

METRO
CHARTER
COMMITTEE

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AGENDA

DATE: July 14, 1992 *
MEETING: Full Committee
DAY: Tuesday
TIME: 6:00 p.m.
PLACE: Metro, Room 440, 2000 SW 1st Avenue, Portland

6:00 Discussion and decisions on pending issues for the Charter.

10:00 Meeting adjourned.

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

6:00 Discussion and decisions on pending issues for the Charter.

10:00 Meeting adjourned.

MINUTES OF THE CHARTER COMMITTEE
OF THE METROPOLITAN SERVICE DISTRICT

July 14, 1992

Metro Center, Room 440

Committee Members Present: Hardy Myers (Chair), Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Charlie Hales, Frank Josselson, Ned Look, Wes Myllenbeck, Ray Phelps, Vern Shahan, Mimi Urbigkeit, Norm Wyers

Committee Members Absent: Tom Brian, Matt Hennessee, Bob Shoemaker

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

1. Discussion and decisions on pending charter issues

Chair Myers asked the Committee to review the decisions made at the previous meeting and a document from Charlie Hales proposing several amendments. He said there was a fair amount of comment at the public hearings suggesting that the Future Vision be eliminated. He said that Charlie Hales is proposing to delete the provisions relating to the use of a separate commission and to leave to the council the process for formulating the Future Vision. This change is, in part, directed toward trying to eliminate any potential conflict between the Future Vision and the Region 2040 process.

Ron Cease asked if Region 2040 uses outside contractors.

Janet Whitfield said yes. They have also had public review of involved issues and have done telephone surveys.

Ron Cease asked when Region 2040 is expected to be done.

Ken Gervais, Metro staff, said Phase I, where they get input from the public to help with development of the alternatives, is due to be completed by about January of next year. Phase II will see if the alternatives are economically viable. The project concentrates on urban form and does not deal directly with concerns about economic and education aspects.

Ron Cease asked if there is any way to dovetail the Future Vision with Region 2040. There is no point to adopt something which will throw out what has already been done.

Larry Derr said the first phase of 2040 is information gathering and issue formulating. It is a resource that the Future Vision would need to use. In Phase II of 2040, if the charter is adopted, there is a council who is directing 2040 and is setting up the Future Vision and they are in control of both.

Ron Cease suggested adding a provision to make it clear that the 2040 information should be used.

Larry Derr said Charlie Hales was proposing to take the whole paragraph out on the Future Vision commission, which made an oblique reference to Region 2040 by having the commission consider available data and public comment.

Jon Egge said he is distressed that the Committee has gotten mixed messages from Metro. When the Committee heard from Metro, the conclusion was that the Future Vision would not conflict. At the public hearing in Lake Oswego, Metro made very non-specific reference to conflicts between 2040 and

the Future Vision. There nothing very substantive. He said he thinks the Committee has already covered the bases and the commission and the Future Vision should be left in. There needs to be a broad-based commission.

Larry Derr asked if it is true that the Region 2040 project came about because of federal transportation mandates. He asked if there are any time lines required that the Future Vision would interfere with.

Ken Gervais said 2040 is the next step in the RUGGO's process that the local governments have participated in. The management team consists of ODOT, Tri-Met, City of Portland, representatives from each of the three counties, and Metro. Tom Walsh of Tri-Met, is trying to generate a long-term strategic plan for that organization, but cannot do that until the RUGGO's process is far enough along to indicate what kinds of urban form are consistent with the kinds of transit that are required.

Larry Derr said if the commission is left in, there is no reason why the council cannot direct the commission to operate on a shorter time table.

Frank Josselson said the fact that the Future Vision has to be done by May 1, 1994 does not mean it cannot be done sooner.

Motion: Frank Josselson moved, Jon Egge seconded, to delete, from Section 7(1), The Future Vision, the provision stating that the Future Vision will include matters of *Economic growth and educational resources*, and to delete the word *and* in the preceding paragraph.

Frank Josselson said the Future Vision is for land use, the urban form, settlement patterns, and quality of life issues. To leave the *economic growth and education resources* provision in is distracting from the principle purpose of the Future Vision.

Ron Cease said he would loathe to see the Future Vision cut back and would not want the commission eliminated. He said he would like to see the Future Vision pretty much as it is, except maybe to tie it more into what is going on.

Chair Myers said that the provision is a very different direction for the Future Vision and for 2040.

Ray Phelps said without the *economic growth and education resources* provision, the other provisions are meaningless because they all lead to it. There are some very liveable communities where children cannot go to school. If life decisions are made on what kind of community you want, without considering economic growth and education, the plan will not work.

Larry Derr asked Ray Phelps if he is taking into account economic and educational resources in planning or in terms of actually planning for ways to provide for economic growth and educational resources.

Ray Phelps said economic growth and educational resources are part of community planning. He said his belief in the Future Vision hinges on whether or not people can live in a community and educate their children. Those resources have to be available and they have to be coming on line. Any plan would need to go toward that objective.

Larry Derr said he agrees that they should be taken into account in developing the metropolitan area, but the risk is great that people will construe them to mean that Metro should be planning the educational resources. In the short time allowed for completing the Future Vision they cannot

adequately take that on in addition to economic development planning. People may feel negative about the proposal for that reason.

Ray Phelps said this is not the only place the charter gives a large task to Metro. In other areas it was done with the forethought that it would be a challenge to the government and to the future, but it is something worthwhile and should be undertaken. He supports the commission because it will bring expertise into the process. He said the problems that exist today are a result of no one planning for the educational resources and economic growth. Somebody should be charged with that responsibility.

Jon Egge said he does not think it is Metro's duty to form some kind of economic mission. Economic and educational resources should be divorced from each other. If economics were left in, he would assume that education would automatically be a part of the strategy. He cannot envision Metro actually setting the economic strategy or vision for the region. It does not fit with the regional framework plan--they do not tie together. It invites unnecessary opposition.

Frank Josselson said it duplicates things other agencies in the state and local governments are expressly formed to do.

Vern Shahan said that the broad-based commission--made up of private, public and academic experts--will look at economic growth and the development of educational resources because parts of the other matters included in the Future Vision--the use, restoration and preservation of regional and natural resources for the benefit of present and future generations, how and where to accommodate the population growth for the region while sustaining and maintaining its livability and quality of life, and the means of developing new communities and additions to the existing urban areas in well-planned ways--are made up of economic growth and the development of resources. The provision is redundant and could potentially tie up the commission's focus on those things directly related to economic growth and educational resources rather than looking at the broader picture.

Larry Derr said the Future Vision is the first step toward a plan with the purpose of looking far out into the future and dealing with how the urban areas will look and develop. It is pretty hard to plan far out into the future with economic development and education.

Ron Cease said that there are many examples where subdivisions have gone in without any reference to schools. He said you cannot do the other provisions included in the Future Vision cannot be done without looking at economic growth and educational resources. The provision just says that they must be considered. This continual business of having schools and economic development unrelated to the larger picture is an indication of why there is difficulty. The Future Vision would be better off if the provision remained.

Tim Sercombe said one option would be to add *economic growth and educational resources* to the earlier part where it talks about the Future Vision being a conceptual statement. It would then be a factor that is used in planning for the matters addressed by the Future Vision.

Ron Cease said, if it were emphasized, he would support that. It needs to be clearly stated.

Frank Josselson said he would expect economic growth and educational resources to be addressed by a broad-based commission. The list does not limit the matters addressed in the Future Vision. Excluding economic growth and educational resources would not be leading the council or the commission to believe that the purpose of the Future Vision is to do economic or educational planning. The Future Vision calls for land use planning which is different. Economic and educational planning are not within the scope of this and probably not even possible. It is impossible to look out 50 years and get any sense of educational or economic planning. However, in terms of having economics figure

in a land use plan, that is understandable. In terms of transportation densities, there are certain principles that are going to stay the same. Having the provision included in the list suggests that the commission and the council should be doing strictly economic and educational planning which is not the purpose of the Future Vision.

