own bylaws.

Tim Sercombe said that he assumed, when he was drafting the charter, that JPACT had some independent thing that said how they were appointed and that they were not a commission of this government, but that they were a commission outside this government.

Janet Whitfield said that whatever they do has to be approved by the Metro council. She said that the Committee has argued about whether Metro council could actually reject what they do or not. She said that the council said that they never had before, so it has not been tested.

Frank Josselson said that he did not think that there has ever been any argument that the Metro council could overrule JPACT.

Tim Sercombe asked if it was the kind of argument that could be solved under the charter.

Mike McKeever said that is a good question.



Janet Whitfield said that she would get Tim Sercombe a copy of the JPACT bylaws.

Tim Sercombe said that it would depend on whether or not it had external power and external appointments.

Bob Shoemaker asked if there was any risk that if JPACT is not provided for in the charter it will be disenfranchised in some fashion.

Frank Josselson said that the Committee has already provided that the existing transportation functions shall continue. He said that provision, together with the general powers clause, would give them authority to have a JPACT.

Frank Josselson said that the public hearings are to begin on June 25. The Committee has a meeting scheduled next week, with an agenda that anticipates testimony that will be presented at the hearings. He suggested that, so people can prepare for the meeting on June 25 and have a reasonable time to do that, it would be inappropriate for the Committee to be moving the target on major issues next week. He suggested that the Committee should send out what they have already done and give the public an opportunity to comment on it and then revisit the issues, like limitations on taxing power.

Chair Myers said that the listing was not intended to preclude the Committee from deciding that it wanted to defer discussion on an item until after the hearing. He said that he put the issues on the agenda for next week simply because there are items of requested change. He said that after the Committee completes the provisions on MPAC, he would like to look at that list and determine which items should be deferred until after the hearings.

Matt Hennessee asked, if the other issues are deferred until after the hearing, does the Committee have a responsibility to come back to do another public hearing to make sure that the public hears about the charter.

Chair Myers said that there is a question about that. If there are revisions, can the enabling legislation be interpreted to trigger another round of hearings? He said that he did not know the answer to that at this point.

Matt Hennessee said that he thought Chair Myers' goal was to try to get as much done and out to the public as possible in this round of public hearings.

Chair Myers said that it is.

Larry Derr said that if the charter cannot be changed after the hearing, there is no point in having a hearing.

Chair Myers said that it can be changed. He said that the question was, depending on how much is changed, is the Committee morally or legally obligated to go back to the public with further revisions. He suggested that the Committee resolve that issue when it gets to that point.

Janet Whitfield asked if it would be possible to skip next week's meeting. She said that the staff has gotten complaints from people who are saying that they will not have a chance to look over the proposed charter before the public hearings because the Committee has a meeting on the 18th and the charter probably will not be ready until the 22nd or maybe later and the first hearing is on the 25th. There is not enough time to get the charter in the mail and to people in the region.

Frank Josselson said that basically is his point. He said that when there is a moving target, it is only

fair to give people a reasonable opportunity to examine this technical document.

Chair Myers said that the reason for a meeting next week was because there are a number of amendments that the Committee directed at the Saturday session that, as a whole, he thought were significant enough for the Committee to walk through before releasing the document to the public. He said that it does put the Committee under a tight time frame. The alternative is for the Committee to reconstitute the drafting subcommittee as a proxy of the full Committee to go over the changes with Tim Sercombe and resolve whether or not they are faithfully reflecting the direction of the Saturday meeting and the document will go out without a full session of the Committee.

Matt Hennessee suggested that it not be placed in the hands of the drafting subcommittee, but should be placed in the hands of the chair.

Ned Look said that he is not sure that some members of the Committee want to revisit some of these issues before it goes out to the public. He said that he does not see how that can be done without having it discussed at next week's meeting.

Chair Myers said that he would like to take up any issues that the Committee would like to revisit before the hearing at the end of the meeting.

Bob Shoemaker asked if it was possible to postpone the June 25 hearing. He said that the issues could be dealt with on June 18 and there would still be time to put it out for the 29 and 30 hearings.

Chair Myers said that the staff has already distributed notices about the hearing dates and locations. He asked the Committee to return to the MPAC.

Mary Tobias said that the charter ought to speak to the alternative appointment process. If there is a stalemate within one of the appointing agencies, someone needs to be able to fill the position.

Motion: Mary Tobias moved, Ron Cease seconded, that any vacancy on the MPAC will be filled by the appointing authority.

Frank Josselson said that he would leave that kind of thing to the bylaws.

Mary Tobias said that there ought to be consistency. If a vacancy occurs for whatever reason, the people who were responsible for making that appointment ought to be empowered through the charter to fill it again.

Ron Cease asked if it was not stated, wouldn't he/she have to appointed in the same process.

Tim Sercombe said yes. He said that if the charter mentions vacancies, it needs to talk about what creates a vacancy and who determines if a vacancy exists.

Mary Tobias withdrew her motion.

