

**METRO  
CHARTER  
COMMITTEE**

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**AGENDAS**

**DATE:** July 18, 1992 \*  
**MEETING:** Full Committee  
**DAY:** Saturday  
**TIME:** 8:30 a.m.  
**PLACE:** Metro, Room 440, 2000 SW 1st Avenue, Portland

8:30 Discussion and decisions on pending issues for the Charter.

5:00 Meeting adjourned.

**DATE:** July 21, 1992  
**MEETING:** Full Committee  
**DAY:** Tuesday  
**TIME:** 6:00 p.m.  
**PLACE:** Metro, Room 335, 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 18, 1992

Metro Center, Council Chambers

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, Bob Shoemaker, Mimi Urbigkeit

Committee Members Absent: Tom Brian, Matt Hennessee, Norm Wyers

Chair Myers called the regular meeting to order at 8:40 a.m.

1. Discussion of charter revisions.

Chair Myers asked for changes to section 10. Hearing none, he asked for changes to section 11.

Jon Egge said that financing is the most important part of the charter. He said that when the Committee removed the cap, they made a significant move toward a good faith effort to come up with something on the structure side. He said that structure and finance are tied closely together and should be looked at as a whole. He said that probably none of the members will get what they want in both of the areas. He said that if the Committee came up with the best possible structure, then he would depend upon that structure to be a control of the government. Without the structure, there will have to be financial restraints as the control.

Frank Josselson said that he would support three structures without imposing substantial restrictions on the taxing and spending power of the government. He said that he would impose financial restrictions on the government in a situation where he does not have confidence in the structure. He said that the separation of powers does not make sense. He said that the charter does not have a chance of passing in November unless it appears to be a reform charter. He said his first preference is a five person full-time elected government. Four members would be elected by district and one elected at-large. There would be an elected auditor. It would be a weak mayor form of government. He said that he prefers this model because it is the most popular model in the United States and best accommodates consolidation. The second structure is Larry Derr's proposed structure that has a council and an executive. The council would be responsible for all planning functions. There would be a full-time presiding officer elected at-large. The executive would be full-time and elected at-large. There would be no elected auditor because the balance of power will provide the checks and balances. There would not be a regional manager called out in addition to the executive.

Chair Myers asked how Larry Derr's structure differs from the current structure.

Frank Josselson said that all the planning powers would be under the council. The council size would be seven to nine and there would be a full-time presiding officer elected at-large. The elected executive would have no veto. The elected executive would be out of the policy making and would be the manager. He said that he does not like this option, but it does create a true separation of powers. He said that the final alternative he could accept, although he does not like it, is a variation of the Committee's model. There would be seven to nine members elected by district, except for the presiding officer who would be elected at-large. The council would be part-time and the presiding officer would be full-time. It would be a council-manager form of government. There would be an

elected auditor. The extraordinary powers that the Committee granted to the presiding officer in the charter, such as setting the agenda, would be stripped from the charter draft. He said that he would like a smaller council because it is more visible and, thus, more accountable. He said that he could live with any of the three structures without handcuffing the financial aspect of the government.

Chair Myers asked what "handcuffing" means as the accompaniment to a structure that is not really acceptable.

Frank Josselson said that if the Committee gives him the weak mayor form, he would give them carte blanche taxing power. He said that "handcuffing" would involve limiting enterprise revenues to the sources from which they are taken, putting a taxing and spending cap on the government, requiring that any taxes raised be used only for government overhead and planning purposes, and reducing the ability to impose new taxes above the excise tax to \$2 to \$3 million which would be dedicated exclusively to planning. He said that he would leave Tri-Met invulnerable to the excise tax so that if it is merged in, the excise tax cannot be applied to it. The principle handcuffing mechanism would be the taxing and spending lid of \$2 to \$3 million dedicated to planning.

Ron Cease said that, based on the public testimony, the hybrid the Committee proposed was not acceptable to anyone. He said that the council should be strengthened. He said that he could accept a cap if it is reasonable and workable. He said that it makes eminent sense for the council to select its own presiding officer. He said that the bottom line for him is the strong executive officer, but that does not mean he does not want a strong council. With a compensated full-time presiding officer and auditor and a compensated council, either full-time or part-time, there are a lot of additional administrative costs. He said that he would like to see a structure with a strong elected executive, strengthened compensated council, reduced council size, and elected auditor. He said that it would not work to put the planning functions solely under the council.

Jon Egge asked if it would be a bottom line for Ron Cease to not have the planning within the council authority, as it is with Larry Derr's suggestion. He said that is an important part of that model and it a bottom line issue for him. He said that he is not certain that things will go on the same way they have if a charter is not produced because new wounds have been open.

Ron Cease said that he is not saying that things will remain as the status quo, but he is saying that, without a charter, that is what the region has. Metro will then have to figure out where to go. He said that there needs to be more balance between the council and executive.

Jon Egge said that the focus of the Derr proposal is to keep strong policy under the council.

Ron Cease said that there is not an effective administrator, whether elected or appointed, that is not a major policy maker. He said that the notion that the council should have more policy and more clout is a valid issue. He said that the strength of the executive is partly an issue of personality and partly an issue of structure.

Frank Josselson asked how Ron Cease would strengthen the council.

Ron Cease said that he would partly compensate them. If the presiding officer is made full-time, that would counter balance the executive.

Jon Egge asked if that full-time presiding officer would be elected from within.

Ron Cease said yes, because that person is stronger and has the backing of the other members of the council.



Ned Look asked about the veto power.

Ron Cease said that it is partly a matter of council size because of the number it would take to override a veto. The fact that a veto is there conditions the way the council responds. He said that people are bothered by the veto because the executive can override what the elected officials do.

Ray Phelps said that he likes the current system. The veto was created to help balance a weak executive and an over strong council. The veto allowed the executive officer to be looked at as a peer. He said that the council does not use the budget which is the most powerful weapon it has.

Bob Shoemaker asked why the council will not use the budget as a tool.

Ray Phelps said that he did not really know. The council does not use their authorization power with the budget nor the allocation power. They do not balance their spending priorities by putting the money where they want to focus the emphasis. He said the things that the Committee is calling out for are undesirable in other models throughout the state, such as the city manager form of government. He said that one reason most of the government organizations fail to function well is because they trade committees of unelected people monitored by a small group of elected people who hide behind the committee and then the government does not respond. He said that he would like a larger council so that the committee work can be done by the council. He said that he can go along with the MPAC concept if its membership is councilors, not appointed people.

Jon Egge asked Ray Phelps if he would want a provision to elect the Tri-Met board.

Ray Phelps said no, he would like to elected councilors and have some of the councilors serve as the Tri-Met board and the MERC.

Jon Egge said that he is concerned with people running for Metro who have direct connections with the organization for which the councilors will serve as the board. He gave the example of three candidates in the Metro primary election race having direct connections to Tri-Met.

Ray Phelps said that there will always be that risk, but the public is smart enough to not elect them.

Jon Egge asked if it would strengthen the council if it had the ability to create its own information and hire its own personnel, especially in planning.

Ray Phelps said no. He said that the council has all the ability now to do that with their personnel who can create the proper inquiries on the behalf of the council.

Jon Egge said that his experience with Metro is that it is very difficult to get valid financial information out of the organization. The control of the financial information is one reason that they have not used the budget power.

Ray Phelps disagreed. He said that outside CPAs audit the books and to do performance auditing.

Bob Shoemaker said that he understood Jon Egge to say that the council may not have access to good financial data.

Ray Phelps said that the objective of Metro's financial system was to make it available to the different departments and the council was to have immediate access to the entire financial data base.

Bob Shoemaker asked if there was someone responsible to the council to advise the council regarding



the financial aspects of government.

Ray Phelps said that the council analysts have the capacity to look at the financial aspects of the government.

