

**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 30, 1992

Metro Center, Council Chambers

Committee Members Present: Hardy Myers (Chair), Tom Brian, 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, Norm Wyers

Committee Members Absent: none

Chair Myers called the regular meeting to order at 6:20 p.m.

1. Non-Substantive Revisions to the Charter

Chair Myers explained the attached engrossed draft Charter (See Attachment A). The shaded areas are the Committee decisions of July 29, 1992. The underlined or struck-out items, which are not shaded, are amendments that he is proposing for Committee consideration. He explained the adopted and proposed amendments in chapters I and II. In section three, the sentence "this charter refers to this area as the 'Metro area'" was added because "Metro area" is used elsewhere in the charter without a definition. The other amendments in section three are form changes. He said that the last sentence should be amended to read "the custodian of the records of Metro shall keep an accurate description...". He said that the proposed amendment in section four is a form change. Section five only reflects changes from July 29, 1992.

Bob Shoemaker said that the title of section 5(1) should read "The Future Vision". He said that the second sentence in 5(1)(a) would read better if it said "...the carrying capacity of the land, water, and air resources of the region, and its education and economic resources...".

Chair Myers noted the changes. The rest of the changes in 5(1) are form changes. In section 5(2), the proposal is to go immediately to the abbreviation MPAC for the Metro Policy Advisory Committee. The other changes in 5(2) are form changes.

Bob Shoemaker asked what the reference to "planning responsibilities mandated by state law" means. He said that state law does not contemplate a regional framework plan. To whom is it being mandated?

Chair Myers said that it is being mandated to the regional government.

Tim Sercombe said that there are some regional planning functions that Metro is required to do.

Eric Carlson, City of Beaverton staff, said that the reference to the Metro Planning Advisory Committee in section 5(2)(b) should be a reference to MPAC.

Chair Myers noted the change. He proposed that 5(2)(d) read "The Council may amend the regional framework plan after seeking the consultation and advice of the MPAC. ~~may be amended by the council.~~"

Bob Shoemaker asked if the phrase "if the regional framework plan is subject to compliance..." is still



an "if" because, in effect, it is being called to be subject to compliance acknowledgement.

Chair Myers said that this language is intended to anticipate the possibility of that kind of process ceasing. It is a determination of state law. The earlier statement is more a matter of what we want to have happen.

Larry Derr said that the earlier statement is self operative--it either happens or it does not. The second provision, dealing with timing, has other events that has to follow from it. If it did not happen, then those other events would be placed in question. He said that, presumably, the amendment section also deals with the advice and consultation of MPAC.

Janet Whitfield said that it was originally in the issues determined list. It may have been dropped inadvertently when the Committee got rid of the planning approval part. She asked if it would need to be there if it was only consultation required on amendment of the framework plan.

Chair Myers said that it will be appropriately added as part of 5(2)(c).

Larry Derr said that the language would be the same in 5(2)(a)--"with the consultation and advice of MPAC".

Matt Hennessee said that he thought the word "comprehensive" was removed, in section 5(2)(e), from the phrase "local plans".

Chair Myers said that he did not think that the changes was adopted by the Committee. He went on to explain section six.

Vern Shahan said that section six sounds duplicative since 6(1)(c) says "facilities for the disposal of solid and liquid waste" and 6(2) says "disposal of solid and liquid wastes".

Chair Myers said that one is a facilities provision and the other is to deal with other aspects of disposal that are not necessarily providing only the facilities. He said that the two issues were combined originally, but the Committee chose to separate them and put all the facilities issues under one section.

Bob Shoemaker said that section six begins "Metro is authorized..." which leaves it open for Metro to not exercise those functions. He said that Metro ought to be directed to exercise these functions.

Tim Sercombe said that there are some functions, such as the development and marketing of data and the acquisition, development, maintenance and operation of public cultural, trade, convention, exhibition, sports, entertainment, and spectator facilities, that Metro does not completely do all of currently.

Bob Shoemaker said that, with the removal of "of the region" from the disposal of solid and liquid waste provision, it leaves it wide open. It should be made clear that it is only dealing with the metropolitan aspects.

Chair Myers said that he would note it.

Eric Carlson said that natural disaster response does not seem appropriate. Response is performed by police and fire forces and public works people. Metro will probably not have any of those services. He said that it is probably not appropriate to have Metro deciding to do actual responding.

Ron Cease said that the intent is not for Metro to have a czar running the natural disaster. He said

that response coordination would be acceptable.

Bob Shoemaker said that it is responsible for the metropolitan aspects of response.

Chair Myers said that the issue will be noted. He explained the changes in section seven. He said that the wording of the first sentence in provision 7(1) needs to be changed.

Larry Derr said that if 7(1) says that the "council may undertake", the distinction is lost between things that the council does and things that the executive does.

Bob Shoemaker said that the first sentence is prefatory language.

Chair Myers suggested changing the sentence to: "The council by ordinance ~~shall~~ may authorize ~~Before undertaking any additional~~ Metro to undertake functions not authorized ~~under~~ by sections 5 and 6 of this charter."

Bob Shoemaker said that, in 7(2), the reference to 7(4) should be a reference to 7(5).

Chair Myers said that the first sentence under 7(4) should be amended to read "...with ~~Metro Policy Advisory Committee~~ advice of the MPAC ~~advice~~, by September 1...".

Tom Brian asked if the policy decision, under 7(4) *Assumption of Boundary Commission Functions*, is that the study will result in an assumption of the boundary commission functions and some major changes. He said that the title presumes that the study will result in assumption of the functions.

Chair Myers said that "assumption of" will be struck from the title on 7(4).

Frank Josselson suggested amending the first sentence of 7(5) so it reads: "The council may assume by ordinance any other function not specifically enumerated by this charter which relates ~~relating to a matter of metropolitan concern, which function assumption is not specifically regulated by this charter.~~

Charlie Hales said that 7(1) and 7(5) seem redundant. As 7(1) was originally drafted, it was a cautionary note about, before doing anything, the adoption of ordinances. Now, it is an empowerment of the council to authorize Metro to take on additional functions, which 7(5) also is.

Chair Myers said that the substance of the change in 7(5) should be moved back to 7(1).

Bob Shoemaker said that it must be made clear that the advice of MPAC is not necessary for the Boundary Commission or Tri-Met.

Chair Myers said that the Tri-Met provision says "notwithstanding subsection (2)".

Larry Derr asked if the first section is historically a preface that modifies everything that follows.

Chair Myers said that the first sentence in 7(5) is not needed. The new 7(5) would only have the requirement of MPAC consultation.

Bob Shoemaker suggested that the first sentence in 7(1) should go back to its original form, with the additional that the ordinance, by which the council authorized the function, should contain certain findings of fact.

Chair Myers said that the substance of 7(1) has not changed.



Bob Shoemaker said that it has changed from a limitation to an empowerment clause. It should be a limitation and each of the different issues should be dealt with under its own set of rules.

Chair Myers said that he would work on the language and the Committee will return to the issue later. He said that section 8, *Limitations on Authority to Contract* was back in the charter after confirmation at the July 29 meeting. He said that section 9, *Effect of Metro Regulations*, is a section that the Committee will need to return to and discuss its substantive merits. He said that section 9 is new, proposed language.

Bob Shoemaker said that, in section 10, it should state "functions authorized" instead of "functions allowed".

Motion:

Chair Myers moved, Charlie Hales seconded, the following amendments, in addition to the underlined or struck-out language in the attached draft charter, be made in Chapter I and II, with the exclusion of section 7, of the draft charter:

Section 3: "...of the records of Metro shall keep an accurate description..."

Section 5(1): Amend the title to read "*The Future Vision*".

Section 5(1)(a): "...air resources of the region, and its educational and economic resources..."

Section 5(2)(b): "...advice of the ~~Metro Planning Advisory Committee~~ MPAC, determines..."

Section 5(2)(d): "The council may amend the regional framework plan after seeking the consultation and advice of MPAC ~~may be amended by the council.~~"

Section 6: "Metro is also authorized to exercise the following functions:"

Section 6(3): "Metropolitan aspects of natural disasters planning and response coordination".

Section 10: "...the functions authorized ~~allowed~~ or assumed under this charter..."

Vote on the motion:

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

Chair Myers asked the Committee to move on to Chapter III.

Bob Shoemaker asked if section 10 should say "general and special obligation bonds" rather than be an "or" provision.

Chair Myers noted the change.

Bob Shoemaker said that some of the section references in section 12 are inaccurate.

Tim Sercombe said that the section references should be 12, 14, and 15.

Bob Shoemaker asked where Metro is authorized to impose charges.

Tim Sercombe said that the charter does not need to specifically authorize them to impose charges. The tax reference does not include section 11 in order to eliminate any confusion along those lines.

Frank Josselson said, in section 14, the phrase "special service districts" is used for the first time. It is later defined in the charter as not including school districts or community college districts. He said that "special districts" is a term of art in Oregon law. "Special service districts" is not a term of art and it does not make a lot of sense to make it a term of art. He suggested that, wherever it appears, the term "special service district" should be amended to say "special districts". When the term is first used, the language defining the special service district could be moved to the first place that the term is used.

Chair Myers said that the elimination of "service" is legitimate. He said that the cross reference to the definition should be narrowed because school districts and community colleges are excluded from the standpoint of not having service on those bodies disqualify someone from election to the council. If the exclusion applies throughout the charter, then it would mean that those having service on school district or community college boards could be on the advisory committees, such as the tax advisory committee, which would be inappropriate.

Frank Josselson said that the definition of special service districts does exactly what Chair Myers does not want it to do.

Tim Sercombe said that there is no problem with calling the "special service districts" special districts. He said that the intention is to distinguish districts that are formed to perform services from other districts that are formed under law, such as financing districts.

Chair Myers explained the changes in sections 13, 14, and 15. He said that, in 15(2), he has proposed language which is intended to address the pass through taxation situation that was raised yesterday. The proposed language should read and (iv) taxes imposed by Metro pursuant to an intergovernmental agreement and to the extent the proceeds are paid to another government for its exclusive use. He said that the proposed language is to take into account situations where a portion of the tax, though levied by intergovernmental agreement, is retained by Metro. It also addresses the issue of the interest earnings and the subject of the limit. He said that the Committee would deal with the issue later as a substantive issue.

Bob Shoemaker said that the statement would read better if the "and" was deleted.

Chair Myers said that the reference to section 10 in 15(2)(ii) should be a reference to section 12. He said that 15(2)(i) should be made clear that the interest earned on taxes that are not subject to the limitation are either in or out of the limitation. He said that it should be out of the limitation if it is earned on principle which is out of the limitation. He said that the Committee would return to the issue later as a substantive issue. He said that an issue regarding section 16 was brought to his attention by Dan Cooper, Metro counsel. He said that Metro does charge more than what this section of charter would allow when it sells concessions at the Zoo and Convention Center. He said that the Committee will discuss the issue later as a substantive issue.

