

**AREAS FOR POSSIBLE RECONSIDERATION**

for the  
**JUNE 17 DRAFT CHARTER**

**CHAPTER I**

**NAMES AND BOUNDARIES**

**Section 1. Title of Charter.**

**Section 2. Name of Regional Government.**

- a. Stay as METRO?

**Section 3. Boundaries.**

- a. Metro boundaries as of 11/3/92 versus 1/1/93 charter effective date. (See Cooper document, #1)
- b. Boundary Commission approval required? (See Cooper document, #2 & RGC commentary, p.1a)
- c. Extend/retract boundaries?
- d. Extend boundaries to county lines? (Easton Cross)

**CHAPTER II**

**FUNCTIONS AND POWERS**

**Section 4. Jurisdiction of METRO.**

- a. Add a definition of *matters of metropolitan concern*? (See Cooper document, #3)
- b. Are there reasons to consider *matters of metropolitan concern* other than for *assuming functions*? (See Cooper document, #4)
- c. Does the term *function* need to be more precisely defined? (Cooper document, #14, & Sercombe 7/2 memorandum, p.5, last paragraph)
- d. Should Metro be limited to *jurisdiction over matters of metropolitan concern*?
- e. Don't limit Metro to performing regional functions? (Ed Einowski)

**Section 5. Growth Management Functions.**

- a. Broaden the applicability of growth management functions beyond the regional framework plan? (Cooper document, #5)

**Section 6. Other Assigned Functions.**

- a. Page 1 of the outline (Issues Determined, IV-B) authorizes Metro to exercise functions and services it is now performing. Should that be reflected in the opening sentence of Section 6?
- b. Provide a general grant of authority? Eliminate list?
- c. (2) doesn't allow for solid waste planning. (Cooper, #6)
- d. Remain at *acquire, develop, maintain and operate a system of parks, open spaces and recreational facilities of metropolitan concern*, as approved 7/2?
- e. (5) doesn't allow for intergovernmental agreement functions of the Data Resource Center. (Cooper, #8)
- f. Add Builder's Business License Program and study of potential functions? (Cooper, #9)

**Section 7. Regional Planning Functions.**

(1) The Future Vision.

- a. Remove because it is redundant to Region 2040?
- b. Replace with general grant of authority? (1000 Friends)
- c. Reduce detail? (RGC, p.2a)
- d. Allow more time for the FV commission to interpret data? (Jim Gardner)
- e. Expand beyond 50 years?
- f. Remove list of matters addressed in FV? (1000 Friends)
- g. Add *greenspaces* to items addressed? (Audubon Society)
- h. Define *greenspaces*? (Cooper, #10, p.4(2))
- i. Remove member from outside jurisdiction? (Tom Tucker)

(2) Regional Framework Plan.

- a. Be sure the RFP isn't interpreted as a comprehensive plan? (Jeff Condit, Lake Oswego)
- b. Add language that specifically states it is not a comprehensive plan? (RGC commentary, p.3a)
- c. Make the RFP consistent with RUGGO's? (Audubon Society)
- d. Remove *benchmarks for performance*? (Cooper, #10,3)
- e. Resolve confusion over whether the RFP a land use plan or not? (#10, Cooper, p.3, second full paragraph)
- f. Abandon the list of topics addressed in the RFP? (1000 Friends, p.3, Public Hearings Proposals)

Subjects required in the regional framework plan, p.3, a-d

- a. In (c) broaden the scope of *protection of lands outside the UGB*? (Cooper, #10,2)
- b. On page 4, clarify (c), *protection of land outside the UGB*? (RGC, p.3a)
- c. Should *federal and state mandated planning functions* (d) be limited to the coordination of those functions? (Cooper, #10,4)
- d. Include functional plans for air and water quality? (Cooper, #10,1)
- e. Add *greenspaces* to list of priority matters to be addressed in RFP? (Audubon Society, Future Focus & Mike Houck)
- f. Resolve conflict over statutory requirement to identify aspects of metropolitan area development? (#10, Cooper, p. 4, top of page)

Subjects requiring MPAC advice, p.3, a-g

- a. Resolve statutory conflicts there might be with *siting of significant land use developments* (d)? (#10, Cooper, p. 5, first full paragraph)
- b. Resolve confusion in *siting and operation* (f) of regional facilities which mixes general and land use powers? (#10, Cooper, p.4 (3))
- c. Clarify *regional disasters* (g) so that it is not a state function of Emergency Management and Services? (Cooper, p.4)
- d. Would MPAC approval be required for performing LCDC's Transportation Planning Rule? (1000 Friends)
- e. Abandon list of aspects requiring consultation and advice of MPAC? (1000 Friends & RGC, p.3a)