Bob Shoemaker said that there seems to be an agreement along the line of a seven to nine member council with the full-time presiding officer either elected or selected. He said that the veto and planning function responsibility are issues that are not yet resolved. He suggested having a veto in certain areas only.

Jon Egge said that the issue of who appoints the boards and commissions has not yet been resolved either.

Chair Myers asked if a concern is the confirmation authority of the council.

Jon Egge said yes. It vests too much power for control of functions in one person. He said that he is not certain it provides enough checks and balances.

Chair Myers said that he agrees with Bob Shoemaker that, among the options, the second one has the largest number of starting features. He said that the major features of the structure will be a regionally elected political leader. He said that he thinks it would be a mistake to insert that leader in the council because it is counterproductive to strengthening the council. He said that the second feature would be disconnecting that executive from the council and giving the council control over its leadership.

Larry Derr asked why the regionally elected political leader has to have the executive function. He asked why the person could not be a policy leader instead of an executive leader.

Chair Myers said that when there is a multi-function government as opposed to a single service government, the manager form of government becomes increasingly inappropriate. He said that the more varied and complex the functions are, the stronger need there is for an administrative politically accountable official.

Frank Josselson asked if he understood correctly that the leader of the government would be the one running the services and not the person making the policy.

Chair Myers said that the function of the regionally elected political leader will be to propose policy--ordinances and the budget. He said that the main reason for having a regionally accountable official, with some unitary focus, is to be a program leader to define the program of the government. The council may have a competing program, but the leader should have the main responsibility of providing a program vision for the region.

Frank Josselson said that Chair Myers is saying that the regionally elected leader of the government ought to be both the policy leader and the administrative leader of the government.

Chair Myers said that the regionally elected leader should be the policy proposer. He said that role cannot be prevented.

Larry Derr said that is the same as the policy leader. It is the person who has the vision to get a program going.

Bob Shoemaker said that it is not exclusive of the council.

Frank Josselson said that he does not have a problem with that role, provided that there is also a strengthened council who is in both businesses. If the council is only in one business, and the regionally elected leader has the sole authority over all staff, then there is a tremendous balance. He said that he prefers the first option because there is a regionally elected official with both policy making and executive ability and a full-time council which is also has policy making and executive responsibilities.

Chair Myers said that he does not have a problem with centering all of the administrative responsibilities under the separately elected official. He said that he is concerned about placing those responsibilities under a legislative body because it is an invitation to inject the legislative politics right into the particular function that is assigned. The question on the legislative side is what capability is there to assure the highest quality of performance of that function under the separate official. What assures that the council can effectively oversee and achieve high quality performance of that work? He suggested looking at the size of the council. He said that there is a high value for an independently elected auditor, even where there is a separate legislative arrangement.

Larry Derr asked if the council would still have the need to independently review the financial information and the performance audit information to do its job.

Chair Myers said that it would be an open judgement on the council's part as to whether it found the work of the auditor satisfactory.

Larry Derr said that the auditor is redundant when there is a separation between the executive and the council because the council would need to have someone at its beck and call doing the same thing to determine if the work is satisfactory.

Ray Phelps said that the objective would be to have the auditor seen by the electorate, executive and council as being a highly professional person and having the ability to make tough calls.

Larry Derr asked what makes it a highly professional person when it is an elected position.

Ray Phelps said that qualifications would be called out in the charter.

Ron Cease said that having a separate auditor function makes sense. He said that the public testimony centered around electing an independent auditor with certain conditions. The auditor should not be under the control of the executive or the council. He said that the professionalization of planning ought not be allowed to run it totally because the council needs to have control and accountability. He said that putting planning directly under the council would be a disaster because it would be widely politicized. There are other ways to provide the council with more control in planning besides having planning directly under the council and removing it from the operations side.

Bob Shoemaker said that a concern with planning being under the executive is that if the executive has a different agenda from the policy making council, that agenda could be realized through the planning process which would frustrate the policy making responsibilities of the council. He said that the council could also meddle too much in the ongoing development of the plan.

Ron Cease said that it would help if there was a full-time presiding officer.

Bob Shoemaker asked if it would make sense to put the planning responsibility under the presiding officer, rather than the council.

Larry Derr said that planning is pure policy. The more the elected officials are involved in the process



from day one, the better it would be.

Bob Shoemaker said that planning is planning of major arterioles in the area, location of major industrial and commercial sites, and housing densities--things that are of major concern to elected officials with identifiable constituencies. If planning is done essentially within the council, there will be political exchanges necessary to emerge with a plan, but the plan may not be a good plan in terms of the broader community.

Larry Derr asked if Bob Shoemaker is saying that the development of the future growth policy for the region has to be insulated from the politicians.

Bob Shoemaker said that he does not think that is true to some extent. The plan is going to favor whoever on the council emerges as the most effective politician, but that is not good planning.

Larry Derr asked why Bob Shoemaker would put planning under the executive officer who is also political and is only one person.

Bob Shoemaker said that he is troubled by that which is why he suggested the presiding officer have the planning control. He said that he sees the presiding officer as a full-time person selected by the council.

Larry Derr said that, in his proposal, the presiding officer would probably have the staff control function for the council staff, with council oversight.

Chair Myers asked why the charter could not leave the question of how the council will involve itself in planning development for the council and the executive to work out.

Ron Cease said that there needs to be a sense of ongoing professionalization and responsibility on the part of the bureaucrat doing the job. The presiding officer would not be in office long enough to achieve that. He said that, as a practical matter, however it is structured, administration and policy and planning and operation cannot be separated. A full-time presiding officer would put pressure on the executive officer to do the right thing.

Larry Derr said that growth management planning can be separated from operation. Under the present statutes, the council could fund all planners under the council and not under the executive. If they were to do that without a charter sanction, it would be looked at negatively.

Frank Josselson challenged the suggestion that the full-time presiding officer should be elected by the part-time council. He said that it is not realistic to think that the part-time council will elect the best person to be the full-time presiding officer because, for a variety of reasons, the best person may not want to take on a full-time position.

Chair Myers said that even if the council size was left at 13, the number of those capable of being presiding officer, not to mention those willing, is probably less than 13. The more the council is shrunk, the smaller the group from which to make the selection. If the charter provides that the position be full-time, the number of those available to be presiding officer shrinks even greater.

Vern Shahan said that if there is going to be a separation of powers, it is important that the presiding officer be full-time. To make it work, the presiding officer needs to be elected at-large because that person has a choice to make that it will be a full-time position.

Charlie Hales said that he does not think that an elected at-large full-time presiding officer and an

elected at-large executive officer will work. It would confuse the voters. He said that he would rate the structures as follows:

Accountability/Visibility:	high--weak mayor form medium--Derr proposal, Shoemaker proposal medium/low--option three, current structure
"Best People" Run:	medium/high--weak mayor form medium--Derr proposal, option three, Shoemaker proposal low/medium--current structure
Efficiency of decision process:	high--weak mayor form medium/high--Shoemaker proposal medium--option three low/medium--Derr proposal low--current structure
Cost of structure:	high--weak mayor form medium--Derr proposal, option three, Shoemaker proposal low--current structure
Political feasibility:	high--current structure medium/high--Shoemaker proposal medium--Derr proposal, option three low/medium--weak mayor form

Frank Josselson agreed with Charlie Hales' rating system, except that the cost is the perception of cost not that actual cost of the structure. He said that the Committee needs to decide if they are going to choose a structure based on what they think is best or what will sell politically. He said that he would prefer a structure that works.

Larry Derr proposed a structure similar to the council manager form. It would have five full-time people, probably one elected at-large and the rest elected by district and retain the Metro executive as an elected at-large position. Veto would be debatable. It would take three votes to get something done and four votes to override a veto.

Bob Shoemaker said that the veto ought to be limited to the budget and taxes not referred to the people.

Jon Egge said that he would not want the veto on budget matters under the separation of powers structure. The budget is the ultimate control of the council over the executive.