Chair Myers asked if it was clear to the Committee that, with the first motion, he was moving to



adopt, in the sections covered, the amendments shown on the handouts as well those that were added. The Committee agreed that they understood the motion.

Motion:

Chair Myers moved, Matt Hennessee seconded, the following amendments, in addition to the underlined or struck-out language in the attached draft charter, be made in Chapter III, with the exclusion of sections 15(2)(i) and 15(2)(iv), of the draft charter:

Section 11: "...issue revenue bonds, general ~~or~~ and special obligation bonds..."

Section 12: "For purposes of sections ~~10, 12, and 13~~ 12, 14, and 15 of this charter..."

Section 14: "...of cities, counties and special ~~service~~ districts..."

Section 15(2)(ii): "...section ~~10~~ 12 of this charter..."

All references in the charter to *special service districts* will be amended to read *special ~~service~~ districts*.

Vote on the motion:

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

Chair Myers asked the Committee to move on to Chapter IV.

Bob Shoemaker said that, in section 17(3), the changing of the district boundaries is called reapportionment, but it should be the apportionment. He suggested changing "reapportionment" to "apportionment" wherever it appears in section 17. He suggested that the title also be changed to "apportionment of council under charter". He said that there will never be another apportionment.

Chair Myers asked if the name of the commission would then be changed to an apportionment commission.

Bob Shoemaker said yes.

Frank Josselson said that it is really not an apportionment of the council. It is an apportionment of the district. He suggested the title read "Initial apportionment of the districts". He said that he would like to change all references to an apportionment commission member to the more formal language of commissioner throughout section 17. He said that 17(3)(a) does not say that each pair or group of councilors appoints one commissioner. He suggested amending the sentence to read "Each pair or group of councilors shall be from contiguous districts and shall appoint one commissioner."

Chair Myers said that the point was in the charter originally. He said that it should have the concept of appointing one member who must reside in one of the districts of the councilors making the appointment.

Frank Josselson said that point is stated later in the section. He said that the last sentence in 17(3)(a) should be deleted because it is covered in 17(3)(b).

Bob Shoemaker suggested that the reference to "that date" in 17(3)(a) should be replaced with the actual date--by February 1, 1993. He asked, under 17(3)(e), what the "which" is referring to in the statement "...file with the council an apportionment plan dividing the Metro area into seven council districts, which shall first elect candidates...".

Chair Myers said that the districts elect the candidates.

Bob Shoemaker suggested having the sentence read: "...dividing the Metro area into seven council districts. Councilors from those districts which shall first be elected candidates...".

Frank Josselson said that he is concerned about the potential this section creates for mischief with the executive appointment.

Tom Brian said 17(3)(b) reads that even if five out of the six pairs were successful on agreeing on a commissioner appointment, and one pair failed, then all appointments would go to the executive. He said that it does not seem logical.

Chair Myers said the issue was debated and resolved at the last meeting.

Frank Josselson said that the term for the commission should be constant throughout the section. It should either be an apportionment commission or a commission.

Larry Derr suggested, in 17(3)(h), that the first sentence be restated to read "As nearly as practicable, all ~~Each~~ council districts, ~~as nearly as practicable,~~ shall be of equal population, and each shall be contiguous, and geographically compact". He said that it should be changed because not all districts can be contiguous with each other.

Bob Shoemaker said, in 17(4), the first sentence should read "... terms of office of the four councilors...".

Chair Myers suggested that the title be amended to clarify that it is the initial terms of office.

Motion:

Chair Myers moved, Charlie Hales seconded, the following amendments, in addition to the underlined or struck-out language in the attached draft charter, be made in Section 17, of the draft charter:

Section 17(3): Amend the title to read: "~~First re~~Apportionment of the council districts under charter".

Section 17(3)(a): "...composed of seven ~~members~~ commissioners. To appoint the commission the council shall divide itself into five pairs and one group of three councilors. Each pair or group of councilors shall be from contiguous districts and shall appoint one commissioner. The presiding officer shall appoint one ~~member~~ commissioner and shall appoint a chair of the commission from ~~its members~~ the commissioners. At least two commissioners ~~members~~ must be appointed for each of the three counties within the Metro area, and each commissioner ~~member~~ appointed by a pair or group of councilors must reside in one of the districts from which the councilors making the appointments 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 to executive officer will make the appointments by February 15, 1993."~~

Section 17(3)(b): "...commission by ~~that date~~ February 1, 1993, the executive officer shall appoint all commissioners ~~members~~ and designate its chair by March 1, 1993. At least two commissioners ~~members~~ must be appointed from each of the three counties within the Metro area, and not more than one ~~member~~ commissioner..."

Section 17(3)(c): "~~No member of the reapportionment commissioner or the spouse or children of that member~~ commissioner or of the ~~member's spouse of that commissioner~~ shall..."

Section 17(3)(c)(ii): "...county or special ~~service~~ district..."

Section 17(3)(c)(iv): "...commissioner ~~member~~. No ~~member of the reapportionment committee~~ commissioner may be a candidate for the office of councilor or executive officer in the first primary and general elections after adoption of this charter. Any challenge to the qualifications of a commissioner ~~member~~ shall be made..."

Section 17(3)(d): "...the authority that appointed the ~~member~~ commissioner whose position..."

Section 17(3)(e): "...adopt and file with the council an reapportionment plan dividing the Metro area into seven council districts. Councilors from these districts ~~which~~ shall first be elected ~~candidates~~ in the first statewide primary and general elections after adoption of this charter for a term of office beginning January 2, 1995. The affirmative vote of four ~~members of the commission~~ commissioners is required to adopt the reapportionment plan."

Section 17(3)(f): "If the commission fails to file an reapportionment plan by July 1, 1993, the council shall appoint an reapportionment referee by July 15, 1993. The provisions of subsection (3)(c) of this section apply to appointment of the referee. The referee shall prepare and file with the council an reapportionment plan..."

Section 17(3)(g): "An reapportionment plan..."

Section 17(3)(h): "As nearly as practicable all ~~Each~~ council districts, ~~as nearly as practicable,~~ shall be of equal population and each district shall be contiguous, and geographically..."

Section 17(3)(i): "...enable the ~~reapportionment~~ commission and ~~reapportionment~~ referee..."

Section 17(3)(j): "...filing the reapportionment plan..."

Section 17(4): Amend the title to read "Initial ~~t~~Terms of office".

Section 17(4): "The terms of office of the four councilors..."

Vote on the motion:

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

Chair Myers explained the changes in section 18.

Tim Sercombe asked if it would be appropriate to delete the words "otherwise to execute" so that it would say that "the primary duty of the executive officer is to enforce Metro ordinances and the policies of the council". He asked if there was a difference between executing and enforcing.

Chair Myers said that he thought there was a difference. He said that the "otherwise" reflects a feeling that, when enforcing ordinances, the policy of the council is being executed. He distributed a proposed amendment, see attachment B, regarding 18(c)(4) on veto. It clarifies the number of votes required to override a veto. He said that it is promoted by the transition in size in the council.

Motion:

Chair Myers moved, Frank Josselson seconded, the amendment of Section 18(c)(4)(a) as follows:

*"Except as provided in this subsection the executive officer may veto the following legislative acts of the council within five working business 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 council, not later than thirty days after a veto, may override a veto by the affirmative vote of not later than 30 days after the veto (i) nine councilors while the council consists of thirteen positions and (ii) five councilors after the council consists of seven positions as provided by section 17(2) of this charter."*

Vote on the motion:

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

Bob Shoemaker suggested, in 19(3) to delete the word "any" in the phrase "...results of any investigation...".

Chair Myers said that the phrase included any investigations because there might be some investigations which would not produce any recommendations for remedial action. He said that he would prefer to keep it the way it is. He said that section 20, terms of office, is an additional provision that Tim Sercombe asked to be included in order to make clear that if there is someone in office and there is some delay or problem in terms of the successor qualifying, the incumbent continues in office until the successor is qualified.



Frank Josselson suggested making "terms" in section 20 singular because the rest of the sentence is singular.

Motion: Chair Myers moved, Bob Shoemaker seconded, the following amendments, in addition to the underlined or struck-out language in the attached draft charter and the amendments passed by the previous two motions, be made in Chapter IV, of the draft charter:

Section 20: Amend the title to read: "*Terms of Office*".

Section 20: "*The terms of office...*".

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

Chair Myers moved on to chapter V.

Bob Shoemaker said, in section 21, reference needs to be made to apportioned districts as well as reapportioned districts throughout 21(1).

Tim Sercombe said that section 21 really only applies to reapportionment. The references to apportionment in 21(1) should be struck. When there is the apportionment, it goes from 13 to 7 and there is no continuing councilor from the reapportioned into the apportioned district. He said that this provision deals with the question of where the district has been reapportioned while someone is in office. In the charter's apportionment practice, there are all new councilors when the seven member council starts so there will not be any transition where there is going to be an issue about residency.

Chair Myers said that with the district apportionment from 13 districts to seven, some councilors could be left residing outside the apportioned district. He said that the charter has to deal with the contingency of their residency getting into that new district in order to qualify to run from it.

Tim Sercombe said that the district will have been apportioned more than a year and a half before the new term of offices begin.

Chair Myers said that will probably be true when it is reapportioned also. He said that a councilor only need to worry about taking advantage of the 60 day provision if, without that provision, he/she might be deprived of the 12 month continuous residency requirement. If the reapportionment occurs 18 months before the election, then he/she has six months to get into the district that he/she wants to run in to satisfy the 12 month requirement.

Bob Shoemaker said that comes back to Tim Sercombe's point because there will be more than 12 months between apportionment and election. He asked why the provision is needed when the Committee knows that.

Chair Myers said that the Committee does not know that--a time table is not set for final reapportionment or apportionment becomes effective. He said that he will note Bob Shoemaker's changes.

Frank Josselson said that, regarding 21(4), he thought that the Committee decided that the council was not the only judge.

Chair Myers said that is correct, the Committee took out the word "final".

Frank Josselson suggested amending the sentence to read "...council ~~is the~~ may judge..." or "the council may determine the validity of the election and the qualification of its members".

Chair Myers said that the provision is relatively standard in provisions of the state constitution and city and county charters. It does not introduce any new concepts.

Frank Josselson said that if the charter uses words of common meaning, then it is generally interpreted in accordance with those terms. If it says "the judge", it suggests that it is the only judge. There arguably could be no judicial review of the validity of the election or the quality cases of the members of council.

Bob Shoemaker asked if it would read better to say "the council shall judge".