Chair Myers said that the other point that was in Mary Tobias' comments was the question of the appointment process if the appointing authority fails to act.

Ron Cease said that they should use it or they will lose it.

Chair Myers asked the Committee to move on to the MPAC duties.



Matt Hennessee said that it is already spelled out in the charter.

Tim Sercombe asked if the Committee wanted to allow for MPAC to do other things that the region council may prescribe, in addition to those that are specified in the charter.

Members of the Committee agreed that they do not.

Tim Sercombe said that the duties outlined in the charter would be the only duties they could do. They could not do anything else.

Chair Myers said that is the question: does the Committee want to provide that the council may assign them other functions.

Bob Shoemaker said that he did not see why the council should not be able to give it other functions, if the council wishes that.

Motion: Bob Shoemaker moved, Charlie Hales seconded, that the charter provide that the MPAC will perform such other duties as the region council may prescribe.

Vote on the motion: Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Frank Josselson, Ned Look, Bob Shoemaker, Mary Tobias, Norm Wyers, and Chair Myers voted aye. Wes Myllenbeck voted nay. John Meek, Ray Phelps, and Mimi Urbigkeit were absent. The vote was 12 ayes to 1 nay and the motion passed.

#### 9. Additional business.

Mary Tobias said that, during the break, she had an interesting discussion about the title of President. The discussion raised the issue that the peer group for the person who is the head of the council will consist of the chairs of the county commissions and the mayors of the cities. There is, by virtue of the term *president*, more psychological weight which may, in the peer group, provide for some unevenness. When establishing these groups of people who will be working together, when one is a president, others are mayors, and others are chairs, an odd situation is created. The Committee might want to revisit the issue. With businesses, there are a lot of presidents of businesses.

Ned Look said that he agrees with Mary Tobias.

Chair Myers asked if there is a specific alternative proposal. If there is not, then the issue is something that the Committee can take up after the public hearings.

Mary Tobias said that she raised it as an issue that the Committee ought to consider.

Chair Myers asked if there is a motion to take up any of the remaining issues tonight.

Ron Cease asked if the Committee will meet on the 18th.

Chair Myers said that it has not been formally resolved, but the drift earlier was that they would not.

Ron Cease said that there are some issues on the finance provisions that need to be worked out. He said that the cap issue itself is a policy question. If there is a cap, then that gets into mechanical issues, the nature of revenue sources, and what is counted. He suggested that it go to the hearing and

the Committee clean it up afterward.

Chair Myers said that unless the Committee agrees to deal with a specific issue now, the list will be deferred until after the hearings.

Matt Hennessee asked if he understood correctly that the list will be part of public consumption, i.e. opportunity for them to comment on, even if the Committee does not deal with it tonight.

Chair Myers said that he did not know how much the list, per se, will be distributed. He said that most of these items are going to be the subject of comments in the hearings. He said that if there is not a motion to deal with an additional issue, the Committee will postpone them until after the hearing.

Motion: Matt Hennessee moved, Frank Josselson seconded, that the Committee authorized Chair Myers to review, with Tim Sercombe, the final charter draft for public hearings.

Vote on the motion: There was no objection to the motion.

Chair Myers said that the Committee will not meet on June 18, but will adhere to the hearings schedule. He said that Mary Tobias must be gone beginning July 2nd and will be gone three plus weeks. He said that she would like to be a part of the first meeting following the hearings. He asked, in order to have her input, if the Committee could meet on July 1 instead of July 2.

Mary Tobias said that she is leaving the morning of July 2 and will be back in time for the July 23rd meeting. She said that leaves three weeks of a crucial time when there would be no representation from the cities in Washington County. If it is not possible to do that, she will be forced to resign and ask that the cities appoint a replacement. She said that it is too important a point in the negotiations for the final document for the cities to have no representation.

Chair Myers said that he would desire that Mary Tobias be at the meeting, but if there are members who cannot make the meeting on July 1, then the Committee will have to stay with the original schedule.

Frank Josselson encouraged Mary Tobias to submit her comments in writing.

Chair Myers adjourned the Committee at 10:10 p.m.

Respectfully submitted,



Kimi Iboshi  
Committee Clerk

Reviewed by,

  
Janet Whitfield  
Committee Administrator



Materials following this page represent  
Attachments to the Public Record

**DRAFT**

**1992**

**METRO CHARTER**

**June 17, 1992**

**Submitted by:**

**The Metro Charter Committee  
Hardy Myers, Chair  
P. O. Box 9236  
Portland, OR 97207  
(503) 273-5570**



## CHAPTER I

### NAMES AND BOUNDARIES

**Section 1.**                    **Title of Charter.**    The title of this charter is the 1992 METRO Charter.

**Section 2.**                    **Name of Regional Government.**    The Metropolitan Service District continues under this charter as a municipal corporation with the name "METRO."