Ron Cease said the Future Vision is not a plan in that sense.

Ned Look said he would like to leave it in. The Future Vision is referring to the location of growth. He said he likes Tim Sercombe's suggestion of moving up the provision to the first paragraph of the Future Vision. It will clarify that Metro is not intending to get into the whole area of economic development but rather the location.

Frank Josselson said the term *desired quality of life* was intended to include those kinds of economic considerations.

Jon Egge said the Future Vision preamble is the only place where it belongs. Having it in the list has caused alarm by some that Metro would be planning for education and economic development.

Ron Cease said it could be inserted in the preamble to read "...accommodate within the carrying capacity of the land, water and air resources, *economic growth, educational resources and needs*, and that achieves a desired quality of life".

Larry Derr said it could be "...*water, air, economic and educational resources*..."

Tim Sercombe asked if economic and educational resources would be considered appropriate within a "carrying capacity". It might read instead: "*within the carrying capacity of the region's land, water and air resources, its educational resources, needed economic opportunities and desired quality of life.*"

Amendment to the motion:

Frank Josselson amended his motion, Jon Egge seconded, to include the following wording in the Future Vision preamble: *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, its educational resources, needed economic opportunities and desired quality of life.*

Vote on the amended motion:

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

Chair Myers asked if it is the Committee's intention for the council to appoint the commission or if the appointments should be made by the Metro president with the consent of the council.

Ron Cease said it should be in line with the normal arrangement of appointing commissions.

Ray Phelps said he agrees.

Motion:

Ray Phelps moved, Ron Cease seconded, that the appointment of the Future Vision commission will be vested in the authority of the Metro president,

subject to confirmation by the council.

Jon Egge said the Committee should wait until they get the provisions for appointing commissions and then spread that rule over the whole charter.

Amendment to the motion: Ray Phelps amended his motion, Ron Cease seconded, that when the appointing authority is determined, the appointment to boards and commissions will be made consistent throughout the charter.

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

Chair Myers said Charlie Hales recommended that, in the provision regarding the non-regulatory nature of the Future Vision, it should read "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 *or cited in judicial review of individual land use decisions.*"

Larry Derr said the Committee cannot tell the courts what to cite or not to cite and it does not get at the bigger problem. The problem, according to Dan Cooper, is that while the Future Vision may not have regulatory effect, and so is not directly reviewable, it may have a significant impact on land use which is the second category that makes it reviewable by LUBA. It has significant impact because it has to be taken into account when the subsequent planning is done. One way to deal with it would be to say that, to the extent that it is reviewable, it would only be reviewable in connection with the framework plan which would mean that it would have to be done as a piece.

Chair Myers said Larry Derr may want to craft specific language on that. He said he would prefer not to deal too conceptually right now. It would probably be better not to put Charlie Hales' language in, unless there is a motion to do it.

Tim Sercombe said the Committee might think about adding language to have it read "...not have any legal effect which would allow it to be reviewed *or used to decide land use decisions*". That is, the Future Vision cannot be used in any individual decisions as a basis for decision.

Ron Cease said the Future Vision is not to be regulatory, but obviously, it is going to be a major component to use in developing the regional framework plan, which affects the local plans. He asked how to get away from the fact that the Future Vision is part of the planning.

Larry Derr said the concept was that it had to be taken into account, but it did not have to be followed. That was the parting of the waves between regulation and visioning. If it did not have to be followed, it would not be subjected to judicial review and would not get bogged down in process. Charlie Hales' well-intentioned proposal gets back into that thicket.

Frank Josselson said the relationship contemplated was that the framework plan would be an operative and regulatory instrument. Where it did not follow the Future Vision, it had to have an explanation. The framework plan is required to explain its relationship to the Future Vision. The concept was that the plan would be a pure planning tool and would not have regulatory force.

Ron Cease said he hopes they would use it or else there is no point in having it. As long as you are going to say that it is a goal toward which you are going to move, it does raise a real serious question of how you are going to avoid a challenge.

Larry Derr said the charter says no more than the Future Vision has to be taken into account.

Chair Myers suggested removing the sentence: "The Future Vision affects the regional framework plan in the manner described below".

Ron Cease asked what is the intent for the Future Vision. It is not required to be used and if it is not used, there does not have to be an explanation why. He asked if it is worth very much.

Larry Derr said that the same entity that ultimately adopts the Future Vision is going to do adopt the regional plans. If they are acting coherently, they would be expected to adopt plans that are consistent with their own Vision. The advantage of not requiring the link is that you do let the Future Vision be something that does not have to be drafted by lawyers and can be drafted by planners.

Motion: Chair Myers moved, Larry Derr seconded, that the last paragraph of section 7(1) read: "...Future Vision not have no legal effect which would allow it to be reviewed by a court or agency of this state *or adjudicate land use decisions.* ~~The Future Vision affects the regional framework plan in the manner described below.~~"

Frank Josselson said he would like to rearrange some words in the first sentence of the motion. If it says that the Future Vision shall not be the basis for land use decisions, it is being prevented from being used in the regional framework plan which is a land use decision. He said that the term "land use decision" is defined by statute to mean a variety of things and to not mean a variety of other things. Charlie Hales' intent is probably to prevent the Future Vision from being used in a quasi-judicial role.

Tim Sercombe said when it says that it is intended to not have legal effect that would allow it to be reviewed, it means that its adoption is not a land use decision and it has no regulatory effect and it does not establish policies that can be then used for individual land use decisions.

Amendment to the motion: Chair Myers amended the motion, Larry Derr agreed, to only delete the last sentence and leave the first sentence as it stood originally. Section 7(1), as amended, would read: "...Future Vision not have no 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.~~"

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

Frank Josselson said he has a problem with the way the preamble--the first paragraph under 7(2)--to the regional framework plan is written. The outline and discussions were that the framework plan would address certain substantive issues. The Committee made a list of things considered to be

regional. The Committee also said that those subject matter areas could be addressed in the plan through a variety of implementation tools, including regional goals, objectives and policies, functional plans and benchmarks for performance. These tools should not be required for each subject area, but a variety of implementation tools such as those should be available. He suggested changing the introductory statement of the regional framework plan to read: "The council shall adopt a regional framework plan *which plans for establishing regional goals, objectives and policies, functional plans and benchmarks for performance addressing...*" At the end of the list of what the regional framework plan will plan for, it would state: "*As planning or implementation tools, with respect to any of the subject matters identified in the foregoing list, regional goals, objectives and policies, functional plans, benchmarks for performance and other implementational tools may be used.*"

Ron Cease said it is a far removal from the current wording.

Frank Josselson said the current wording is very far from what the Committee decided.

Jon Egge said the Committee talked about the provisions as part of a tool box. He agreed that the drafted language is a departure from the Committee decision.

Chair Myers agreed. The Committee adopted a provision that would describe these elements as the potentially available mechanisms.

Larry Derr suggested adding a new sentence which would read: "*The regional framework plan may contain: ...*" and then list those items. It would be unlinked from the subject matter and not all of the them have to be covered with all of the items.

Ron Cease said that the "may" term allows them to not use the tools if they chose not to.

Chair Myers said that he is striving for a recognition that not every one of the tools would necessarily be used with respect to every element of the plan. From among the group, the council would make decisions about what would be used.

Larry Derr said that it went so far as to acknowledge that, in addressing one or more of the subject matter areas, the conclusion may be that other plans in existence were adequate and they did not need to have anything more than that.