Frank Josselson said yes.

Chair Myers said that it would create more mischief than solving problems.

Tom Brian said that if it has some specific legal meaning that comes from the constitution and legal counsel is comfortable with it, then it is fine. He asked what the council would be the judging and whether or not it matched with the powers of the county elections officers and the Secretary of State.

Tim Sercombe said that it is a given that the county and state processes would control in terms of the manner of the election. He said that 22(4) has more operation on the qualifications side than the elections side. The judge of the qualifications has to decide whether or not the person is elected or whether or not he/she has resided sufficiently in the district. He said that he is not sure in what circumstances the council would be able to judge different election issues than judged by the county or state.

Chair Myers went through sections 22, 23, and 24.

Bob Shoemaker said that, regarding 24(1)(f), "ceasing to reside in the district...except when district boundaries are apportioned or reapportioned and a councilor is assigned...", when apportioning the districts, there will not be any assignments. The reference to apportionment can be deleted from this section.

Chair Myers said that section 24(3) should be amended to read: "...occurs after the councilor has been assigned to a reapportioned ~~or newly apportioned~~ district under section ~~14~~ 33 of this charter, the vacancy ~~shall be deemed to have occurred~~ is in the district...". He said that the numbers in the charter need to be changed to the arabic form.

Bob Shoemaker asked if, in section 25(1), there could be any confusion as to whether it applies to the fiscal or calendar year.

Chair Myers said that he did not think so. He amended the last sentence in 25(1) to read: "...term at the first primary or general election ~~or primary election~~ after the...".

Frank Josselson drew the Committee's attention to the references to special service districts in



sections 21 and 24.

Chair Myers said that 21(3) deals with definition of special service districts as used in the charter. He said the definition is overly broad.

Eric Carlson said that if the Committee wanted to make it clear in section 14 that school district members could serve, school districts could be added to the list of governments which partially make up the composition of the tax study committee. He said that he understands the statutes to be that school districts are technically not considered special districts.

Chair Myers asked if school districts include community college districts.

Eric Carlson said yes.

Motion: Chair Myers moved, Matt Hennessee seconded, that section 14 be further amended to read: "...of cities, counties, ~~and~~ special districts and school districts within the Metro area".

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

Chair Myers went through sections 26 and 27.

Larry Derr said that, in section 27(1), the terms "department heads" and "department directors" are both used. The terminology should be made consistent.

Frank Josselson drew the Committee's attention to the references to special service districts in section 28.

Bob Shoemaker said that 28(f) should be clarified so that the link between the City of Portland and the second largest city in population in Multnomah County is clear. It should be amended to state "...other than either the City of Portland or the second largest city in population in Multnomah County...". He said that the reference to Multnomah County in 289(j) should be a reference to Washington County.

Chair Myers went through sections 28 and 29.

Bob Shoemaker asked if office of citizen involvement should be capitalized.

Chair Myers said that the other committees and commissions established by the charter are not capitalized.

Motion: Chair Myers moved, Matt Hennessee seconded, the following amendments, in addition to the underlined or struck-out language in the attached draft charter, be made in Chapter V, of the draft charter:

Section 21(1): "...elected or appointed if the residency is established in the apportioned or reapportioned district within ~~sixty~~ 60 days after the

apportionment or reapportionment...".

Section 21(2): "...and must have resided during the preceding ~~twelve~~ 12 months within..."

Section 21(3): "...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~~."

Section 24(1)(f): "...elected or appointed, except when district boundaries are ~~apportioned or~~ reapportioned and a councilor..."

Section 24(1)(j): "...city, county or special ~~service~~ district."

Section 24(3): "...occurs after the councilor has been assigned to a reapportioned ~~or newly apportioned district~~ under section ~~14~~ 33 of this charter, the vacancy ~~shall be deemed to have occurred~~ is in the district..."

Section 25(1): "...shall fill a vacancy by appointment within ~~ninety~~ 90 days..."

Section 25(1): "...term at the first primary or general election ~~or primary election~~ after the beginning of the term."

Section 27(1): "...the office of the executive officer; all department ~~heads~~ directors; and..."

Section 27(3): Amend section number to 27(2).

Section 27(3): "...in the office of the executive officer, and department directors serve at the pleasure of the executive officer. Staff employed by the council serve at the pleasure of the council. The executive officer may remove his or her other appointees ~~by him or her~~ as provided by ordinance."

Section 28(1)(f): "...territory in the Metro area in Multnomah County other than either the City of Portland..."

Section 28(1)(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..."

Section 28(1)(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~~ Washington County;"

Section 28(1)(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;"

Section 28(1)(m): "...the state, or a city, county or special ~~service~~ district..."



Vote on the motion:

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

Chair Myers explained the changes in chapter VI.

Bob Shoemaker said that the title in 31(2) should be underlined. He asked, regarding section 33, if the reapportionment comes after the official census or official census estimate and how to tell.

Tim Sercombe said that both could occur, but one may not indicate the need for reapportionment and the other might. If the estimate says that the districts are out of kilter, then there needs to be a reapportionment. If the estimate does not, but the census does, then reapportionment should be done.

The Committee agreed to change 33(1) to just require reapportionment after an official census.

Larry Derr suggested changing the title in 33(1) to "Reapportionment of Council Districts After Census".

Chair Myers said that his proposed amendment in section 33(1) is a result of the language in section 17(3) is repealed pursuant to earlier amendments. The criteria needs to be recapitulated in 33(1). The amendment also needs to be made consistent with the earlier language regarding district characteristics or criteria. In 33(2), sixty needs to be changed to the arabic number. He said that the proposed language change in section 34, from "as provided" to "in the manner and with the effect described", is a recommendation by Tim Sercombe.

Tim Sercombe said that the section reference in 34(2) should be a reference to section 33, not 30.

Motion:

Chair Myers moved, Matt Hennessee seconded, the following amendments, in addition to the underlined or struck-out language in the attached draft charter, be made in Chapter VI, of the draft charter:

Section 31(2): Amend the title to read: "Nonpartisan offices".

Section 33: Amend the title to read: "Reapportionment of Council Districts After Census".

Section 33(1): "...~~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. ~~Each~~ As nearly as practicable, all council districts, ~~as nearly as practicable,~~ shall be of equal population, and shall be contiguous, and geographically compact...".

Section 33(2): "...within ~~sixty~~ 60 days".

Section 34(2): "...a council reapportionment under section ~~30~~ 33 of this charter...".

Vote on the motion:

Tom Brian, Judy Carnahan, Ron Cease, Larry Derr, Jon Egge,

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

Chair Myers moved to Chapter VII. He proposed amending 38(3) to read: "Adoption of an ordinance requires the affirmative votes of ~~a majority of all councilors in a public meeting~~ (a) seven councilors while the council consists of 13 positions and (b) four councilors after the council consists of seven positions as provided by section 17(2) of this charter." The amendment would make absolutely clear the vote required to adopt an ordinance. In section 40, he suggested changing ninety to the arabic number.

Tim Sercombe said, in section 40(2), "is specified in the ordinance" should be deleted because it is stated twice in the same sentence. He suggested deleting, in the same section, "not later than the 90th day after adoption of an ordinance" because it is redundant with "and before the ordinance takes effect". He suggested that "unless the ordinance specifies a later date" be added to the last sentence of section 40(2) for consistency.

Motion: Chair Myers moved, Ron Cease seconded, the following amendments, in addition to the underlined or struck-out language in the attached draft charter, be made in Chapter VII, of the draft charter:

Section 48(3): "Adoption of an ordinance requires the affirmative votes of ~~a majority of all councilors in a public meeting~~ (a) seven councilors while the council consists of 13 positions and (b) four councilors after the council consists of seven positions as provided by section 17(2) of this charter."

Section 40: Amend the section to create a free-standing heading and paragraph titled "(1) Generally".

Section 40(1): "...takes effect ~~ninety~~ 90 days after..."

Section 40(2): "...ordinance specifies a later date, ~~is 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 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 unless the ordinance specifies a later date."

Vote on the motion:

Tom Brian, 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, Norm Wyers, and Chair Myers voted aye. All present voted aye and the motion passed.

Larry Derr suggested, in section 45, that "headings" be deleted from the title because the sentence in that section regarding headings was earlier deleted.



Motion: Frank Josselson moved, Matt Hennessee seconded, to amend section as follows: "By adopting this charter, the voters of Metro direct the council to ~~shall seek enactment by and request the sixty-seventh Legislative Assembly of this state, to enact and therefore if necessary, of any legislation needed to make all parts of this charter operative.~~"

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

Motion: Chair Myers moved, Matt Hennessee seconded, the following amendment be made in Chapter VIII, of the draft charter:

Section 45: Amend the title to read: "Severability; Headings".

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

Chair Myers suggested amending section 7(1) to read: "The council shall approve by ordinance ~~shall authorize before undertaking the undertaking by Metro of any functions beyond those not authorized by sections 5 and 6 of this charter.~~" The title of section 7(5) could be amended to read "Assumption of Other Service Functions" and the first sentence could be deleted.

Bob Shoemaker suggested relocating section 7(5) behind section 7(2), assumption of local government services functions, so there is a logical flow. He said that the reference to subsections in 7(2) should be references to subsection (2) and (3).

Frank Josselson asked if it would be better to say that the council must, instead of "shall", approve by ordinance.

Chair Myers said that "shall" is more typical language and they have the same meaning.

Motion: Chair Myers moved, Matt Hennessee seconded, the following amendments, in addition to the underlined or struck-out language in the attached draft charter, be made in Section 7, Chapter II, of the draft charter:

Section 7(1): "The council shall approve by ordinance ~~shall authorize before undertaking the undertaking by Metro of any functions not authorized by sections 5 and 6 of this charter.~~"

Section 7(2): Amend the title to read: "Assumption of Local Government Services Function".

Section 7(2): "funds to be used for exercise of the function. As used in ~~subsections (2) and (4) of this section~~ "local government service is a service provided to constituents by one or more cities, counties or special ~~service~~ districts...".

Section 7(4): Amend the title to read: "~~Assumption of Boundary Commission Functions~~".

Section 7(4): "...Metropolitan Area Local Government Boundary Commission with MPAC advice of the MPAC..."

Section 7(5): Amend the title to read: "Assumption of Other Service Functions".

Section 7(5): "~~The council may assume by ordinance any other function relating to a matter of metropolitan concern and which function assumption is not specifically regulated by this charter~~".

Section 7(5): Move Section 7(5) to after Section 7(2), making it Section 7(3). The original Section 7(3) becomes Section 7(4) and the original Section 7(4) becomes Section 7(5).

Vote on the motion:

Tom Brian, 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, Norm Wyers, and Chair Myers voted aye. All present voted aye and the motion passed.

