

**METRO  
CHARTER  
COMMITTEE**

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**CORRECTED AGENDAS**

**NOTE:**     The Saturday, July 25 meeting is cancelled.

**DATE:**        July 28, 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 29, 1992 ✕  
**MEETING:**   Full Committee  
**DAY:**        Wednesday  
**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 30, 1992  
**MEETING:**   Full Committee  
**DAY:**        Thursday  
**TIME:**       6:00 p.m.  
**PLACE:**      Metro, Council Chamber, 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 29, 1992

Metro Center, Room 440

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

Committee Members Absent: Tom Brian, Norm Wyers

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

1. Discussion of potential changes to the charter

Chair Myers distributed the draft charter with his proposed amendments. See Attachment A. \*\*\* He said that the changes to section 22, *filling vacancies*, were primarily editorial, except for 22(2), *interim appointment*, which he proposes be deleted. He said that a lot of work would need to be done to define how the interim appointment would work.

Jon Egge asked if there was another to approach the issue.

Tim Sercombe said that if the Committee wants to allow pro temp appointments and have the person act as a member of the council, it would be best to say that in the charter.

Chair Myers said that there are no changes to section 23, *Limitations of Terms of Office*.

Bob Shoemaker asked, regarding section 22, if a vacancy occurs more than 20 days before the first general election after the beginning of the term for that office, does the appointee serve for the balance of the term.

Chair Myers said yes. He said that section 24, *Appointive Offices and Commissions*, poses a policy question. The original version called for a deputy executive officer and the council to prescribe its duties and qualifications. He said that, in the context of a separation of power, it would be a mistake to allow the council to define the duties. He suggested having the executive officer responsible for the determination of the qualifications and duties or delete it entirely from the charter.

Larry Derr said that he would prefer to delete the concept from the charter.

Motion: Chair Myers moved, Judy Carnahan seconded, the adoption of section 21, *Filling Vacancies*, of the charter as distributed.

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



Chair Myers said that section 24(2) *Appointment and confirmation* requires council confirmation for the deputy executive officer and department directors, but leaves the council to determine, by ordinance, which other positions would require confirmation.

Motion:

Chair Myers moved, Frank Josselson seconded, the adoption of section 24 *Appointive Offices and Commissions* of the charter as distributed and with the following amendments:

Delete section 24(1) *Deputy Executive Officer*.

Section 24(2): "~~The executive officer appoints the deputy executive officer and all other employees in the office of the executive officer, all department heads, and all other positions this charter or ordinance requires the executive officer to appoint. Appointments of the deputy executive officer, department directors and are subject to council confirmation~~".

Section 24(3): "~~The deputy executive officer, other employees in the office of the executive officer, and department directors...~~".

Wes Myllenbeck said that he opposed the motion. He said that if the executive officer prefers to travel than manage, there is someone in charge with a deputy executive officer. He said that there is a stronger staff camaraderie with an appointed assistant executive who is there all the time and who allows the executive to do the politicking and outside work.

Jon Egge asked if the net result is that the executive officer will be able to hire his/her assistant. He said that will happen anyway, but it is not mentioned in the charter so there is no confirmation proceedings by the council. Currently, under ORS 268, the deputy executive officer is mentioned and council confirmation is required.

Chair Myers said that the statute states the position is created by ordinance and subjected to the council confirmation. He said that the Committee could take that approach.

Larry Derr said that having it in the charter would add to the potential argument that the government is too big because the charter calls out a lot of positions.

Vote on the motion:

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

Chair Myers said that the changes to section 25 *METRO Policy Advisory Committee* are editorial changes, except for the proposed deletion of section 24(4) *vote required for taking action* because this section is built into the functions sections. He said that the substance of this provision will appear in the earlier part of the charter. He said that at the end of section 25(1), the phrase from "notwithstanding the above provisions" on should be deleted because has become section 25(2).

Motion:

Chair Myers moved, Bob Shoemaker seconded, the adoption of section 25 *METRO Policy Advisory Committee* of the charter as distributed and the following amendment:

Section 25(1): Delete "*Notwithstanding the above provisions, the composition*

*of MPAC may be changed at any time by vote of both a majority of the members of the MPAC and a majority of the councilors."*

Tim Sercombe asked if there is a possibility that no Washington County Commissioner or Clackamas County Commissioner would be a resident of the METRO area. He said that one of the MPAC composition requirements is that one of the members be a member of the governing body of Washington and Clackamas County boards of commissions and that the person reside in the METRO area during tenure on MPAC.

Eric Carlson, City of Beaverton, said that Washington County's Board of Commissioners is elected by districts and there always two that are within the jurisdiction of METRO.

Ron Cease said that the Clackamas County Board of Commissioners is three members elected at large.

Bob Shoemaker said that it is possible, but not very likely.

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

Chair Myers said that the Committee has not discussed section 26 *METRO Office of Citizen Involvement* to any extent. He said that the language--an adaption of the language proposed in the public hearings--is in the charter to provide a focus for decision of it. He said that he has not heard Committee opposition to the function being in the charter, but he has heard questions regarding the provision regarding the committee's authority to hire and fire its own staff.

Motion: Matt Hennessee moved, Jon Egge seconded, to delete the following sentence from section 26(2) *Citizens' Committee in office of citizen involvement*: "The committee shall have authority to hire and fire its staff".

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

Motion: Chair Myers moved, Jon Egge seconded, the adoption of section 23, *Limitations of Terms of Office*.

Charlie Hales said that the provision does not provide term limitations for the auditor.

Chair Myers said that he thought there was consensus that there would not be term limitations for the auditor.

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



Motion: Chair Myers moved, Frank Josselson seconded, the adoption of section 26 *METRO Office of Citizen Involvement* as distributed and further amended by the Committee.

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

Chair Myers said that the only change in section 27 *State Law* is to delete section 31 *Nominations* because it suggests a more onerous process than state law would be adopted by the council as a matter of policy.

Motion: Chair Myers moved, Jon Egge seconded, the adoption of section 27, *State Law*, of the charter as distributed.

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

Chair Myers said that the proposed amendments in section 28 *Elections of METRO Officers* are editorial.

Motion: Chair Myers moved, Jon Egge seconded, the adoption of section 28, *Elections of METRO Officers*, of the charter as distributed.

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

Motion: Chair Myers moved, Matt Hennessee seconded, the adoption of section 29, *Multiple Candidacies*, of the charter as distributed.

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

Chair Myers explained the changes in section 30 *Reapportionment of Council After Consensus*. He said that because there is reference to criteria in the provisions dealing with the first reapportionment, those criteria are proposed for deletion in this section. There is a cross reference to section 15. He said that the major policy issue is that after the initial reapportionment, the process of reapportionment would be left to the council.

Bob Shoemaker asked what the law provides if the council fails to establish council districts.

Chair Myers said that the law is probably silent. He said that it will require legislative action between now and the year 2001.

Bob Shoemaker suggested providing that the boundaries be established in some other fashion if the council fails. He suggested letting the executive officer do it if the council fails.

Motion: Bob Shoemaker moved, Matt Hennessee seconded, that section 30 *Reapportionment of Council After Consensus* be amended to provide that if the council is unable to establish districts within three months, the executive officer shall do so within 60 days.

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

Motion: Chair Myers moved, Jon Egge seconded, the adoption of section 30, *Reapportionment of Council After Consensus*, of the charter as distributed and further amended by the Committee.

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

Chair Myers said that the proposed amendment to section 31, *Recall*, addresses the issue of who has the authority of a recall under a reapportioned district. The provision parallels the treatment of the same situation for legislative assembly members under the state constitution.

Motion: Chair Myers moved, Ron Cease seconded, the adoption of section 31, *Recall*, of the charter as distributed and with the following amendment:

Section 31(2): "...which the councilor is assigned and not by the voters of the district of that councilors existing before the reapportionment".

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

Chair Myers said that his proposed amendments in section 32, *Initiative and Referendum*, are to clarify that the voters of METRO reserve the powers of initiative and referendum and the council may provide for the exercise of those powers consistent with law.

Ron Cease asked what it means that "the council may provide for the exercise of those powers in a manner consistent with law".

Chair Myers said that the Metro council has some leeway in setting the number of signatures required.



There are policy choices about the exercise of it that the council is left under the Oregon Constitution.

Tim Sercombe said that the constitutional reference refers to the Metropolitan Service District as having the initiative and referendum powers of a county. The county statutes allow for a range.

Ron Cease said that he is troubled by leaving the designation up to the council.

Chair Myers said that the council does it now by ordinance. He said that the operative effect would be that the council would set it lower than state law because it must be done consistent with state law.

Motion: Chair Myers moved, Ron Cease seconded, the adoption of section 32, *Initiative and Referendum*, of the charter as distributed.

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

Chair Myers said that the changes in section 33, *Amendment and Revision of Charter*, are editorial.

Motion: Chair Myers moved, Ron Cease seconded, the adoption of section 33, *Amendment and Revision of Charter*, of the charter as distributed.

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

Bob Shoemaker said, in section 17 *METRO Auditor*, the charter states that the auditor could not be elected to a council position four years after leaving the office of auditor. He said that Ken Gervais, Metro staff, suggested that the person not be able to be appointed to such an office.

Motion: Bob Shoemaker moved, Jon Egge seconded, amending section 17, *METRO Auditor*, to read: "...auditor is ineligible to be a candidate for election or to be appointed to the offices of *METRO executive officer or METRO councilor*".

Tim Sercombe asked if the intent is that, for four years after being auditor, the person cannot run for office. In essence, he or she could not be an actual member of the METRO council or be executive officer for six years after the expiration of the term. He asked if it was, instead, a four year ban on membership.

Chair Myers said that the Committee would return to the issue when they reach section 17.

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

Ron Cease asked if, under section 33 *Amendment and Revision of Charter*, there is no question that



the amendment to the constitution would require a simple majority of those who voted at the election.

Tim Sercombe said yes.

Chair Myers said that there is no change to section 34 *Ordaining Clause* and the changes in section 35 *Adoption by Council* and section 36 *Endorsement* are editorial. The proposed amendments in section 37 *Effective Date of Ordinances*, down to section 37(2), are editorial. The proposed amendment in section 37(2) *Vetoed and referred ordinances*, addresses the effective date of vetoed and referred ordinances.

Tim Sercombe said that the last sentence in section 37(2) talks about the lack of effective date if the voters reject a measure that is referred. He asked if the Committee wanted a provision regarding the effective date of a measure referred by petition and approved by the voters. He suggested that the last sentence read "an ordinance referred by a proper referendum petition ~~becomes inoperative and does not take effect if a majority of the voters voting on the measure reject it~~ and it takes effect on the date the results of the election are certified if the majority of the voters voting on the measure approve it."

Chair Myers said that the emergency clause provisions in section 37 includes the assumption of the mass transit district.

Motion:

Chair Myers moved, Jon Egge seconded, the adoption of section 34, *Ordaining Clause*, section 35, *Adoption by Council*, section 36, *Endorsement*, and section 37, *Effective Date of Ordinances* of the charter as distributed and with the following amendments:

Section 36: "...adopted shall endorse ~~on~~ the ordinance..."

Section 37: "...ordinance imposing, or changing a tax or charge, ~~or~~ changing the boundaries of METRO..."

Section 37(2): "...majority of the voters voting on the measure ~~or on unless a later date is specified in the ordinance...An ordinance referred by a proper referendum petition becomes inoperative and does not take effect if a majority of the voters voting on the measure reject it~~ and takes effect on the date the results of the election are certified if a majority of the voters voting on the measure approve it."

Bob Shoemaker said that section 36 makes reference to a general ordinance. He asked if that reference should be struck.

Tim Sercombe said that the intent of stating "general ordinance" is to make sure that it is an ordinance different than the one being endorsed.

Jon Egge said that "general ordinance" is added back into section 39, *Public Improvements and Special Assessments*.

Chair Myers said that it was added back into section 39 because the provision was intended to restrict the ability of the council to make the kinds of ordinances described, other than by general ordinance. He said that he assumes that is the thrust under section 36 also.

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

Bob Shoemaker said that section 37 should be editorially amended to read: "...boundaries of METRO, or assuming the functions of a mass transit district, may not contain an emergency clause".

Tim Sercombe asked if section 35(1)(c) should be amended to read: "...publicized not less than three business days nor more than ten business days before the meeting".

Chair Myers said that the motion to amend the time frame to include three business days did not include the amendment to make the time period of 10 days, 10 business days.

Motion: Chair Myers moved, Bob Shoemaker seconded, to amend section 37, *Effective Date of Ordinances*, as follows: "...boundaries of METRO, or assuming the functions of a mass transit district, may not contain an emergency clause".

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

Tim Sercombe said that section 39, *Public Improvements and Special Assessments*, should include the term "general ordinance". He said that the intent is to require the council to set out general procedures for these things in order to preclude them from doing it by special legislation applicable to a particular improvement or assessment. It also prevents the council from political claims that there should be a different assessment process for different groups of property owners. It is intended to be a mandate.