Chair Myers said that it makes it the responsibility of the council to decide which mechanisms will be utilized.

Tim Sercombe said that the original instructions were that it will include these things, but it was not coupled with the list. If the intent is that it may not have to contain those things, then it should be uncoupled.

Ron Cease said that the regional framework plan is left pretty open because the charter says it should address certain issues without stating that they should be addressed in reference to each of the specific items. He said that it was his intent that they would be required to do these things, but not necessarily related to each item specifically. If it is a "may" phrase, then they do not have to do any of it. He suggested that it read "*the council shall adopt a regional framework plan addressing...*".

Tim Sercombe asked if the last sentence could say that "*the council shall establish regional goals, objectives and policies, functional plans and benchmarks for performance in those areas that the council deems appropriate*".

Frank Josselson said that it should be a "may" phrase that they can use one or more of those tools, other devices, or no devices if they feel that the status quo program is sufficient and the region is not going to establish tools in that area.

Ron Cease said that if it is going to be a "may" phrase, it might as well be left out. If it says "as appropriate", it gives some sort of indication that the intent is for them to do that.

Jon Egge said that if the government is not allowed some latitude, they will be forced to do a functional plan for urban reserves which may not be legal.

Frank Josselson suggested striking the tool list.

Ron Cease said that it would be appropriate to say that the council shall use or establish them where appropriate.

Jon Egge said that one of the criticisms the Committee has had with the whole plan is the specificity that is in it. He said that this is one of those areas where they should be non-specific.

Ray Phelps said that he does not like the regional framework plan at all. He said that the Committee is creating a process that the council, on its own motion, can determine something that they wish to address. He said that he assumes that the advisory Committee will still be kept in place and the advisory Committee would be that process that would allow these things to surface to such a degree that it would rise to an element of a regional framework plan. He said that one of the impediments that this government has suffered from for a number of years is the lack of specific mission with regard to authorization to stick its nose into someone else's business. He said that the new wording makes this a real troublemaker if someone on the advisory Committee, who is not elected, decides to run an agenda. He said that he thought the only redeeming feature was the specificity to call out and describe some of the elements that the government ought to be addressing.

Chair Myers said that the subject matters will stay. He said that the only thing the Committee is focusing on is whether, without doing real damage to the overall provisions, it is possible to extract references to the different implementing tools by which the subjects are addressed. He said that there would not be reference to the tools at any other place.

Motion: Ron Cease moved, Frank Josselson seconded, to amend the first sentence in section 7(2) to read: "The council shall adopt a regional framework plan ~~establishing regional goals, objectives and policies, functional plans and benchmarks for performance addressing:...~~".

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

Chair Myers said that the RGC has a concern and wants to limit any risk that a court may find the regional framework plan to be the same as a comprehensive plan. He said that they suggest that if the Committee retains this term, there should be language added that specifically states that it is not a comprehensive plan.

Motion: Frank Josselson moved, Ray Phelps seconded, that a sentence be added to section 7(2) stating that the regional framework plan is not a comprehensive

plan.

Ron Cease asked if that raises the issue of what the regional framework plan is. He said that it was never intended to be a comprehensive plan.

Frank Josselson said that the Committee's intentions were spelled out in the narrative and the deliberations. It is a framework into which the local plans would fit--a set of organizing principles for local plans. Taken together, the local plans and regional framework plan, would operate as a comprehensive plan for the whole region. It would operate comprehensively for the region. The regional framework plan is a set of organizing principles around which local governments could lay.

Jon Egge said that the point is that it is not something that already exists. It is a new creation, much the same as functional plans are a creation of ORS 268.

Tim Sercombe said that when it says in the charter that it is not a comprehensive plan, it focuses on a technical term as it is used currently in state statutes as it is defined in ORS 190.010, but that may not be the way that it is thought to be in the future. If the charter says that it is not a comprehensive plan, that means it is not a plan that is suppose to have some sort of comprehensive effect when, in fact, that is what it does have. It is, functionally, something that is suppose to have a comprehensive effect--it effects individual comprehensive plans that localities adopt. He said that he would be wary of using land use jargon that would have a different effect than intended.

Ned Look asked if it would be possible to distinguish that the framework plan is not a comprehensive plan by stating the difference between the two in the charter.

Tim Sercombe said that a comprehensive plan has a specific definition under ORS 197 that talks about the plans that cities and counties adopt to govern individual land use decisions. It is defined in a number of ways in terms of its all-encompassness and what is considered in the plan itself. One distinction is that the comprehensive plan is used to make individual land use decisions about rezonings and about individual implementation matters that come from the comprehensive plan. He said that is one of its functions in local government. He said that he did not know if the fear is that the regional framework plan will then be used or forced to be used to make individual decisions or if the fear is it being categorized as a comprehensive plan. If the fear is that it is being categorized as a comprehensive plan, one remedy is to say that the regional framework plan function is to create standards as to what local comprehensive plans must contain. He said that in order for him to make a suggestion, he needs to know what the fear is of it being categorized as a comprehensive plan.

Frank Josselson said that the term comprehensive plan is defined in ORS 197 to be a map and policy statement of the governing body of a local government that interrelates all functional and natural uses and systems relating to the air, water, and land resources in the state. He said that "comprehensive" is intended to be all-inclusive geographically for the area. He said that one of the basic problems in the metropolitan area, that Senate Bill 100 and Chapter 197 created, was that it left comprehensive planning for the region to be done by localities--the 27 cities and counties in the region--who were not equipped to do regional planning. The result was a patchwork quilt of 27 local plans that related to each other only co-incidentally and only with respect to certain areas that were carefully examined by DLCD. He said that the important solution that the charter has to make is to say that there is going to be a set of regional organizing principles in the charter that will be called the regional framework plan. The local governments are going to do their part around the organizing principles. When everyone gets done doing their part--the local governments conforming to the regional framework plan--then there will be, for the metropolitan area, what the law would consider to be a comprehensive plan for the region. He said that it would be inaccurate, legally, to call it a regional framework plan, or the local plans, comprehensive plans.

Jon Egge said that the concern is that the courts will look at the issue in a particular way. He said that it is less important for the Committee to understand it than it is for the court to understand it. He said that he is content to leave it out.

Larry Derr said that he is not sure what the precise concern is and there may be a variety of concerns. He said that one concern could be that the regional plan would be directly applicable to local land use decision making, such as zone changes or conditional use permits. He said that the charter says how the plan is implemented which is where they take care of that concern. He said that the two key issues for comprehensive plans are the comprehensive coverage of them and that they have mandatory effect on land use decision making under the plan. He said the charter lists what this plan covers so that explains it is not of comprehensive coverage. The second issue is dealt with under what effect the plan has.

Ron Cease said that there is some comprehensive planning in the regional framework plan. He said that the Committee is saying there needs to be some sort of a hybrid to take care of the regional nature of the concerns. He said that if the charter is approved, they may have to ask the legislature for action to make clear that the charter can do what they want it to do for the region in reference to the regional framework plan. He said that to include a statement that says it is not a comprehensive plan creates other problems unless it says it is not a comprehensive plan as defined by the statute and then goes on to define what it is.

Frank Josselson withdrew the motion.

Chair Myers said that the RGC would like to Section 7(2)(c), *protection of lands outside the urban growth boundary for natural resource, future urban or other uses*, clarified as to whether the lands are outside of Metro's boundaries and, if so, whether or not Metro has legal authority over them.

Larry Derr said that, as he interprets the statute, the answer is yes because Metro is directed to adopt goals and objectives for the region and the local plans are suppose to conform to those goals and objectives. The statutes do not say anything about only local plans being operative within Metro's boundaries. Provided that Metro implements these directives within its statutory authority, they would have extra-territorial effect.