**Section 3.**                    **Boundaries.**    The area of governance of METRO includes all territory within November 3, 1992 boundaries of the Metropolitan Service District of the Portland metropolitan region, together with any territory thereafter annexed or subjected to its governance under state law. Changes to the boundaries of METRO shall not be effective unless approved by a non-emergency ordinance. No change to the boundaries of METRO shall require the approval of a local government boundary commission or any other state agency. The custodian of METRO's records shall keep a current and accurate description of METRO's boundaries, which shall be available for public inspection.

## CHAPTER II

### FUNCTIONS AND POWERS

**Section 4.**                    **Jurisdiction of METRO.**    METRO has jurisdiction over those matters of metropolitan concern which are assigned to METRO by this charter or which are authorized under the procedures of this charter for assuming functions.

**Section 5.**                    **Growth Management Functions.**    METRO is authorized to exercise those functions related to the management of growth in the region specified by section 7 of this charter or as permitted under the procedures specified in section 8 of this charter.

**Section 6.**                    **Other Assigned Functions.**    METRO is authorized to continue to exercise the following functions of the Metropolitan Service District:

- (1)    The ownership and operation of a metropolitan zoo;
- (2)    Ownership and operation of public cultural, trade, convention, exhibition, sports, entertainment, and spectator facilities;

- (3) Provision of facilities for, and disposal of, solid and liquid wastes of the region;
- (4) Acquisition of regional greenspaces; and,
- (5) Development and marketing of geographic data.

**Section 7.                    Regional Planning Functions.**

(1) The Future Vision. The council shall adopt a regional Future Vision by May 1, 1994. The Future Vision is a conceptual statement that indicates population levels and settlement patterns that the region and adjacent areas can accommodate within the carrying capacity of the land, water and air resources, and that achieves a desired quality of life. The Future Vision is a long-term, at least 50-year, visionary outlook. The matters addressed by the Future Vision will include, but are not limited to:

- a. Use, restoration and preservation of regional land and natural resources for the benefit of present and future generations;
- b. How and where to accommodate the population growth for the region while sustaining and maintaining its livability and quality of life;
- c. Means of developing new communities and additions to the existing urban area in well-planned ways; and,
- d. Economic growth and educational resources.

The council shall appoint a broad-gauged commission representing the public, private and academic sectors to develop and recommend a proposed Future Vision to the council within a timetable established by the council. The commission shall consider available data and public comment and seek any additional information necessary to develop the proposed Future Vision. One or more commission members must reside outside the boundaries of METRO. The commission shall serve without compensation.

The Future Vision may be reviewed and amended at such times and in such manner as the council shall determine and shall be completely reviewed and revised in the manner of its original development and adoption not less frequently than once every fifteen years.

The Future Vision is not a regulatory document. It is the intent of this charter that the Future Vision not have any legal effect which would allow it to be reviewed by a court or agency of this state. The Future Vision affects the regional framework plan in the manner described below.



(2) Regional Framework Plan. The council shall adopt a regional framework plan establishing regional goals, objectives and policies, functional plans and benchmarks for performance addressing:

- a. Regional transportation and mass transit systems;
- b. Management and amendment of the urban growth boundary;
- c. Protection of lands outside the urban growth boundary for natural resource, future urban or other uses; and
- d. Federal and state mandated planning functions.

The regional framework plan shall also address those aspects of the following matters which the council, with the consultation and advice of the METRO Planning Advisory Committee, determines are of metropolitan concern and will benefit from regional planning:

- a. Water sources and storage;
- b. Housing densities;
- c. Greenspaces;
- d. Sighting of significant land use developments;
- e. Solid waste disposal, reuse and recycling;
- f. Siting and operation of public exposition, recreation, cultural and convention facilities; and
- g. Regional disasters.

The foregoing determinations by the council shall include prioritizing matters as necessary in relation to available funding and recognition of completed and ongoing planning activities. The determinations shall also describe respective planning roles of regional and local governments and management of the planning process with respect to various elements of each matter.

The regional framework plan shall provide the basis for coordination of local plans of cities and counties within the boundaries of METRO. The regional framework plan must be consistent with state standards applicable to local land use comprehensive plans and shall describe its relationship to the Future Vision. The regional framework plan shall also contain model standards and procedures for local land use decision-making that may be adopted by local governments. Review of the regional framework plan for compliance with state law shall occur as determined by the state reviewing agency or by law.

The council shall adopt the regional framework plan by May 1, 1994 with the consultation and advice of the METRO Policy Advisory Committee. The regional framework plan may be adopted in components. The regional framework plan may be amended by a process and on a schedule determined by the council.

To the maximum extent allowed by law, the council shall adopt ordinances:

- a. Requiring comprehensive plans of local governments to be consistent with the regional framework plan within three years of adoption of the regional framework plan, or by the time of the next state general review of the comprehensive plan, whichever is longer;
- b. Requiring the council to adjudicate and determine the consistency of local comprehensive plans with the regional framework plan;
- c. Requiring local governments to make local land use decisions consistent with the regional framework plan before the local comprehensive plan has been determined to be consistent with the regional framework plan;
- d. Allowing the council to review local government land use decisions for consistency with the regional framework plan and to require changes in local government standards and procedures to remedy a pattern or practice of decision-making inconsistent with the regional framework plan; and,
- e. Allowing the council to directly report to the Land Conservation and Development Commission or its successor on the consistency of local comprehensive plans with the regional framework plan.