Motion: Chair Myers moved, Ron Cease seconded, to adopt section 39, *Public Improvements and Special Assessments* of the charter as distributed and with the following amendment: "General ordinances shall govern the ~~The council may by general ordinance establish~~ procedures for making, altering, vacating, or abandoning a public improvement...".

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

Motion: Chair Myers moved, Matt Hennessee seconded, the adoption of section 38, *Content of Ordinances*, of the charter as distributed.

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



Chair Myers said that the changes in section 40, *Transition Provisions* are editorial changes.

Motion: Chair Myers moved, Matt Hennessee seconded, the adoption of section 40, *Transition Provisions*, of the charter as distributed.

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

Motion: Chair Myers moved, Jon Egge seconded, the adoption of section 41, *Effective Date*, of the charter as distributed.

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

Motion: Chair Myers moved, Matt Hennessee seconded, the adoption of section 42, *Severability;Headings*, of the charter as distributed.

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

Motion: Chair Myers moved, Ron Cease seconded, the adoption of section 43, *State Legislation*, of the charter as distributed.

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

Chair Myers said that the highlighted changes in section 9 through section 20 in Attachment A reflects the amendments adopted by the Committee at the July 28, 1992 meeting. He said that the first sentence--"Except as provided in this section, all taxes imposed and received by METRO, after providing for the costs of administration and any refunds or credits authorized by law, shall be placed into a single fund"--in section 13 *Limitations on Expenditures of Certain Tax Revenues* should be shown as a deletion from the last meeting.

Tim Sercombe said that, regarding section 13, Dan Cooper raised an issue regarding whether or not the expenditure limitation would include taxes which are imposed by METRO but passed on to other governments. He gave the example of the Blazer Arena financing and the possibility of METRO imposing a ticket tax and paying it over to the city of Portland for purposes of use by Portland under the agreement with the Blazers for the construction of the facility. He said that Dan Cooper suggested that the Committee adopt the following language: "Expenditures made by METRO to cities, counties, or special districts pursuant to an intergovernmental agreement are not subject to the expenditure

limitation."

Frank Josselson asked if the ticket tax is a "tax" as the Committee defines it. He said that it could be done by intergovernmental agreement.

Tim Sercombe said that the Committee might consider accepting the language "taxes imposed by METRO for the benefit of another government". He said that Dan Cooper's concept is that where Metro is the tax imposer, because the incidence of taxation is one of METRO's activities, but the tax is given to another government for a purpose and not to METRO for the general fund purposes.

Matt Hennessee said that Tim Sercombe's suggestion makes sense, but the language allows for other things to fall under it.

Ron Cease said that it should not count against METRO's cap when Metro collects revenue for another government.

Larry Derr said that it is more of a pass through. It is utilizing METRO's excise tax authority to fund something that a city is going to be implementing.

Matt Hennessee said that the rule of understanding is that the revenue under the tax limitation is going to be used to operate METRO.

Larry Derr said that the intent of the tax limitation is also to tell the voters that there are not any hidden costs.

Matt Hennessee said that if the Committee messes with this provision, METRO could be a pass through agency. He said that he has had experience where the government has kept the revenue for a certain amount of time and has gained a certain amount on the interest, which does not have to be passed through.

Ken Gervais, Metro staff, said that Metro has been talking, and the performing arts people have asked, about imposing a tax on amusement tickets on items such as bowling, roller skating, and Blazer games. He said that the city of Portland told Metro that if there is going to be a tax on Blazer games, they insist that the money go to pay off the \$34.5 million obligation. He said that he thought the problem of placing that revenue under the \$12.5 million cap was solved when the Committee made the cap a spending limitation because the object of the cap is to make sure that METRO does not spend more than that amount of money. If METRO were collecting something that had to be given to another government, it would be in local government's interest to allow that to happen.

Frank Josselson said that METRO should not be imposing taxes for the benefit of local governments. If a city does not have the power to tax, METRO's taxing power should not be employed.

Chair Myers asked Tim Sercombe to confer with Dan Cooper to see if there is a tighter description of this issue that might be presented for Committee action.

Ron Cease said that he does not want to prevent METRO from being a pass through to collect the tax regionally and return it to the local governments if there is merit and desire on behalf of local governments.

Matt Hennessee said that he agrees with Ron Cease.

Tim Sercombe asked if the concept of excluding taxes imposed by METRO for the benefit of another



government is too broad.

Chair Myers said that "for the benefit of another government" is vague. He said that there should be some reference as to what happens with the revenue from the tax so that it is clear that it is not being spent for METRO's functions.

Matt Hennessee said that the intent is that all collected or all the interest that is accumulated goes to the government.

Jon Egge said that Matt Hennessee's intent is closer to his thoughts, but the issue is still not tight enough.

Larry Derr said that the original language in section 13(1) precluded having interest earnings accumulated over a period of time to be outside of the cap. He said that if there are any interest earnings on the taxes before they are spent, it should be within the cap. He suggested adding a provision stating that the cap includes funds earned from investments.

Ron Cease asked Larry Derr to explain his proposal.

Larry Derr said that it is not a realistic danger, but someone could say that it is a way to get around the cap. He said that his proposal prevents METRO from levying a huge amount of taxes and creating a big fund, but make it like an endowment and spend the earnings off of it.

Motion: Larry Derr moved, Matt Hennessee seconded, to amend section 13(1),  
*Generally, as follows: "...on a cash basis from taxes imposed and received by  
METRO and interest and other earnings on those taxes."*

Vote on the motion: Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Ned Look, Wes Myllenbeck, Vern Shahan, Bob Shoemaker, Mimi Urbigkeit, and Chair Myers voted aye. Frank Josselson abstained. Tom Brian, Ray Phelps, and Norm Wyers were absent.  
The vote was 12 ayes and 1 abstention and the motion passed.

Chair Myers reviewed the language of section 15(3) *First Reapportionment of Council Under Charter* which the Committee voted on in concept at the last meeting. He said that section 15(3)(c)(i) should be amended to read: "be a METRO councilor, executive officer or employee ~~during the time of that person's membership on the commission~~". The last sentence of section 15(3)(c) should be amended to read: "No member of the reapportionment committee ~~shall~~ may be a candidate for the office of councilor...". Section 15(3)(e) is new language dealing with the reapportionment referee. The reference to a subsection in section 15(3)(e) should be a reference to subsection 3(c). Section 15(3)(g) should be amended to read: "The council shall appropriate sufficient funds to enable the reapportionment commission and reapportionment ~~office~~ referee to perform their duties under this section".

Ron Cease said that section 15(3)(f) should also include that the additional criteria prescribed by the council is consistent with the state and federal law as well as the requirements of this subsection. He said that the federal law provides for the protection of minorities.

Chair Myers said that the provisions do not deal with a vacancy occurring on the commission. He proposed adding a subsection which would provide that when there is a vacancy on the commission, a new appointment shall be selected by the appointing authority that appointed the member whose position is vacant.



Bob Shoemaker said that subsections (d) and (e) both include language that the plan becomes effective on the 30th day after filing. He suggesting making the statement a new subsection (f) and deleting it from subsections (d) and (e). He said that the last sentence in subsection (e) should be moved after the first sentence in the same subsection so that it reads better.

Frank Josselson suggested that the reference to the Metropolitan Service District in section 15(3)(c)(iii) be deleted.

Chair Myers said that the provisions deal with a time period of two years and it is initiated within a few months of the beginning of METRO so it will deal with Metropolitan Service District.

Frank Josselson said that section 15(3)(c)(iii) states "any policy or legislation adopted by METRO or the Metropolitan Service District". Under the charter, it should be "any ordinance" because policies and legislation could only be adopted by ordinance. He said it would be cleaner to say "any ordinance adopted by METRO..."

Chair Myers said that there could be policies adopted that could be other than by ordinance, such as by resolution, and some legitimate conflict situations could be excluded if the provision calls out "ordinance".

Frank Josselson suggested that section 15(4) read: "The terms of office of the four councilors receiving the highest number of votes among the seven councilors elected in 1994, have terms of office ending shall end January 4, 1999."

Bob Shoemaker asked what would happen if, after the reapportionment commission has done their job, a member gets challenged as failing to meet the criteria.

Tim Sercombe said that it probably would not be a valid challenge for someone to say that it was improperly constituted after it has done it work.

Bob Shoemaker suggested that the Committee be clear on the issue because it is an invitation for trouble. He said that he will work on language which says that the commissioner serves notwithstanding disqualification that it shall not invalidate the work of the commission.

Ron Cease asked what the purpose of the restrictions is if it does not make any difference if someone is disqualified.

Bob Shoemaker said that it is a matter of good faith.

Tim Sercombe said that there is a provision for the plan being effective on the 30th day after filing unless a petition for review is filed as provided by law. It may be that any sort of challenges to the manner in which it is adopted and the composition of the commission would have to be brought up during that period. He said that it would probably have to be done through a writ of review or legal challenge when the plan is filed and before it becomes effective.

Ron Cease said that section 15(3)(d) should include that it takes the affirmative vote of four commission members for the plan to pass.

Charlie Hales said that he does not know what classes of persons are being excluded from the reapportionment commission according to section 15(3)(c). He asked if someone who had a contract or franchise with METRO would be excluded from being on the commission. He gave the example of someone who has a contract to transport solid waste to Arlington.

Tim Sercombe said that if the franchise was the subject of a general policy or legislation within that period, that person would be excluded from membership.

Charlie Hales said that section 15(3)(c)(iii) provides that someone with an identifiable economic interest would be excluded. He asked what the second qualifier of "be engaged, directly or indirectly, in any business with METRO which is inconsistent with the conscientious performance of duties" in section 15(3)(c)(iv) means. He said that if they are doing business with METRO, then they should not be on the commission.

Tim Sercombe said that there may be some overkill between the provisions in (iii) and (iv). Section 15(3)(c)(iii) talks about having an interest in policies which have been adopted by METRO or which are on the table at the time of appointment. Section 15(3)(c)(iv) talks about being engaged in business to a degree that the person would not be able to do a conscientious job as a member, which might be more of an issue of degree.

Charlie Hales asked if the council or anyone else will be able to make the call clearly based on the language.

Ron Cease agreed that there is a fine line. He said that the council will have to make a judgement and part of the reason for the provision is to require them to make a judgement.

Tim Sercombe said that the origin of section 15(3)(c)(iii) is, in part, the ethics law regarding what is a legislative or administrative interest with the city that requires registration as a lobbyist or prevents someone from working with the city.

Larry Derr said that, in regard to Ron Cease's suggestion to include, in section 15(3)(f), that the additional criteria prescribed by the council be consistent with law, everything in the charter must comply with any applicable law. He said that the Committee should not get in the position of saying it some places and not others.

Motion: Bob Shoemaker moved, Charlie Hales seconded, to amend section 15(3)(c) to include at the end the following language: *Any challenge of the qualifications of a member of the reapportionment commission shall be made before the commission files a reapportionment plan with the council.*

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

Motion: Chair Myers moved, Ron Cease seconded, to adopt section 15 *METRO Council* of the charter as distributed, further amended and with the following amendments:

Section 15(3)(c)(i): *"be a METRO councilor, executive officer or employee during the time of that person's membership on the commission,"*.

Section 15(3)(c)(iii): *"...within the previous two years or which is being considered for adoption at the time of the appointment,"*.

Section 15(3)(c): *"No member of the reapportionment committee shall may be a*



*candidate for the office of councilor or executive...".*

Section 15(3)(d): *"...beginning January 2, 1995. The affirmative vote of four members of the commission is required to adopt a reapportionment plan."*

Section 15(3)(d): Delete the sentence *"The plan becomes effective on the 30th day after filing unless a voter of METRO petitions for judicial review of the plan as provided by law.*

Section 15(3)(e): *"...referee by July 15, 1993. The provisions of subsection 3(c) of this section apply to the appointment of the referee. The referee shall prepare and file with the council a reapportionment plan within sixty days of his or her appointment. ~~The reapportionment plan becomes effective on the 30th day after filing unless a voter of METRO petitions for judicial review of the plan as provided by law.~~ The provisions of subsection      of this section apply to the appointment of the referee."*

Insert new section 15(3)(f): *"A reapportionment plan filed under this section becomes effective on the 30th day after filing unless a voter files a petitions for judicial review of the plan as provided by law".*

Section 15(3)(g): *"The council shall appropriate sufficient funds to enable the reapportionment commission and reapportionment offee referee to perform their duties under this section."*

Renumber the old section 15(3)(f) to become section 15(3)(g).

Renumber section 15(3)(g) to become section 15(3)(h).

Renumber section 15(3)(h) to become section 15(3)(i).

Section 15(4): *"~~The~~ Terms of office of the ~~The~~ four councilors receiving the highest number of votes among the seven councilors elected in 1994, ~~have~~ terms of office ending end January 4, 1999. ~~The terms of office of the other three councilors have terms of office ending end~~ January 6, 1997. Thereafter the term of office of a councilor is four years".*

Matt Hennessee said that section 15(1) and section 15(2) talk about the form of government and then the rest of the section talks about reapportionment. He said that there is a better way to structure it. He said that he is opposing the motion because of the composition set out in section 15(2).