Tim Sercombe said that there is an issue in Section 6 as to whether the reference in 6(2) could be better specified to make sure that it is dealing with the disposal of solid and liquid waste on a regional basis and that it did not authorize engaging in local sewerage service, at least without going through the proper authorization process. He said that the statute says "but not local aspects of sewerage" in distinguishing this type of function. He said that the provision could read "disposal of solid and liquid waste, but not local aspects of sewerage".

Bob Shoemaker asked if sewerage includes disposition of solid waste.

Tim Sercombe said that he did not know what local aspect of solid waste would include.

Bob Shoemaker said that Metro could be involved with local aspects of solid waste.

The Committee agreed that there was not a need to add the statement "not local aspects of sewerage".

2. Substantive Revisions to the Charter

Charlie Hales proposed deleting Section 8, Limitations on Authority to Contract. He said that he thinks that this section does not have any substantive effect. It would not make it more or less likely, as a matter of law, that Metro would contract out, but it would have a serious negative political effect on the charter by raising an inflammatory issue in a policy manner in a structural document.

Motion:

Charlie Hales moved, Tom Brian seconded, the deletion of Section 8, Limitations on Authority to Contract, from the charter.

Jon Egge said that it is a substantive issue. The charter is really a set of instructions for this government. He said that this issue has hamstrung Tri-Met where there are onerous provisions in the contracts that completely limit their ability to subcontract for services. It is the most important ability



that a government is able to maintain. Once that is bargained away, the government's options become almost negligible. He said that it is a critical issue from a business management standpoint. From a political baggage standpoint, it offers no particular negative effect on the charter. It really is a positive for the charter and will get more votes than it will lose by being in the charter.

Larry Derr said that he is troubled by the advice that the Committee has been given by people familiar with labor law which says that you are required to bargain in good faith on this particular issue if it is put on the table. If there is any hint that the council or Metro was abiding by the dictate of this provision not to honestly and fairly consider the possibilities, it would be an unfair labor practice. He said that he agrees with the philosophy, but, hamstrung by that interpretation of the law, it does not do much. Although there are people who would see it as a positive, there are people who will see it as a negative and actively work against it.

Bob Shoemaker asked Larry Derr if the provision, if in the charter, could not constrain Metro from negotiating this away. It would not be a directive from the voters to Metro that you shall not negotiate your right to contract out. He said that he would not want to put something in the charter that is of no legal affect. If it is of legal affect, he said that he is inclined to vote for it because it is important to protect Metro from itself.

Larry Derr said that is his understanding.

Chair Myers said that it is a somewhat less overt, but still existent aspect of the problem encountered in the first version, which was a much more directive intrusion.

Jon Egge said that the original wording was that the government shall not enter into any agreement which would limit its ability to subcontract for service. He said that is illegal. When dealing with instructions to a government, it is no different than the planning instructions given the government. The planning instructions do not guarantee results. This does not guarantee results, but it does give some indication of the will of the voters. Even though it does not have the binding effect of law, it still is a rather substantive direction for the government. It is a rather business-like part of the government's functions. He said that when people are elected, they often times do not have a lot of management background and he would like to see this directive in front of them.

Ray Phelps said that he wants to support Jon Egge because there are a lot of laws that dictate what goes into a contract and what does not. This is no more of a problem than the government dictating how much to pay someone because of a certain kind of work. He said that this is one where the people say notwithstanding all of that, I really want you to try hard to try to do business in the public sector rather than burden me as a taxpayer by creating those kinds of costly business practices that, over time, raise my taxes beyond tolerability.

Larry Derr said that the charter could also say, to the greatest extent possible, the council shall keep wages low. He said that it probably would not be an unfair labor practice. He said that the issue is probably not as black and white as he characterized it.

Frank Josselson said that this provision is clearly directory as opposed to mandatory. Under any circumstances, this provision is going to be given a construction that would make it a lawful provision.

Vote on the motion:

Ron Cease, Charlie Hales, Matt Hennessee, Wes Myllenbeck, Norm Wyers, and Chair Myers voted aye. Tom Brian, Judy Carnahan, Larry Derr, Jon Egge, Frank Josselson, Ned Look, Ray Phelps, Vern Shahan, Bob Shoemaker, and Mimi Urbigkeit voted nay. The vote was 6 ayes and 10 nays and the motion

failed.

Chair Myers explained Section 9. He said that it essentially is a statement of the law that would pertain as to the matters discussed in it. The virtue of including it in the charter is a clarification and could possibly avoid some litigation situations.

Motion: Chair Myers moved, Bob Shoemaker seconded, the adoption and inclusion in the charter of section 9 as seen in the draft charter.

Frank Josselson said that it purports to be a statement of the law. He said that he has not had an opportunity to review the provision to determine whether it accurately codifies home rule statutory case law. He said that he is not sure that it accurately reflects home rule case law. He said that he is also not sure what it means. He said that he does not understand why a sentence such as "no regulation of Metro affects the structure of a city, county or district unless that effect is required by state or federal law" needs to be included in the charter. It is very clear in state law that the charter cannot have that effect. He asked what effect a Metro tax measure would have over an inconsistent local tax measure. He said that he is unwilling to approve it without proper time to review it. He said that the term regulation is nowhere defined in the charter and this is the only place it is used.

Matt Hennessee asked what this provision would do for the charter if it is included and what would happen if it is left out.

Chair Myers said that the provision has been in the draft charter through the public hearing process.

Tim Sercombe said that the provision is not necessary for inclusion in the charter. Its effect is to state rules about the relationship of Metro regulations to local government regulations. He said that the only real need for putting it in the charter is to oblate litigation. If the rules are stated and voted upon, they are likely to be what a court will rule. It may have the effect of precluding legislation that might be viable and it will make clear what the people who voted for the charter think those relationships are.

Tom Brian asked, under the current Metro provisions, if Metro has the kind of authority stated in section nine in the statement "a regulation of Metro addressed primarily to substantive social, economic or regulatory objectives of Metro prevails over inconsistent regulations of a city, county or district".

Tim Sercombe said that Metro's authority comes from the constitution which gives jurisdiction to Metro over matters of metropolitan concern. There is no statute or case law on this issue. There is nothing that has been litigated about what is the authority of a home rule Metro with respect to a home rule city or county. He said that it is likely a court would say that when Metro is dealing in an area of a matter of metropolitan concern, an authorized function, or the issuing of a regulation that is inconsistent with a local regulation, it is clearly intended to displace the local regulation if the Metro regulation would prevail to be a matter of metropolitan concern. He said that it has not been tested in the court.

Bob Shoemaker said that it is an important pre-emptive clause. When Metro legislates in an area of metropolitan concern, that legislation will control over inconsistent local ordinances.

Charlie Hales asked where in the charter regulatory powers have been conferred, other than in the planning provisions. He said that he had trouble by the use of "regulations" as opposed to "ordinance".

Janet Whitfield said that the provision requiring MPAC approval for the taking over of local government services includes regulation and taking on a local government service. She asked if having



MPAC approval or a vote of the people would impact this provision.

Ken Gervais said that the phosphate ban is the only regulation that he knows of in existence that runs against individuals living in cities and counties. He said that there is no case law on that issue.

Larry Derr said that he agrees with Tim Sercombe's assessment that if all the "what ifs" are included, then the Metro regulation would probably prevail which would be the result in law with or without this provision. He said that this is a unilateral attempt to pre-empt. He asked what would happen if a local government enacted a regulation in the same area and had an identical provision, would they cancel each other.

Tim Sercombe said no. The issue is whether or not there is, in some situations, a constitutional hierarchy between a metropolitan service district and a city or county in the district. He said that the answer is unknown. His judgement is based on the specific language in the constitution for this type of charter, which gives it jurisdiction over matters of metropolitan concern, that constitutionally, its regulations on those matters would control over any existing local regulations. He said that it would still have to go under the charter requirements of the assumption of a function relating to that regulation.

Larry Derr said that the charter has conferred on Metro all the authority that is available to it, subject to limitations in the charter. There are not any limitations in the charter on pre-emption so it has that power without saying it in the charter, given the general grants of power. It would be free, on a case by case basis, to make that pronouncement interregulatory.

Chair Myers withdrew the motion. He said that the sections, beginning with section 10, will be renumbered and cross references will be checked. He said that section 15(2)(i) needs to be clarified to include interest or other earnings on those taxes so that if the tax revenue is not under the limitation, neither is the interest generated from that principle.

Motion: Chair Myers moved, Charlie Hales seconded, the following amendment to be made in Chapter III, Section 15(2)(i) of the draft charter:

"...Metropolitan Service District and interest and other earnings on those taxes..."

Vote on the motion: Tom Brian, 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, Norm Wyers, and Chair Myers voted aye. All present voted aye and the motion passed.

Motion: Chair Myers moved, Bob Shoemaker seconded, the following amendment to be made in Chapter III, Section 15(2)(iv) of the draft charter:

"...charges on property and (iv) taxes imposed by Metro pursuant to an intergovernmental agreement to the extent the proceeds are paid to another government for its exclusive use."

Chair Myers said that the motion is intended to address the question of the treatment in the context of the limitation expenditures of proceeds of taxes which Metro levies by intergovernmental agreement and to the extent that it pays those over to another government for the other government's use.

Frank Josselson said that he is very concerned about Metro using its taxing power to tax for the benefit of any local jurisdiction. It does not make sense for Metro to be taxing a local jurisdiction and then turning that money over to them. He said that it is inconsistent with the concept of regional government.

Tom Brain said that the motion includes that it would be pursuant to an intergovernmental agreement, so it would not be unilateral.

Bob Shoemaker gave the example of an excise tax on ticket revenues that are shared with the local jurisdictions, pursuant to an intergovernmental agreement. He said that a situation could be constructed where they would share the excise tax revenues. He said that option should not be foreclosed.

Larry Derr said that Bob Shoemaker's thought is the opening of the door that concerns him. He said that he does not see anything that would prevent Metro from enacting a tax region-wide, and by intergovernmental agreement, paying it all over to one or a few local governments. There is no equity in that.

Ray Phelps asked what brought this issue on. He said that it is a large change in a short period of time.

Ken Gervais said that in order to pay for the performing arts, Cliff Carlson's committee is exploring the option of a tax on tickets on all kinds of entertainment. The City of Portland is insisting in their arrangement with the Blazers that if that tax is imposed on Blazer tickets, it would be credited back to the city of Portland to take care of the interest and the bond service on the \$34.5 million investment. If Metro has a regional tax, it would probably raise in the range of \$2.5 to \$3.5 million just on the Blazers. Metro would take that in and pay it to Portland. He asked whether or not the intent of the Committee is to have the tax take up a part of the cap that has been set. He said that the Committee has set a spending limit, but the question is whether or not it is spending to give it back to the city of Portland. He said that another area is Greenspaces where Metro could possibly raise some funds to help local governments defray the cost of maintaining the greenspaces.