Motion: Charlie Hales moved, Ray Phelps seconded, the addition of the following three areas to be addressed in the regional framework plan under Section 7 of the charter:

7(2)(d): *Housing densities and urban design;*

7(2)(e): *Parks, open spaces and recreational facilities;*

7(2)(f): *Coordination, to the extent feasible, of growth management and planning policies of Metro with those of Clark County Washington; and*

Janet Whitfield asked if, based on what the Committee passed at the last meeting, 7(2)(g), federal and state mandated planning functions, is redundant.

Jon Egge said that the Committee talked about eliminating section 6(6) because it the issue was dealt with in 7(2)(g).

Chair Myers said that this reference relates to planning functions. The earlier reference could be an assignment of a responsibility other than planning. He said that he does not think they are redundant.

Charlie Hales said that he put all his amendments into one document to make more of an ordered whole out of this. He said that many of his proposed amendments are conceptual in nature and none have had the benefit of counsel. He said that he proposes his amendments with the caveat that Tim Sercombe has the chance to make sure that, if the language needs to be changed, it gets to the sense of what he has written. He said that he got to a more specific point on the amendments in section seven, dealing with the planning functions than the amendments dealing with structure or finance. He said that he took what he considered to be the most valid suggestions from the public hearings. He said that his suggestion of "housing densities and urban design" picks up the metropolitan housing rule which is an LCDC regulation that requires higher densities in the Portland-Metro area. He said that he does not think that state regulation can be in place and not have it be acknowledged and made a part of the regional framework plan. He said that housing densities are an ingredient that should be included in the required plan ingredients. He said that the new transportation rule adopted by the transportation commission requires Metro area local governments to try to start reducing vehicle miles traveled and reducing auto dependency. Urban design issues have to be addressed in the framework plan. He said that he shares the concern that this not be put in the position of being a comprehensive plan that requires the submission of any site specific land use decision to Metro. He said that if it is not possible to write around that problem, then he will suggest jettison the plan. He said that he does not want anyone in the position of dual review. The "parks, open spaces and recreational facilities" provision is an attempt to coordinate with the greenspaces provision. If Metro is going to be in the position to do greenspaces planning and possibly acquisition and management, then it should be part of the planning process for both local governments and Metro. He said that the Clark County provision was a suggestion of the Portland Chamber. He said that Metro cannot have any regulatory authority over Clark County, but to whatever extent coordination can occur, it ought to be recognized in the plan.

Jon Egge asked why housing densities should be addressed when they are part of every comprehensive plan.

Charlie Hales said that it is kind of the dooms day scenario. He said that if the worst happens, and LCDC was abolished by state initiative, he would still want to have Metro in the position to do something like that even without state regulation. He said that he does not think a regional plan can work without addressing housing densities. He said that the Metropolitan Housing Rule requires every city and county in the Metro area to achieve a net residential density on its vacant land of somewhere between six and 10 units, which is much higher than it was before the rule was in place. The rule also requires that all the potential units to be divided 50/50 between single family and apartments. He said that it is the natural trend for every local government, left to its own devices and constituents, to reduce density and not zone for apartments. He said that it must be done on a regional basis.

Jon Egge said that his problem is that this motion injects this government into that process on a region wide basis and they might take certain areas and give them different regional densities.

Charlie Hales said that is done currently. Metro was involved in the last update of the Metropolitan Housing Rule and, theoretically, they have some enforcement responsibility for the rule. He said that it is really not a change in Metro's authorized responsibilities. He said that he would rather have Metro making that decision than LCDC if it came to a choice between the two.

Chair Myers said that, in the pending draft, housing densities and greenspaces are listed as two areas which Metro could bring into the plan with consultation from MPAC.

Charlie Hales said that since it is already being done, it has to be in the plan from the beginning.

Frank Josselson asked what "urban design" means.

Charlie Hales said that it may need further definition and it needs to be checked to see if it is the right term. He said that his definition is the general location and distribution of uses that achieve some objective, like reducing auto dependency. He said that one type of urban design means lots of parking, lots of cars and other type does not.

Frank Josselson said that he would prefer to have housing densities and urban design separated into two categories. He said that the Future Vision uses the term "settlement patterns". He said that he would be inclined to say "urban design and settlement patterns" to make it more graphic.

Amendment to the motion:

Charlie Hales amended, Ray Phelps agreed, the motion to separate housing densities and urban design into two categories and to add settlement patterns to urban design. The amended motion reads:

7(2)(d): *Housing densities;*

7(2)(e): *Urban design and settlement patterns;*

7(2)(f): *Parks, open spaces and recreational facilities;*

7(2)(g): *Coordination, to the extent feasible, of growth management and planning policies of Metro with those of Clark County Washington; and*

Ron Cease asked why put settlement patterns with urban design.

Charlie Hales said that he thinks it is a good expansion on the term "urban design". He said that he thinks mass transit systems, housing densities and urban design interrelate.

Ron Cease said that settlement patterns go more clearly with housing densities.

Charlie Hales said that it goes with both. He said that urban design has to incorporate housing and other elements as well.

Jon Egge asked if it is understood that if a more artful term is found, the Committee will take a look at this issue again.

Charlie Hales said yes.

Tim Sercombe asked if settlement patterns means blending of residential and commercial.

Charlie Hales said yes. He said that housing densities only covers part of what the Metropolitan Housing Rule does. The other half is sharing of the political pain of having apartments in the neighborhood.

Larry Derr said that these terms get more to the what and where, which is the true land use aspects of this and was one of the criticisms of 1000 Friends. He said that 1000 Friends criticized that in the list of planning items, the charter did not come out and say land use. He said that he thought the Committee intended to, not to the point of having use districts drawn on a regional level, but in general terms.

Vote on the amended motion: Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Frank

Josselson, Charlie Hales, Ned Look, Ray Phelps, Vern Shahan, Mimi Urbigkeit, Norm Wyers and Chair Myers voted aye. Tom Brian, Matt Hennessee, Wes Myllenbeck and Bob Shoemaker were absent. All present voted aye and the motion passed.

Larry Derr said that, in section 7(2)(h), federal and state mandated planning functions, he would like to delete "federal" on the assumption that only the state is going to mandate and it may be delegating some federal mandates that it receives. All the mandates are going to come from the state, not directly from the federal government.

Janet Whitfield asked about ORS 208.

Frank Josselson said that CRAG was designated by DEQ as the regional planning agency for the purposes of ORS 208. It was the state that made that delegation.

Motion: Larry Derr moved, Jon Egge seconded, that section 7(2)(h) read: "~~Federal and~~ State mandated planning functions".

Larry Derr said that his motion includes the caveat that if counsel discovers that there are or could be direct federal mandates, then the Committee should revisit the issue.

Tim Sercombe asked if Larry Derr would consider saying "mandated planning functions" so that it does not run into that ambiguity.

Larry Derr said that he would prefer to leave the state reference in because it would otherwise become obscure.

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

Tim Sercombe asked if the intention of this section is to wrap within it all the mandated planning that comes through ORS 268, so that the criticism that the Committee was not including, in the framework plan, some of the mandated planning required by ORS 268 does not apply.

Chair Myers said that this language comprehends both what might remain in the statute that is there now or what might in the future be enacted.

Tim Sercombe said that one of the criticisms made was that the Committee was not taking into account some of those functions in the regional framework plan.

Charlie Hales said that he does not remember anything in ORS 268 that is a planning mandate or opportunity given to Metro that has not been addressed in the charter.

Larry Derr said that Dan Cooper's memo refers to functional plans for air and water quality.

Charlie Hales said that is a state mandated planning function.