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

Bob Shoemaker said that he is concerned that a challenge could be made against a member of reapportionment commission on the last day before the reapportionment plan is to be filed which would create a problem. He suggested that the deadline for challenge be May 1, 1993 to give them adequate time after the challenge to correct the situation.

Motion: Bob Shoemaker moved, Jon Egge seconded, to amend the new language of section 15(3)(c) as follows: *Any challenge of the qualifications of a member of the reapportionment commission shall be made by May 1, 1993 before the commission files a reapportionment plan with the council.*

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

Motion: Chair Myers moved, Jon Egge seconded, to add a subsection in section 15(3) which would provide that any vacancy occurring on the reapportionment commission shall be filled by appointment by the appointing authority that made the initial appointment.

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

Larry Derr suggested that section 16 *METRO Executive Officer* be amended to include that the executive cannot contract services with someone, as well as not be employed, while in the office of executive officer. He said that it is not likely that the executive will also be fully employed at another position, but contracting his/her services is possible and should also be prohibited.

Motion: Larry Derr moved, Vern Shahan seconded, to amend section 16(1) to read: *"...The executive officer serves full time and may not be compensated for services employed by another person or entity while serving as executive officer".*

Jon Egge said that the motion might be going too far. He said that it would infringe upon the individual's constitutional rights to hold a job in a gas station at nights, for example.

Chair Myers said that if the executive officer owns the gas station, he/she could do it. He asked if the present language is the statutory restriction.

Tim Sercombe said that he did not remember where it came from.

Ron Cease asked if it would be a restriction if the executive officer owned a business.

Larry Derr said that if the person were being paid for services, it would be a restriction.

Mary Tobias asked what the impact would be if the executive officer was asked to speak abroad and was provided with air fare, lodging, meals, and a speaker's fee.

Tim Sercombe said that it would probably preclude the speaker's fee.

Larry Derr said that it is not compensation to get expenses paid.

Chair Myers said that it would outlaw honorarium. He said that the language in the draft is basically



the language in the statute.

Vote on the motion: Judy Carnahan, Larry Derr, Jon Egge, Charlie Hales, Ned Look, Wes Myllenbeck, Vern Shahan, and Mimi Urbigkeit voted aye. Ron Cease, Matt Hennessee, Frank Josselson, and Chair Myers voted nay. Bob Shoemaker abstained. Tom Brian, Ray Phelps, and Norm Wyers were absent. The vote was 8 ayes, 4 nays and 1 abstention and the motion failed.

Chair Myers said that concern had been expressed about the time period of the disqualification in section 17 *METRO Auditor*.

Matt Hennessee suggested that the auditor be ineligible to be a candidate for election to METRO for two years instead of four. If the period of ineligibility was left at four years, by the time the four years was actually up, the election would be over for the next term.

Chair Myers said that the same result can be accomplished by deleting any reference to "the years thereafter".

Bob Shoemaker said that the result would be different because the person could possibly run for a council position two years later.

Tim Sercombe suggested the provision be amended to read: "During the term for which elected, and for four years thereafter, the auditor is ineligible to hold ~~be a candidate for election to~~ or be appointed to the offices of METRO executive officer or METRO councilor". He said that would maintain the concept of not having the auditor in a METRO position for four years after his/her term ends.

Bob Shoemaker said that Tim Sercombe's recommendation would allow the person to run for election, which would have him/her taking office four years after leaving office. He said that he would support that concept.

Motion: Matt Hennessee moved, Ron Cease seconded, to amend section 17(2) *First election; disqualification for other METRO elected offices* as follows: "During the term for which elected, and for four years thereafter, the auditor is ineligible to hold ~~be a candidate for election to or be appointed to~~ the offices of METRO executive officer or METRO councilor".

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

Chair Myers said that, in section 17(3) *Duties*, he amended the language adopted by the Committee at the last meeting.

Motion: Chair Myers moved, Matt Hennessee seconded, to adopt section 17 *METRO Auditor* of the charter as distributed and further amended by the Committee.

Vote on the motion: Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Frank Josselson, Ned Look, Vern Shahan, Bob Shoemaker, Mimi Urbigkeit, and Chair Myers voted aye. Wes Myllenbeck voted



nay. Tom Brian, Ray Phelps, and Norm Wyers were absent. The vote was 12 ayes to 1 nay and the motion passed.

Chair Myers said that the changes reflected in sections 18 through 20 are changes made at the last meeting.

Janet Whitfield said that section 18 *Qualifications of Elected Officers* should be amended to read: "...reapportioned district within sixty days...".

Motion: Chair Myers moved, the adoption of section 18 *Qualifications of Elected Officers*, section 19 *Compensation of Elected Officers*, and section 20 *Oath of the charter* as distributed and with the following amendment:

Section 18(1): "...reapportioned district within sixty days after the reapportionment is effective".

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

Eric Carlson said that section 35(2) states that the "adoption of an ordinance requires the affirmative votes of a majority of all councilors in a public meeting". He said that it seems to apply to all ordinances, but it is hidden in the subsection *immediate adoption*. He asked if it should be called out in a separate subsection.

Chair Myers said that it was a subsection entitled "vote required" in the last draft. He said that it will be made a separate subsection for the final draft.

Bob Shoemaker said that, in section 15(3)(b), provides for the executive officer to appoint all of the reapportionment commission members if the council fails to make all the appointments. In other words, if one team fails to make its appointment, the executive officer does it all.

Chair Myers said that appointment authority was done deliberately to put pressure on the council to complete the appointments.

Frank Josselson said that only two councilors would be needed to strike a deal with the executive officer and agree to not make the appointment in order to hand all the appointments over to the executive.

Motion: Bob Shoemaker moved, Frank Josselson seconded, to amend section 15(b) to read: "By March 1, 1993, the executive officer shall appoint any commission members not appointed by the council by February 1, 1993. If the council fails to make all appointments to the commission by that date, the executive officer shall appoint all commission members and designate its chair by March 1, 1993.". The provision would also contain a reference back to the requirement that the commission member must be a resident of the one of the districts from which the councilors designated to make the appointment were elected or appointed.

Ron Cease said that the motion is making the provision complicated. The likelihood of a pair of

councilors not making the initial appointment is slim.

Larry Derr said that if the process was that the entire council had to agree on all the appointments, then he would agree that the executive should make the appointments if the council could not do it. He said that with groups of councilors making the appointments and if some do not do it, the executive only needs to deal with those positions that are not appointed.

Ray Phelps asked what would happen if the executive does not appoint anyone.

Chair Myers said that, at some point, the charter has to assume that what it says to be done is to be done.

Frank Josselson said that there would probably be a mandamus.

Ray Phelps asked why there would not be a mandamus against the council. He said that the amendment is fraught with political gainsmanship than allowing the body politic to bring force upon the peers to make the system work. He said that the amendment abuses the executive officer.

Tim Sercombe suggested that the language read: "If the council fails to make all appointments to the commission by that date, the executive officer shall appoint by March 1, 1993 all commission member positions not filled by the council or presiding officer".

Restatement of the motion: Bob Shoemaker restated the new language: *"If the council fails to make all appointments to the commission by that date, the executive officer shall appoint by March 1, 1993 all commission member positions not filled by the council or presiding officer".*

Vote on the motion: Judy Carnahan, Larry Derr, Jon Egge, Frank Josselson, Ned Look, Vern Shahan, Bob Shoemaker, and Mimi Urbigkeit voted aye. Ron Cease, Charlie Hales, Matt Hennessee, Wes Myllenbeck, Ray Phelps, and Chair Myers voted nay. Tom Brian and Norm Wyers were absent. The vote was 8 ayes to 6 nays and the motion failed.

Motion: Frank Josselson moved, Vern Shahan seconded, to amend section 15(3)(a) *First reapportionment of council under charter as follows: "...shall divide itself into five pairs and one group of three councilors designated by district number. Each pair and the group of three councilors shall be from contiguous districts. Each pair or group of councilors shall appoint one commission member."*

Vote on the motion: Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Frank Josselson, Ned Look, Wes Myllenbeck, Vern Shahan, Bob Shoemaker, Mimi Urbigkeit, and Chair Myers voted aye. Ray Phelps voted nay. Tom Brian and Norm Wyers were absent. The vote was 13 ayes to 1 nay and the motion passed.

Chair Myers asked the Committee to return to Chapter I, *Names and Boundaries*.

Ned Look said that the Committee decided on the name "METRO", but there are three or four Metro governments in the state. He said that it is also written in all capital letters which no other government does.



Frank Josselson agreed with Ned Look. He suggested the name of the government be Portland area metropolitan service district.

Bob Shoemaker said that the government being created is, potentially, more than a service district. Its most important function is regional growth management which is not service in the conventional sense. He said that it is a misnomer to continue to call it a service district.

Frank Josselson said that constitution provides that metropolitan service districts may have charters, so it remains a metropolitan service district. He suggested it be called Portland area metropolitan service district to be known in the charter as Metro.

Chair Myers said that if there is sentiment for avoiding a formal designation of this organization as Portland area metropolitan service district, section 2 could state that the Metropolitan Service District continues under this charter as a metropolitan service district with the name Metro.

Motion: Chair Myers moved, Ned Look seconded, the adoption of section 1 *Title of Charter* and section 2 *Name of Regional Government* as distributed and with the following amendments:

Section 1: *"The title of this charter is the 1992 METRO Metro Charter."*

Section 2: *"The Metropolitan Service District continues under this charter as a ~~municipal corporation~~ metropolitan service district with the name "METRO Metro"."*

All subsequent references to METRO in the charter will be changed to Metro.

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

Chair Myers said that the changes to section 3 *Boundaries* are editorial, except for the statement that no boundary changes to Metro shall require the boundary commission or other state agency approval unless provided by law. Without the clause "unless otherwise provided by law", the provision could be an illegal sentence.

Larry Derr said that if the charter says "unless otherwise provided by law" and if there is a law that is to the contrary, which there is, then the charter will have said nothing.

Bob Shoemaker suggested it read "unless otherwise required by law".

Motion: Chair Myers moved, Matt Hennessee seconded, the adoption of section three *Boundaries* of the charter as distributed and with the following amendment: *"...commission or any other state agency unless otherwise ~~provided~~ required by law"*.

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

and the motion passed.

Chair Myers said that, to the extent there are changes proposed in the language of prior drafts, it is edited to put the decisions of the Committee in more charter-like language. He read through section 4 *jurisdiction of Metro*.

Motion: Chair Myers moved, Ray Phelps seconded, to adopt section 4 *Jurisdiction of Metro* of the charter as distributed.

Bob Shoemaker said that an ordinance affects a change in law. A resolution states a position. He asked if it would always be true that something would be determined to be of metropolitan concern by ordinance, or if a resolution would be the appropriate vehicle for that.

Tim Sercombe said that two parts of the charter are relevant. One is the assumption of a function on the matter of metropolitan concern by ordinance. The ordinance section requires the council to adopt all legislation by ordinance. Anything that is policy making and a determination of metropolitan concern would have to occur by ordinance.

Larry Derr said that streamlining the language misses a couple key points. The new sentence "the council shall specify by ordinance the extent to which Metro exercises jurisdiction over matters of metropolitan concern" covers everything that Metro does. The language it replaces is that the Metro council shall determine by ordinance to what extent Metro should or shall exercise its jurisdiction. The old language is more of a category that the second sentence has to deal with because there are mandated functions and this states that the Metro council could, by ordinance, refuse to do a mandated function. He suggested making the new sentence narrower to follow the outline of the last sentence that was replaced. He suggested the new sentence read: "The council shall specify by ordinance the extent to which Metro shall exercises its jurisdiction over matters of metropolitan concern powers and duties granted to it by the laws of this state."

Tim Sercombe asked if the concern is to prevent the council from doing something illegal, such as not doing something that state law tells them they have to do, should the charter draft around that or can the Committee assume that Metro will not do that and this only applies to those categories of ordinances involving discretionary duties. He said that the charter will not have to be drafted around that issue if the intent is to say that the council cannot violate the law.

Chair Myers asked if he understood Larry Derr to state that this sentence ought to pertain to the exercise of jurisdiction over matters which law authorizes Metro to undertake, but does not require it to do.

Larry Derr said that the category is "powers granted to". He said that there is no discretion with "duties imposed on" in the first two sentences so it is "powers granted to".

Chair Myers said that he is bothered by "jurisdiction over matters". He suggested it read "...extent to which Metro ~~exercises jurisdiction over matters of metropolitan concern~~ shall exercise powers granted it by state law".

Amendment to the motion: Chair Myers amended his motion to included the following amendment in section 4 *Jurisdiction of Metro*: "...by ordinance the extent to which Metro exercises ~~jurisdiction over matters of metropolitan concern~~ powers granted it by state law".

Chair Myers asked if the substance of Larry Derr's concern is addressed with the amendment. He



asked what the ordinance as described would say.

Larry Derr said that it would say that there is a discretionary right, granted by state statute, to engage in a service function. He said that the statute is just a categorical reference to certain things.