**Section 8.                    Addition of Other Matters to Regional Framework Plan.**

Except for the matters listed in section 7, no other matter may be included in the regional framework plan unless the question of its inclusion is approved by the majority of the members of the METRO Policy Advisory Committee or by a majority of the votes cast by the voters of METRO in an election on the proposition. This approval may occur either through adoption of a referred measure authorizing the regional planning function or by approval of a measure relating to METRO finances which authorizes financing or identifies funds to be used for the exercise of that regional planning function.

**Section 9.                    Assumption or Termination of Additional Functions.**

(1) Adoption of Assumption Ordinance. Before undertaking any additional functions beyond those authorized under sections 6, 7 and 8 of this charter, the council shall authorize the function by ordinance. The ordinance shall contain findings establishing that the function is of metropolitan concern and setting forth the reasons why it is appropriate



for METRO to take on the function. The ordinance may also be subject to particular approval requirements of this section.

(2) Assumption of Local Government Services Function. An ordinance assuming functions relating to the provision of local governmental services shall not be effective unless the assumption of the function is approved contemporaneously by the voters of METRO or a majority of the members of the METRO Policy Advisory Committee. This approval may occur either through adoption of a referred measure authorizing the function or by approval of a measure relating to finances which authorizes financing or identifies funds to be used for the exercise of the function. "Local governmental services" are those which are provided to constituents by one or more local governments in the region at the time a METRO ordinance on assumption of the service is first introduced.

(3) Assumption of Functions and Operations of Mass Transit District. Notwithstanding subsection (2), METRO may, at any time, assume the duties, functions, powers and operations of a mass transit district by ordinance. Before adoption of this ordinance, the council shall obtain, if possible, the advice of the Joint Policy Advisory Committee on Transportation or its successor. After assuming the functions and operations of a mass transit district, the council shall establish a commission of not less than seven members and determine its duties in administering mass transit functions for METRO. The members of the governing body of the mass transit district at the time of its assumption by METRO shall be as the initial mass transit commission for METRO for the length of their terms of office.

(4) Assumption of Boundary Commission Functions. Before assuming the duties, functions and powers of a boundary commission, the council shall:

- a. Obtain the advice of the METRO Policy Advisory Commission;
- b. Review the procedures for approving boundary changes and resolving boundary disputes within the region; and,
- c. Consider relevant state policies and rules and applicable provisions of the regional framework plan.

To the extent allowed by law, the approval of this charter shall constitute voter approval of the authority of the council to assume the duties, functions and powers of the Portland Metropolitan Area Local Government Boundary Commission by ordinance.

(5) Assumption of Other Functions. The council may assume by ordinance any other function relating to a matter of metropolitan concern, which function assumption is not specifically regulated by this charter. The assumption or termination of regional planning functions is subject to the procedures and limitations of sections 7 and 8 of this charter. The council shall obtain the advice of the METRO Policy Advisory Committee before adopting an ordinance undertaking a service function that is not a local government service.



**Section 10. General Grant of Powers to Carry Out Functions; Construction of Specified Powers.** When exercising authority over functions allowed or assumed under this charter, METRO has all powers that the laws of the United States and the State of Oregon now or in the future could allow METRO, just as if this charter specifically set out each of those powers. The powers specified in this charter are not exclusive. Any specification of power in this charter is not intended to limit authority. The powers specified in this charter shall be construed liberally. All powers continue unless the charter clearly indicates the contrary.

**Section 11. Limitations on Taxing Powers.**

(1) Referral of certain taxation ordinances. Any ordinance of the council imposing, or providing an exception from, taxes on all or part of the income, payroll, property, sales, or gross receipts of a class of persons or entities in the region shall receive the approval of the voters of METRO before taking effect. This approval is not required for the continuation of taxes imposed by the Metropolitan Service District, for the rate or amount of any payroll tax imposed by a mass transit district as of June 1, 1992 if the functions of that district are assumed by METRO, or for additional payroll tax revenues for mass transit needed to replace revenues lost by withdrawal of any locality from mass transit services. For purposes of this subsection, "taxes" shall not include any charge for the provision of goods, services or property by METRO, franchise fees or any assessment.

(2) Prior Consultation for Tax Imposition. Before imposing any new tax not requiring voter approval, the council shall obtain the recommendation of a tax study committee that includes representatives from the general population, businesses and local governments.