Larry Derr said that Dan Cooper's memo said that the charter omitted that and Tim Sercombe's observation is that it is brought in by the general reference.

Frank Josselson said that he thought the Committee decided not to do air and water quality planning since DEQ is the responsible agency and it would be repetitive for Metro to have the function. He said that the only land use plans called for in ORS 268 are the urban growth boundary, air quality, water quality, and transportation functional plans.

Chair Myers said that this language leaves it positioned in a way that if it were in fact mandated, it would be dealt with.

Frank Josselson said that if the legislature directs or DEQ has the authority to delegate the responsibility for an area of water and air quality, then it would be picked up under "state mandated planning functions" according to Tim Sercombe. He said that he resists the idea that air quality and water quality planning is done by virtue of ORS 268. He said that if the Committee wants Metro to do air quality and water quality generally, it should be called out in the charter and not have it implied as a result of the functional planning responsibilities in ORS 268, but he thought the Committee made a decision that they did not want to pick up those functions because they are being performed principally by DEQ.

Chair Myers said that the threshold question is whether or not a provision referencing state mandated planning functions is needed regardless.

Frank Josselson said that he does not think it is necessary.

Larry Derr said that it is needed because it should be clear that this is the place to put it if it is done. He said that Frank Josselson is correct in the Committee's decision to not list air and water quality. He said that his thinking has changed about the interrelationship of the statutes as they may exist in the future in the charter. He said that the next step to get where the Committee was before is to say "state mandated planning functions excluding air and water quality". He said that he is not inclined to try to tie this that closely to the state statutes because if that is done here, there are other places where it might have to be done also and it would bog down the whole charter. He said that he would rather run the risk of Metro setting out to do air and water quality planning rather than getting the legislature to tell it that it does not have to.

Vern Shahan said that air and water quality issues are being dramatically forced upon the region's population based on Tualatin River basin, USA sewage, the Willamette River, and federal transportation dollars that allows transportation planning in the area and its affects on the airshed. He said that, down the road, the regional government should probably be taking a look at it as part of the framework plan.

Jon Egge said that Larry Derr is on target when he says that he would rather take his chances to let the legislature fix this if it is a duplication than to try to bring it up here.

Ron Cease said that he agrees with Larry Derr. He said that there are a number of areas--air, water and some aspects of solid waste--where there is currently some overlap where both the state agency and Metro have some authority legally. He said that there have been some problems between the agencies as they have proceeded to do that. He said that it would be better to put it here because there may be a time when there is a sense that the state agency is not doing an adequate or efficient job and Metro can then raise the issue.

Chair Myers suggested collapsing the balance of the provisions about other elements into an authorization for the plan to address other matters which the council, with the consultation and advice of MPAC, determines are of metropolitan concern and will benefit from regional planning.

Motion: Charlie Hales moved, Ned Look seconded, that the following amendments be

made in Section 7(2), second paragraph:

The regional framework plan ~~may shall~~ also address *other these aspects of the following* matters which the council, with the consultation and advice of the MPAC, determines are of metropolitan concern and will benefit from regional planning:

- a. ~~Water sources and storage;~~
- b. ~~Housing densities;~~
- e. ~~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.~~

Ron Cease asked why "may" should be substituted for "shall".

Charlie Hales said that this provision was permissive from the beginning in that it said it shall also address these items which have gone through the advice of MPAC and have been determined to be of metropolitan concern. He said that, given that this will be an explorative process, they may or may not want to aid these ingredients to the plan. Those issues that are essential have been moved up to the other part of the draft. He said that it is not a pivotal issue, but it makes more sense to say that the list are the issues which the charter instructs Metro to include in the plan. Metro can include other issues in the plan if they want to. He said that he was going after a more general grant of authority than a specific one.

Ron Cease said that it is a question of intent. He said that if it says that they shall with the advice of MPAC, and if something is of metropolitan concern, then they have to determine that. He said that it lays a stronger commitment to do that than to simply say that they may do it. He said that he would prefer to have the statement be a "shall" statement. The would still have to seek the advice and determine it to be of metropolitan concern, but it gives them a broader statement of authority than to simply say "may".

Charlie Hales said that it should remain a "shall" statement. He said that if the list is going to be eliminated, then it should be clarified what areas of planning that Metro is getting into here and perhaps add the words "growth management". He withdrew his original motion.

Motion: Charlie Hales moved, Frank Josselson seconded, that the following amendments be made in Section 7(2), second paragraph:

The regional framework plan shall also address *other growth management these aspects of the following* matters which the council, with the consultation and advice of the MPAC, determines are of metropolitan concern and will benefit from regional planning:

- a. ~~Water sources and storage;~~
- b. ~~Housing densities;~~
- e. ~~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.~~

Ron Cease suggested moving "water sources and storage" to the mandatory list if this list is going to be eliminated. He said that it is only being looked at in terms of the framework plan and it is a limited piece of water. He said that it is a logical area because, looking at the status quo, it calls out for a regional look at the issue. He said that planning for regional disasters should be preserved from the list, although it probably should not go to the mandatory list because it is more of a regulatory issue and does not necessarily relate to growth. There needs to be a regional look at how to respond to disasters, such as an earthquake.

Amendment to the motion: Ron Cease moved, Larry Derr seconded, to amend the motion to move 7(2)(a), Water sources and storage, from the additional list to the mandatory list.

Jon Egge said that the motion would change the whole approach to the issue. He said that the original concept was regional aspects of certain functions. Now it moves to the concept of allowing anything to be put on the table with the advice of MPAC with the caveat of growth management and planning.

Charlie Hales said that both regional disasters and water sources and storage would easily qualify under the mechanism of the motion. He said that water is a classic example of where they ought to talk to local government first before they take it on. It is a service planning process and there are a lot of collaborative planning going on now among various water providers. To require them to go through the MPAC and the determination of metropolitan concern before taking on water makes more sense.

Ron Cease said that the motion would allow Metro to consider anything in the planning area, with the advice of MPAC and determination of metropolitan concern. It is pretty open-ended. He said that Metro has done a little work in the water area. It is a turf area and if it is put up there, Portland is going to raise an issue about it. He said that his response is so what. It is a turf battle and the city of Portland will remain a major water system, but it is time that someone says that the whole question of water sources for this region is of regional significance and it has a regional concern.

Larry Derr said that he supports the idea of eliminating the list because it simplifies the charter and removes a couple red flag items that would be nice, but not worth fighting about. He said that he views the items on the list to have different degrees of importance and agrees with Ron Cease that, on the scale, water sources is at the top. He said that he can take the chance with some of the others that Metro will review them. If the list is eliminated, he would like to keep the focus on water storage. Putting it on the mandatory list does not mean that there will be a functional plan for water because, as with all the others, they can conclude that other current planning may be adequate.

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

Ron Cease said that he would like to see planning for regional disasters preserved but does not know where it would fit.

Tim Sercombe suggested that the assignment of planning for regional disasters be placed in section six

under *other assigned functions*.

Ron Cease said that it is not a growth management issue and it does not fit in the mandatory list.

Charlie Hales said that it never belonged in this section in the first place. Metro ought to be doing regional disaster planning, but it is not a component of a regional framework plan. It is a service planning function.

Chair Myers asked Tim Sercombe to consider where regional disasters should be addressed.

Judy Carnahan asked if Ron Cease meant natural disasters only versus civil unrest.

Ron Cease said that he is talking about an earthquake, flooding, or typhoon. He said that there are local city and county plans for natural disasters, but there is not a comprehensive sense of what to do during a disaster in the region.

Judy Carnahan said that it is a question of planning for coordination.

Ron Cease said yes, more than anything else. He said that he does not know if the region should do the planning, but Metro should make sure that the planning is being done and that the pieces hold together.