Jon Egge asked what is the specific purpose of the sentence.

Chair Myers said that the sentence is carried forward from earlier discussions. The substance of the sentence was originally sponsored by Larry Derr.

Larry Derr said that, when drafting the provision, he tried to be fairly precise so a reader years from now could see the three sources from which Metro's actions may stem which are legislatively mandated functions, legislatively offered but not mandated functions, and matters that come directly from the constitution as matters of metropolitan concern.

Jon Egge said that his real question is why is the sentence needed at all.

Tim Sercombe said that the sentence is saying two things. When the council determines that something is of metropolitan concern and they decide they are going to do the function, this provision calls for Metro to assume it by ordinance. Later in the charter, it calls for findings as to why it is that metropolitan concern is part of the assumption. This sentence says that Metro has to say in the ordinance how much of this function, or what part of it, they are going to do. If they are going to do something differently, they have to pass another ordinance to say that it is matter of metropolitan concern and detail what it is they are doing. He said that the legal effect will be to require some specificity of ordinances, when the council is taking on a function or performing a new service, regarding what it is they are intending to do and why they believe it to be a matter of metropolitan concern.

Chair Myers withdrew the amendment to the motion.

Amendment to the motion:

Frank Josselson suggested, Chair Myers approved, amending the motion to include the following amendments in section 4 *Jurisdiction of Metro*:

*"...Matters of metropolitan concern include the powers granted to and duties imposed on Metro by current and future state law. ~~Matters of metropolitan concern also include and those~~ matters determined to be of metropolitan concern by ordinance of the council. The council shall specify by ordinance the extent to which Metro exercises jurisdiction over matters of metropolitan concern. ~~The ordinances required by this section are subject to the particular adoption procedures specified in this charter.~~"*

Frank Josselson said that this section does not require ordinances. It says that if the council is going to exercise its jurisdiction, it has to do so by ordinance.

Tim Sercombe said that the section does require the action to be done by ordinance.

Frank Josselson said that if it is going to be done. There is nothing in the section to require Metro to do it.



Bob Shoemaker asked if the sentence proposed for deletion is needed.

Chair Myers said no. He said that, in the prior discussions, there was emphasis about trying to indicate that there are requirements attached to that activity that are special in this charter.

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

Chair Myers explained the editorial changes in section 5 *Regional Planning Functions*.

Ned Look said that he is uncomfortable with the detail in the charter for the future vision in view of the fact that Metro is well into 2040. He said that he does not think that much detail should be in the charter.

Motion: Ned Look moved, Ray Phelps seconded, to delete section 5(1)(c) *development*, regarding the mandatory future vision commission.

Charlie Hales said that he opposes the motion because he has not heard anything persuasive from Metro as to why the commission should be removed. He said that planners would rather do planning by themselves and not have to do it with a citizen commission and the Committee has countered that tendency effectively.

Vote on the motion: Matt Hennessee, Ned Look, Wes Myllenbeck, and Ray Phelps voted aye. Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Charlie Hales, Frank Josselson, Vern Shahan, Bob Shoemaker, Mimi Urbigkeit, and Chair Myers voted nay. Tom Brian and Norm Wyers were absent. The vote was 4 ayes to 10 nays and the motion failed.

Chair Myers said that section 5(1) *Future Vision* uses the term "region" which has been discarded throughout the rest of the document. He said that there is no reason why it should not be used, but he wanted to flag it as a concern of terminology.

Ron Cease said that the term was used deliberately because the future vision is talking about a region broader than the area of the government.

Bob Shoemaker said that the second sentence in the provision has the concept when it states "...population levels and settlement patterns in the region and adjacent areas...". He suggested getting rid of the term "region" if the Committee is uncomfortable with it.

Charlie Hales suggested deleting "and adjacent areas". He said that "the region" is a vague reference to the area around this area. The future vision is not a regulatory document so it will have some flexibility to define the region however the commission chooses.

Ron Cease said that it is intentionally vague, but "and adjacent areas" makes it clear that it is talking about something bigger than the area of government.

Bob Shoemaker said that section 5(b) reverses the use of the term "region". If region is defined to not include adjacent areas, it creates a new problem.

Motion: Frank Josselson moved, Ron Cease seconded, to amend section 5 *Regional Planning Functions* as follows:

Section 5(1)(a): "...population levels and settlement patters that the region ~~and adjacent areas~~ can accommodate..."

Section 5(1)(a): Include, at the end of the provision, the following sentence: "As used in this section, "region" means the area of Metro and adjacent areas."

Bob Shoemaker suggested that the definition of "region" be limited to section 5(1) because the regional framework plan uses the term "regional", but it is limited to the Metro area.

Larry Derr said that it is not necessarily limited to the Metro area. He said that it will be an issue the legislature speaks to, but Metro is required to have goals that govern county plans which cover the entire county. He suggested that it be left open.

Vote on the motion: Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Frank Josselson, Ned Look, Ray Phelps, Vern Shahan, Bob Shoemaker, Mimi Urbigkeit, and Chair Myers voted aye. Wes Myllenbeck voted nay. Tom Brian and Norm Wyers were absent. The vote was 13 ayes to 1 nay and the motion passed.

Motion: Larry Derr moved, Frank Josselson seconded, amending the first sentence of section 5(1)(a) *Adoption* of the charter to read: "*The council shall adopt a Future Vision for the region by May 1, 1994 between January 15, 1995 and July 1, 1995.*"

Chair Myers said that the motion reflects the longer transition period for the new council.

Ned Look said that he assumes one of the points is to make sure that should the 2040 plan be completed prior to the new Metro commissioners coming in, it precludes them from acting on a future vision.

Larry Derr said that it does not tell Metro what they cannot do with the future vision or what they can or cannot do with respect to the 2040 plan.

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

Charlie Hales said that, regarding section 5(1)(e), he had earlier suggested, and the Committee rejected, adding an additional phrase saying that the future vision could not be cited in judicial review of individual land use decisions. He asked if the future vision can be cited in individual land use cases.

Bob Shoemaker said that they are not limited to judicial citations.

Frank Josselson said that if it is used as a basis for a decision, then it will be subject to judicial review. He said that is different to be cited in a judicial decision than used as a basis.

Tim Sercombe said that it may be used in interpreting the regional framework plan should there be



some ambiguity in the framework plan about what the future vision says.

Frank Josselson said that once it is used as a basis for land use decision making, it becomes subject to judicial review.

Motion: Larry Derr moved, Matt Hennessee seconded, to amend section 5(2)(a) to read: *"The council shall adopt a regional framework plan by July 1, 1996 December 31, 1997..."*.

Larry Derr said that the effect of the motion is to provide as much as two year or as little as the 18 months originally contemplated.

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

Chair Myers said that there is a change in the order of the matters addressed in the regional framework plan, under section 5(2)(b), to provide for a more analogous description.

Larry Derr said that section 5(2)(b)(viii) should read "coordination, to the extent feasible, of growth management and land use planning policies..." to make it more accurate. Section 5(2)(b) should be further amended to read: "...framework plan shall also address other growth management and land use planning matters...". He suggested that the last sentence of section 5(2)(b) be amended to read: ~~"In order to~~ To encourage regional uniformity..."

Bob Shoemaker said that the regional framework plan language can be construed to fall into the concept of regional being broader than the jurisdiction of Metro when using the term "local" rather than "cities and counties within the jurisdiction of Metro". He said that it would be better to define "local" to mean "cities and counties within the jurisdiction of Metro" and use "local" consistently or use the phrase "cities and counties within the jurisdiction of Metro" every time.

Frank Josselson agreed. He said the phrase occurs in the last sentence of section 5(2)(b).

Bob Shoemaker said that it would be more graceful to define "local" because it is used so often.

Tim Sercombe asked if it is ever used to mean districts as well.

Bob Shoemaker said this section deals with land use plans and does not include districts.

Chair Myers suggested amending the sentence to read: "...also contain model terminology, standards and procedures for ~~local~~ land use decision making that may be adopted by ~~local governments~~ cities and counties within the jurisdiction of Metro". He said that the Committee may still want to capsulize that in a definition.

Frank Josselson suggested that 5(2)(c) *effect* be replaced with the following language: "The regional framework plan shall: (i) describe its relationship to the Future Vision; (ii) comply with applicable statewide planning goals; (iii) be subject to compliance acknowledgment by the Land Conservation and Development Commission; and (iv) be the basis for coordination of comprehensive plans and implementing regulations of cities and counties within the jurisdiction of Metro.". He said that the intent of the new language is to make editorial changes and to limit some phrases included in the

original provision that could be construed broadly.

Tim Sercombe said that the charter tries to avoid referring to the current terminology or name of the state agency because there may be a different regime in 15 years.

Frank Josselson said that no one knows what it means if it were to say "state standards applicable to land use or comprehensive planning". There are a lot of state laws that effect land use planning, but the intent is not to encompass all of them. He said that he is confident that the LCDC goals will be around in 15 years.

Ray Phelps asked what the advisability is of calling out for a specific component of LCDC. He said that he is satisfied that the goals will be around in 15 years, but he is not satisfied that LCDC will be around. He suggested including its successor.

Frank Josselson said that he would add LCDC's successor to the provision.

Tim Sercombe said that, as a matter of state statute, what local comprehensive plans are required to be consistent with is clear. He said that he is concerned that, for a charter that will be in effect in 15 or 20 years, that will be a problem. He said that he is concerned about naming the agency and directing in the charter that the framework plan is subject to some action by that state agency. It is more an issue of state law. If state law says that the framework plan shall be reviewed by LCDC for consistency with state standards, it is more a function of state law. He asked if the intent was to say that state law should say that or if the agency should review it.

Larry Derr said that if the charter dances around it, it will be so complicated that no one will know what the charter is talking about. He said that, with the term "successor", if LCDC does not exist in the future, there will most likely be some agency that has a role at the state level with land use planning. If there is not, there will be enough history that people will know what the Committee meant when the charter was adopted.

Motion: Frank Josselson moved, Jon Egge seconded, to replace the current language in section 5(2)(c) *effect* with the following language: *"The regional framework plan shall: (i) describe its relationship to the Future Vision; (ii) comply with applicable statewide planning goals; (iii) be subject to compliance acknowledgment by the Land Conservation and Development Commission or its successor; and (iv) be the basis for coordination of comprehensive plans and implementing regulations of cities and counties within the jurisdiction of Metro."*

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

Frank Josselson said that, regarding section 5(2)(b), when the charter says "the regional framework plan shall address", that does not necessarily mean that the regional framework plan shall actually contain all the planning. Specifically, section 5(2)(b)(vii) *water sources and storage*, on which Portland is doing a water study. If Metro decides that study is adequate, it may simply say so in the regional framework plan without redoing it.

Chair Myers said that the first sentence of section 5(2)(d) *Amendment* should be deleted because it is



picked up under the provisions of section 5(2)(a).

Larry Derr said that the proposed amendment of section 5(2)(d) may have an unintended result by stating "in the manner established" by the council because it weakens the intent which is that the council has to do the amendment, not some delegated body. He suggested that the sentence read "the regional framework plan may be amended by the council" which would make it clear that amendments are possible, but left to the council.

Bob Shoemaker suggested amending section 5(2)(e)(i) *implementation* to read "requiring local comprehensive plans and implementing regulations of cities and counties within the jurisdiction of Metro".

Larry Derr asked for Bob Shoemaker's intent by using the term "local". He said that, by statute, only cities, counties, and metropolitan service districts adopt comprehensive plans.

Bob Shoemaker suggested adding a sentence to the end of section 5(2)(e) which states "as used in this section five, the word "local" includes only cities and counties within the jurisdiction of Metro".

Larry Derr said that the language that is used now is limiting and is used to include the geographic boundaries of Metro. To the extent that the legislature assigns broader responsibilities, this is able to go outside Metro's jurisdiction. He said that the current language makes the plan able to encompass whatever authority the legislature chooses.

Bob Shoemaker said that "local" is used frequently. He said that he thinks the intent is for it to mean cities and counties within the jurisdiction of Metro. He gave the example of section 5(2)(e)(ii)--requiring the council to adjudicate and determine the consistency of local comprehensive plans with the regional framework plan--and said that the Committee's intent is not to allow the council to do that regarding a city that is within the region as defined, but outside of Metro's jurisdiction. He said that the Committee does not want to suggest that the council is given that kind of jurisdiction.

Larry Derr said that he does not have a problem if it is defined as "within the jurisdiction of Metro".

Bob Shoemaker said that was his intent.

Chair Myers said that the definition of local should come in section 5(2)(c) so that it comes ahead of this.

Frank Josselson suggested that section 5(2)(e) should be amended to read: "...is subject to state review, consistency compliance acknowledgement, local plans and implementing regulations will be required within two years of state approval of to comply with the regional framework plan within two years of compliance acknowledgement of the regional framework plan".

Larry Derr said that the language in section 5(2)(e)(iv) has caused some concern because some people have construed it to mean an appellate process, which was not the intention. He suggested amending the sentence to read: "allowing the council to review local government land use decisions for consistency with the regional framework plan and to require changes in local government standards and procedures if determined to be necessary to remedy a pattern or practice of decision-making that is inconsistent...".