Bob Shoemaker said that if the Committee is concerned about actions that are inappropriate, to have a check on the executive side would be useful. He suggested also having a veto on service and user fees.

Chair Myers asked what happens to the planning functions in this scenario.

Larry Derr said that he would trust that the council would have enough involvement to be able to deal with the staff even though the staff is under the executive. The council would have its own legislative staff.

Jon Egge said that a big element in this proposal is that the councilors are full-time which makes it an



equalizing mechanism by itself.

Chair Myers asked if there is a manager under this form.

Larry Derr said that the charter would not call out for a manager, but there probably would still be a manager. With this hybrid, the manager would be selected by the executive.

Ron Cease said that it would be a mistake to make the councilors full-time because there probably is not enough for them to do now. They would have time to mess around in the administration. If they are going to be full-time and fully compensated, it must be justified.

Bob Shoemaker said that it is difficult to select a full-time presiding officer from a part-time council because the pool to choose from is smaller.

Ron Cease said that there is no guarantee that the council will have good people. He said that with a regionally elected full-time presiding officer, it is a second executive officer.

Jon Egge said that he has heard consistently from Metro councilors the concern of how to cover the committees if the council size is smaller. He said that if they are full-time, there will not be committees so there would be enough for them to do.

Chair Myers said there is a judgement call, if the council is shrunk, about whether there would be enough people to do the work if it were part-time. If it is full-time, the question is do they have enough to do.

Ray Phelps said that one problem he has with a full-time council is that it would drive up the cost of the government by hundreds of thousands of dollars because more staff would be needed to bring information to them. He said that the smaller council reduces visibility because the districts are so large. He said that there needs to be more councilors to deal with the agendas as they come down. He suggested that the councilors be members of the boards and commissions as opposed to appointed persons within the council.

Larry Derr said that councilors do not have visibility because they are meeting with the constituents, they have visibility because they are in the newspaper and on television.

Frank Josselson said that he thinks that one of the structural problems with the current structure is that too much work is being done by subcommittees which causes a policy problem since only those councilors who sat on the subcommittee truly understand the issue. He said that he would hope that the government would perform more of the work itself so that each councilor was reasonably prepared with respect to each issue. He said that it is not fair to assume that Metro will not acquire other functions in the near future, such as Tri-Met or the Boundary Commission.

Jon Egge said that subcommittees operate in relative obscurity, and this proposal eliminates that potential.

Charlie Hales said that each type of government has an area of emphasis. Metro manages municipal services and allocates resources among different parts of the municipality and it also resolves policy dispute. He said that the hybrid options he likes are Shoemaker's proposal and the proposal Larry Derr just proposed. A pure council manager form does not allow the distance necessary to resolve policy issues and the current structure is too much like the legislature. He ranked the second Derr proposal as having high accountability and visibility, getting the "best people" to run, efficiency of decision making, and cost of the structure. He ranked the political feasibility low to medium.

Chair Myers asked for a definition of the Shoemaker proposal.

Charlie Hales said that it has seven councilors elected from districts, compensated equal to state legislators, elected auditor, and elected executive.

Chair Myers asked, assuming the Committee agreed that two features of the government were to be a separately elected regionally elected executive and a legislative body that will choose its own chair, the Committee to decide between the full-time council option and the part-time council option. The Shoemaker option is a part-time smaller council with compensation not so high that people will run for the office just for the money, but it does compensate for the demands of a smaller council.

Ray Phelps said that if the Committee decides on a reduced number of full-time councilors, he would like to revisit the MPAC.

Jon Egge asked if part of Ray Phelps' rational was that if Metro is this important, some of the handcuffs placed on the government should be released.

Ray Phelps said yes.

Ron Cease said that the Committee should consider whether or not the council needs as much committee work as they have now. He said that he would rather see the number of councilors be nine and paid at least half-time.

Chair Myers said that one way to handle the compensation piece is to allow a higher limit for the person selected as the presiding officer in recognition of that person having a greater burden.

Bob Shoemaker said that his proposal would have the presiding officer be full-time upon selection, but the problem is the whittling down of the pool.

Ron Cease suggested that the councilors be paid half-time and the charter could provide that the presiding officer would be paid more, but not necessarily full-time.

Larry Derr asked what half-time constituted.

Ron Cease said that it would be equal to a half-time position.

Frank Josselson said that one problem with the part-time/half-time scenario is that it basically assumes that, for the average person, he/she has one or more other part-time jobs, which is extremely rare. It will not attract quality people. He said that he could live with an elected executive provided that the elected executive hire a manager for the government whose appointment would be subject to confirmation by the council. He said that the problem with electing an executive is that the person could win on name familiarity and not ability. The operational head of the government should be someone who is extremely well qualified.

Chair Myers said that currently, the deputy is confirmed by the council.

Ron Cease said that the easiest thing to do would be to pay the councilors, but leave it up to Metro to decide the actual amount.

Charlie Hales said that parameters should be set in the charter. It should be clear that there will be compensation because it puts an uncompensated council in an awkward situation of making their offices compensated.



Bob Shoemaker agreed the parameters should be set.

Ray Phelps said that it is good to designate a general manager position to facilitate the hiring of a manager because the council will not, in most cases, go along with creating a high priced administrative person. He suggested, regarding council compensation, that there be a base amount or an amount greater upon recommendation by a citizens' committee. Having a citizens' committee would allow for the internal process, but also provide political accountability.

Charlie Hales said Ray Phelps' suggestion is in section 31 of the current draft. He proposed adding to section 31 that the executive salary shall be not less than a district court judge, the auditor salary shall be not less than a district court judge, and the council salary shall be not less than half of the district court judge. All compensation should be pegged to some reference point outside of the charter.

Chair Myers said that there is a consensus that there would be a level of compensation, as in a salary, for a part-time council.

Ron Cease asked what the current salary of the executive officer is.

Ken Gervais, Metro staff, said it is \$75,000.

Ray Phelps said that it is the principle and the exact amount that the Committee is discussing.

Larry Derr said that a half-time paid person will not achieve anything. The people will be people who are willing to have a full-time job at half-time pay and they will be half-time people. He said that it should be one way or the other--either volunteer participants with some minor compensation to offset expenses or full-time. He said that he would prefer a small full-time council.

Jon Egge said that when going half-way, it does not accomplish anything beyond the status quo. Half-time pay may create additional expectations and there might be a lesser quality individual than currently.

Charlie Hales said that he is interested in looking at the full-time council option. He said that the Committee should look at the question from the point of view of what would have kept David Knowles, a former Metro councilor who resigned because it did not work personally, professionally and financially, on the council.

Chair Myers said that another way to approach the issue is to ask what would have kept David Knowles off the council. He said that he would like to explore the exclusion effect of committing this council to a full-time professional political model.

Ron Cease said that a full-time council would exclude a lot of people who currently serve.

Chair Myers said that if the council is converted to full-time positions, it will make a dramatic conversion in the nature of the election of those offices. Up to this point, the council candidates have avoided the scandalous campaign costs, but the costs would rise dramatically if the positions were made full-time.

Frank Josselson said that is inevitable, but the question is can a part-time position attract competent quality people to do the work necessary by the regional government.

Chair Myers said that sometimes yes and sometimes no there are competent people. He said that the same question of competency can be raised to any full-time political body. He said that one cannot say

that one model will give one level of capability and another model will give another level of capability.

Frank Josselson said that nothing is going to guarantee the election of good strong people, but the structure is going to improve the odds.

Larry Derr said that, assuming that 50% of the time there are people who you personally choose and 50% of the time there are people you would not choose, if it is full-time, the people who you like in office have the time to do the job correctly. If it is part-time, there would be the same 50/50 situation plus the additional burden of trying to get the time to do the homework.