Tim Sercombe asked if Ron Cease was thinking about the coordination of natural disaster plans of entities or if "regional disasters" means building standards for earthquakes. He asked how far this concept goes.

Ron Cease said that Rena Cusma had a subcommittee look at the potential role of Metro in earthquake disaster. He said that she said that Metro had the authority. If something is listed specifically, then there is an understanding that is what they are to do. He said that part of it is planning and part of it is operation. He said, looking at the near future, the water issue and a state and regional approach to natural disasters might be issues in the region. He said that he is not suggesting that Metro be the sole provider of planning and operation of natural disasters.

Mimi Urbigkeit asked if the state has plans in place to handle natural disasters, such as the Columbus Day Storm. If it does, could the region coordinate with it.

Ron Cease said that the state has some plans in place, but not nearly enough. He said that the state knows what some of the dangers are of an earthquake, but they do not have a plan in place to deal with it. He said that there is no sense of emergency in the state yet. He said that it is not just a state or regional responsibility. Because these three counties are so urbanized, if there was an earthquake, the effects would be different than in a rural area.

Ray Phelps said that the state does not have anything going for it. He said, for example, that all the heavy equipment needed to move buildings in an earthquake is on the east side of the river and there is no plan to bring it over to this side of the river to get people out of buildings if they fall down.

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

Motion: Charlie Hales moved, Frank Josselson seconded, to delete the following paragraph from section 7(2):

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.

Charlie Hales said that paragraph is in the charter to implement and mechanize the analysis of each of the provisions above and now that is a general grant rather than a list, the paragraph is not needed anymore.

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

Motion: Charlie Hales moved, Judy Carnahan seconded, that the inclusion of model standards and procedures in the framework plan be optional rather than mandatory. The sentence would read: "...The regional framework plan *may* ~~shall~~ also contain model standards and procedures...".

Charlie Hales said that model standards and procedures are a great idea, but it falls below the threshold of what ought to be required in the plan.

Larry Derr said that the motion would be more accurate to delete the sentence entirely or leave it unchanged. If it is going to be optional, it should not clutter the charter.

Amendment to the motion: Charlie Hales amended, Judy Carnahan seconded, to amend the motion to delete the following sentence: "The regional framework plan shall also contain model standards and procedures for local land use decision-making that may be adopted by local governments."

Ron Cease asked if there is a substantive reason, besides the politics of it, for its deletion.

Charlie Hales said that the plan requirement is powerful and focused enough that this sentence is less important to him. He said that there is a lot of merit to the idea of regional standards, both technical standards and procedural standards. It is a practical thing for Metro to be doing, but it cannot be done without the cooperation of local governments and it does not belong in the plan's specified requirements.

Ron Cease said that if it is not required, it will not be done.

Charlie Hales said that is probably correct. He said that he is not prepared to say that the framework plan shall contain standards and local governments must adopt them.

Chair Myers said that Ron Cease was saying that if Metro is not required to develop even the voluntary standards, Metro will not do it.

Frank Josselson said that this issue was part of a set of provisions suggesting the inclusion that local governments would be required to have clear and objective standards for land use decision making. He said that this provision is the last vestige of the effort to get a more uniform set of land use decision making standards and procedures than currently exists. He said that by "more uniform" he means more uniform than the 27 entirely different set of standards and procedures that are in place for the local governments in the region. He said that he would require Metro to adopt model standards and procedures and require local governments to adopt them, but the Committee did not agree to that. The Committee required Metro to do the model standards and procedures and authorized local governments to adopt them. He asked the Committee to not retrench any further.

Jon Egge said that this is like the 1973 Uniform Building Codes Act that the cities and counties had a fit over, but the area is known nationally as having a pretty good system. He said that the sentence should be left with "shall" intact because it is the first step in a very important process.

Judy Carnahan said that she has supported this idea from day one based on her experience. She said that if it would help her in the real estate business, it would be of tremendous help to others, such as an industry looking at this area to settle. It is currently too confusing. There is not really any reason why the same codes cannot be used throughout the region. It is a matter of changing symbols so everyone is using the same symbols.

Charlie Hales withdrew the motion.

Ron Cease asked if the 1994 date is unrealistic to have model standards as part of the regional framework plan.

Larry Derr said no.

Ned Look asked for the RGC stand on the issue.

Greg Chew, RGC staff, said local governments do not want the mandatory "shall". It is just another standard to look at and there are other standards to look it.

Chair Myers said that the RGC comments say that "Metro will have the authority to do this and does not need a mandate, which will cause the expenditure of substantial funds at a time when other elements of the regional planning process clearly have a higher priority".

Greg Chew said that it is also a question of enforcement. Metro staff would have to make sure that the 27 jurisdictions adopted the standards.

Chair Myers said that the adoption of them by a particular local government is optional.

Frank Josselson suggested that the provision say "to encourage and promote regional uniformity".

Motion: Frank Josselson moved, Jon Egge seconded, to amend the sentence in section 7(2) to read: "*To encourage and promote regional uniformity, the regional framework plan shall also contain model standards and procedures for local land use decision-making that may be adopted by local governments.*"

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

aye and the motion passed.

Chair Myers said that the RGC commentary says that the sentence "review of the regional framework plan for compliance with state law shall occur as determined by the state reviewing agency or by law" should be strengthened.

Frank Josselson said that the Committee outline and regional framework plan conception was that it would explain its relationship to the Future Vision and it was going to conform to applicable LCDC goals. He said that is what the Committee decided. He said that the conformance to LCDC goals is going to be a requirement whether the charter says it is or not. He said that the problem with the sentence is that it implies that there are state laws with which the regional framework plan has to comply beyond the statewide planning goals. He suggested deleting the sentence.

Motion: Frank Josselson moved, Larry Derr seconded, deleting the following sentence from section 7(2):

"Review of the regional framework plan for compliance with state law shall occur as determined by the state reviewing agency or by law."

Tim Sercombe said that the only reason this sentence was put in the charter was because the outline said that the Committee wanted something that said periodic LCDC review of the regional framework plan will occur on a schedule established by LCDC. He said that there is some legal question about whether or not the regional framework plan would have to be consistent with the LCDC goals under state law. He said that it is clear that the charter says that they have to be. He said that it is not clear whether or not the goals apply to the framework plan.

Frank Josselson said that he thought it was very clear. He said that the Committee, in its statement, said that the regional framework plan must be consistent with the statewide planning goals. He said that it would be fine to say that in this sentence, but it has already been said.

Larry Derr agreed with striking the sentence because it is another area where they would have to predict state law change to implement it. He said that he recalls that Metro's mandate to have goals and objectives that local plans have to comply with is not subject to statewide goals and that creates a real ambiguity. The ambiguity is solved with the charter requirement that whatever comes out of the process must comply. If there is a state process for acknowledgement or review, so be it. If there is not, it is self-enforcing.

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

Chair Myers said that Tim Sercombe raised the question whether the reference to local plans in the sentence "the regional framework plan shall provide the basis for coordination of local plans of cities and counties within the boundaries of Metro" should be a reference to local land use plans.

Tim Sercombe said that, at some point, it ought to be clear that the framework plan is a land use planning document that is intended to affect local land use plans. He said that one of the ambiguities in the previous draft was whether or not it had an effect beyond that and whether or not it was something that would cause localities to change other policies, besides land use plans and implementing regulations, in order to be consistent with it. If it is an ambiguity, it could be cured by talking about

the coordination of local land use plans and not other types of government policies.

Frank Josselson suggested it say local land use plans and ordinances.

Larry Derr suggested local comprehensive plans and implementing regulations.