Ron Cease asked if Metro is currently authorized to review local government land use decisions.

Larry Derr said not on a direct appeal basis, but they are empowered to require changes in plans

which is essentially what the provision says.

Charlie Hales said that the current authority allows Metro to require changes in local plans of regulations inconsistent with some functional plan.

Ron Cease said that "standards and procedures" seems much narrower than what is currently required in the subsection.

Larry Derr said that the charter already has the big picture item that Metro can require changes in the comprehensive plans to be consistent with the regional plan. He said that his change is intended to get at decisions that are contrary to the regional plan, even though the changes are made, by the decision making standards and procedures as an attempt to recast the required procedures.

Chair Myers asked what "local standards and procedures" are dealing with.

Larry Derr said land use decision making.

Tim Sercombe said that the provision could read "local land use standards and procedures". The standards could be substantive as well as decision making rhetoric.

Chair Myers said that Tim Sercombe suggested that section 5(2)(e)(iii) should be amended to read "...adoption of the regional framework plan and the obtaining of any necessary state approval compliance acknowledgement of the regional framework plan".

Bob Shoemaker said that, regarding section 5(2)(e)(iv), limiting standards and procedures to land use is too limiting. He said that some of the abuse occurs in building permits.

Larry Derr said that if building permits are the issue, pursuant to clear and objective standards, it is not a land use decision and is probably beyond what the Committee wants to get after by this process. If it is a discretionary program, then it is a land use decision.

Tim Sercombe said that if change is going to be produced, it has to be in the land use standards themselves and the laws governing land use. He said that the building permit is the final step in the whole process and is done under building codes.

Frank Josselson said that Bob Shoemaker's point is the local building inspector who fails to ascertain the zoning of the property before issuing a building permit, as required.

Tim Sercombe said that is not a problem with the standards, it is with someone violating the standards. It cannot be changed by creating different standards.

Bob Shoemaker said that he would like to have "land use" taken out of the section 5(2)(e)(iv) statement of "local land use standards and procedures". He said that it lends itself to manipulation by jurisdictions that are trying to get around this. If it is broad standards and procedures, it can only apply to those standards and procedures which allow something to happen that is inconsistent with the regional framework plan. It is self limiting.

Motion: Chair Myers moved, Ron Cease seconded, to amend section 5(2) *Regional Framework Plan* of the charter as follows:

Section 5(2)(b)(viii): "coordination, to the extent feasible, of growth management and land use planning policies of Metro...".



Section 5(2)(b)(viii), "planning responsibilities...": change the heading number to section 5(2)(e)(ix).

Section 5(2)(b)(viii), "planning responsibilities...": "...framework plan shall also address other growth management and land use planning matters which the council...".

Section 5(2)(b): ~~"In order to~~ To encourage regional uniformity, 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. As used in this section, "local" refers only to the cities and counties within the jurisdiction of Metro".

Section 5(2)(d): ~~"The regional framework plan may be adopted in components. The regional framework plan may be amended in the manner established by the council."~~

Section 5(2)(e)(i): ~~"requiring local comprehensive plans and implementing regulations of cities and counties within the jurisdiction of Metro to comply with the regional framework plan within three years of adoption of the entire regional framework plan. If the regional framework plan is subject to state review, consistency~~ compliance acknowledgement, local plans and implementing regulations will be required to comply with the regional framework plan within two years of state approval of compliance acknowledgement".

Section 5(2)(e)(iii): ~~"...adoption of the regional framework plan and the obtaining of any necessary state approval~~ compliance acknowledgement of the regional framework plan".

Section 5(2)(e)(iv): ~~"allowing the council to review local government land use decisions for consistency with the regional framework plan and to require changes in local government standards and procedures if determined by the council to be necessary to remedy a pattern or practice of decision-making that is inconsistent with the regional framework plan."~~

Matt Hennessee suggested voting separately on the future vision and the regional framework plan. He said that, after the final vote, a lot of games will be played about who was where on what issues and the record should be clear on where people are on various issues.

Chair Myers said that the motion is just for amendments to the regional framework plan portion of section 5.

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

Motion: Chair Myers moved, Jon Egge seconded, the adoption of section 5(1) *Future Vision* of the charter as distributed and further amended by the Committee.

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

Motion: Chair Myers moved, Ron Cease seconded, the adoption of section 5(2) *Regional Framework Plan* of the charter as distributed and further amended by the Committee.

Motion to amend: Frank Josselson moved, Bob Shoemaker seconded, to amend the motion to include the following amendment:

Section 5(2)(e)(iv): "~~allowing the council to review local government land use decisions for consistency with the regional framework plan and to require changes in local government standards and procedures~~ take such action as it determines appropriate to remedy a pattern or practice of local decision-making that is inconsistent with the regional framework plan."

Frank Josselson said the amendment will give the council an arsenal of authorities to use in the event a local government fails to conform its land use decision making to the regional framework plan.

Larry Derr said that what Frank Josselson described is basically the authority that LCDC has. He said that there was, in the public testimony, concern that this would go that far. He said that it might be a good process in the future, but he is concerned about dealing with the issue at this late stage. It is significant time line change without having any feedback and running the risk of abusing local government support. If this change is not made, Metro has the ability to appeal, as an interested party, individual decision-making. He said that he is concern that this section has a balance that might be upset by the amendment.

Matt Hennessee said that he supports the motion because it provides some needed flexibility.

Tim Sercombe said that "such action as it determines appropriate" is very broad. There may be more narrow language from LCDC enforcement powers that would be better.

Vote on the motion to amend: Ron Cease, Jon Egge, Matt Hennessee, Frank Josselson, Vern Shahan, Bob Shoemaker voted aye. Judy Carnahan, Larry Derr, Charlie Hales, Ned Look, Ray Phelps, and Mimi Urbigkeit, and Chair Myers voted nay. Tom Brian, Wes Myllenbeck, and Norm Wyers were absent. The vote was 6 ayes to 7 nays and the motion to amend failed.

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

Chair Myers said that the first proposed deletion in section 6 *Other Assigned Functions* is because not all of the functions are currently functions of the Metropolitan Service District. He said that the list of



functions, (1)(a) - (1)(d), is modified by "acquisition, development, maintenance and operation of".

Matt Hennessee asked if "or action of the state or federal government" was deleted from section 6(4) because the beginning of the sentence mentions state law--"any other function required by state law...".

Chair Myers said yes. He said that the Committee also agreed that the federal government does not directly mandate to Metro.

Ron Cease suggested adding natural disaster planning and response to the list of the functions that Metro is authorized to exercise.

Bob Shoemaker said that the term "region" is used twice. Once with section 6(1)(c) and once with section 6(2) with the provisions regarding solid and liquid waste. He said that he assumes it is referring to the metropolitan area.

Tim Sercombe said that the reference is to clarify that it is not talking about local solid waste disposal functions, such as local operations sewage facilities.

Bob Shoemaker asked if "Metro area" could be used instead of "region".

Tim Sercombe said that the area is bigger than the Metro area in terms of solid waste disposal. The facilities may be taking the solid waste from a broader area.

Chair Myers asked if anything would be lost by simply deleting "of the region" from the two provisions.

Tim Sercombe said that it may include the local solid waste disposal functions.

Ray Phelps suggested getting rid of "of the region" because state and federal agencies are working toward a series of regional disposal methods and techniques. There should not be a limiting factor on these provisions because it could create an awkwardness of what might otherwise be a desirable environmental outcome.

Bob Shoemaker said that the concern that the charter might intrude into local concerns can be resolved by the requirement that it be of metropolitan concern. If the disposal of local refuse is not a metropolitan concern, then Metro does not have jurisdiction over it anyway.

Motion: Chair Myers moved, Bob Shoemaker seconded, the adoption of section 6 *Other Assigned Functions* of the charter as distributed and with the following amendments:

Section 6(1)(c): "*facilities for the disposal of solid and liquid wastes of the region*".

Section 6(2): "*Disposal of solid and liquid waste of the region*".

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

Motion: Ron Cease moved, Ray Phelps seconded, to further amend section 6 *Other Assigned Functions* of the charter by adding "*Metropolitan aspects of natural disaster planning and response*" to the list of functions Metro is authorized to exercise.

Frank Josselson said that the RGC opposed including natural disaster planning in regional government. Most cities, counties, and special districts are in the course of doing that now. It is a problem similar to the water problem. He said that if the provision is included as a function of the regional government, he would be inclined to limit it to any city, county, or special district that is not doing such planning currently.

Ray Phelps said that 12 to 18 months ago, Portland did nothing regarding natural disaster planning and, to his knowledge, they are still doing nothing. He said that the issue is more of a regional issue than 27 cities and counties trying to pull it off.

Ron Cease said that the motion includes the "metropolitan aspects". The motion does not provide that Metro will do Portland's part of the planning. He said that the regional government needs to look at the overview of the natural disaster problem because natural disasters will not be limited to one city or one county.

Matt Hennessee said that he supports the motion. He said that if a natural disaster occurs, the question is not so much if a local government has a plan, but whether it conforms with other governments and whether there is an opportunity to take a look at what is happening in the entire region to coordinate the activities.

Jon Egge said that he agrees this issue should be looked at on a regional basis.

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

Chair Myers explained the changes in section 7 *Assumption or Termination of Additional Functions*. He said that this draft goes back to using "local government service" and then defining it because the definition of local government services for purposes of this section, has a reference to the time a Metro ordinance on assumption is first adopted, in terms of determining whether something is or is not a local government service.

Jon Egge said that, elsewhere in the charter local governments means cities and counties. Under this section, service districts are included with cities and counties for the addition of functions of this government. He said that it is getting confusing.

Chair Myers suggested that the definition of "local government services", as used in this subsection, be those which are provided to the constituents by one or more cities, counties, or special service districts within the jurisdiction of Metro at the time of assumption.

Jon Egge said that he is concerned that the Committee changed the definition of local government in each section. He said that usually, a definition for a body of law is kept consistent.

Bob Shoemaker asked what is meant by "holding that office" in the 7(2) statement "...or a majority of the members of the Metro Policy Advisory Committee holding that office".



Tim Sercombe said that if there are local governments who do not appoint members to the MPAC, the majority would be based on the number of appointees as opposed to the majority of the number of positions.

Bob Shoemaker said that if they have not been appointed, they are not members. He suggested deleting "holding that office".

Larry Derr said that the date for the Boundary Commission study, September 1, 1994, is early when everything else has been pushed back. He suggested that the Committee look at it again.

Tim Sercombe said that the 1994 date was targeted to be in advance of a legislative session.

Larry Derr said that, regarding section 7(2), there is nothing in the statute that is referred to as a "special service district". There are service districts and special districts.

Tim Sercombe said that it is not statutory. It is distinguished from a general service district.

Larry Derr said that he is concerned that it will be interpreted as an area that does not cover anything instead of being construed broadly as intended.

Chair Myers said that special service district has only been defined negatively at this point to say that it does not include school districts and community college districts, but the charter does not say what they do include.

Larry Derr asked why service district could not be used.

Chair Myers said that the issue will be resolved during the final run through of the charter.

Motion: Chair Myers moved, Jon Egge seconded, to amend section 7 *Assumption or Termination of Additional Functions* as follows:

Section 7, title: *Assumption ~~or Termination~~ of Additional Functions*

Section 7(2): *"...or a majority of the members of the Metro Policy Advisory Committee ~~holding that office~~".*

Section 7(2): *"...function. As used in subsections 2 and 4 of this section, "local government services" are those which are provided to constituents by one or more local governments cities, counties, or special service districts within the jurisdiction of Metro...*

Section 7(3), Assumption of Boundary Commission Functions: Change the section number from *section 7(3)* to *section 7(4)*.

Section 7(3), Assumption of Boundary Commission Functions: *"...Commission, with Metro Policy Advisory Committee advice, by ~~September 1, 1994~~ September 1, 1995."*

Section 7(4), Assumption of Other Functions: Change the section number from *section 7(4)* to *section 7(5)*.

Section 7(4), Assumption of Other Functions: *"...not a local government*

~~service, as defined in subsection (2) of this section.~~

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

Motion: Chair Myers moved, Charlie Hales seconded, to adopt section 7 *Assumption of Additional Functions* of the charter as distributed and further amended by the Committee.

Vote on the motion: Ron Cease, Larry Derr, Jon Egge, Charlie Hales, Frank Josselson, Ned Look, Vern Shahan, Bob Shoemaker, Mimi Urbigkeit, and Chair Myers voted aye. Matt Hennessee and Ray Phelps voted nay. Tom Brian, Judy Carnahan, Wes Myllenbeck, and Norm Wyers were absent. The vote was 10 ayes to 2 nays and the motion passed.

Motion: Ron Cease moved, Ray Phelps seconded, to adopt section 8 *General Grant of Powers to Carry Out Functions; Construction of Specified Powers* of the charter as distributed.

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

Jon Egge said that, in the last draft, there was a section on the limitation on contracting in the finance chapter. He said that he does not remember voting that out of the charter as a section, but it is not in the current draft.