Ray Phelps said that he is concerned about having full-time positions because, if there is going to be a non-partisan regional government being run by professional politicians, there will be a different kind of animal than currently exists. The councilors will be lobbied differently and there will be a different agenda impact. The bottom line is that a professional politician makes decisions on how to get re-elected. A full-time politician will make a different decision than a part-time politician, who makes more independent decisions.

Frank Josselson said that there is another issue regarding part-time and full-time. If the council is part-time, there needs to be more councilors. Once there is more, the visibility of a smaller body is lost. There is an anonymity about the council when it has 13 members. He said that part-time has other costs to look at--the visibility, accountability, and responsiveness.

Ned Look said that the executive officer has a salary of \$73,000. The deputy makes \$69,000, the council per diem is a total of \$104,000 and the council expenses are \$33,000. He said that if the role of the deputy is spelled out, then it could go around the need for a manager.

Chair Myers said that the structure issue is not self contained, it has ramifications out in the political process. He said that the main difference the Committee has focused on has been the size and nature of the council. He asked if there would be an elected auditor in either scenario.

Jon Egge said that he is not sure that the elected auditor is particularly key to either model.

Chair Myers said that the auditor would be detached from either scenario. He asked if the veto needs to be spelled out more.

Ron Cease asked for an explanation of a limited veto.

Bob Shoemaker suggested that the executive have limited veto power and that it would exist in the budget. The executive would have a veto on taxes adopted by ordinance as a check against council excess and a veto on service and user fees for the same reason. If the council wants to override the veto, it would do so with a two-thirds majority. There would be no veto on the assumption of planning or service functions because they are policy issues that the executive should not have clout on. There would not be a veto on the adoption or amendment of the regional framework plan, especially if the staff planning is in the executive branch. There would be no veto on taxes referred to the voters or on other policy decisions. Basically, the veto power would be on the budget, taxes adopted by ordinance, and service and user fees adopted by ordinance.

Frank Josselson said that he has a problem with the veto being on the budget because it gives the elected executive control of the government.

Bob Shoemaker said that an override of the veto, under his proposal, would take a two-thirds vote. With a small council of seven, the difference is one vote.



Jon Egge said that if there is a disadvantaged part-time council, then the veto becomes a bigger issue than if there is a full-time council.

Ron Cease said that the veto for the budget is essential. He said that it makes sense not to have a veto on issues that go to the voters or to the MPAC. He said that he does not understand what "other policy questions" means. He said that it would be better, in the charter, to permit the veto and then list the areas where it could not be used.

Larry Derr said that it would easier to define where it can be used.

Bob Shoemaker said that "other policy questions" means the other decisions of the council.

Larry Derr said that does not have to be defined because it is one of the areas where the veto cannot be used.

Ray Phelps said that he has a problem going through a decision tree on what to veto and what to not. It presumes a lot of information that the Committee does not have. If the veto process is modified, it might mislead people by having them believe that there is a veto process when there is not. He said that he would rather have a veto or not have a veto.

Frank Josselson said that if there is veto on the budget, nothing else really matters. He said that the executive could veto a policy part of the budget until the policy is changed to his/her satisfaction.

Ray Phelps said that he would prefer to have the veto because, based on experience, the addition of the veto caused a positive change in the political dynamic of all the elected officials.

Larry Derr said that he suggested the idea of five full-time councilors and retaining the executive because there may be a stalemate on the council at any given time and it will have to fall back to an executive who can have an agenda and keep it going. The veto would be an important tool of that.

Chair Myers asked if Larry Derr's opinion of the veto applies to both the full-time and part-time council options.

Larry Derr said that he was speaking only to the full-time five.

Jon Egge said that he would prefer no veto with Bob Shoemaker's model. He said that with the smaller full-time council, there would be logic for the veto.

Bob Shoemaker said that his model only has seven councilors.

Jon Egge said that the key difference between the two models is that Bob Shoemaker's is part-time.

Chair Myers asked the Committee to move to the finance side of the structure issue.

Frank Josselson said that in order to achieve enough votes to pass, this charter will have to propose an at-large elected executive officer and, therefore, there needs to be finance controls. He said that, currently, Metro is raising \$4.6 million through its excise tax. Of the \$4.6 million, \$2.6 million goes for general overhead, \$500,000 is for the arts, and the remainder, \$1.8 million, goes to planning. He said that the Future Vision and the Regional Framework Plan will take about \$2 to \$3 million. He suggested that \$2.6 million be converted to planning funds to assure that the planning revenue is available. The remainder that is currently used for planning would continue to be used for planning. The percentage of the current excise tax that is currently dedicated to the arts would continue as a

percentage related to planning. The general overhead would be funded by each service, except planning, paying its share. He said that would make it a fee for service government which would require that some portion of the enterprise revenues be dedicated to the general overhead of the government.

Chair Myers asked if Frank Josselson's approach has a prescribed upper limit on the amount of revenue the government can raise.

Frank Josselson said that there is no upper limit.

Bob Shoemaker said that Frank Josselson is just shifting the general government funding from the excise tax to the enterprise revenues which leaves room in the present excise tax limits to adequately fund planning.

Larry Derr asked if additional funding would require a vote of the people or if it would be done by ordinance.

Frank Josselson said that he has not thoroughly considered additional taxes. He said that he would require the ones that are currently required by the draft to be subject to a vote of the people. He said that his instinct is to require further niche taxes to be subjected to a vote of the people.

Chair Myers asked if the bottom line of Frank Josselson's proposal includes any change in the present draft provisions with respect to the situations in which a vote of the people is required.

Frank Josselson said no. He said that if the structure is not changed, except for downsizing the council, then he would be more strongly inclined to require voter approval for any taxes beyond the excise tax and property tax that Metro is currently collecting. He said that with a stronger, full-time council, he would not worry about voter approval because there is sufficient visibility and accountability in the council.

Ron Cease said that any niche tax is attached to an interest group who would battle the tax if it goes to the vote of the people. He said that Metro will not have access to any property tax revenue, except on a bonded measure. He said that the sales tax and income tax are not available for practical purposes. He urged that Metro not be cut off at the pass if the Committee wants it to do anything. He said that the Committee must talk about the possibilities and what the real options are for Metro, how Metro would get there and what services those taxes would be used for. He said that if all the money is put into planning, additional sources need to be found for other services.

Frank Josselson said that arts funding is a serious problem in the region. He said that if the structure is a part-time council with a full-time executive, then he wants to make sure that the dollars are there to fund planning.

Ray Phelps said that he does not want to put a budget, or budget percentages, in the charter. The budget process is a political process and it is responsive to the needs of the community. He said that the excise tax was originally intended as a statutory tax base concept. The objective of the excise tax was to provide the flexibility to grow to eliminate the dues from local governments. He suggested that, if the Committee wants a limitation process, the Committee should use the current numbers, rounded to \$6 million, and peg it in the charter with the growth factor increase. He said that would create a cap that is responsible and realistic and has some flexibility to grow. It would get rid of the concept of dues and would have the excise tax ability. If the government has to exceed the \$6 million, then Metro could go to the people. He said that it would create a financial rationale that works.



Bob Shoemaker asked where niche taxes would fall.

Ray Phelps said that they would be under the \$6 million factor. The government would fill the \$6 million figure based on the current financing options.

Janet Whitfield asked if Ray Phelps' proposal is similar to what the Committee had before, except that it is lower than the \$12.6 million cap.

Ray Phelps said that it is the same in regards to the revenue source. He said that his proposal isolates and removes those mechanisms on how to measure it and simply state it as \$6 million plus the growth factor. The government then has the flexibility to use any taxes that they want.

Chair Myers asked Ray Phelps to explain how his proposal relates to overhead. He asked if the proposal replaces Frank Josselson's proposal.