Motion: Larry Derr moved, Frank Josselson seconded, that the following sentence in section 7(2) be amended to read: "The regional framework plan shall provide the basis for coordination of ~~local~~ *comprehensive plans and implementing regulations* of cities and counties within the boundaries of Metro"

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

Larry Derr said that the regional goals and objectives govern county plans and city plans within the tri-county area. He said that the charter may be stating this in a more limiting fashion than desired by stating "within the boundaries of Metro".

Tim Sercombe suggested deleting "of cities and counties within the boundaries of Metro".

Larry Derr said that would be too broad. He suggested naming the three counties.

Frank Josselson said that there is a danger because the charter is a long term program. He suggested saying "of cities and counties having territory within the boundaries of Metro".

Tim Sercombe suggested that "jurisdiction" be used instead of "boundaries".

Motion: Ron Cease moved, Ray Phelps seconded, to further amend the following sentence in section 7(2) to read: "The regional framework plan shall provide the basis for coordination of comprehensive plans and implementing regulations of cities and counties within the *jurisdiction* ~~boundaries~~ of Metro".

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

Frank Josselson suggested amending the sentence "the regional framework plan shall also contain model standards and procedures for local land use decision-making that may be adopted by local governments" to include model terminology to get at the problem of having the same term mean different things in different cities.

Motion: Frank Josselson moved, Norm Wyers seconded, to amend the following sentence in Section 7(2) to read: "The regional framework plan shall also contain model *terminology*, standards and procedures for local land use decision-making that may be adopted by local governments".

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

Frank Josselson, Ned Look, Ray Phelps, Vern Shahan, Mimi Urbigkeit, Norm Wyers and Chair Myers voted aye. Tom Brian, Matt Hennessee, Wes Myllenbeck and Bob Shoemaker were absent. All present voted aye and the motion passed.

Tim Sercombe said that "standards and procedures" is modifying for "local government decision"--it is not talking about a local government code. He said that model terminology for local land use decision-making may not be exactly what the Committee wants to say. Literally, that would mean that you would have to make your decisions using model terminology. He said that it would make sense to say for local land use regulations if that is the intent.

Chair Myers directed Tim Sercombe to prepare a suggested clarification of the sentence.

Larry Derr said that the adoption date of May 1, 1994 for the regional framework plan is wrong. It should be an additional 18 months out to November 1, 1995. May 1, 1994 is the same date as the Future Vision adoption and they are suppose to be sequential.

Tim Sercombe said that the correct date is July 1, 1996 because it is 42 months after the installation of the governing body.

Chair Myers said that the date will be changed to July 1, 1996 to conform to the earlier decision of the Committee.

Motion: Charlie Hales moved, Ray Phelps seconded, that section 7(2)(a) under the adoption of ordinances be amended to read:

"Requiring comprehensive plans of local governments to *comply* ~~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 *earlier* ~~longer~~."

Frank Josselson said that the word "compliance", in terms of land use law, is not a real descriptive word because consistency is what is desired. It is very hard to find something to violate if looking for conformity and consistency with it. It is not a matter of complying with a specific mandate or requirement. "Be consistent with" or "conform to" is more accurate in terms of its description of the relationship between local government plans and regional plans.

Charlie Hales said that the Committee received testimony that "be consistent with" was not sufficiently clear. He suggested that "conform to" would be better than "comply".

Larry Derr asked if the language of the LCDC goal acknowledge a process compliance.

Frank Josselson said that he did not think so.

Tim Sercombe said that he thinks Frank Josselson is correct. Both the state agency coordination and the acknowledgement language is "be consistent with".

Larry Derr suggested using the same term as LCDC so that there is some case law developed.

Charlie Hales said that he would modify his motion to authorize Tim Sercombe to come up with the appropriate wording with the understanding that his intent was to make it, within the parameters of the word choices available, the strongest option. If there is a shade of meaning allowed in the statute

between "conform to" and something else, the stronger language should be used.

Friendly amendment to the motion: Charlie Hales amended his motion to include authorization for Tim Sercombe to find appropriate language for "be consistent" to strengthen the statement.

Charlie Hales said that the second part of his motion is a suggestion from the public testimony. Compliance of local government plans with the regional framework plan should not occur in whichever specific time period is longer given the lead time for the adoption of the framework plan itself and the periodic review schedule. It could be 10 years before some of the jurisdictions ever had to come into consistency or conformity with the plan. "Whichever is earlier" is a more stringent and still practicable requirement.

Larry Derr asked if implementing regulations should be added.

Charlie Hales said that it should be consistent with what was done before.

Friendly amendment to the motion: Charlie Hales amended his motion to include implementing regulations in the requirement of local governments to be consistent with the regional framework plan.

Larry Derr suggested that "cities and counties" replace "local governments" in order to be consistent.

Friendly amendment to the motion: Charlie Hales amended his motion to replace "local governments" with "cities and counties" in the sentence.

Frank Josselson said that the charter says within three years of adoption of the regional framework plan and it is going to take the state some time to grant compliance acknowledgement to the regional framework plan. He said that the plans should not conform to an unacknowledged regional framework plan, they should conform to regional framework plan that the state has approved. He suggested that, instead of saying "within three years of adoption of the regional framework plan", it say within two years of acknowledgement of the regional framework plan.

Larry Derr said that there has to be an escape clause in the event that there is no acknowledgement process.

Tim Sercombe suggested basing the date of compliance on the effective date of the regional framework plan.

Frank Josselson said it would probably be effective when it is adopted.

Tim Sercombe said that there is no formal acknowledgement process now.

Larry Derr said that he thinks there might be. He said that it could be worded to embrace it if there is one, but also to function if there is not one.

Tim Sercombe suggested "within three years of adoption and final review of the regional framework plan". If there is no final review, then the date would be three years of adoption. If there is, it runs to the final review.

Janet Whitfield said that, in reference to "cities and counties", Metro is required to coordinate plans with special districts.

Charlie Hales said that they do not file comprehensive plans.

Tim Sercombe said that special districts do not have comprehensive plans, but they are required to have coordination plans on how their activities are coordinated with the comprehensive plans of cities and counties. He said that it is one of the big untapped areas of state land use planning that special districts do not do this.

Charlie Hales asked if the term "local governments" was left in the sentence, would it encompass special districts.

Tim Sercombe said not technically because districts do not have comprehensive plans, but they do have coordination plans.

Charlie Hales asked if those would fit into the definition of implementing regulations.

Tim Sercombe said no. If the intent is to include special districts, different language would be needed, such as "require land use and comprehensive plans of local governments", but that is a different issue than the acknowledgement issue.

Chair Myers asked if the intention was to include special districts in this provision.

Frank Josselson said no. He said that special districts have capital improvement plans and have general plans and those plans are required to be consistent with city and county plans. He suggested that the charter not deal with special districts because they will have to comply with city and county plans.

Larry Derr suggested that the sentence be followed by another sentence stating that if the regional framework plan is subject to statewide goal compliance review, consistency shall be required within two or three years of the acknowledgement of compliance or by the time of the next state general review of the comprehensive plan, whichever is earlier. The provision would be two sentences covering the two alternatives.

Chair Myers asked if the second alternative needs to attach to the three year time period.

Larry Derr said that the first sentence would stay as is with the three years of adoption or next state general review, whichever is earlier. The next sentence would deal with if it is subject to compliance review.

Chair Myers asked Frank Josselson what period of time he was proposing for consistency after acknowledgement if acknowledgement occurs.

Frank Josselson said that it could take as much as a year to get the acknowledgement, but the local governments do not have to wait to begin their work. Two years after that would be plenty of time for local governments to get their plans in order.

Friendly amendment to the motion:

Charlie Hales amended to motion to include a second sentence which would reference the contingency of an acknowledgement process and would provide for consistency within two years of acknowledgement or

the time of the next state general review of the comprehensive plan.