Ray Phelps said that he is concerned that this is nothing more than conduit financing or pass through. He said that he intended to make the limitation a viable limitation. This provision would open the door so wide it would not constrain anything from coming through. He said that if this authorization is coupled with MPAC, it will create a process where unelected people will be using elected people as a front to create taxes without going to the people for the legitimate purposes for which those taxes are being raised.

Jon Egge said that when the Committee contemplated the \$12.5 million limit, they plugged into it some contemplation about arts funding. He said that they are not forcing Metro to make any hard decisions. He said that the Blazer example is an example of why the Committee should not allow this to happen. It has a real potential of bleeding all the available funds for the arts.

Vote on the motion:

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

Chair Myers distributed an amendment to section 16. See attachment B. He said that this amendment



is prompted as an effort to try to address the circumstance that exists in Metro's current operations. At the Zoo and Convention Center, Metro sells concessions at a profit. That profit is then used in connection with those operations. He said that he did not think it was the Committee's intention to impact that kind of situation.

Frank Josselson said that he has no problem with an amendment to this section which says "except for food and beverage concessions at the Zoo and other regional facilities,...". He said that amendment does what Dan Cooper says needs to be done. He said that Chair Myers' proposal is broader than that. It could defeat the purpose of this section because it could be applied to any service that Metro provides and for which it charges.

Jon Egge said that there may be other concessions other than food and beverages, such as pendants or pins. He said that he would also be satisfied with a provision which would exempt concessions for a specific function, when it is a part of a bigger function. He gave the example of concessions being used as a bigger function of the Zoo. He said that he agrees with Frank Josselson that the language is too broad.

Ken Gervais said that the parking at the Memorial Coliseum is consistent with the Zoo concessions. The parking is a major source of revenue which off-sets some of the other costs. If it were provided at cost, the marginal cost would be free.

Frank Josselson said that he has no problem including parking to the list along with food and beverage concessions. He said that he objects to the extremely broad language of the amendment. He said that he does not want to open the whole thing and defeat the purpose of this section, which figures heavily into the debate and agreements made relative to structure and finance.

Chair Myers said that the language is not intended to open doors wide open. He said that he asked Dan Cooper to prepare the amendment which would be consistent with the indicated direction of the Committee, but would not impact the particular situations that exist currently or may exist in the future. He said that the Zoo concessions were driving the concern.

Richard Devlin, Metro Councilor, said that Metro does not collect fees for the collection of hazardous waste. Metro has two collection facilities for hazardous waste in the region for the public to come in and deposit their hazardous waste. The hazardous waste facilities and the disposal of those household hazardous wastes cost Metro over a million dollars a year. That cost is born by the tipping fees. He said that is another example of where there is a related service where one area of the service is paying for another area of the service.

Frank Josselson said that he is troubled that, on the last night of deliberations, the Committee is presented with this kind of language when the Committee just finished a round of public hearings in which the Metro council had every opportunity to propose amendments to the charter and did not do so, instead, they suggested that the charter be shelved.

Chair Myers said that the language in this particular section was only approved last week and was not taken to the public hearing.

Bob Shoemaker suggested that the amendment say "except to the extent receipts in excess of costs from concessions are dedicated to reducing charges for good or services to which the concession directly relates". He said that the concept of concession would include parking as well as food, beverages, and knick knacks.

Frank Josselson suggested that it include "concessions at the Zoo and other regional facilities".

Ned Look asked if the language included hazardous waste. He said that it is related because it comes out of the tipping fees.

Larry Derr said that the issue will come down to a definition of how broad or narrow the concept "goods or services" is. The question would be whether or not that kind of function is within the category of the service for which the fee is charged.

Bob Shoemaker said that it would be difficult to argue that a charge for a tipping fee on non-hazardous solid waste directly relates to collection of toxic waste at an entirely different site.

Larry Derr said that the limitation is that the charges for the provision of goods or services may not exceed the cost of providing the goods or services. He said that the question is how to categorize goods or services, and if it is categorized broadly enough to include both the receipt of solid waste at the transfer station as well as picking up and disposing of hazardous waste. The costs are lumped together with the charges and they have to be equal.

Motion: Chair Myers moved, Ray Phelps seconded, the following amendment be made in Chapter III, Section 16 of the draft charter:

*"(1) ~~Except as provided in this section,~~ Except to the extent receipts in excess of costs from a concession are dedicated to reducing charges for the provision of goods or services to which the concession directly relates, charges for the provision...."*

Frank Josselson asked what concession meant.

Chair Myers said parking, food, beverage, and gift shops. He said that the hazardous waste situation would be dealt with under the balance of the provision.

Vern Shahan said that "concessions" is too broad. He said that he is concerned that somewhere down the line, the wording could be used to use revenues from concessions to create new facilities.

Bob Shoemaker said that he did not think that would be a direct relationship. It would be using profits from a concession to provide a capital to expand facilities.

Friendly Amendment to the Motion: Chair Myers amended, Ray Phelps agreed, to reword the motion to read:

*"(1) ~~Except as provided in this section,~~ Except to the extent receipts in excess of costs from ~~a concession~~ food and beverage sales, parking and other concessions are dedicated to reducing charges for the provision of goods or services to which the concession directly relates, charges for the provision...."*

Vote on the motion:

Tom Brian, 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, Norm Wyers, and Chair Myers voted aye. All present voted aye and the motion passed.

Tom Brian suggested amending section 17(3)(a) and (b) to read: "...are elected or appointed. The



~~council~~ Each pair and group of councilors shall make all its appointments to the commission by February 1, 1993. (b) ~~If the council~~ a pair or group of councilors fails to make all its appointments to the commission by February 1, 1993, the executive officer shall ~~appoint all commissioners~~ in each case make that appointment...".

Ray Phelps said that the Committee voted on this issue last night and voted against the change.

Chair Myers agreed. He said that a member who voted against the motion would have to move to reconsider the vote by which the change was rejected.

Tom Brian asked if there were any other sections that were approved last night that were changed tonight.

Chair Myers said yes, there have been amendments to sections, but there have not been any amendments proposed that were rejected last night.

Frank Josselson said that, since Tom Brian's motion is unacceptable, he would move to delete the entire section which gives the executive officer the authority to appoint if the presiding officer or pairs or group of councilors fail. He said that it would give an individual the ability to go to court if necessary to force the presiding officer or pairs or group of councilors to make the appointments required. The potential for mischief in the existing arrangement is too great.

Motion: Frank Josselson moved, Jon Egge seconded, that section 17(3)(b) be deleted.

Chair Myers said that the effect would be that if the council fails to make the assignments, then the remedy is left to a mandamus.

Tim Sercombe asked if the motion includes the amending of 17(3)(d), when it talks about a vacancy on the commission, to state that a vacancy in the commission shall be filled by the council.

Frank Josselson said that amendment does not need to be made because 17(3)(d) stands alone.

Matt Hennessee said that some of the previous discussion lied around having some creative tension for the council to make a decision. The reason the executive officer was put in there was to make a decision if the council was not making the decision. He said that he is never pleased when there is the opportunity for the legislative body to make a decision, and failing to do so, the issue ends up in the court for a decision to be made. He said that the Committee agreed to the policy decision and he agrees with the original policy statement.

Vote on the motion:

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

Bob Shoemaker suggested clarifying section 17(3)(a) to read: "...are elected or appointed. ~~The council shall make a~~ All the appointments to the commission shall be made by ...".

Motion:

Bob Shoemaker moved, Matt Hennessee seconded, the following further amendments to be made in Chapter IV, Section 17(3) of the draft charter:

Section 17(3)(a): "...are elected or appointed. ~~The council shall make~~ All the appointments to the commission shall be made by ...".

Section 17(3)(b): "~~If the council fails to make all appointments to the commission~~ are not made by February 1, 1993...".

Vote on the motion:

Tom Brian, 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, Norm Wyers, and Chair Myers voted aye. All present voted aye and the motion passed.

Bob Shoemaker said, regarding section 40(1) and ordinances which do not contain an emergency clause, an emergency clause is not allowed on an ordinance imposing or changing a tax or charge, or changing the boundaries, or assuming the functions of Tri-Met. He suggested adding the assumption of a function to that list. He said that some functions need to go through MPAC for approval or the voters approval, but some functions do not. He said that he can see a case where they might try to rush through the assumption of a non-local function, give it an emergency clause, quickly brush by MPAC, and then put it into law which is what this Committee does not want to see happen.

Motion: Bob Shoemaker moved, Charlie Hales seconded, the following amendment to be made in Chapter VI, Section 40(1) of the draft charter:

*"...charge, changing the boundaries of Metro, or assuming ~~the~~ a functions ~~of a mass transit district,~~ may not contain an emergency clause."*

Larry Derr said that section 7 is the section that covers all additions of functions and it has the clause that says that anything under there has to be by ordinance. He said that it could be cross referenced.

Vote on the motion:

Tom Brian, Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Frank Josselson, Ned Look, Ray Phelps, Vern Shahan, Bob Shoemaker, Mimi Urbigkeit, Norm Wyers, and Chair Myers voted aye. Wes Myllenbeck voted nay. The vote was 15 ayes to 1 nay and the motion passed.

Ned Look asked to revisit the Committee's decision on the size of the council. He moved to increase the council size from seven members to nine members.

Chair Myers said that, in accordance with the earlier reconsideration issue, someone from the prevailing side on the last vote to increase the membership from seven to nine must move to reconsider the issue. Hearing no acceptable motion to reconsider, he asked the Committee to move on to the preamble.

Motion: Matt Hennessee moved, Bob Shoemaker seconded, the preamble written by Larry Derr and Frank Josselson. It reads as follows:

*We, the people of the Portland Area Metropolitan Service District, in order to establish an elected, visible and accountable regional government that is responsive to the citizens of the region and to our local governments; that will*



*undertake as its most important service, planning and policy making to preserve and enhance the quality of life and the environment for ourselves and future generations; and that will provide regional services needed and desired by the citizens in an efficient and effective manner, do ordain this Charter for the Portland Area Metropolitan Service District, to be known as Metro.*

Larry Derr suggested that "Portland Area Metropolitan Service District" be lower case in the first and last lines because it is a generic term and not the formal name.

Ron Cease said that he finds it odd that, for a regional government with an elected council and elected executive, it must be responsive to the citizens of the region and to our local governments.

Larry Derr said that there is a strongly held conviction that Metro's success lies in the partnership between it and local government. The preamble is trying to capture that thought.