Ray Phelps said that Frank Josselson's proposal does not get at the question of overhead. He said that the proposal would replace Frank Josselson's proposal because there should not be a budgetary process in a charter, which is what Frank Josselson's proposal sounds like. He said that he would like to provide the financial wear with all and adequate resources for the elected people to make the decisions that they are asked to make when voted for without having them confined to certain expenditure levels for specific tasks. Specifying expenditure levels for specific tasks will create problems later on.

Chair Myers said that this cap would define the maximum amount at any given point that the government could raise by excise tax or any other form of tax by ordinance. The cap would be specified by a dollar amount which would represent a combination of what is presently being raised by the excise tax plus local government dues.

Ray Phelps said that the dues would then be revoked as a limitation. He said that it should be put there, and the Committee should not worry about revenues up and down and mechanisms for tracking.

Charlie Hales said that he disagrees with Ron Cease's statement that the \$2.6 million of overhead that the excise tax is dedicated to is general government. He said that it is overhead, which is one of the peculiarities of Metro. While a city should have broad taxing powers because it does a lot of general government things, this government will have one general government responsibility, which is planning. This is a limited purpose charter with each responsibility having its own enterprise funds. To say that most of the excise tax revenue is reserved for the general government function of planning is responsible and does have a place in the charter.

Ron Cease said that he does not necessarily buy the assumption that the functions that Metro are currently doing and will do in the future would be clearly related to a particular revenue source. He said that Metro will have more difficulty than local governments do getting people to approve revenue because it is more removed from the people. He said that there should be a cap that is political and makes sense, but do not come up with a cap that is so restrictive that the government cannot move beyond the status quo. He said that the Committee needs to come up with something that provides more leeway than Metro currently has, but still has some restrictions.

Frank Josselson said that the logic to his proposal is that the more politically accountable and visible the government is, the more prepared he is to give them taxing authority on their own. He said that taxing authority implies the authority to carry out other functions which means that the more politically visible and accountable the government is, the more he would allow them to do on their own. He said that the less visible and accountable the government is, the more of a limited purpose the

government should have. He said that this is a limited fee for service government, except for planning functions. He said that the enterprise funds should be applied to the general overhead functions in connection with which they really ought to be spent. The excise tax should be used to fund the planning functions that otherwise have no revenue. Only one fund is being dedicated--planning--which will never pay for itself.

Bob Shoemaker said that using excise taxes primarily for planning is probably appropriate and it is also appropriate to pay for the government overhead out of fees and charges. He said that this government has to be looked at as more than a government of service functions that pay for themselves, except for planning. He said that the Committee is thinking about launching a government that can emerge over time as the primary government of this region which can take responsibility for those things to make the society livable. He said that arts is a very present concern and it will not pay for itself. There are a lot of other things which it may be appropriate for the regional government to manage and they will have to be paid for through taxes. He said that to put any cap on the ability of this government to raise those taxes is a serious mistake. It is very tough for a council to pass a tax measure because a well coordinated campaign can beat any tax if it is out there for the people to vote on and that can cripple the government. For government to work, it must take responsibility to raise the funds needed to do what it has to do.

Frank Josselson said that he does not disagree with Bob Shoemaker. He said that if the handcuffs are going to be taken off, he wants a structure that he has confidence in based on past observations.

Charlie Hales said that, in the past, there has been little policy attention paid to planning issues by the current structure and council members and the charter has cured this problem. There has also been a low budget priority assigned to planning. He said that to set aside a general revenue source for a general government function reinforces what the Committee has done in the charter to make planning the major responsibility in the government.

Ray Phelps said that, for the most part, all the other funding is dedicated so that when the government has a discretionary need, they have to go to the general fund, which is planning.

Charlie Hales said that if they were not putting \$2.6 million from the excise tax into overhead, then the hit on that portion of the budget would not be so severe.

Ray Phelps said that was a decision that was made in the budget process. He said that it is not fair for the Committee to second guess and design a charter around the budget process. He said that the Committee should be looking out at the future and not what happened yesterday.

Charlie Hales proposed conceptually approving Bob Shoemaker's modified structure with the financial mechanisms that Frank Josselson described. The structure includes a seven member part-time council, an elected executive with limited veto power, a presiding officer selected by council and compensated more than the other part-time members of the council, a deputy and other department heads confirmed by the council, and an elected auditor. The financial mechanisms include dedicating excise tax revenues to planning and other general government services, a prohibition on the use of excise tax revenues for general government overhead, and general government overhead would be charged to all functions on a proportionate basis.

Ned Look asked where Greenspaces would fall under the scenario.

Charlie Hales said that Greenspaces is a capital expenditure program to retire bonded indebtedness to be taken to the voters.



Ned Look asked about the administration of Greenspaces.

Larry Derr asked if the administration of Greenspaces would be considered to be a general government activity.

Charlie Hales said that he did not know.

Chair Myers said that it would be added to what is in the draft charter.

Charlie Hales said that he is making a conceptual proposal. He said that there are provisions in section 11 which he does not intend to change because of the motion.

Larry Derr asked if Charlie Hale's proposal includes a requirement that any other taxation authority be by the vote of the people.

Charlie Hales said that his intention is to state clearly that dedicated revenues are to be used for its specified purposes, with the exception of revenue for general government overhead, and niche taxes which do not have to be subject to a vote of the people.

Ron Cease asked if the Committee, currently, is talking about the use of the excise tax.

Charlie Hales said yes.

Chair Myers said that the dedication piece, regarding the excise tax, refers to planning and then to other general government activities.

Charlie Hales said that he added that because he was not sure about the question of arts funding. He asked if arts funding is something that Metro ought to be funding out of an excise tax, or ought it be relegated to its cultural facilities.

Bob Shoemaker suggested not limiting the use of excise taxes, other than prohibiting their use for general government overhead. He said that, if there is something that is a revenue source, they will not try to fund out of the excise tax. If there are other things--such as arts, greenspace maintenance, and planning--where there is not an adequate revenue source, then the excise tax should be available up to the limit.

Frank Josselson said that would leave planning unfunded because, as a practical matter, government's last instinct is to plan.

Charlie Hales said funding the planning function would be within his threshold of what is okay to put in the charter, given that planning has received such a high priority. Since it is otherwise a limited purpose government, it would be difficult, in a traditional budget competition, for planning to get the resources it needs. He said that if this was a full service municipal government, with broad power to tax and a broad array of services, then planning would have to compete against other expenditures.

Chair Myers asked if Frank Josselson envisioned that the portion of the excise tax preserved to planning, in combination with the prohibition against the use of the tax for general government overhead, is to be stated as a fixed dollar amount or as a percentage of the total revenues.

Frank Josselson said that he would limit the excise tax to planning. He said that the only other thing being funded out of the excise tax currently is \$600,000 for the arts.

Bob Shoemaker said that if there was a way to increase that amount, it could get into Greenspaces also.

Frank Josselson said that cannot be done under the excise tax and still leave enough money for planning.

Bob Shoemaker suggested tagging enough of the excise tax to cover planning, and then leave some room within the higher excise tax limit for other things.

Frank Josselson said that the problem is that solid waste fees have reached a point that if they are raised higher, Metro would lose money because the pain threshold of the region would be hit.

Bob Shoemaker said that it is possible that the excise tax potential will increase in the next few years.

Larry Derr said that a dollar limitation is not safe because the charter cannot predict what the future budget will be. He said that the charter could say that planning has to be fully funded, but that is not descriptive enough. Being fully funded is the concept the Committee is striving for. If there was a way to get planning fully funded, and then have the extra revenue, if any, go to the other functions, that would be fine.

Frank Josselson said that Bob Shoemaker's proposal is asking him to swallow a lot in terms of the structure. He said that he is prepared to swallow it, but he wants to make sure that if the political will is there to do the planning, then the funding is there.

Bob Shoemaker said that he agrees with that. He said that he would like to find a way to protect the planning function within the excise tax, but without crippling other functions that the excise tax could be used to fund if there is sufficient room within the cap.