(3) Limitations on Certain Tax Revenues. Except for revenues from taxes approved by METRO voters and a payroll tax in the amount of six-tenths of one percent of the wages paid with respect to the employment of individuals, revenues from taxation may not exceed the limitations specified in this subsection.

a. The initial tax revenue limitation is \$12.6 million for fiscal year 1994. This tax revenue limitation shall increase, without voter approval, in each subsequent fiscal year in an amount equal to the rate of inflation for the previous calendar year. The rate of inflation shall be the rate determined by the appropriate federal agency for increases in the consumer price index for goods and services in major cities in the western United States or the most equivalent rate.

b. The tax revenue limitation for any fiscal year shall be reduced in a supplemental budget effective in that fiscal year by an amount equal to any tax revenue collected in the previous fiscal year in excess of the tax revenue limitation for that previous fiscal year. In the event this reduction results in an adjusted tax revenue limitation of less than 80% of the amount otherwise



budgeted for that fiscal year, the tax revenue limitation shall be further reduced by the amount of the inflation increase for that tax revenue limitation which was previously budgeted.

c. Revenues from charges to individuals or governments for the provision of goods, services or property or for the issuance of permits or approvals, benefit assessments against property, franchise fees and tax increment financing charges on property are excluded from this limitation.

**Section 12. Limitations on Authority to Contract.** All officers of METRO shall preserve, to the greatest extent possible, the ability of METRO to contract for services with persons or entities who are not employees of METRO.

**Section 13. Regulatory Powers.** Regulations of METRO shall have full force and effect throughout its area of governance. A regulation of METRO shall be construed, to the extent feasible, in a manner consistent with regulations of a city, county or district in the same subject area. No regulation of METRO shall affect the structure of a city, county or district unless that effect is required by state or federal law. A regulation of METRO addressed primarily to substantive social, economic or regulatory objectives of METRO shall prevail over an inconsistent regulation of a city, county or district if it clearly intends to do so and if the area of regulation pertains to any authorized function of METRO.

### CHAPTER III

#### FORM OF GOVERNMENT

**Section 14. Council.** The governing body of METRO is the council. The council consists of a METRO president, nominated and elected from the METRO area at large, and thirteen councilors, each nominated and elected from a single district within the METRO area. Vacancies in the council shall be filled as provided in section 26 of this charter.

Except as provided below, the boundaries of councilor districts shall be fixed by ordinance. Within three months after an official census or official census estimate indicates that the boundaries deny equal protection of the laws, the council shall respecify the boundaries so as to accord equal protection of the laws and assign councilors to the reapportioned districts. In reapportioning the district, the council shall consider the factors on setting district boundaries set out in section 22 of this charter. In the event the council does not respecify the boundaries within three months, the boundaries shall be set as provided by law.

**Section 15.**            **Councilors.** The initial council shall consist of members of the governing body of the Metropolitan Service District whose term of office continues or begins in January, 1993. The term of office of these councilors shall be the term of office for which they were elected or appointed as members of the governing body of the Metropolitan Service District. At each general election after the adoption of this charter, one-half, or as nearly as possible, of the number of councilors shall be elected, each for a four year term.

**Section 16.**            **METRO President.** The initial METRO president shall be the executive officer for the Metropolitan Service District in office when this charter takes effect. The term of that president shall continue until the first meeting of the council in January, 1995. At the first primary or general election after the adoption of this charter and every fourth year thereafter, a president shall be elected for a four year term.

**Section 17.**            **Terms of Office.** The term of office of an elective officer who is elected at a primary or general election begins at the first council meeting of the year immediately following the election and continues until the successor to the office assumes the office.

**Section 18.**            **Appointive Offices and Commissions.** Except as this charter provides to the contrary: a majority of the members of the council may create, abolish and combine appointive METRO offices and commissions by ordinance; and, the president may appoint and remove officers and members of commissions, subject to appointment confirmation and removal approval of the council. As used in this charter, "majority of the members of the council" means eight members.

## CHAPTER IV

### COUNCIL

**Section 19.**            **Distribution of Powers.** Except as this charter prescribes otherwise, and except for initiative and referendum powers reserved to the voters of METRO, all powers of METRO are vested in the council. Only the council may adopt regional plans and legislation, adopt an annual budget, and oversee and approve performance and financial audits of METRO.

**Section 20.**            **Meetings of the Council.** The council shall meet in the METRO area regularly at a time and place it designates. The council shall, by ordinance, prescribe the rules to govern the conduct and record of its meetings. Except as this charter



provides to the contrary, the express concurrence of a majority of the members of the council present and constituting a quorum is necessary to decide affirmatively a question before the council.

**Section 21. Quorum.** A majority of the members of the council in office constitutes a quorum for its business. A quorum or a lesser number of council members may meet and compel the attendance of absent members.

**Section 22. Increase in Membership.** The number of councilors shall increase from thirteen to fourteen on January 1, 2003. Not later than the 250th day before the date of the primary election in May, 2002, the council shall divide the METRO area into fourteen councilor districts. The area within each district shall be contiguous.

In apportioning districts the council shall give consideration to the current districts and historical and traditional communities and counties. The council need not give consideration to city or special district boundaries or the boundaries of election districts for state officers except when those political boundaries coincide with natural boundaries.