Chair Myers suggested amending the preamble to state that Metro is to be responsive to the citizens and will work cooperatively with the local governments.

Amendment to the Motion:

Chair Myers moved, Larry Derr seconded, the following amendments to the motion:

*We, the people of the Portland aArea mMetropolitan sService dDistrict, in order to establish an elected, visible and accountable regional government that is responsive to the citizens of the region and works cooperatively with ~~to~~ our local governments; that ~~will~~ undertakes, as its most important service, planning and policy making to preserve and enhance the quality of life and the environment for ourselves and future generations; and that ~~will~~ provides regional services needed and desired by the citizens in an efficient and effective manner, do ordain this Charter for the Portland aArea mMetropolitan sService dDistrict, to be known as Metro.*

Ray Phelps said that, unamended, the preamble is much more accurate with respect to how the charter is laid out. The charter has created a COG disguised as a government. He said that he will vote for the preamble because it says that. It is not as clear as amended as it is unamended.

Vote on the amendments to the motion:

Tom Brian, Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Charlie Hales, Frank Josselson, Ned Look, Wes Myllenbeck, Bob Shoemaker, Mimi Urbigkeit, and Chair Myers voted aye. Matt Hennessee, Ray Phelps, Vern Shahan, and Norm Wyers voted nay. The vote was 12 ayes to 4 nays and the amendments to the motion passed.

Vote on the amended motion:

Tom Brian, 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, Norm Wyers, and Chair Myers voted aye. All present voted aye and the motion passed.

3. Discussion on the submission of the final draft to the elections officer.

Motion: Chair Myers moved, Matt Hennessee seconded, that the Committee approve the charter as distributed to the members tonight and as further amended by this meeting of the Committee.

Vote on the motion: Tom Brian, Judy Carnahan, Ron Cease, Larry Derr, Jon Egge, Charlie Hales, Matt Hennessee, Frank Josselson, Ned Look, Ray Phelps, Vern Shahan, Bob Shoemaker, Mimi Urbigkeit, Norm Wyers, and Chair Myers voted aye. Wes Myllenbeck voted nay. The vote was 15 ayes to 1 nay and the motion passed.

Motion: Chair Myers moved, Frank Josselson seconded, that the proposed charter as approved by the Committee be reported to the elections officer in accordance with the provisions of the legislation creating the Committee and the charter process.

Ron Cease said that he plans to vote no. He said that the proposal before the Committee tonight is substantially different and better than the draft the Committee had a few weeks ago. He said that he is troubled that the Committee does not have a polished document and it will not hold together. He said that the big concern he has is characterized by the decision to reduce the council from 13 to seven--essentially reducing the council in half. Instead of having districts of 90,000, there will be districts with about 160,000. With the predictions of growth, they could be much larger than that. The overall document reflects a movement away from the whole concept of the relationship between Metro and the public and the whole democratic process. He said that he does not agree that it is a COG. The government becomes a less democratic institution than what currently exists. It will reduce the visibility. The relationship with their constituents will be reduced. People will be more removed and distant from the constituents. In a short period of time, there will be districts of 200,000 people. For an area this size, that does not make any sense. He said that he has always argued that you have to cooperate and work with local governments. He said that he does not believe that what the Committee has done is an improvement over the current situation. He said that its biggest problem is that it does not have the relationship with the folks that it needs which is the kiss of death.

Charlie Hales urged those members who are still on the fence to vote yes. He said that by reducing the size of the council, the accountability of the government to the voters has increased. The model of accountability in which voters have frequent and direct access to their policy maker on issues that are personally affecting them does not function with Metro. He said that he thinks that most people in Portland know who their city commissioners are, even though they represent several hundred thousand people. He said that he does not think that most residents of Beaverton, which has commissioners by small districts, know who their city council member is. To therefore say that there is some mathematical relationship between the accountability of Metro and the size of the district does not function in this case. He said that, with the MPAC, the Committee has done something that a lot of the members had to swallow hard to do, but it institutionalized communication between Metro and local government in most cases, and only provided a very limited gatekeeping role. He said that he thinks that is an acceptable item to put into the balance. He said that the regional planning powers that the Committee has conferred on Metro in this charter are so superior to the status quo in the statute that they warrant a great deal of movement by any members who would have liked to see broader general powers in other areas. He said that there is no way, in his opinion, that politically, the Committee could have succeeded with a general purpose government and these planning powers. The Committee has instead chosen a limited purposed government and planning powers that are more aggressive than anything else in the country. To have local government accepting the idea of Metro



reviewing their comprehensive plans and requiring changes in their regulations is a radical notion and he is still amazed that the Committee got away with it. He urged the Committee to support the charter on the grounds that the Committee has made the statement, from the very first few meetings, that planning is a top priority for the agency and it is equipped to do that.

Ned Look said that he supports what Charlie Hales said. He said that he represents the local governments of Multnomah County who met eight or nine times with 20 to 25 people in attendance. He said that, as a body, he has never seen such a group of elected officials who were as regionally oriented and as objective and as willing to compromise in some of the things that people thought that they were polarized about. He said that he hopes the Committee members will go along with the confidence that they have put into what the Committee has done and vote in favor of the charter. He said that it is extremely better than what there is today. He said that Metro may oppose the Committee's work, but there are some lessons for them. Much of the Committee's deliberations should be taken very seriously by Metro.

Ray Phelps said that he will vote no on the charter. He said that he still holds firm his position with respect to the remoteness that the Committee is placing the elected officials vis-a-vis the constituents of this district. He said that the Committee had a wonderful opportunity to advance the whole notion of Ballot Measure Five and the Committee blew it. There has been a strong expression from the voters of this region, who are directly responsible for the enactment of BM5, that said they want less government. The Committee has created a more costly government, a government that is not equipped in any way to reduce the costs of public service delivery. In the process, a very remote government has also been created--one that can easily be manipulated to carry out an agenda that is not necessarily regional. He said that he is disappointed because he thought that the Committee had a fine opportunity but this created the third layer of government and will continue and perpetuate the balkanization of this community with respect to its public services and will not get the opportunity to respond to the BM5 statement because this government is not equipped to do it now. He said that he does not believe that it will pass.

Bob Shoemaker said that he supports the charter. He said that he agrees with what Charlie Hales and Ned Look have said. He said that one of the primary points where the Committee has disagreed is on the size of the council and what it means. He said that a small council of seven has some very distinct advantages over a larger council in light of the duties that have been given to this council, which are primarily planning for the region. A small council will reach decisions more quickly and rationally and less politically than a large council would. A small council will meet as a committee as a whole on planning issues where as a larger council would probably be in subcommittees which are often hidden from public view. The decisions of a smallish council on planning issues will be more regional than would be true if there were a large number of councilors, each with a distinct parochial district. The seven will be much more regionally oriented which is what is needed if there is going to be a regional plan to manage the urban growth. He said that he does not think that it will be more expensive. The only additional expenses are the compensation awarded to various elected officials which is very small potatoes in the total cost of running a government of this size. A council has been created, particularly with the presiding officer selected by his or her peers and compensated to a sufficient extent to warrant a lot of time, that has a healthy balance to a strong and sometimes autocratic executive officer. The legislative body will really truly balance against the executive which will lead to better decisions. He said that the MPAC is a good way of having cooperation with the local governments who are going to be affected by this. He said that he thinks the charter is a good document that the Committee can be proud of. It will serve the region well and includes the possibility of becoming a general purpose government in the future.

Norm Wyers said that he intends to vote no for some of the same reasons that Bob Shoemaker enumerated. He said that his major concern is primarily the size of the council. The Committee went



to a small size, but did not think it through clearly enough and there will be people who are working part time and are partially remunerated. He said that he has a real concern that this is going to perpetuate government of elite people, caucasian people. He said that the Committee did not think through some of the socio-economic issues in the region. He said that the Committee came up with something less than what currently exists with regard to the structure. He said that his other concern is the relationship between the regional government and the MPAC and some of the specifications in the charter.

Matt Hennessee thanked the members of the Multnomah County Commission who asked him to serve in their behalf on the Committee. He said that they made their decision on a couple of reasons--they were looking for someone who had a good deal of government experience, as well as looking for someone of color, because they had a feeling that no one else would deal with the barrier issue of putting someone of color at the table. He said that is an amazing statement for someone to make--he is not at the table because he is black, but he is here because they felt that there needed to be representation and there needed to be, at the same time, the issue of qualification. He said that he hopes that he has been able to live up to that. He thanked the Committee members for the opportunity to serve with them. He said that, whatever happens with the charter, he believes that something happens between men and women when they work together, agree and disagree, fight, and have peace together in terms of the synergy among them. He said that he believes that everyone will remember this experience both fondly as well as not so fondly. He said that he was heartened by the meeting right after Rena Cusma made her announcement about the referendum. He said that he believes that the Committee broke ground that night that they have never broken before. He said that he believes very much in government, its people, and the democratic process. He said that he believes very strongly that this government had a chance to do more and be more and there are some great things about the charter, such as the auditor and the opportunity to have citizen involvement. He said that the Committee did something right when it comes to the tax limitation. He said that they did lose a moment when it came to the issue of representation around the table. He said that his is not going to pontificate about that because his issues are not where the Committee thinks they are. Some of them have to do with representation of people of color, because that is his cause. He said that if he lived in the suburbs, he would be concerned and he was shocked that the people from the suburbs were the ones pushing this the most. If he lived in Washington or Clackamas County, he would not have pushed for this small of a council. He said that he worries about those who will sit at the council table and will represent a number of people more than people are representing right now. The current council is saying that they are extremely busy, and they may be involved in minutia in some cases, but the fact is that they are busy and are taking care of their responsibility. It is going to be difficult to hold a full time job and represent as many people as the charter expects them to represent. He said that he is not going to support this charter, although he wishes he could. He said that he believes in what the Committee has tried to do, but he also believes in the same test that he has been put to for the last 16 of his 33 years--are you the best and is it the best. Is it the best of what the Committee has to offer? He said that when he has been seen as not that, he has been told to get at the back of the line and he has worked hard to try to bring proposals that he believes are the best and to stand by them, argue for them, and believe in them. He said that he does not believe, as a whole, that the Committee has the best that they can offer the people of the region.