Charlie Hales suggested modifying the proposal to say that no less than half of the excise tax revenues can be dedicated to planning. He said that would provide a potential for planning. He said that would be about \$3 million, at a minimum, in 1992 dollars.

Frank Josselson said that would be adding \$1.2 million to the current planning budget, bringing it up to \$3 million which is only half as much as the local governments say might be needed.

Charlie Hales said that the rest would be within the span of control of the Metro council to either do a good job or a mediocre job of their assigned responsibilities in planning.

Frank Josselson said that is where planning is currently. He said that local governments predict it will cost \$3 million, in addition to what is currently being spent, to do the Future Vision and the Regional Framework Plan planning. That would bring the total planning budget to \$4.8 million. He said that the maximum Metro can raise out of the excise tax is \$4.6 million.

Chair Myers said that there is another use for the money now, but it has the potential of getting the rug pulled out from under it. Apart from the question of how future growth would be used and a limited ongoing commitment to planning, in order to get approval of the concept, the arts funding will have to be dealt with.

Frank Josselson said that he would go along with the arts being preserved as a percentage equal to the existing ratio of the arts to the current excise tax.

Chair Myers said that it would be possible not to specify art per se, but to leave some portion



uncommitted within the formula so that the government is free to continue or change its support.

Bob Shoemaker said that he is concerned that the Committee is getting into too much micro-management by trying to have the charter deal with present demands on the resources. Currently, planning is a big deal, but the major work will have been done in a few years and it may not require as big a chunk of revenues because the focus will be on maintenance. He said that to lock the excise tax into planning within the charter seems to be short sighted. He suggested having the charter state that proper planning is the primary responsibility of Metro. He said that Metro would now have a responsibility to do planning and if they do not recognize that responsibility, people would go to court and say that the charter says that planning will be given top priority. He said that would force them to use adequate excise tax revenues for that, so long as those are needed for that.

Frank Josselson said that he disagrees with Bob Shoemaker's assumption that the planning will start and get done for the most part. He said that is not the nature of planning because it is always dealing with a meaning target in terms of population, transportation and the changing nature of the region.

Bob Shoemaker said that the development of the Future Vision and the development of the Regional Framework Plan will take more time and talent than making the appropriate changes in those documents as time goes on.

Frank Josselson said that they will start looking at the bigger parts of the picture and as planning progresses, they will have to jump around.

Bob Shoemaker said that if the charter states that the primary responsibility of the Metro council is planning, then that would continue on into the future. Metro cannot short change it because they would be departing from their statutory charge.

Frank Josselson said that the best way to say that would be to say it and mean it through funding it.

Bob Shoemaker said that he would say it by saying that the primary responsibility is planning and the first call on the excise tax revenues is to properly fund the planning responsibility.

Frank Josselson said that a lot of lip service can be paid to planning and a lot of power can be acquired by funding the arts.

Charlie Hales asked if Bob Shoemaker supported the idea of pulling general government out of the excise tax. By doing that and making a prioritization statement, the objective would be accomplished.

Bob Shoemaker said that he agrees with pulling the general government overhead out of the excise tax. He said that he would then make the first priority of the excise tax to adequately and properly fund the planning responsibilities of Metro, which are its primary responsibilities. Beyond that, the excise tax can be used for other functions of the government and would be used for those functions which could not be funded from their own resources.

Ray Phelps said that there are two kinds of government overhead for Metro. One is the delivery of the accounting, payroll, and budget services. The other is the general overhead--the council, council staff, executive, and executive staff. He asked what overhead Bob Shoemaker is referring to.

Bob Shoemaker said that he would assume it would be the whole overhead.

Ray Phelps said incorporating both overheads would drive up some unintended costs because there would be a need to increase the excise tax. He said that the overhead of just the council and executive

is included in current excise tax. He suggested distribution by percentages, where, for example, 35% to 40% of the excise revenues would be used for general government expense and the balance would be for those direct, specific operations that are not funded. He said that would go where the Committee wants to go without the limitations of reprioritizing down the line. He said that he thinks the Committee is looking for an opportunity to deal with the costs of the non-revenue producing operations. He said that the excise tax was originally intended for the general operation of the council and executive.

Frank Josselson said that the excise tax is no different than an enterprise revenue, except that it is statutory. He said that he disagrees with Bob Shoemaker that any court would attempt to substitute a judgement for Metro on what was an adequate amount to be spent on any government function. He said that he cannot image a court ordering Metro to spend more. Unless the funds are dedicated, they will not be there because the political support for planning is not there, but the political support for the arts is there.

Ron Cease asked where the money would come from for the government overhead if it is prohibited from the excise tax.

Charlie Hales said that the departments would pay for the overhead, just as other municipalities do it.

Chair Myers said that Metro handled it that way at one time.

Ron Cease said that issues were raised about it which is why they came to the legislature to get the excise tax for the overhead expenses.

Chair Myers said that assuming use of the excise tax for overhead is precluded, thus freeing a certain amount of the excise tax. He asked if the charter is going to be prescriptive about the available money.

Ray Phelps said that it gets back to the red herring of the use of departmental money in an overhead fashion. It starts the controversy of how much the government is suppose to spend on itself or its council. He suggested taking what was already acknowledged to be that element of dollars as it is now constituted to cover the general overhead, planning and the replacement of the dues. He said that if the overhead is rolled back into the line operations, it will set off a group of constituents which will not go down easily.

Chair Myers asked if Ray Phelps was talking about overhead that is attributable to the political operations of the government as distinct from overhead that would be described as support.

Ray Phelps said yes. He said that, for example, the overhead for personnel is measurable. The measuring of the council is far more subjective.

Chair Myers asked if Ray Phelps suggested approach is that, even if support service overhead were prohibited for use in terms of the excise tax, the excise tax should continue to be available to pay for the governmental or political overhead.

Ray Phelps said that the excise tax is not used for the support service overhead currently so when it is rolled up in the excise tax, the cost will increase because the costs will have to be picked up some place else. He said that he suggested a division of 60/40 or 65/35 so that the elected officials operations are captured. The financing of the support service overhead would continue as it is now, based on the number of paychecks or accounting transactions. The balance of the excise tax is for those functions that do not generate revenue.



Chair Myers said that he would like the Committee to reach an overall combined approach to structure and additional finance provisions. He asked if the objections still exist regarding the old finance approach of spreading the cost of the political overhead throughout the organization. He asked if there have been any changes, such as the size of the total budget of the government, which would help soften those problems.

Ray Phelps said that, if anything, the problems would be more charged now because the charges have been removed from the operating costs of those items--the zoo, convention center, solid waste--and those constituencies would come back believing that there was a bad faith or break in understanding. He said that this government's full authority of 6% excise would allow them the levy up to \$13 million on the current adopted budget in excise tax. He said that if the 6% is taken against all gross revenues, it would be 6% of \$200 and some odd million because the statute is open ended. He said that the figure of \$4.6 million was determined by applying the 6%.

Chair Myers said that he thought that the unused portion of the total maximum revenue which could be raised from the excise tax was closer to \$1.5 million.

Mike McKeever, RGC staff, said that the RGC asked Metro finance department that question and they were told that \$900,000 is the unused amount. The 6% cannot be applied to the whole \$200 million figure because certain capital accounts must be taken out.

Ray Phelps said that the answer Mike McKeever was given dealt with the question of what can be levied and collected. He said that the statute was written to allow for an excise tax capability that they probably would never collect. He said that it can be measured against the \$200 million, but it cannot be realistically collected.

Larry Derr asked if it covered bond revenues.

Ray Phelps said that it does as a measuring stick, but not as the ability to lay the tax against it.

Chair Myers said that he is interested in what is the legal limit.