Any councilor whose term continues beyond January, 2003 shall be specifically assigned to a district described by the council for that portion of the councilor's term that extends beyond January, 2003. The description of the fourteen districts and the assignment of councilors to districts shall be accomplished in a single ordinance adopted by the council. Candidates for the office of councilor at the primary and general elections in 2002 shall be nominated and elected from the apportioned districts. Except for a candidate seeking election for the unexpired term of a councilor who vacated the office, each candidate for the office of councilor who is elected to that office at the November, 2002 general election shall hold office for a term of four years beginning at the first council meeting of January, 2003.

**Section 23. METRO President.** The METRO president is a voting member of the council. When present at council meetings, the president shall preside over deliberations of the council, preserve order, enforce the rules of the council, and determine the order of business and agenda of council meetings. Each year, the president shall prepare a proposed budget for METRO for consideration by the appropriate body. The president shall appoint a METRO manager, who shall be confirmed by the council. The president shall perform such other duties as the council may prescribe. The president shall serve full time and shall not be employed by any other person or entity while serving as the president.

**Section 24. Council Vice-Chair.** At its first meeting each year, the council shall elect a vice-chair from its councilors. The council vice-chair shall preside over meetings of the council when the president is absent or unable to participate.

**Section 25.**

**Qualifications.**

(1) A councilor shall be a resident of the district from which the councilor is elected or appointed during the entire twelve months before the councilor's term of office begins. When the boundaries of that district have been apportioned or reapportioned during that period, residency in that district shall include residency in any former district with area in the district from which the councilor is elected or appointed.

The president shall be a resident of the METRO area during the entire twelve months before the president's term of office begins. For purposes of this subsection, "METRO area" means the area of METRO at the time the term of office begins. For purposes of this charter, a person is a "resident" of an area where the person maintains a residence used a majority of time any residence is occupied by that person.

(2) A councilor or president shall be a qualified elector under the state constitution at the time that person's term of office begins.

(3) No person shall be a candidate at a single election for more than one elective office of METRO. An elected officer of METRO shall not be an elected officer of a city, county or special service district during his or her term of office.

(4) The council is the final judge of the election and qualification of its members.

**Section 26.** **Vacancies in Office.** The office of councilor or president becomes vacant upon the incumbent's:

- (1) Death,
- (2) Adjudicated incompetency,
- (3) Recall from office,
- (4) Failure, following election or appointment to the office to qualify for the office within ten days after the time for his or her office to begin,
- (5) Absence from all meetings of the council within a 60 day period without the council's consent,
- (6) Ceasing to reside in the area from which the council member is elected or appointed, except when district boundaries are apportioned or reapportioned and a councilor is assigned to a district where the councilor does not reside;
- (7) Ceasing to be a qualified elector under state law,



- (8) Conviction of a felony or conviction of a federal or state offense punishable by loss of liberty and pertaining to his or her office,
- (9) Resignation from office, or
- (10) Becoming an elective officer of a city, county or special service district.

The council shall be the final judge of whether a vacancy in office exists.

**Section 27.            Filling Vacancies.** Within ninety days after the vacancy occurs, a vacancy in the council shall be filled by appointment of a majority of the members of the council holding office. The appointee's term of office runs from the time of his or her qualifying for the office after the appointment until the successor to the office is duly elected and qualifies for the office. If the vacancy occurs more than 20 days before the first general election following the beginning of the term for that office, the appointee's term of office runs only until the first council meeting in the year immediately following that election. At that general election or at the primary election that year, a person shall be elected as councilor or president for the remainder of the term.

During a council member's disability to serve on the council or during a member's absence from the METRO area, a majority of the other council members may by appointment fill the vacancy on an interim basis.

If a vacancy in the office of councilor occurs after the councilor has been assigned to a reapportioned or newly apportioned district under sections 14 or 22 of this charter, the vacancy shall be deemed to have occurred in the district to which that councilor was assigned.

**Section 28.            Limitations of Terms of Office.** No person shall be elected to the office of councilor for more than three consecutive full terms. No person shall be elected to the office of president for more than two consecutive full terms. The limitations of this section apply only to terms of office beginning in or after January, 1995.

## CHAPTER V

### OFFICERS, COMMISSIONS AND EMPLOYEES

**Section 29.            METRO Manager.**

(1) The METRO manager is the administrative head of METRO. The manager shall be appointed without regard for political considerations and solely on the basis of

administrative qualifications. The manager shall be appointed for a definite or indefinite term and may be removed by the president with or without cause. Within six months after a vacancy occurs in the office of manager, the president and council shall fill the vacancy. A person need not be a resident of the METRO area when appointed as manager.

(2) The manager shall:

- a. Attend region council meetings unless excused by the council or president;
- b. Administer the provisions of all ordinances and the directions of the council;
- c. Appoint, discipline, remove, and prescribe the duties of appointive personnel, except appointees of the president or council; and
- d. Prepare and transmit to the president a draft annual budget.