Jon Egge said that he is a representative of Clackamas County, but never considered himself to be a representative of anyone but his neighbors in the broadest sense of the word. He said that he is troubled by the lines that are continually drawn between people. He said that Ted Kolungoski says that it is time to draw lines around ourselves rather than between us. He said that what he has heard in opposition to the charter are lines that are being drawn between us. He said that the charter, on balance, contains some very good things. If the charter fails, there will be a government in decline. He said that he thinks the government is already in decline and this charter is possibly its only hope to continue the innovative things that it has done up to this point. He said that the changes the



Committee made are very positive and lead to a lot of different options in the future. This charter provides more options than the current legislative situation. He said that if the charter is not passed by the Committee and the voters, the legislature will pick at it until there is nothing left of it and this government will operate in a manner in which it has operated over the last few years and it will destroy itself. He said that he has not supported the whole concept of MPAC, but it has accomplished a comfort level by local governments and it has offered a definition for metropolitan significance. The creation of MPAC has taken that out of the Committee's discussion and left them with a solution to the problem that they could not have solved any other way. He said that he will be able to afford to live out of this region if the window of opportunity to manage the projected growth of the region is missed. He said that one issue overshadows most of what else might be wrong with this charter. He said that this charter cannot please, in every particular way, everyone. He said that he never thought it would. The planning functions in the charter are so superior that this is the window of opportunity.

Mary Tobias, former Committee member, said that she believes we are in a momentous time of change. She said that she has an anxiety, which she thinks members share with her, that the charter should be the best that it can. But nothing is ever perfect. She said that the charter, regardless of the number of revisions, will never be perfect. She said that it is an improvement. She said that the charter going line by line, starting with chapter one, section one, has every single faction, person, and agency giving up something that they hold dear. It is probably the most carefully compromised document that she has seen in public life in a long time. She said that if it is passed out of the Committee, it starts the process of the evolution of this document, just as if it is not passed out of the Committee or is not adopted by the voters, it is only the beginning of the revision of the statute because that is what government is about in the country. She said that she does not like the size, the structure, the Future Vision, and the planning power, but this is a document under which the region can move forward well with good, responsible, respected, and visible government. It will do nothing but help serve us in the future. She said that if the Committee vote fails, the Committee should go back and change the size because it is not too late to make that change.

Chair Myers thanked the Committee members for their individual commitments to the process over the last 15 months. He said that he is sorry the trusses has been as difficult as it has been and he acknowledged that part of that has been because he has not been able to devote as much time to the work of the Committee as he should have in trying to cultivate positions around issues. He said that he came into the process, and is still in the position of believing, that defining the role of regional government offers a special challenge because with the regional government, probably more than any other form of government, there are divisions of opinion and views about its appropriate role and place that do not characterize the views with respect to any other government. He said that there are a lot of differences of opinion around the policies that other governments may make and those battle lines form and reform, but there is not a contention that the state or city government should not exist. He said that there are divisions around that question with respect to the regional government. He said that he came into this process believing that a charter for this government was going to have to be one that addressed the fact that there is nothing approaching a political consensus around the role of this government in the region. He said that there is a lot of apprehension, fear, concern, and this charter is going to have to define a home rule launching for this government that takes into account the fact that a lot of people are divided about this government. It has to make a statement reflecting a recognition of that. That effort to define that recognition has merely been a lot of what the controversy in this Committee has been about. He said that the charter has come out somewhere between the polar opposites of a sleek general government grant and a much more restrictive approach to the government that reflects the differences of opinion that are being dealt with in the region and on this Committee. He said that he thinks the Committee is a pretty fair reflection of the divergence of views about regional government in the region. He said that there are parts of this charter that he prefers to be different, such as a larger council. He said that, in the structure area, the most critical question for him was whether or not there would be a regionally elected visible leader, not someone



who is sandwiched into the council as a presiding officer of the council, but someone who is standing alone as an executive with the capability of defining the program of action for the region. He said that transcended the question of how large the council would be. He said that this region will need an individual in a position of the executive who is in a position to go out visibly and define a program of action and work for it. He said that he hopes it is a position which other political figureheads will aspire to. He said that there are some pluses in the charter--the auditor and the committee for citizen involvement. He said that while there are pieces of the charter that he would propose to be different, the charter, overall, is a pretty responsible resolution of the tensions and differences of views within the Committee and are representative of those tensions over the region as a whole. On balance, all the elements of the charter tilt in favor of approval, particularly with the emphatic proposal by the charter that the region endorse the concept that this government will be the leader in trying to deal with the critical issue of how to organize how the deal with the growth of this region.

Frank Josselson echoed the sentiments that this charter is an imperfect document. He said that it is imperfect because it was the product of the legislative process which is an imperfect process involving imperfect people. He said that there is something in the charter for each member to hate. He said that there are good reasons, which he understands, to hate the MPAC, the size of the council, and elected executive. By looking at what is wrong with the document, every member can find something to challenge. He said that there is also something in the document that each member can like. This document reflects the greatest series of compromises over the longest period of time that he has ever experienced in the legal process. He said that the question, of whether, on balance, the good outweighs the bad, resolves itself to him. He said that decision cannot be made in the abstract or a void. It has to be made in a context of the political reality and the public and governmental reality that exists today. Weighed against the political reality, this charter is such a substantial improvement that he is propelled to vote for it not withstanding that there are things in it that he abhors. He said that while there are things in the document that he dislikes, the document, from beginning to end, is an elegant document that hangs together. There is a constant theme--cooperation between local and regional governments--reflected through the document that makes it an elegant legal instrument.

Restatement of Motion:

The motion is that the proposed charter, as approved by the Committee, should be reported to the elections officer in accordance with the provisions of the legislation creating the Committee and the charter process.

Vote on the motion:

Tom Brian, Judy Carnahan, Larry Derr, Jon Egge, Charlie Hales, Frank Josselson, Ned Look, Vern Shahan, Bob Shoemaker, Mimi Urbigkeit, and Chair Myers voted aye. Ron Cease, Matt Hennessee, Wes Myllenbeck, Ray Phelps, and Norm Wyers voted nay. The vote was 11 ayes to 5 nays and the motion passed.

Motion:

Matt Hennessee moved, Bob Shoemaker seconded, that the Committee authorize Chair Myers to correct typographical areas, errors in transcription, erroneous internal references within the document, grammatical errors, and errors in syntax. The Committee would also allow Chair Myers to add different numbering sequences or numbering parts of the charter where that is necessary.

Vote on the motion:

Tom Brian, 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, Norm Wyers, and Chair Myers voted aye. All



present voted aye and the motion passed.

Chair Myers extended his thanks to Metro for the use of the facilities, office, equipment, information and financial assistance. He said that, as a former councilor, strong supporter of Rena Cusma, and a friend of many council members, it has been painful to have the ongoing tension that has emerged over time between Metro and the Committee. He said that a lot of the decisions of the Committee were at variance with sharply held opinions of the council and executive officer. He said that he personally wishes that circumstances had been otherwise.

Chair Myers adjourned the final meeting of the Charter Committee at 12:01 am on July 31, 1992.

Respectfully submitted,



Kimi Iboshi  
Committee Clerk

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 ~~metropolitan service district~~ ~~municipal corporation~~ with the name "Metro."

Section 3. Boundaries. The area of governance of Metro includes all territory within the boundaries of the Metropolitan Service District of the Portland metropolitan region on the effective date of this charter and any territory later annexed or subjected to its governance under state law. This charter refers to this area as the "Metro area". Changes to the boundaries of Metro ~~shall~~ are not be effective unless approved by ordinance. No change to the boundaries of Metro ~~shall~~ requires the approval of ~~by~~ a local government boundary commission or any other state agency unless ~~otherwise provided~~ required by law. The custodian of the records of Metro keep an accurate description of the boundaries of Metro ~~which shall be~~ and make it available for public inspection.

## CHAPTER II

### FUNCTIONS AND POWERS

Section 4.     Jurisdiction of Metro.     Metro has jurisdiction over matters of metropolitan concern. 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 the council by ordinance determines 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 Future Vision for the region ~~by May 1, 1994~~ between January 15, 1995 and July 1, 1995. 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, visionary outlook for at least a 50-year period. ~~As used in this section "region" means~~ the Metro area and adjacent areas.



(b) Matters addressed. The matters addressed by the Future Vision ~~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 maintaining a desired quality of life for its residents; and (iii) how to develop new communities and additions to the existing urban areas in well-planned ways.

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

(d) Review and amendment. The Future Vision may be reviewed and amended ~~in the manner~~ as 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~~ no effect which would allow ~~it to be reviewed~~ by a court or agency to review it.

(2) Regional Framework Plan. (a) Adoption. The council shall adopt a regional framework plan by ~~July 1, 1996~~ ~~December 31, 1997~~ with the consultation and advice of the Metro Policy Advisory Committee (MPAC) created under section 28 of this charter. The council may adopt 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 land use planning policies of Metro with those of Clark County, Washington; and (ix) planning responsibilities mandated by state law. The regional framework plan shall also address other growth management and land use planning 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~~ 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 section 5 "local" refers only to the cities and counties within the jurisdiction of Metro in Metro's jurisdiction.

(c) Effect. 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 acknowledgement by the Land Conservation and Development Commission or its successor; and (iv) be the basis for coordination of local comprehensive plans and implementing regulations. ~~of cities and counties within the jurisdiction of Metro, 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 amended by the council.



(e) Implementation. To the maximum extent allowed by law, the council shall adopt ordinances: (i) requiring local 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~~ after 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 shall be required to comply with the regional framework plan within two years of compliance acknowledgement ~~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 city and county within the jurisdiction of Metro to make local land use decisions consistent with the regional framework plan 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~~ compliance acknowledgement of the regional framework plan; and (iv) allowing the council to require changes in local land use standards and procedures if ~~determined by the council~~ determines changes are to be necessary to remedy a pattern or practice of decision-making ~~that is~~ inconsistent with the regional framework plan.



(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:

(1) Acquisition, development, maintenance and operation of:  
(a) a metropolitan zoo; (b) public cultural, trade, convention, exhibition, sports, entertainment, and spectator facilities; (c) facilities for the disposal of solid and liquid wastes ~~of the region~~; and (d) a system of parks, open spaces and recreational facilities of metropolitan concern;

(2) Disposal of solid ~~and liquid wastes of the region~~;

(3) ~~Metropolitan aspects of natural disaster planning and response;~~

(4) Development and marketing of data; and

(5) Any other function required by state law or assigned to the Metropolitan Service District or Metro by the voters.

Section 7. ~~Assumption or Termination of Additional Functions.~~

(1) Assumption ordinance. The council by ordinance shall authorize ~~Before undertaking any additional functions beyond these not authorized under by sections 5 and 6 of this charter, the council shall authorize the function by ordinance. The~~

ordinance shall contain a findings that the function is of metropolitan concern and ~~shall set forth~~ the reasons why it is appropriate for Metro to ~~take on~~ undertake it ~~the function~~.

(2) Assumption of Local Government Services Function. (a) An ordinance authorizing provision or regulation by Metro of a local government service ~~shall~~ is 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~~ MPAC ~~holding that office~~. This approval may occur either ~~through~~ by 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. ~~As used in subsections (2) and (4) of this section "Local government services" are those which are~~ is a service provided to constituents by one or more ~~local governments~~ cities, counties or special service districts 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~~ MPAC for approval ~~will be~~ is deemed approved unless ~~the ordinance is~~ disapproved within 60 days after ~~its~~ submission.