Ray Phelps said that, as originally drafted, the concern was whether it was enforceable or legal under collective bargaining processes. He said that Chair Myers said that he would research the issue and came back with the option of changing the language to make it more advisory. He agreed that it was not deleted.

Chair Myers said that the provision reads "Limitations on authority to contract. All officers of Metro shall preserve to the greatest extent possible, the ability of Metro to contract for services with persons or entities who are not employees of Metro". He said that the language will be inserted into the draft for final review at the next meeting. He said that the Regulation of Metro provision was inadvertently left out of the current draft and will be placed in the final draft. The provision reads: "Regulations of Metro shall have full force and effect throughout its area of governance. A regulation of Metro shall be construed, to the extent feasible, in a manner consistent with regulations of a city, county or district in the same subject area. No regulation of Metro affects the structure of a city, county or district unless that effect is required by state or federal law. A regulation of Metro addressed primarily the substantive social, economic or regulatory objectives of Metro prevails over an inconsistent regulation of a city, county or district if it clearly intends to do so and if the area of regulation pertains to a matter of metropolitan concern and an authorized function of Metro."



Chair Myers adjourned the meeting at 11:40 pm.

Respectfully submitted,

*Kimi Iboshi*

Kimi Iboshi  
Committee Clerk

\*\*\* Key to reading Attachment A:

Sections One through Eight:

Highlighted language--proposed additions  
Highlighted struck-out language--proposed deletions  
Struck-out language--proposed deletion

Sections Nine through 14, 16, 18-21:

Highlighted language--previously adopted  
Highlighted Struck-out language--Previously deleted

Section 15:

Bracketed language--proposed deletion  
Highlighted language--previously adopted  
Highlighted bracketed language--previously adopted  
Highlighted struck-out language--previously deleted  
Underlined language--proposed addition

Section 17:

Highlighted language--previously adopted  
Highlighted bracketed language--previously adopted and proposed for deletion  
Highlighted struck-out language--previously deleted  
Underlined language--proposed addition

Sections 22 through 43:

Highlighted language--proposed additions  
Highlighted Struck-out language--proposed deletions  
Italicized Underlined language--previously adopted  
Struck-out language--previously deleted  
Underlined language--proposed additions

Materials following this page represent  
Attachments to the Public Record



CHAPTER I  
NAMES AND BOUNDARIES

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

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

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

## CHAPTER II

### FUNCTIONS AND POWERS

#### Section 4.

#### Jurisdiction of METRO.

METRO has jurisdiction over these matters of metropolitan concern. ~~METRO has jurisdiction over and shall exercise these powers and duties imposed upon it by the constitution and laws of this state. METRO has jurisdiction over and may exercise these powers and duties granted to it by the constitution and laws of this state. The METRO council shall determine by ordinance whether a subject area is a matter of metropolitan concern and to what extent METRO should exercise its jurisdiction over such matters, subject to the additional requirements of this charter. The METRO council shall determine by ordinance to what extent METRO should exercise its jurisdiction over powers and duties granted to it by the constitution and laws of this state, subject to the additional requirements of this charter.~~ Matters of metropolitan concern include the powers granted to and duties imposed on METRO by current and future state law. Matters of metropolitan concern also include those matters determined to be of metropolitan concern by ordinance of the council. The council shall specify by ordinance the extent to which METRO exercises jurisdiction over matters of metropolitan concern. The ordinances required by this section are subject to the particular adoption procedures specified in this charter.



Section 5.

Regional Planning Functions.

(1) The Future Vision. (a) Adoption. The council shall adopt a ~~regional~~ Future Vision ~~for the region~~ by May 1, 1994. The Future Vision is a conceptual statement that indicates population levels and settlement patterns that the region and adjacent areas can accommodate within the carrying capacity of the land, water and air resources, and its educational and economic resources, and that achieves a desired quality of life. The Future Vision is a long-term, ~~at least 50-year,~~ visionary outlook ~~for at least a 50-year period.~~

(b) Matters addressed. The matters addressed by the Future Vision will ~~shall~~ include, but are not limited to: (i) ~~the~~ use, restoration and preservation of regional land and natural resources for the benefit of present and future generations; (ii) how and where to accommodate the population growth for the region while ~~sustaining and maintaining its livability and a desired~~ quality of life ~~for its residents;~~ and (iii) ~~Means of how to~~ developing new communities and additions to the existing urban areas in well-planned ways.

~~The council shall appoint a broad-gauged commission representing the public, private and academic sectors to develop and recommend a proposed Future Vision to the council within a timetable established by the council. The commission shall consider available data and public comment and seek any additional information necessary to develop the proposed Future Vision. One or more commission members must reside outside the~~

~~boundaries of METRO. The commission shall serve without compensation.~~

~~The Future Vision is not a regulatory document. It is the intent of this charter that the Future Vision not have any legal effect which would allow it to be reviewed by a court or agency of this state.~~

~~(c) Development. The council shall appoint a commission to develop and recommend a proposed Future Vision by a date set by the council. The commission shall be broadly representative of both public and private sectors, including the academic sector, in the region. One or more members shall reside outside of the METRO area. The commission shall have authority to seek any necessary information and shall consider all relevant information and public comment in developing the proposed Future Vision. The commission shall serve without compensation.~~

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

~~(d) Review and amendment. The Future Vision may be reviewed and amended in the manner provided by ordinance. The Future Vision shall be completely reviewed and revised at least every fifteen years in the manner specified in subsection (1)(c) of this section.~~



(e) Effect. The Future Vision is not a regulatory document. It is the intent of this charter that the Future Vision not have any effect which would allow it to be reviewed by a court or agency.

(2) Adoption of Regional Framework Plan. a. Adoption.  
~~The council shall adopt a regional framework plan addressing.~~  
The council shall adopt a regional framework plan by July 1, 1996 with the consultation and advice of the METRO Policy Advisory Committee. The regional framework plan may be adopted in components.

(b) Matters addressed. The regional framework plan shall address: (i) regional transportation and mass transit systems; (ii) management and amendment of the urban growth boundary; (iii) protection of lands outside the urban growth boundary for natural resource, future urban or other uses; (iv) housing densities; (v) urban design and settlement patterns; (vi) parks, open spaces and recreational facilities; (vii) water sources and storage; (viii) coordination, to the extent feasible, of growth management and planning policies of METRO with those of Clark County, Washington; and (viii) ~~State mandated planning functions~~ planning responsibilities mandated by state law. ~~and (ix) water sources and storage.~~ The regional framework plan shall also address other growth management matters which the council, with the consultation and advice of the METRO Planning Advisory Committee, determines are of metropolitan concern and will benefit from regional planning. In order to

encourage regional uniformity, 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.

(c) **Effect.** The regional framework plan shall provide the basis for coordination of comprehensive plans and implementing regulations of cities and counties within the jurisdiction of METRO. The regional framework plan must ~~shall~~ be consistent with state standards applicable to local land use comprehensive plans and shall describe its relationship to the Future Vision. ~~To encourage and promote regional uniformity 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.~~ Compliance with state law shall occur as determined by the state reviewing agency or by law.

~~The council shall adopt the regional framework plan by May 1, 1994 with the consultation and advice of the METRO Policy Advisory Committee.~~

(d) **Amendment.** The regional framework plan may be adopted in components. The regional framework plan may be amended by a process and on a schedule determined ~~in the manner established~~ by the council.

(e) **Implementation.** To the maximum extent allowed by law, the council shall adopt ordinances: (i) requiring comprehensive plans and implementing regulations of cities and



counties within METRO's the jurisdiction of METRO to comply with the regional framework plan within three years of adoption of the entire regional framework plan. If the regional framework plan is subject to state review, consistency will be required within two years of state approval of the regional framework plan; (ii) requiring the council to adjudicate and determine the consistency of local comprehensive plans with the regional framework plan; (iii) requiring each cities city and counties county within METRO's the jurisdiction of METRO to make local land use decisions consistent with the regional framework plan beginning ~~one year after the determination of consistency of 'a' above and until a determination of 'b' above,~~ until its comprehensive plan has been determined to be consistent with the regional framework plan. The obligation to apply the regional framework plan to local land use decisions shall not begin until one year after adoption of the regional framework plan and the obtaining of any necessary state approval of the regional framework plan; and (iv) allowing the council to review local government land use decisions for consistency with the regional framework plan and to require changes in local government standards and procedures to remedy a pattern or practice of decision-making inconsistent with the regional framework plan, and,

**3. Priority and funding of regional planning activities.**

The regional planning functions under this section are the primary functions of METRO. The council shall appropriate funds sufficient to assure timely completion of those functions.

Section 6. Other Assigned Functions. METRO is authorized to exercise the following functions of the ~~Metropolitan Service District and such other functions as provided in this charter:~~

- (1) ~~The ownership and operation of Acquisition, development, maintenance and operation of:~~ (a) a metropolitan zoo; (b) ~~Ownership and operation of~~ public cultural, trade, convention, exhibition, sports, entertainment, and spectator facilities; (c) ~~Provision of facilities for, and the disposal of, solid and liquid wastes of the region; and,~~ (d) ~~Acquisition, development, maintenance and operation of~~ a system of parks, open spaces and recreational facilities of metropolitan concern;
- (2) Disposal of solid waste of the region;
- (3) Development and marketing of geographic data; and
- (4) Any other functions ~~imposed by the constitution or required by~~ state law ~~or~~ assigned to the Metropolitan Service District ~~or METRO~~ by the voters, ~~or action of the state or federal government.~~

Section 7. Assumption or Termination of Additional Functions.

(1) Assumption ordinance Before undertaking any additional functions beyond those authorized under sections 5 and 6 of this charter, the council shall authorize the function by



ordinance. The ordinance shall contain findings that the function is of metropolitan concern and shall set forth the reasons why it is appropriate for METRO to take on the function.

(2) Assumption of Local Government Services Function. (a)

An ordinance authorizing provision or regulation by METRO of a ~~local government~~ service being provided by one or more local governments within the jurisdiction of METRO shall not be effective unless the ordinance is approved by the voters of METRO or a majority of the members of the METRO Policy Advisory Committee ~~holding that office~~. This approval may occur either through adoption of a referred measure authorizing the function or by approval of a measure relating to finances which authorizes financing or identifies funds to be used for the exercise of the function. "Local governmental services" are those which are provided to constituents by one or more local governments ~~in the region within the jurisdiction of METRO~~ at the time a METRO ordinance on assumption of the service is first introduced.

(b) An ordinance submitted to the METRO Policy Advisory Committee for approval will be deemed approved unless ~~acted upon~~ ~~the ordinance is disapproved~~ within 60 days ~~after its submission~~.

(c) No approval under this subsection shall be required for the compensated provision of services by METRO to or on behalf of a local government under an agreement with that government.

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

(3) Assumption of Boundary Commission Functions. The council ~~is directed to~~ ~~shall~~ undertake ~~and complete~~ a study of the ~~Portland Metropolitan Area~~ Local Government Boundary Commission, with METRO Policy Advisory Committee advice. ~~The study shall be completed by September 1, 1994. The council is directed, if necessary, to ask for legislative authority to implement results of the study. The study shall be completed by~~ ~~The council will implement the results of the study. shall~~ ~~implement the results of the study and shall seek any legislative action needed for implementation.~~

(4) Assumption of Other Functions. The council may assume by ordinance any other function relating to a matter of



metropolitan concern, which function assumption is not specifically regulated by this charter. ~~The assumption or termination of regional planning functions is subject to the procedures and limitations of sections 7 of this charter.~~ The council shall seek the advice of the METRO Policy Advisory Committee before adopting an ordinance authorizing provision or regulation by METRO of a service ~~not being provided by one or more local governments within the jurisdiction of METRO, which is not a local government service as defined in subsection (2) of this section.~~

Section 8. General Grant of Powers to Carry Out Functions; Construction of Specified Powers. When exercising authority over ~~carrying out the~~ functions allowed or assumed under this charter, : (1) METRO has all powers that the laws of the United States and the State of Oregon now or in the future could allow METRO, just as if this charter specifically set out each of those powers.; (2) The powers specified in this charter are not exclusive.; (3) Any specification of power in this charter is not intended to limit authority.; and (4) The powers specified in this charter shall be construed liberally. All ~~powers continue unless the charter clearly indicates the contrary.~~

### CHAPTER III

#### FINANCE

Section 9. General Authority. Except as prohibited by law or restricted by this charter, METRO may impose, levy and collect taxes and is authorized to issue revenue bonds, general or special obligation bonds, certificates of participation and other obligations. The authority provided under this section supplements any authority otherwise granted by law.

Section 10. Voter Approval of Certain Taxes. Any ordinance of the council imposing broadly based taxes of general applicability on the personal income, business income, payroll, property, or sales ~~of goods or services~~ of all, or a number of classes of, persons or entities in the region requires the approval of the voters of METRO before taking effect. This approval is not required to continue property taxes imposed by the Metropolitan Service District; for the rate or amount of any payroll tax imposed by a mass transit district as of June 1, 1992, if the functions of that district are assumed by METRO; or for additional payroll tax revenues for mass transit imposed to replace revenues lost by withdrawal of any locality from the service area of the mass transit district after June 1, 1992. For purposes of ~~sections 10, 12 and 13 of~~ this charter, "taxes" do not include any user charge, service fee, franchise fee, charge for the issuance of any franchise, license, permit or approval, or any benefit assessment against property.