(3) The manager may not control any appointed judge or hearings officer in the exercise of adjudicative functions by that person or, unless authorized by the council, appointive personnel of METRO whom the manager does not appoint.

(4) When the manager is absent from the METRO area or disabled from acting as manager, or when the office of manager becomes vacant, the president shall appoint an interim manager. The appointee shall have the powers and duties of the manager, except that the interim manager may appoint or remove personnel only with the approval of the president. No person shall be interim METRO manager for more than six consecutive months.

(5) Except in a council meeting, or in immediate response to solicitation of advice by the manager, no councilor may directly or indirectly, by suggestion or otherwise, attempt to influence the manager or a candidate for the office of manager in the appointment, discipline, or removal of personnel appointed by or under the manager or in decisions regarding the property or contracts of METRO. A substantial violation of this prohibition may subject the councilor to removal from office by a court of competent jurisdiction upon suit by the manager, member of the council, or elector of METRO. In a council meeting, members of the council may discuss with, or suggest to, the manager anything pertinent to METRO affairs.

### **Section 30.                    METRO Policy Advisory Committee.**

(1) Creation and Composition. There is hereby created a METRO Policy Advisory Committee (MPAC). The initial members of MPAC shall be appointed within ninety days of the effective date of this charter. MPAC shall consist of the following members:



- a. One member of each of the boards of county commissioners of Washington, Clackamas, and Multnomah Counties, appointed by the board from which the member is chosen;
- b. Two city commissioners of the City of Portland, appointed by the Portland City Council;
- c. One member of the governing body of the second largest city in population in Multnomah County, appointed by that governing body;
- d. One member of the governing body of the largest city in population in Washington County, appointed by that governing body;
- e. One member of the governing body of the largest city in population in Clackamas County, appointed by that governing body;
- f. One member of a governing body of a city with territory in the METRO area in Multnomah County, other than the City of Portland or the second largest city in population in Multnomah County, appointed jointly by the governing bodies of cities with territory in the METRO area in Multnomah County, other than the City of Portland or the second largest city in population in Multnomah County;
- g. One member of a governing body of a city with territory in the METRO area in Washington County, other than the city in Washington County with the largest population, appointed jointly by the governing bodies of cities with territory in the METRO area in Washington County, other than the city in Washington County with the largest population;
- h. One member of a governing body of a city with territory in the METRO area in Clackamas County, other than the city in Clackamas County with the largest population, appointed jointly by the governing bodies of cities with territory in the METRO area in Clackamas County, other than the city in Clackamas County with the largest population;
- i. One member from the governing body of a special service district with territory in the METRO area in Multnomah County, appointed jointly by the governing bodies of special service districts with territory in the METRO area in Multnomah County;
- j. One member from the governing body of a special service district with territory in the METRO area in Washington County, appointed jointly by the governing bodies of special service districts with territory in the METRO area in Washington County;
- k. One member from the governing body of a special service district with territory in the METRO area in Clackamas County, appointed jointly by the

governing bodies of special service districts with territory in the METRO area in Clackamas County;

l. One member of the governing body of Tri-County Metropolitan Transportation District of Oregon, appointed by the governing body of that district; and,

m. Three persons appointed by the president and confirmed by the council. No such person shall be an elected officer of or employed by METRO, a city, a county or a special service district. Each such person shall reside in the METRO area during the person's tenure on MPAC.

Notwithstanding the above provisions, the composition of MPAC may be changed at any time by a contemporaneous vote of both a majority of the members of MPAC and a majority of the members of the council.

(2) Bylaws. MPAC shall, by resolution, adopt bylaws to prescribe the rules governing the conduct and record of its meetings and the terms of its members.

(3) Vote Required for Taking Action. Whenever this charter requires approval of a majority of the members of MPAC, the approval shall require the affirmative vote of a majority of the members of MPAC holding that office.

(4) Duties. The MPAC shall perform the duties assigned to it by this charter and such other duties as the council may prescribe.

**Section 31.** Compensation. No councilor shall receive compensation for serving in that capacity. The council may, however, prescribe a plan for reimbursing councilors for necessary meals, travel and other expenses incurred in serving METRO and allowing a per diem payment for meetings. The salary and employment benefits of the president shall be set by the council upon the recommendation of a salary commission to be appointed by the council, but shall not be less than that of a district court judge of this state. The council shall determine the compensation of other officers of METRO.

**Section 32.** Oath. Before assuming office, an officer shall take an oath or shall affirm that he or she will faithfully perform the duties of the office and support the constitutions and laws of the United States and the State of Oregon and the charter and laws of METRO.



## CHAPTER VI

### ELECTIONS

**Section 33.**            State Law. Except as this charter or a METRO ordinance prescribes to the contrary, a METRO election shall conform to state law applicable to the election.

**Section 34.**            Nominations. A person may be nominated in a manner prescribed by general ordinance to run for an elective office of METRO.

