



COMMON GROUND:

The Urban Land Council of Oregon

September 28, 1991

Hardy Myers, Chairman
METRO Charter Committee
2000 S.W. First
Portland, OR 97201

Dear Chairman Myers and members of the Committee:

At the conclusion of our testimony before the Charter Committee, we were asked to provide specific proposals for the Committee to consider. The request is appreciated; I hope this letter will help in the Committee's deliberations.

One of the most significant problems facing METRO is its unwillingness to be perceived as the "heavy" vis a vis local governments. In part this stems from METRO being viewed and, to a certain extent viewing itself, as an overgrown CRAG and therefore the creature of local governments: in part, it comes from a lack of certainty as to what the parameters of METRO's authority are, and an institutional predilection to err on the side of deference to local governments. As is discussed below, the Charter can address this issue by clarifying the intergovernmental relationships, but some structural adjustments would assist in providing the necessary political insulation.

A. Clarify the relationship between Metro and local governments: This is a simple point, but one which has been lacking. It is unclear as to exactly where Metro falls in the governmental pecking order; is it more than a city but less than a county? like a county, but not really? or is it a surrogate for the state, but without the state's authority? It is our view that Metro, in order to perform the job conferred on it by statute, needs to have the authority to compel both cities and counties to take specific actions where needed. Consequently, Metro's charter should make it plain that within its areas of jurisdiction, Metro is, so to speak, the biggest dog.

B. Give Metro specific authority in land use regulations: At the present time, Metro has the authority to "manage" the Urban Growth Boundary, but has been unwilling to exercise the statutory authority which it has been given to do so in ORS 268.380. It is our position that Metro has been empowered already to do more than it has, but one function which the Charter could perform would be to underscore the statutory grant. We offer the following specifics:

1. Formation of a regional planning commission: This body, which would replace Metro's R-PAC, could either be appointed by Metro or by the constituent jurisdictions, but would have authority to adopt both a regional plan and the rules for its implementation. The regional plan would address issues of intergovernmental coordination, provision of service, urban form, the linkage

between transportation and land use, and the like. The rules would make it clear that local government plans needed to be consistent with the regional plan.

2. Give Metro specific periodic review and post-acknowledgement authority over comprehensive plans of the region's governments: Under state law, all local governments must submit their comprehensive plans to LCDC for periodic review, which (in theory) allows the commission to examine the plans for compliance with the Goals, for consistency with other jurisdictions, and for conformity to land use law. Likewise, jurisdictions who amend their comprehensive plans or land use regulations must send those changes in to LCDC for review. The suggested change is merely an amplification of the existing statutory obligation placed upon Metro, but since Metro's management of the UGB necessarily involves issues of coordination and conformity of local government plans with the regional plan, Metro needs to perform periodic and post-acknowledgement review of plans within its UGB. This authority could be shared with LCDC (i.e. Metro review for conformity with regional planning, and LCDC for conformity with state-wide concerns), or performed in toto by Metro with oversight by LCDC, but in either event, Metro would be able to ensure that local planning remained consistent with that of the region.

In this same regard, the Charter Committee should take the opportunity to inquire as to why Metro's existing statutory authority to review local plans has not been used.

3. Metro should be specifically authorized to participate in enforcement order proceedings where appropriate: Enforcement orders are the primary tool available to LCDC to compel local governments to perform their obligations. Metro should be expressly given the ability to petition to LCDC for an enforcement order against any local government which fails to comply with the regional plan or with Metro's proper exercise of its authority.

4. Metro should be given authority to require or, if necessary, to adopt and implement regional plans for the provision of water, sewer, streets, and parks: Local governments and service districts are already required by state law to enter into coordination agreements concerning who will provide what services. Unfortunately, this requirement is rarely complied with and never enforced. Yet, without such agreements, and without a regional plan providing direction, there will be inevitable turf battles and inefficiencies. Metro should be given the authority to compel the execution of these agreements, the right to review them for compliance with the regional plan, and, where necessary, the power to do the planning for the recalcitrant jurisdictions. It might even be desirable to give Metro the right to take over the delivery of services in a given situation upon a proper showing of a need to do so, given the adopted regional plan.

Metro has had for many years, pursuant to ORS 268.390, the authority to adopt functional plans with regard to air quality, water quality, and transportation for the region. We would suggest that the Committee consider adding parks to this list, and that the Charter address the issue of what is meant by a "functional plan" (i.e. is it a master coordination agreement, or is it a part of a regional comprehensive plan?). The Charter should then set specific time frames for the adoption of these functional plans, and the relationship between these plans and those of local governments and service providers.

C. UGB expansion should be based on objective evidence and established policy, not politics: We recognize that the Metro Council will be a political body, and as such will be subjected to the normal political processes. We also recognize that UGB expansions, whether legislative or quasi-judicial in nature, will often be controversial. Nevertheless, the Charter process should ensure that the bases for boundary expansion should be clear, objective, and as mechanical as possible, thereby minimizing the possibility for partisan maneuvering.

Some of these suggestions will require changes in state law in order for them to be implemented. This should not, however, dissuade the committee from adopting them as part of the charter process. It is our belief that, unless Metro is given increased authority and jurisdiction as outlined in this letter, there will be very little hope that Metro's management of the UGB will be anything other than an exercise in good intentions. As stated in our testimony, there is more to management of the boundary than simply adopting rules and holding hearings -- it requires an activist approach to regional planning and the teeth necessary to compel cooperation and compliance. If Metro is given the proper land use planning tools, the Portland region can actually begin to function as an organic whole, which would certainly be in the region's best interests.

Thank you again for the opportunity to provide these comments. If further information would be useful, please do not hesitate to let us know.

Very truly yours,



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