Section 11. Voter Approval of General Obligation Bonds.

Issuance of general obligation bonds payable from ad valorem property taxes requires the approval of the voters of METRO.

Section 12. Prior Consultation for Tax Imposition.

Before imposing any new tax for which voter approval is not required, the council shall establish and seek the advice of a tax study committee that includes members appointed from the general population and from among businesses and ~~the governments~~ ~~of~~ cities, counties and special districts within the METRO area.

Section 13. Limitations on Expenditures of Certain Tax Revenues.

(1) Generally. Except as provided in this section, all taxes imposed and received by METRO, after providing for the costs of administration and any refunds or credits authorized by law, shall be placed into a ~~single~~ fund. ~~Except as provided in this section,~~ For the first fiscal year after this charter takes effect, METRO may make no more than \$12,500,000 in expenditures ~~from this fund~~ on a cash basis ~~from taxes imposed and received by METRO.~~ This expenditure limitation increases in each subsequent fiscal year by a percentage equal to ~~(a)~~ the rate of increase in the Consumer Price Index, All Items, for Portland-Vancouver (All Urban Consumers) as determined by the appropriate federal agency

or (b) the most nearly equivalent index as determined by the council if the index described in (a) is discontinued..

(2) Exclusions from limitation. This section does not apply to taxes approved by the voters of METRO or the Metropolitan Service District, payroll taxes specified in section 10 of this charter, and tax increment financing charges on property.

Section 14. Limitations on Amount of User Charges.

(1) Except as provided in this section, charges for the provision of goods or services may not exceed the costs of providing the goods or services. These costs include, but are not ~~be~~ limited to, costs of personal services, materials, capital outlay, debt service, operating expenses, overhead expenses, and capital and operational reserves attributable to the good or service.

~~(2) Exceptions. This limitation section shall does not apply to charges for goods or services where there is significant actual or potential competition in the marketplace for the provision of the good or service. Any determination by the council of the amount of user charges shall not be reviewable by a court or agency.~~



## CHAPTER IV

### FORM OF GOVERNMENT

#### Section 15. METRO Council.

(1) Creation and Powers. The governing body of METRO is the council. Except as this charter provides otherwise, and except for initiative and referendum powers reserved to the voters of METRO, all powers of METRO are vested in the council.

(2) Composition. (a) Beginning January 2, 1995, the council consists of seven councilors, each nominated and elected from a single district within the METRO area. Until that date the council consists of the 13 members of the governing body of the Metropolitan Service District whose terms begin or continue in January 1993 and whose districts continue until replaced as provided in this section. The terms of those members expire January 2, 1995.

(3) First reapportionment of council under charter. (a) There is hereby created a METRO reapportionment commission composed of seven members. To appoint the commission the council shall divide itself into five pairs and one group of three councilors designated by district number. Each pair or group of councilors shall appoint one commission member. The presiding officer ~~ex-officio~~ shall appoint one member and shall appoint a chair of the commission from its members. At least two commission members must be appointed from each of the three counties within the METRO area, and each commission member appointed by a pair or group of councilors must reside in one of

the districts from which the councilors making the appointment are elected or appointed. The council shall make all appointments to the commission by February 1, 1993. [If the council fails to appoint a commission by February 1, 1993 the executive officer will make the appointments by February 15, 1993.]

(b) If the council fails to make all appointments to the commission by that date, the executive officer shall appoint all commission members and designate its chair by March 1, 1993. At least two commission members must be appointed from each of the three counties within the METRO area, and not more than one member may be appointed from a single council district.

(c) No member of the reapportionment commission or the spouse or children of that member or of the member's spouse shall  
(i) be a METRO councilor, executive officer or employee during the time of that person's membership on the commission; (ii) be an elected officer or employee of any city, county or special service district; (iii) have an economic interest which is distinct from that of the general public in any policy or legislation adopted by METRO or the Metropolitan Service District within the previous two years or which is being considered for adoption at the time of the appointment; or (iv) be engaged, directly or indirectly, in any business with METRO which is inconsistent with the conscientious performance of duties as a commission member. No member of the reapportionment committee shall be a candidate for the office of councilor or executive



officer in the first primary and general elections after adoption of this charter.

(d) Not later than July 1, 1993, the commission shall adopt and file with the council a reapportionment plan dividing the METRO area into seven council districts which shall first elect candidates in the first statewide primary and general elections after adoption of this charter for a term of office beginning January 2, 1995. ~~By lot the commission shall assign terms ending January 5, 1997 to four council positions and terms ending January 4, 1999 to three council positions. [The~~ commission shall assign four-year terms, ending January 6, 1999, to the four elected council positions which receive the highest votes in the subsequent primary election. The remaining three elected council positions will serve for three-year terms ending January 4, 1997. If the commission fails to provide a reapportionment plan the council will within fourteen days select a person to complete the task who must complete the task within 60 days.] The plan becomes effective on the 30th day after filing unless a voter of METRO petitions for judicial review of the plan as provided by law. ~~The council may amend the plan by ordinance but may not change its effective date.~~

(e) If the commission fails to file a reapportionment plan by July 1, 1993, the council shall appoint a reapportionment referee by July 15, 1993. The referee shall prepare and file with the council a reapportionment plan within sixty days of his or her appointment. The reapportionment plan becomes effective

on the 30th day after filing unless a voter of METRO petitions for judicial review of the plan as provided by law. The provisions of subsection \_\_\_\_ of this section apply to the appointment of the referee.

(f) Each council district, as nearly as practicable, shall be of equal population, contiguous, and geographically compact, ~~and convenient. In reapportioning the districts the commission shall consider current districts, historical and traditional communities, and counties. The commission need not consider city or special district boundaries or the boundaries of election districts for state officers except when those political boundaries coincide with natural boundaries.~~ The council may by ordinance prescribe additional criteria for districts that are consistent with the requirements of this subsection.

(g) The council shall appropriate sufficient funds to enable the reapportionment commission and reapportionment office to perform [its] their duties under this section.

[(e) If the commission fails to file a reapportionment plan as required by this section, the council shall be reapportioned as provided by law.]

(h) The commission is abolished upon filing the reapportionment plan required by this section ~~or~~ [by] on July 2, 1993, whichever is earlier.

(4) Terms of office. The four councilors receiving the highest number of votes among the seven councilors elected in 1994, have terms of office ending January 4, 1999. The other



three councilors have terms of office ending January 6, 1997.

Thereafter the term of office of a councilor is four years.

(5) Council presiding officer. At its first meeting each year the council shall elect a presiding officer from its councilors.

(6) Meetings of the council. The council shall meet regularly in the METRO area at times and places it designates. The council shall prescribe by ordinance the rules to govern conduct of its meetings. Except as this charter provides otherwise, the agreement of a majority of councilors present and constituting a quorum is necessary to decide affirmatively a question before the council.

(7) Quorum. A majority of councilors in office is a quorum for council business, but fewer councilors may compel absent councilors to attend.

(8) Record of proceedings. The council shall keep and authenticate a record of council proceedings.

#### Section 16. METRO Executive Officer.

(1) Creation. There shall be a METRO executive officer elected from the METRO area at large for a term of four years. The executive officer serves full time and may not be employed by any other person or entity while serving as executive officer.

(2) Powers and Duties. The primary duty of the executive officer is to enforce METRO ordinances and otherwise to execute the policies of the council. The executive officer shall also:

(a) administer METRO except for the council and the auditor;  
(b) make appointments to METRO offices, boards, commissions and committees when required to do so by this charter or by ordinance; (c) propose for council adoption measures deemed necessary to enforce or carry out powers and duties of METRO; (d) prepare and submit ~~the a recommended~~ annual budget of METRO ~~for to the~~ council ~~for~~ approval; and (e) keep the council fully advised about the operations ~~and financial condition~~ of METRO.

(3) Transition From Metropolitan Service District. The Metropolitan Service District executive officer in office when this charter takes effect is the METRO executive officer until January 2, 1995 when his or her term expires. The METRO executive officer shall be first elected in the first statewide primary or general election after adoption of this charter for a term beginning January 2, 1995.

(4) Veto. (a) Except as provided in this subsection the executive officer may veto the following legislative acts of the council within five working days after enactment: (i) any annual or supplemental METRO budget; (ii) any ordinance imposing, or providing an exception from, a tax; and (iii) any ordinance imposing a charge for provision of goods, services or property by METRO, franchise fees or any assessment. The affirmative vote of five councilors may override a veto not later than 30 days after the veto. (b) A legislative act referred to the voters of METRO by the council is not subject to veto.



Section 17. METRO Auditor.

(1) Creation. There shall be a METRO auditor elected from the METRO area at large for a term of four years. The auditor serves full time and may not be employed by any other person or entity while serving as auditor.

(2) First election; disqualification for other METRO elected offices. The auditor shall be first elected in the first statewide primary or general election after adoption of this charter for a term beginning January 2, 1995. During the term for which elected, and for four years thereafter, the auditor is ineligible to be a candidate for election to the offices of METRO executive officer or METRO councilor.

(3) Duties. The auditor shall: (a) Make continuous [inspections] investigations of the [business affairs] operations of METRO including financial and performance auditing and review of [any and all] financial transactions, personnel, equipment, facilities, and [matters pertaining thereto] all other aspects of those operations; and (b) make reports to the METRO council and executive officer [disclosing details] of the results of any investigation [including] with any recommendations for [any] remedial action. conduct post-audits of all executed transactions and accounts, as defined by law or ordinance, of all METRO departments and operations; (b) report to the executive officer and the council at least annually, and at other times as the council requires, on the performance of METRO functions in compliance with applicable standards of financial accuracy;

~~administration and law; (c) make additional investigations, reports and recommendations as required by the council; and (d) perform other functions as provided by ordinance; but, Except as provided in this section, charter otherwise provides,~~ the auditor may not be given responsibility to perform any executive function.

## CHAPTER V

### OFFICERS, COMMISSIONS AND EMPLOYEES

#### Section 18. Qualifications of Elected Officers.

(1) Councilor. A councilor must be a qualified elector under the constitution of this state when his or her term of office begins and must have resided during the preceding twelve months in the district from which elected or appointed. When the boundaries of that district have been apportioned or reapportioned during that period, residency in that district for purposes of this subsection includes residency in any former district with area in the district from which the councilor is elected or appointed if residency is established in the reapportioned district with ~~sixty thirty~~ days after the reapportionment is effective.

(2) Executive officer and auditor. The executive officer and auditor must each be a qualified elector under the constitution of this state when his or her term of office begins and must have resided during the preceding twelve months within the boundaries of METRO as they exist when the term of office



begins. At the time of election ~~or appointment~~ the auditor must also hold the designation of certified public accountant or certified internal auditor.

(3) Multiple elected offices. A METRO elected officer may not be an elected officer of the state, or a city, county or special service district during his or her term of office. As used in this charter, special service district does not include school districts or community college districts.

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

#### Section 19. Compensation of Elected Officers.

(1) Council. The salary of the council presiding officer is two-thirds the salary of a district court judge of this state. The salary of every other councilor is one-third the salary of a district court judge of this state. A councilor may waive a salary.

(2) Executive officer. The salary of the executive officer is the salary of a district court judge of this state.

(3) Auditor. The salary of the auditor is eighty percent of the salary of a district court judge of this state.

(4) Reimbursements ~~and per diem~~. The council may authorize reimbursement of elected and other officers for necessary meals, travel and other expenses incurred in serving METRO, ~~and may provide councilors a per diem payment for meetings.~~

Section 20.     Oath.       Before assuming office a METRO elected officer shall take an oath or affirm that he or she will faithfully perform the duties of the office and support the constitutions and laws of the United States and this state and the charter and laws of METRO.

Section 21.     Vacancies in Office.

(1)   Councilor.       The office of councilor becomes vacant upon the incumbent's:

- (a)   Death,
- (b)   Adjudicated incompetency,
- (c)   Recall from office,
- (d)   Failure following election or appointment to qualify for the office within ten days after the time for his or her term of office to begin,
- (e)   Absence from all meetings of the council within a 60 day period without the council's consent,
- (f)   Ceasing to reside in the district from which elected or appointed, except when district boundaries are apportioned or reapportioned and a councilor is assigned to a district where the councilor does not reside and the councilor becomes a resident of the reapportioned district within ~~thirty~~ ~~thirty~~ ~~thirty~~ sixty days after the reapportionment is effective;
- (g)   Ceasing to be a qualified elector under state law,



(h) Conviction of a felony or conviction of a federal or state offense punishable by loss of liberty and pertaining to his or her office,

(i) Resignation from office, or

(j) Becoming an elective officer of the state or a city, county or special service district.