Restatement of amended motion:

The motion to amend section 7(2)(a) under the adoption of ordinances reads: "Requiring comprehensive plans *and implementing regulations of cities and counties within Metro's jurisdiction 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 *earlier longer*." *If the regional framework plan is subject to state review, consistence shall be required within two years after approval of the regional framework plan or by the time of the next state general review of the comprehensive plan, whichever is earlier.*" The motion includes the authorization for Tim Sercombe to review the language and suggest appropriate language for the term "to be consistent".

Frank Josselson said that ORS 197 uses both the terms "be consistent with" and "comply with".

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

Larry Derr said that there was a concern, regarding the sentence in section 7(2) that states "the regional framework plan may be adopted in components", that if there is going to be a consistency requirement and review, it may be difficult or impossible if the plan is being adopted in pieces. He said that Tim Sercombe put that in the charter so that if there is a three year process, and one section is ready, it can be adopted and into place, but the Committee should give some consideration to how that would interrelate with the requirements for local governments to react.

Tim Sercombe said that the Committee might consider, in the newly amended section 7(2)(a), saying "within three years of the final adoption of the regional framework plan". He recommended that the concept that it can be adopted in components not be taken out. If there is a functional plan that needed adoption, it could be done before July 1, 1996.

Larry Derr said that if it is not applicable, then it does not have much affect.

Tim Sercombe said that there might be some parts that might be applicable earlier under state law. If there were some functional plans in place in 1993, 1994, 1995, a locality might have to bring their plan into consistency with it earlier as a matter of state law. He said that it depends on what the intent is.

Larry Derr said that the idea of further fine-tuning the "comply and consistency" language to try to indicate that it is of the complete language would be a good way to do that.

Motion: Larry Derr moved, Ray Phelps moved, to further amend section 7(2)(a) under

adoption of ordinances to read:

"Requiring comprehensive plans and implementing regulations of cities and counties within Metro's jurisdiction to be consistent with the regional framework plan within three years of adoption of the *entire* regional framework plan..."

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

Chair Myers said that RGC has a concern with section 7(2)(a) under adoption of ordinances. The RGC commentary states: "A provision should be added which requires that for any given planning topic Metro must complete the full list of activities--goals, objectives, policies, functional plans, and benchmarks for performance. It is not reasonable to put local government comprehensive plans and development codes at risk if Metro has only adopted very general goals for a planning topic, for example."

Larry Derr said that problem was solved by putting in the "entire" language and by taking out the list.

Motion: Charlie Hales moved, Ray Phelps seconded, that section 7(2)(c) under the adoption of ordinances read: "Requiring local governments to make local land use decisions consistent with the regional framework plan *by July 1, 1997* ~~before the local comprehensive plan has been determined to be consistent with the regional framework plan~~"

Charlie Hales said that this provision has been in the charter from the beginning as a transition for the interim between the time that the plan is adopted and local compliance with the plan. He said that it was suggested in testimony it be made a date certain. One year after adoption of the framework plan, local governments will have to begin making decisions consistent with the regional plan regardless of whether they have gone through periodic review or done the changes to their plan necessary to achieve consistency.

Larry Derr said that it should also say "and until the local plan has been determined". It is an interim provision, it is not forever.

Frank Josselson said that, in section 7(2)(b) and 7(2)(c) under adoption of ordinances, "local governments" should be changed to "cities and counties" to be consistent. He suggested striking the second local, before "land use" in 7(2)(c).

Friendly amendment to the motion: Charlie Hales amended his motion to read: "Requiring *cities and counties within Metro's jurisdiction* ~~local governments~~ to make ~~local~~ land use decisions consistent with the regional framework plan *by July 1, 1997 and until consistency has been determined under (a) of this section* ~~before the local comprehensive plan has been determined to be consistent with the regional framework plan~~"

Tim Sercombe said that there are a couple suppositions that may not be true when a date is put in the

provision. If this goes into an acknowledgement review, it may take a year for acknowledgement, but a lot of county plans have taken up to eight years. There is also the possibility that the regional framework plan may be adopted earlier than July 1996.

Larry Derr said that the reference in 7(2)(c) to consistency in (a) should be a reference to (b). The time frame ought to be from one year after the plan has been either acknowledged or if there is no acknowledgement, adopted and until the local plans have been found to be consistent with it. There is a free year after the regional framework plan has been found to be consistent with state-wide goals, or if there is not any such process, until one year after it has been adopted. Then the decisions have to be consistent. The obligation ends when the local plans are found to be consistent with the regional plan.

Tim Sercombe said that this is a complex thought. This is in a section of the charter that says that the council shall adopt ordinances which require local governments to make these decisions consistent with the regional framework plan. Presumably in the ordinance, there would be a date or time table as well. The issue is whether or not a time frame should be fixed in the charter or if the council should do that.

Larry Derr said that the intent of the motion is to fix a time period.

Charlie Hales said that it gives local government an incentive to get it done. It also gives local government the reassurance that the day the hammer comes down on the Metro plan is not the day that they instantly have to start making decisions with that in mind. There is a grace period in which to start getting their act together.

Restatement of amended motion:

The motion to amend 7(2)(c), under adoption of ordinances, reads: "Requiring *cities and counties within Metro's jurisdiction* ~~local governments~~ to make ~~local~~ land use decisions consistent with the regional framework plan *beginning one year after the determination of consistency under (a) above and until the determination of consistency under (b) above.* ~~before the local comprehensive plan has been determined to be consistent with the regional framework plan"~~

Vote on the amended motion:

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

Frank Josselson asked the Committee to return to the Future Vision Commission.

Charlie Hales said that Metro testified to the Committee about the conflict of this process with the 2040 process. There was general testimony about making this portion of the draft more general and less specific. He said that his recommendation to delete the charter requirement for the commission was based on those two ideas. It would leave the Metro council free to determine to what extent 2040 has already done the vision work and to appoint whatever advisory body or commission they want to help with the process. There is also a policy making question of vesting people with the creation of this vision who then have no administrative or taxation responsibilities for making it work, they could get far off track.

Motion: Charlie Hales moved, Ned Look seconded, the deletion of the Future Vision commission.

Frank Josselson said that the Committee has asked Metro to be specific about the ways that this vision conflicts with the 2040 process and they have failed to do that. Metro has been asked about other aspects of the 2040 process and they have failed to persuade the Committee that they are on track with a real program. He said that he continues to believe that the requirement of the broad gauge commission is very important. The council would have the authority to override this Committee if they got too far off track.

Ron Cease said that there is always a problem when using citizens to do things in government and that is the price of democracy.

Ned Look said that he would like to postpone a decision on this issue until the Committee has an opportunity to ask, formally, Metro's reaction to this issue. He said that he thinks it ties Metro's hands.

Motion: Ned Look moved, Ray Phelps seconded, to postpone consideration of the main motion until the Saturday meeting with the understanding that there would be a request for a specific and written evaluation from Metro of how the commission would be viewed as working at cross purposes with the 2040 process.

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

Motion to close debate: Jon Egge moved, Frank Josselson seconded, that debate be terminated and the Committee vote immediately on the main motion.

Vote on the motion: A voice vote was taken and all members voted aye.

Vote on the main motion: Charlie Hales, Ned Look, Ray Phelps, Norm Wyers and Chair Myers voted aye. Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Frank Josselson, Vern Shahan, and Mimi Urbigkeit voted nay. Tom Brian, Matt Hennessee, Wes Myllenbeck, and Bob Shoemaker were absent. The vote was 5 ayes to 7 nays and the motion failed.

Chair Myers adjourned the meeting at 10:00 p.m.

Respectfully submitted,



Kimi Iboshi
Committee Clerk