Frank Josselson said that ORS 268.507 says that "to carry out the executive, legislative, and administrative powers, functions and duties of the district described in this chapter and to study the potential exercise of all the powers and functions specified in ORS 268.312, a district may by ordinance impose excise taxes on any person using the facilities, equipment, systems, functions, services, or improvements owned, operated, franchised, or provided by the district". He said that it is a tax that can be placed on user fees. The statute goes on to say that the total amount collected by virtue of that tax cannot exceed 6% of the total revenues of the district.

Larry Derr said that Ray Phelps is correct.

Ray Phelps said that the number is one thing. How it is levied and how much it generates is something else.

Janet Whitfield said that Metro has a conservative interpretation about the statute. They also have an ordinance which places further limitations on themselves which provides that for any fund that they collect, they do not collect more than 6% of the revenues from that fund.

Ray Phelps said that is internally imposed.

Motion: Frank Josselson moved, Charlie Hales seconded, the following concept for the

structure and finance provisions, with the understanding that the Committee will work in future meetings toward refining and fine tuning the concept, but will not materially change the concept:

STRUCTURE: At-large, full-time elected executive officer  
At-large, full-time elected auditor, with some legitimate auditing credentials  
Part-time, elected by districts, council consisting of seven to nine members  
A deputy director, appointed by the elected executive and confirmed by the council  
Presiding officer selected from among the council members

FINANCE: Not less than \$4 to \$4.5 million will be available for planning functions of the government. The \$4 to \$4.5 million figure may be described either by a percentage of something else or a part of a percentage.  
Elimination of the local head tax

Frank Josselson said that the motion does not include the veto issue, compensation for council members, and the financial cap issue. He said that he is less inclined to have a cap if there is no executive veto. If there is an executive veto, he would be more inclined to have a cap. He said that the principle in his motion is to make sure that there is enough money to carry out the planning functions that have been dedicated to the government in the charter and to get rid of the local government head tax. He said that he would like the Committee to agree that if the motion is adopted, they will make every effort in good faith to implement the concept in future meetings.

Ray Phelps said that a cap on the excise tax is needed if the \$4 to \$4.5 million is a percent to be dedicated.

Vern Shahan said that the cap is needed as a control on its ability to tax.

Chair Myers said that Tim Sercombe had a concern that, absent a provision which defines the cap on the total revenue that can be raised from the excise tax, it is possible that the state limit may be subject to be overridden by the council.

Jon Egge said that there should be a cap on the excise tax, not on enterprise revenue.

Bob Shoemaker suggested including the 6% of gross revenue cap that is in the statutes.

Ray Phelps said that if the 6% figure is used, then the percentage would be 30% to 35% of the government's capability which would be dedicated to planning. He said that it would be higher in real terms than what it really is.

Jon Egge asked if the motion would preclude the Committee from looking at the cap later.

Chair Myers said no.

Bob Shoemaker said that he understands Frank Josselson to be recommending the structure of the government which comes as close to consensus as the Committee has reached, if the Committee will commit themselves to adequately fund planning and get rid of the head tax. The other issues will be discussed later on, but they are not critical to Frank Josselson's proposal.



Charlie Hales said that one issue to revisit is the question of limitations on niche taxes.

Frank Josselson said that it is an important and critical issue.

Chair Myers said that the motion ought to define Frank Josselson's bottom line for finance matched with the structure.

Amendment to the motion: Frank Josselson amended his motion to include a cap on the government's ability to tax by ordinance without a vote of the people.

Bob Shoemaker said that the Committee already dealt with that issue.

Larry Derr said that the Committee dealt with it as an effort to get into this compromise.

Ray Phelps said that he will vote no because planning is part of the excise tax--it is the whole basis of putting the excise tax into this government. Looking at the other taxing situations mixes them together. He said that identifying and preserving an amount of money available for the planning component, and attributing it to the excise tax, makes it workable because there is a parameter around it. He asked, if the government's ability to tax itself and raise revenue is being capped, and the money is dedicated to discrete functions at the same time, what would happen if the taxes did not pass. He suggested encouraging the government to keep looking toward its excise tax rather than encouraging it to look toward other taxing opportunities to pay for planning.

Amendment to the motion: Larry Derr suggested, Frank Josselson and Charlie Hales agreed, to amend the motion so that the cap referring to taxes adopted by ordinances would be a dollar amount, as yet to be decided. The cap would not apply to the excise tax, as presently authorized by statute.

Larry Derr said that the excise tax would function within the limitations of the statute. His amendment would add to the cap a dollar amount, which is yet to be decided, on taxes that could be adopted by ordinance without a vote of the people. He said that he would like the cap to be a lot smaller than \$12 million. The excise tax would be one pool that is not messed with and there is more money, in an amount not yet set, for taxes that have not yet been defined. Somewhere out of those taxes will be a dedicated fund for planning.

Chair Myers asked if Frank Josselson felt that the dollar amounts for planning are dollar amounts that describe the legitimate needs beyond the time of the initial formulation of the Regional Framework Plan and Future Vision.

Frank Josselson said that it is his understanding, based on testimony from the local governments, that in order to carry out all the functions continuously, it will cost \$2 to \$3 million more annually than is currently being spent by Metro.

Chair Myers said that he is troubled by a prescription of a commitment of the government resources to a specific purpose for an unlimited amount of time. He suggested putting a time parameter around it that might coincide with what the Committee thinks would be a point in time when the government might legitimately feel that those demands are going down and different arrangements of allocations could be made.

Ray Phelps said that is why he was suggesting staying with the excise tax because it does not impinge

on the other opportunities and it gives flexibility to have more discrete funding.

Jon Egge said that he did not hear that the motion had a dollar amount attached to it.

Chair Myers said that the motion includes a figure of \$4 to \$4.5 million.

Jon Egge said that he has a problem with getting specific in the charter.

Frank Josselson said that he is not getting that specific. He said that he meant an amount to fully fund the planning functions, with the understanding that today that amount is estimated to be \$2 to \$3 million more than Metro is currently spending.

Vern Shahan asked if the money was going to be dedicated to just the Regional Framework Plan. Transportation and other issues which ODOT and dollars within the current budget are part of the planning that will go into the framework plan. Part of the planning dollars are being covered within other parts of Metro, such as solid waste planning. He asked if the additional \$4.5 million is to undertake some of the things that the framework plan is requiring that are not currently being done.

Frank Josselson said that, after listening to the conversation, it is inappropriate to specify a number of dollars, but rather specify a particular revenue source available for that purpose. It would be a revenue source that could be increased or decreased by the council in the future. He said that the excise tax is the best one of those to use.

Refinement of motion: Frank Josselson refined his motion to say that some percentage or all of the excise tax be used for planning purposes.

Ray Phelps said that he would have the excise tax, by definition, pick up the planning and political cost of operation.

Chair Myers said that would say that it would continue the commitment of the excise tax to pay the political overhead of the government. He said that he understood the restated motion to super-impose over what is happening now, which is paying planning and the political overhead of the government from the excise tax.

Frank Josselson said that he is saying that the excise tax should be used only for two purposes--for planning and to substitute for the current head tax of local governments. If the planning requirements decrease in the future, the excise tax would be decreased.

Chair Myers asked what would happen to the political overhead of the government.

Frank Josselson said that it would be paid by each service paying its way.

Ray Phelps suggested that the political overhead, planning, and the per capita tax payback be paid for out of the excise tax. Those would be the component costs of whatever the excise number is.

Frank Josselson said that the problem is that there is only \$900,000 available, as a practical matter, within the current excise tax.

Ray Phelps said that he does not think that is truly the case. He said that if the motion passes with that figure, there will be a lot of nay-sayers that will do the charter in.

Frank Josselson asked if the \$2.6 million that is going for general overhead today is being spent on any



purpose other than the council.

Ray Phelps said that it is being spent on the executive officer, governmental relations, the council and staff, deputy executive officer, executive staff, dues, and lobbying.

Frank Josselson said that, last year, Metro governmental affairs personnel grew by 7 people. He asked, assuming that general government overhead is kept within the excise tax, how would one prevent that type of thing from continuing.