(2) Executive officer and auditor. The offices of executive officer or auditor become vacant in the circumstances described in subsection (1)(a)-(d) and (g)-(j) of this section; or if the executive officer or auditor ceases to reside in the METRO area. The office of auditor also becomes vacant if the incumbent ceases to hold the designation of certified public accountant or certified internal auditor.

(3) Vacancy after reapportionment. If a councilor vacancy occurs after the councilor has been assigned to a reapportioned or newly apportioned district under section 14 of this charter, the vacancy shall be deemed to have occurred in the district to which that councilor was assigned.

(4) Determination of vacancy. The council is the final judge of the existence of a vacancy.

## Section 22. Filling Vacancies.

(1) Generally. A majority of councilors holding office shall fill a vacancy by appointment within ninety days after it occurs. The ~~appointee's~~ term of office of the appointee runs from the time ~~of~~ he or she qualifies for the office after ~~the~~

appointment until ~~the~~ a successor ~~to the office~~ is duly elected and qualifies for the office. If the vacancy occurs more than 20 days before the first general election after the beginning of the term for that office, the ~~appointee's~~ term of office of the appointee runs only until the first council meeting in the year immediately after that election. ~~At that general election or at the primary election of that year, a~~ A person shall be elected for the remainder of the term ~~at the first general election or primary election after the beginning of the term.~~

~~(2) Interim appointment. During a councillor's disability to serve, a majority of the other councillors may fill the vacancy by appointment on an interim basis.~~

Section 23. Limitations of Terms of Office. No person may be elected councilor for more than three consecutive full terms. No person may be elected executive officer for more than two consecutive full terms. The limitations of this section apply only to terms of office beginning on or after January 2, 1995.

Section 24. Appointive Offices and Commissions.

(1) Deputy executive officer. ~~The council shall establish by ordinance~~ There is established the position of deputy executive officer in the office of the executive officer, ~~and shall prescribe the~~ executive officer shall determine qualifications for and duties of the position.



(2) Appointment and confirmation. ~~Except as this charter provides otherwise, the~~ executive officer shall appoints the deputy executive officer and all other employees in the office of the executive officer; all department heads; ~~and all other positions this charter or ordinance requires the executive officer to appoint. the members of all commissions created by this charter or by ordinance, and all other positions specified by ordinance for appointment.~~ Appointments of the deputy executive officer, department directors and ~~members of commissions shall be~~ are subject to council confirmation. The council by ordinance may require confirmation of other positions.

(3) Removal. The deputy executive officer, other employees in the office of the executive officer, and department directors serve at the pleasure of the executive officer, ~~and staff~~ employed by the council serve at the pleasure of the council. The executive officer may remove other ~~appointed officers and members of commissions subject to council approval.~~ appointments by him or her as provided by ordinance.

## Section 25. METRO Policy Advisory Committee.

(1) Creation and composition. There is hereby created a ~~the~~ METRO Policy Advisory Committee (MPAC). The initial members of the MPAC ~~shall consist of the following members are:~~

(a) One member of each of the governing bodies of Washington, Clackamas and Multnomah Counties, appointed by the body from which the member is chosen;

(b) Two members of the governing body of the City of Portland, appointed by that governing body;

(c) One member of the governing body of the second largest city in population in Multnomah County, appointed by that governing body;

(d) One member of the governing body of the largest city in population in Washington County, appointed by that governing body;

(e) One member of the governing body of the largest city in population in Clackamas County, appointed by that governing body;

(f) One member of a governing body of a city with territory in the METRO area in Multnomah County, other than the City of Portland or the second largest city in population in Multnomah County, appointed jointly by the governing bodies of cities with territory in the METRO area in Multnomah County, other than the City of Portland or the second largest city in population in Multnomah County;

(g) One member of a governing body of a city with territory in the METRO area in Washington County, other than the city in Washington County with the largest population, appointed jointly by the governing bodies of cities with territory in the



METRO area in Washington County; other than the city in Washington County with the largest population;

(h) One member of a governing body of a city with territory in the METRO area in Clackamas County; other than the city in Clackamas County with the largest population, appointed jointly by the governing bodies of cities with territory in the METRO area in Clackamas County; other than the city in Clackamas County with the largest population;

(i) One member from the governing body of a special service district with territory in the METRO area in Multnomah County; appointed jointly by the governing bodies of special service districts with territory in the METRO area in Multnomah County;

(j) One member from the governing body of a special service district with territory in the METRO area in Washington County; appointed jointly by the governing bodies of special service districts with territory in the METRO area in Multnomah County;

(k) One member from the governing body of a special service district with territory in the METRO area in Clackamas County; appointed jointly by the governing bodies of special service districts with territory in the METRO area in Clackamas County;

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

(m) Three persons appointed by the executive officer and confirmed by the council. No person appointed under this subsection may be an elected officer of or employed by METRO, a the state, ~~or a~~ city, a county or a special service district. Each person appointed under this subsection shall reside in the METRO area during the person's tenure on MPAC. Notwithstanding the above provisions, the composition of MPAC may be changed at any time by vote of both a majority of the members of the MPAC and a majority of all councilors.

~~(2) Change of composition. Notwithstanding the above provisions,~~ The composition of the MPAC may be changed at any time by vote of both a majority of the members of the MPAC and a majority of all councilors.

(23) Duties. The MPAC shall perform the duties assigned to it by this charter and any such other duties ~~as~~ the council ~~may~~ prescribes.

(34) Bylaws. The MPAC shall adopt bylaws governing the conduct and record of its meetings and the terms of its members.

~~(4) Vote required for taking action. Whenever this charter requires approval of a majority of the members of MPAC, the approval shall require the affirmative vote of a majority of the members of the MPAC holding that office.~~

## Section 26. METRO Office of Citizen Involvement.

(1) Creation. There is ~~hereby~~ created the METRO ~~office~~ of ~~citizen involvement~~ to develop and maintain programs and



procedures to help ~~direct~~ facilitate aid communication between citizens and the council and executive officer.

(2) Citizens' Committee in office of citizen involvement. The council shall establish by ordinance a citizens' committee and ~~the structure of the a~~ citizen involvement process, and shall appropriate sufficient funds to operate the office and committee. The committee shall have authority to hire and fire its staff.

## CHAPTER VI

### ELECTIONS AND REAPPORTIONMENT

Section 27. State Law. Except as this charter ~~ofr~~ a METRO ordinance provides otherwise, a METRO election shall conform to state law applicable to the election.

~~Section 31. Nominations. A person may be nominated in a manner prescribed by general ordinance to run for an elective office of METRO.~~

Section 28. Elections of METRO Officers.

(1) Generally. ~~Except for certain elections to fill a vacancy in office, the first voting vote for councilor, executive officer, or auditor, except for certain elections to fill a vacancy in office, shall take place occurs~~ at an election held at the same time and places in the METRO area as the statewide primary election that year. If ~~at the primary election~~ one candidate for a METRO office receives a majority of the votes

cast at the primary election for all candidates for that office, that candidate is elected. If at the primary election no candidate receives a majority vote at the primary election, the candidates receiving the two largest numbers of votes cast for the office shall be the only names to appear on the general election ballot that year as candidates for that office. The candidate who receives the greatest number of the votes cast at the general election for that office is elected.

(2) Nonpartisan offices. All elections of METRO officers shall be nonpartisan. Election ballots shall list the names of candidates for METRO offices shall be listed on election ballots without political party designations.

Section 29. Multiple Candidacies. No person may be a candidate at a single election for more than one METRO elected office.

Section 30. Reapportionment of Council After Census. (1) General requirements. Within three months after an official census or official census estimate indicates that the boundaries of council districts deny equal protection of the law, the council shall respecify the boundaries to accord equal protection of the law and shall assign councilors to the reapportioned districts. In reapportioning the districts the council shall follow the criteria specified in section 15 of this charter. The council may by ordinance specify additional



criteria for districts that are consistent with section 15. ~~In reapportioning the districts, the council shall consider current districts, historical and traditional communities, and counties. The council need not consider city or special district boundaries or the boundaries of election districts for state officers except when these political boundaries coincide with natural boundaries.~~

(2) Failure to reapportion. If the council fails to establish council district boundaries as provided by this section, the boundaries shall be established as provided by law.

### Section 31. Recall.

(1) Generally. An elected ~~edive~~ officer of METRO may be recalled as provided by the constitution and laws of this state.

(2) Effect of reapportionment. Upon the effective date of a council reapportionment under section 30 of this charter, a councilor is subject to recall by the voters of the district to which the councilor is assigned and not by the voters of the district of that councilors existing before the reapportionment.

Section 32. Initiative and Referendum. The ~~initiative and referendum powers reserved to the~~ voters of METRO ~~reserve to themselves the powers of initiative and referendum. The council may provide for the exercise of those powers in a manner consistent with law.~~ under Oregon Constitution, Article XI,

~~section 14(5) are subject to the provisions of state law and ordinances of the council.~~

**Section 33. Amendment and Revision of Charter.** The council may refer, and voters of METRO may initiate, amendments to this charter. A proposed ~~charter~~ amendment ~~to the charter~~ ~~shall may~~ embrace only one subject and matters properly connected with it. The council shall provide by ordinance for a procedure to revise this charter.

## CHAPTER VII

### ORDINANCES

**Section 34. Ordaining Clause.** The ordaining clause of an ordinance adopted by the council shall be: "The METRO Council ordains as follows:". The ordaining clause of an initiated or referred ordinance shall be: "The People of METRO ordain as follows:".

**Section 35. Adoption by Council.**

**(1) General requirements.** The council shall adopt all legislation of METRO by ordinance. Except as this charter otherwise provides, the council may not adopt any ordinance at a meeting unless (a) the ordinance is introduced at a previous meeting of the council; (b) the title of the ordinance is included in a written agenda of the meeting at which the ordinance is adopted; (c) the agenda of that meeting is



publicized not less than three business days nor more than ten days before the meeting; and (d) copies of the ordinance are available for public inspection at least three business days before that meeting. The text of an ordinance may be amended, but not substantially revised, at the meeting at which it is adopted.

(2) Immediate adoption. The provisions of this section do not apply to an ordinance adopted by unanimous consent of the council and containing findings on the need for immediate adoption. Adoption of an ordinance requires the affirmative votes of a majority of all councilors in a public meeting.

Section 36. Endorsement. The person presiding over the council ~~when at the time of its the adoption of an ordinance is adopted~~ shall endorse an ordinance unless ~~the council prescribes~~ a different procedure ~~is prescribed~~ by general ordinance.

Section 37. Effective Date of Ordinances. An ordinance ~~shall~~ takes effect ninety days after its adoption unless ~~the ordinance states~~ a different effective date. ~~is stated in the ordinance.~~ An ordinance may state an earlier effective date if an earlier date is necessary for the health, safety or welfare of the METRO area; the reasons why this is so are stated in an emergency clause of the ordinance; and the ordinance is approved by the affirmative vote of two-thirds of all councilors. An ordinance imposing, ~~or~~ changing a tax or charge or changing the

boundaries of METRO, or assuming the functions of a mass transit district, may not contain an emergency clause.

(2) Vetoed and referred ordinances. If the executive officer vetoes an ordinance and the council overrides the veto, the date of adoption is the date on which the veto is overridden. If the council refers an ordinance to the voters of METRO, the ordinance is effective on the 30th day after its approval by a majority of the voters voting on the measure or on a later date specified in the ordinance. If a referendum petition is filed with the filing officer not later than the 90th day after adoption of an ordinance and before the ordinance takes effect, the effective date of the ordinance is suspended. An ordinance is not subject to the referendum after it is effective. An ordinance referred by a proper referendum petition becomes inoperative and does not take effect if a majority of the voters voting on the measure reject it.

Section 38. Content of Ordinances. Each ordinance ~~shall may~~ embrace only one subject and all matters properly connected with it. The council shall plainly word each ordinance and avoid technical terms as far as practicable.

Section 39. Procedures by General Ordinances Public Improvements and Special Assessments. ~~General ordinance shall govern the~~ The council may by general ordinance establish procedures for making, altering, vacating or abandoning a public



improvement and for fixing, levying and collecting special assessments against real property for public improvements or services. State law ~~shall~~ governs these procedures to the extent not governed by general ordinance.

## CHAPTER ~~IX~~ VIII

### MISCELLANEOUS PROVISIONS

#### Section 40. Transition Provisions. All

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

liabilities of the Metropolitan Service District ~~become~~ are the assets and liabilities of METRO.

Section 41. ~~Time of Effective Date.~~ This charter takes effect January 1, 1993.

Section 42. Severability; Headings. The terms of this charter are severable. If a part of this charter is held invalid, that invalidity ~~shall~~ does not affect any other part of this charter, ~~except as unless required by~~ the logical relation between the ~~two~~ parts. ~~requires.~~ ~~The chapter and section titles used in this charter are not part of the charter.~~

Section 43. State Legislation. The council shall seek enactment by the sixty-seventh Legislative Assembly of this state, and thereafter, if necessary, of any legislation necessary ~~for~~ needed to make all parts of this charter ~~to have~~ operative effect.