(c) No approval under this subsection ~~shall be~~ is 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 are members of the initial Metro mass transit commission for the remainder of their respective terms of office.

(4) Assumption of Boundary Commission Functions. The council shall undertake and complete a study of the Portland Metropolitan Area Local Government Boundary Commission, with ~~Metro Policy Advisory Committee~~ MPAC advice, by September 1, 1994~~5~~. The council shall implement the results of the study and shall seek any legislative action needed for implementation.

(5) Assumption of Other Functions. The council may assume by ordinance any other function relating to a matter of metropolitan concern, and which function assumption is not specifically regulated by this charter. The council shall seek the advice of the ~~Metro Policy Advisory Committee~~ MPAC before adopting an ordinance authorizing provision or regulation by

Metro of a service which is not a local government service ~~as defined in subsection (2) of this section.~~

Section 8.      Limitations on Authority to Contract. All officers of Metro shall preserve, to the greatest extent possible, the ability of Metro to contract for all services with persons or entities who are not employees of Metro.

Section 9.      Effect of Metro Regulations. Regulations of Metro 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 to 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.

Section 10.      General Grant of Powers to Carry Out Functions; Construction of Specified Powers. When 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~~ this state now or in the future could allow Metro, and 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.

### CHAPTER III

#### FINANCE

Section 11. 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 12. 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 13.     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 14.     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 service districts within the Metro area.

**Section 15.     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 on a cash basis from taxes imposed and received by Metro and interest and other earnings on those taxes. 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 (i) taxes approved by the voters of Metro or the Metropolitan Service District, (ii) payroll taxes specified in section 10 of this charter, and (iii) tax increment financing charges on property, and (iv) taxes imposed by Metro pursuant to an intergovernmental agreement and when the proceeds are paid to another government for its exclusive use.

#### Section 16. Limitations on Amount of User Charges.

~~(1) Except as provided in this section,~~ eCharges for the provision of goods or services may not exceed the costs of providing the goods or services. These costs include, but are not 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.

## CHAPTER IV

### FORM OF GOVERNMENT

#### Section 17. 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~~ ~~be from contiguous districts~~. The presiding officer 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~~ may be a candidate for the office of councilor or executive

officer in the first primary and general elections after adoption of this charter. Any challenge of the qualifications of a commission member shall be made by May 1, 1993.

(d) A vacancy on the commission is filled by action of the authority that appointed the member whose position is vacant.

(e) 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. The affirmative vote of four members of the commission is required to adopt the reapportionment plan. ~~The filed 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.~~

(f) 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 provisions of subsection (3)(c) of this section apply to 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 (3)(c) of this section apply to the appointment of the referee.~~



(g) A reapportionment plan filed under this section becomes effective on the 30th day after filing unless a voter of Metro petitions for judicial review of the plan as provided by law.

(h) Each council district, as nearly as practicable, shall be of equal population, contiguous, and geographically compact. The council may by ordinance prescribe additional criteria for districts that are consistent with the requirements of this subsection.

(i) The council shall appropriate sufficient funds to enable the reapportionment commission and reapportionment ~~office~~ ~~referee~~ to perform their duties under this section.

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

(k) Subsection (3) of this section is repealed January 1, 1994. Upon repeal its provisions shall be stricken from this charter and the other subsections of this section renumbered.

(4) Terms of office. The ~~terms of office of~~ four councilors receiving the highest number of votes among the seven councilors elected in 1994, ~~have terms of office ending~~ January 4, 1999. The ~~terms of office of 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 18. 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 a recommended annual budget of Metro to the council for approval; and (e) keep the council fully advised about the operations 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~~ business 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~~ two-thirds of all 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 19. 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 hold~~ the offices of Metro executive officer or Metro councilor.

(3) Duties. The auditor shall: (a) Make continuous investigations of the operations of Metro including financial and performance auditing and review of financial transactions, personnel, equipment, facilities, and all other aspects of those operations; and (b) make reports to the Metro council and executive officer of the results of any investigation with any recommendations for remedial action. Except as provided in this section, the auditor may not be given responsibility to perform any executive function.

Section 20. Terms of Office. The terms of office of an officer elected at a primary or general election begins the first Monday of the year following election and continues until a successor assumes the office.



## CHAPTER V

### OFFICERS, COMMISSIONS AND EMPLOYEES

#### Section 21. 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 within sixty 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 judge of the election and qualification of its members.

**Section 22.     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. The council may authorize reimbursement of elected and other officers for necessary meals, travel and other expenses incurred in serving Metro.

**Section 23.     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 24. 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 sixty 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 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 elected 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 25. Filling Vacancies.

(1) Generally. A majority of councilors holding office shall fill a vacancy by appointment within ninety days after it occurs. The term of office of the appointee runs from the time he or she qualifies for the office after appointment until 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 councilor's disability to serve, a majority of the other councilors may fill the vacancy by appointment on an interim basis.~~

**Section 26. 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 27. 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.~~

(1) Appointments and confirmation. 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 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. Staff employed by the council serve at the pleasure of the council. The executive officer may remove other appointments by him or her as provided by ordinance.

#### **Section 28.     Metro Policy Advisory Committee.**

(1) Creation and composition. There is hereby created the Metro Policy Advisory Committee (MPAC). The initial members of the MPAC 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, the state, or a city, 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. 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.

(3) Duties. The MPAC shall perform the duties assigned to it by this charter and any other duties the council prescribes.

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

#### Section 29. Metro Office of Citizen Involvement.

(1) Creation. There is created the Metro office of citizen involvement to develop and maintain programs and procedures to 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 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 30. State Law. Except as this charter or a Metro ordinance provides otherwise, a Metro election shall conform to state law applicable to the election.

**Section 31.     Elections of Metro Officers.**

(1) Generally. Except for certain elections to fill a vacancy in office, the first vote for councilor, executive officer, or auditor occurs at an election held at the same time and places in the Metro area as the statewide primary election that year. If 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 no candidate receives a majority vote at the primary election, the candidates receiving the two largest numbers of votes cast for the office are 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 are nonpartisan. Election ballots shall list the names of candidates for Metro offices without political party designations.

**Section 32.     Multiple Candidacies.** No person may be a candidate at a single election for more than one Metro elected office.

**Section 33.     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 17 of this charter.~~ Each council district, as nearly as practicable, shall be of equal population, contiguous, and geographically compact. The council may by ordinance specify additional criteria for districts that are consistent with this section 17.

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

#### Section 34. Recall.

(1) Generally. An elected officer of Metro may be recalled ~~as provided in the manner and with the effect described 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 councilor existing before the reapportionment.

Section 35.     Initiative and Referendum. 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.

Section 36.     Amendment and Revision of Charter. The council may refer, and voters of Metro may initiate, amendments to this charter. A proposed charter amendment 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 37.     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 38.     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.

(3) Vote required. Adoption of an ordinance requires the affirmative votes of ~~a majority of all councilors in a public meeting~~ (a) seven councilors while the council consists of thirteen positions and (b) four councilors when the council consists of seven positions.

Section 39. Endorsement. The person presiding over the council when an ordinance is adopted shall endorse ~~the an~~ ordinance unless the council prescribes a different procedure by general ordinance.

Section 40. Effective Date of Ordinances. An ordinance takes effect ninety days after its adoption unless the ordinance states a different effective date. 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 unless the ordinance specifies~~ a later date is 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 ~~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.~~



Section 41. Content of Ordinances. Each ordinance 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 42. Public Improvements and Special Assessments.  
~~General ordinances 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 governs these procedures to the extent not governed by general ordinance.

## CHAPTER VIII

### MISCELLANEOUS PROVISIONS

Section 43. Transition Provisions. All legislation, orders, rules and regulations of the Metropolitan Service District in force when this charter takes effect remain in force after that time to the extent consistent with this charter and until amended or repealed by the council. All rights, claims, causes of action, duties, contracts, and legal and administrative proceedings of the Metropolitan Service District that exist 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 elected 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 are the assets and liabilities of Metro.

Section 44. Effective Date. This charter takes effect January 1, 1993.

Section 45. Severability; Headings. The terms of this charter are severable. If a part of this charter is held invalid, that invalidity does not affect any other part of this charter unless required by the logical relation between the parts.

Section 46. State Legislation. The council shall seek enactment by the sixty-seventh Legislative Assembly of this state, and thereafter if necessary, of any legislation needed to make all parts of this charter operative.



Proposed amendment  
Section 18(c)(4)

(4) Veto. (a) Except as provided in this subsection the executive officer may veto the following legislative acts of the council within five ~~working~~ business 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~~ council, not later than thirty days after a veto, may override a veto by the affirmative vote of ~~not later than 30 days after the vote~~ (i) nine councilors while the council consists of thirteen positions and (ii) five councilors after the council consists of seven positions as provided by section 17(2) of this charter.

Proposed amendment  
Section 16

**Section 16. Limitations of Amount of User Charges.**

~~(1) Except as provides in this section,~~ Except to the extent receipts in excess of costs are dedicated to reducing charges for the provision of directly related goods or services, charges for the provision of goods or services may not exceed the costs of providing the goods and services. These costs include, but are not 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.

Proposed amendment  
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Proposed amendment  
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VOTE TALLY

MOTION: Charter as adopted reported to elections  
officer in accordance w/legislation

	YES	NO	ABSTAIN
HARDY MYERS	X		
JUDY CARNAHAN	X		
RON CEASE		X	
LARRY DERR	X		
JON EGGE	X		
CHARLIE HALES	X		
MATT HENNESSEE		X	
FRANK JOSSELSO	X		
NED LOOK	X		
TOM BRIAN	X		
WES MYLLENBECK		X	
RAY PHELPS		X	
NORM WYERS		X	
BOB SHOEMAKER	X		
VERN SHAHAN	X		
MIMI URBIGKEIT	X		

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**METRO  
CHARTER  
COMMITTEE**

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

DATE: October 8, 1992  
TO: Metro Charter Committee Members  
FROM: Kimi Iboshi, Committee Assistant  
RE: Approval of minutes

During the final months of the Charter Committee's work, the minutes from previous meetings were not approved or adopted. As a result, the 19 sets of minutes from May 22, 1992 through July 30, 1992 have not been adopted. If you have any corrections to make to those minutes, please notify me of the changes by October 23, 1992 and I will make the corrections. Otherwise, the minutes will be approved and filed as distributed on October 23, 1992. If there are corrections, the corrections will be sent to the Committee members and the minutes will be approved and filed as corrected.