Ray Phelps said that is where his 40/60 percentage comes from. He said that if the government wants the amount of money available to pay overhead increases, planning must increase also. If the percent of dedicated funds is an expression of a percentage of the total, then its capability of growing is limited.

Frank Josselson said that he likes that.

Jon Egge said that he would go along with it, but he is concerned about plugging percentages into the charter because of the timelessness of the charter.

Frank Josselson suggested taking Chair Myers suggestion that the council be given the authority to change the percentage at such time as local plans are found to conform to the regional framework plan.

Chair Myers asked how long that would probably be.

Frank Josselson said that it would probably be four to five years. He said that there would be reason to expect that the functions will be funded until that point.

Larry Derr said that if the district has spent the money and done the job, then it would be expected that whatever would be needed to be done from there on out would be done on their notion anyway.

Ray Phelps said that he likes the idea because it is not dedicated in perpetuity and has a life of its own to launch the planning process.

Restatement of motion:

Frank Josselson restated the finance portion of the motion so that it would now state: the excise tax rate will be set at a level to fund the current government overhead, the projected cost of planning and elimination of the head tax. The percentages necessary to do those things will be spelled out in the charter.

Larry Derr said if a rate is set, a dollar amount does not have to be set because rates will generate different dollar amounts at different times.

Ray Phelps said that it would be calculated by identifying \$6 million as the amount and 35% of it would be dedicated to the political overhead and 65% offsets the per capita and does the planning.

Larry Derr asked if there would be an escalating factor.

Ray Phelps said that the growth factor would be based on the western cities growth factor.

Bob Shoemaker suggested that it be worded to say that it shall not exceed 35% for the governmental overhead so that there is room to go down if that is appropriate. He asked if the excise tax that is currently being used for the arts should be protected.

Ray Phelps said that the arts is presently constituted.

Bob Shoemaker asked if it would be limited to its present uses.

Ray Phelps said yes, with a more refined definition. He suggested that there is enough money in the \$6 million that if the arts is included or not, it can be supported.

Larry Derr said that it could be sold as essentially freezing the excise tax while regional planning is completed.

Jon Egge said that the idea would be that Metro would be able to revisit this issue and not be locked into eternity.

Larry Derr said it has a greater capacity, whether it is practical or not. The Committee is actually putting a lid on this in the process of assuring full funding. He said that it would be better to call out the third category as an open percentage rather than referring to the arts in the charter.

Chair Myers asked if the approach proposes that the charter will specify the rate of the excise tax.

Larry Derr said no, it would set the total revenues being raised at \$6 million and it would allocate that revenue using percentages similar to the current percentages, which would escalate based on the CPI and the council would have the ability to modify or eliminate those restrictions on the excise tax upon completion of the planning effort.

Janet Whitfield asked if it is just an excise tax on Metro functions and it does not include niche taxes.

Larry Derr said that is correct.

Frank Josselson said that the motion also includes a cap on taxes adopted by ordinances in an amount yet to be determined. He said that, personally, he would require a tight cap on the government's ability to tax without a vote of the people which would not begin to meet the requirements of the arts. He said that the cap would probably be in the \$1 to \$2 million range.

Bob Shoemaker said that he cannot vote yes on the motion because the cap on taxes by ordinances is a killer on the government. It means that Metro cannot undertake anything that it is not now doing and it cannot grow to be the important regional government that it should be allowed to be. He said that the freedom to tax by ordinance is more important to him than the precise structure.

Vern Shahan said that he supports the cap on taxes by ordinance without a vote of the people because he could not promote this as a charter that is going to be good for the general people without that restriction. There is too much sentiment about government having the ability to levy new taxes without control. He said that he cannot support a free reign to tax. There needs to be some threshold that the general public knows that the government cannot step beyond.

Charlie Hales said that he support the motion. He reminded the Committee of how many places in the charter the Committee has gone beyond the authority granted to Metro now. He said that Metro's authority has been enhanced in a lot of positive ways. Most of Metro's taxing power, if not all, requires a vote of the people. He said that this motion would give Metro a little head room to raise revenue without a vote of the people. He said that there are plenty of local governments that have that restriction across the board. He said that, on balance, he does not think that the Committee is crippling the government by giving it a limited amount of room. He said that the restriction is not as onerous as it may appear.



Ray Phelps said that he was okay with the motion until the cap. He said that he has a problem with Charlie Hales' rationale about getting authority then moving forward to get support. He said that he is not saying that the government should have an unlimited capability to tax, but the cap concept has the least specificity. He said that the cap would take the government back to the trap of being in a position where it is required to do things but does not have the money to do them.

Mimi Urbigkeit said that the people in Clackamas County make government prove itself and they probably would not vote for the charter without a cap.

Jon Egge said that he can go along with the motion the way it is, but he is uncomfortable with "cap" and "tight" put together. He said that he likes the idea of a cap, but when it is as tight as \$2 million, he wavers because a tight cap is too restrictive. He said that the government needs to have elbow room to do some of the things that it has been asked to do. He said that he does think there needs to be a cap on the revenue without a vote of the people because it is a necessity to sell the charter in Clackamas County.

Larry Derr said that Frank Josselson's statement about the tight cap is not in the motion. It is just an expression of his view.

Chair Myers suggested, for the purposes of this vote, if it is the intention of Frank Josselson that one element of the total program would be a cap, that it be confined to that description, with the understanding that the Committee will wrestle with the amount later. He asked, regarding the \$6 million figure as it pertains to the excise tax revenues, if it is a directive that the excise tax would be levied so that amount will be raised.

Ray Phelps said yes.

Chair Myers asked, if the Committee envisions the uses of the excise tax would require at least \$6 million, subject to a growth factor, if it is prescribing that the council shall levy an excise tax that will raise that amount.

Larry Derr asked if it would be enough to have it be an authorized limit where there is a percentage and there is going to be an incentive to use the overhead and the other category to its limit, which ought to protect planning.

Ray Phelps said that it will because the \$6 million figure is a number he pulled out of the budget.

Chair Myers said that it would be high point of controversy if every point in the charter is taken to be an authorization to levy a tax.

Ray Phelps said that the \$6 million is the authorization rather than the prescription. He asked which percentage the local government per capita comes from. He said that it should come out of the planning percentage because that is where the dues go into.

Frank Josselson said that would be fine.

Bob Shoemaker suggested leaving the \$6 million flexible and return to that later in order to come up with a figure that adequately funds government, planning, replaces the per capita, and the arts.

Restatement of the motion:

The motion is to accept the following concept, with the understanding that the Committee will seek and develop specific and refined language for the charter:

STRUCTURE: At-large, full-time elected executive officer.  
Part-time, elected by districts, council  
consisting of from seven to nine members.  
Presiding officer selected from among the  
council members.  
A deputy executive, appointed by the elected  
executive and confirmed by the council.  
At-large, full-time elected auditor, with some  
legitimate auditing credentials.

FINANCE: Provide for an authorization to levy an excise  
tax not to exceed \$6 million, adjusted by the  
western cities index, and will be adjusted  
according to a formula to providing funding for  
planning, general government overhead, and a  
specified other category.  
The limitations will be subject to adjustment or  
change of the council upon the completion of  
the process of the review of local plans for  
compliance of the Regional Framework Plan.  
There would be an overall limitations on  
revenues which the government could raise by  
ordinance without a vote of the people,  
exclusive of the excise tax.  
The current local government head tax would  
be eliminated.

Chair Myers said that he would hopes that the charter would not call out the presiding officer is a full-time position.

Judy Carnahan asked if the Committee will return to the issue of specific cap limitation.

Chair Myers said yes.

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

Chair Myers adjourned the Committee at 3:40 p.m.

Respectfully submitted,

*Kimi Iboshi*

Kimi Iboshi  
Committee Clerk