**Section 35.**            Election of METRO Officers. The first voting for councilor or president, except for certain elections to fill a vacancy in a term of office, shall take place at an election held at the same time and places in the METRO area as the statewide primary election that year. If at the primary election one candidate for a METRO office receives a majority of the votes cast for all candidates for that office, that candidate is elected and is entitled to a certificate of election. If at the primary election no such candidate receives a majority vote, the two candidates receiving the two highest numbers of votes cast for the office shall be the only ones whose names appear on the ballot for the general election that year as candidates for that particular office. The candidate who receives the greatest number of the votes cast at the general election for that office is elected to that office and is entitled to a certificate of election.

All elections for METRO officers shall be nonpartisan. The names of candidates for METRO offices shall be listed on election ballots without political party designations.

**Section 36.**            Recall. An elective officer of METRO may be recalled in the manner, and with the effect, now and hereafter prescribed by the constitution and laws of the state.

**Section 37.**            Initiative and Referendum. The initiative and referendum powers reserved to the voters of METRO under Oregon Constitution, Article XI, section 14(5) are subject to the provisions of state law and ordinances of the council.

**Section 38.**            Amendment and Revision of Charter. The council may refer, and voters of METRO may initiate, amendments to this charter. A proposed amendment to the charter shall embrace one subject only and matters properly connected therewith. The shall provide by ordinance for a procedure to revise this charter.

## CHAPTER VII

### ORDINANCES

**Section 39.**            **Ordaining Clause.**    The ordaining clause of an ordinance adopted by the region council shall be, "The METRO Council ordains as follows:". The ordaining clause of an initiated or referred ordinance shall be, "The People of METRO ordain as follows:".

**Section 40.**            **Adoption by Council.**        The council shall adopt all legislation of METRO by ordinance. Except as provided below, no ordinance may be adopted by the council at a meeting unless: the ordinance is introduced at a previous meeting of the council; the title of the ordinance is included in a written agenda of the meeting at which the ordinance is adopted; the agenda of that meeting is publicized not less than three nor more than ten days before the meeting and, copies of the ordinance are available for public inspection at least three business days prior to the time of that meeting. The text of an ordinance may be amended, but shall not be substantially revised, at the meeting at which it is adopted. The preceding provisions of this section do not apply to an ordinance adopted by unanimous consent of the council and containing findings on the need for immediate adoption. No ordinance shall be adopted unless it receives the affirmative votes of a majority of the members of the council in a public meeting.

**Section 41.**            **Endorsement.**        Unless a different procedure is prescribed by general ordinance, an ordinance shall be endorsed by the person presiding over the council at the time of its adoption.

**Section 42.**            **Effective Date of Ordinances.**    Unless a different time is stated in an ordinance, an ordinance shall take effect ninety days after its adoption by the council. An ordinance may state an earlier effective date if an earlier effect is necessary for the health, safety or welfare of the region, the reasons why this is so are stated in an emergency clause of the ordinance, and the ordinance is approved by the affirmative vote of two-thirds of the members of the council. An ordinance imposing or changing a tax or charge or changing the boundary of METRO shall not contain an emergency clause.

**Section 43.**            **Content of Ordinances.**    Each ordinance shall embrace one subject and all matters properly connected therewith. Each ordinance shall be plainly worded, avoiding as far as practicable the use of technical terms.

**Section 44.**            **Procedures by General Ordinances.**    The procedures for making, altering, vacating or abandoning a public improvement shall be governed by general



ordinance. The procedures for fixing, levying, and collecting special assessments against real property for public improvements or services shall be governed by general ordinance. To the extent these procedures are not governed by general ordinance, they shall be governed by state law.

## CHAPTER VIII

### MISCELLANEOUS PROVISIONS

**Section 45.**        Transition Provisions.        All legislation, orders, rules and regulations of the Metropolitan Service District in force just before this charter takes effect remain in force after that time insofar as they are consistent with this charter. All enactments of the Metropolitan Service District affecting the content of local land use comprehensive plans or regulations or the provision of governmental or utility services which are in effect at the time this charter takes effect shall remain in effect until changed or repealed by ordinance adopted under section 7 of this charter. All rights, claims, causes of action, duties, contracts, and legal and administrative proceedings of the Metropolitan Service District that exist just before this charter takes effect continue and are unimpaired by the charter. Each then shall be in the charge of the officer or agency designated by this charter or by its authority to have charge of it. The unexpired terms of the elective officers of the Metropolitan Service District continue as provided by this charter. Upon the effective date of this charter, the assets and liabilities of the Metropolitan Service District become the assets and liabilities of METRO.

**Section 46.**        Time of Effect.        This charter takes effect January 1, 1993.

**Section 47.**        Severability; Headings.        The terms of this charter are severable. If a part of this charter is held invalid, that invalidity shall not affect any other part of this charter, except as the logical relation between the two parts requires. The chapter and section titles used herein are not part of the charter.

**Section 48.**        State Legislation.        The council shall seek in the sixty-seventh Legislative Assembly and thereafter, that legislation necessary for all parts of this charter to have operative effect.