Planning roles, p.3, paragraph 3

- a. Narrow requirement to *describe respective planning roles of regional and local governments*? (#10, Cooper, p.5, 3rd paragraph)

State standards, model standards & compliance, p.3, last paragraph

- a. Take away requirement for the RFP to be consistent with state standards? (#10, Cooper, p.5, 3rd paragraph)
- b. Delete RFP *model standards and procedures for local land use decision-making*? (RGC, p.3a)
- c. Specify date that model standards must be adopted? (#10, Cooper, p.5, 4th graph)
- d. Request the state to review the RFP for compliance with statewide goals? (RGC, p.3a)
- e. Resolve problem of having the RFP reviewed by a *state reviewing agency* even though the *regional framework plan* is not a concept of state law? (#10, Cooper, p.5, 5th paragraph)

Adoption of RFP ordinances, p.4, a-e

- a. Clarify which RFP components must be adopted by the May 1, 1994 deadline? (#10, Cooper, p.5, 4th paragraph)
- b. Provide a requirement that for any given planning topic Metro must provide goals, objectives, policies, functional plans and benchmarks? (RGC, p.4a, 1st graph)
- c. It requires local government comprehensive plans to be consistent with the RFP within three years of its adoption or by the next state general review (a), *whichever is longer*. At the current pace that would be 10 years before some jurisdictions get around to complying. Change language so that it says *whichever is shorter*? (1000 Friends)
- d. Add a provision in (a) that local plans do not have to be made consistent until the state has found the RFP to be consistent with statewide planning goals? (RGC, p. 4a, 1st graph)
- e. Eliminate the council's requirement to *adjudicate* (b) the consistency of local plans? (#10, Cooper, p.5, last paragraph)
- f. Delete requirement for local governments to make land use decisions consistent with the RFP before their respective comprehensive plans have been found to be consistent (c)? (#10, Cooper, p.5, 6th paragraph)
- g. In (c) allow local governments two years to change their plans before adopting consistency findings for individual land use decisions. (RGC, p.4a, 2nd graph)
- h. Remove empowerment of Metro to review *local land use decisions for consistency with the regional framework plan* (d) because it would be an unnecessary layer of additional land use approvals and turn Metro into a land use hearings body? (Sunset Corridor Assn.)
- i. Amend (d) so that Metro may appeal local actions if they are inconsistent with regional planning documents? (RGC, p.4a, 3rd graph)
- j. In (e) specifically address and possibly remove Metro's authority to coordinate special district planning? (RGC, p.4a, 4th graph)

**Section 8. Assumption or Termination of Additional Functions.**

- a. Remove language that would delegate authority to MPAC?
- b. Expand first sentence so that it reads: *Except for the matters listed in section 7, no other matter may be included in the regional framework plan without the consultation and advice of the METRO Policy Advisory Committee.* Then delete the rest of the section. (motion at 7/2 meeting, withdrawn)
- c. In adding planning functions eliminate requirement for MPAC approval, but instead provide for advice and consultation of the MPAC with a two-thirds majority approval of the council. (RGC, p.4a, 5th & 6th graphs)
- d. Eliminate the confusing interchangeable use of the terms *matter, function, and matters of metropolitan concern*? (#12, Cooper, p.6)

- e. Clarify whether MPAC has approval or consultative authority over individual functional plans?
- f. If new matters are not related to land use plan how can the be reviewed for consistency with statewide land use goals? (#12, Cooper, p.6)

**Section 9. Assumption or Termination of Additional Functions.**

**(1) Adoption of Assumption Ordinance.**

- a. Look at conflict that could be created by requiring *findings* before taking on a new function. Presumably this could include the creation of functional plans, which by statute only require Metro to *identify* those area. (#13, Cooper, 1st graph)
- b. Remove findings requirement when a new function is authorized by statute but not currently being carried out by Metro? (#13, Cooper, 2nd graph)
- c. Establish criteria for determining matters of metropolitan concern? (RGC, p.4a, last graph)

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

- a. Remove language delegating authority to MPAC?
- b. Remove barriers that could require MPAC approval even on Metro taking on minor functions, such as sharing of equipment with a local government? (#15, Cooper)
- c. Expressly limit local services contracting ability so that it is clear that contractual provision of local government services must be approved by MPAC or the voters? The first sentence would then read: *An ordinance assuming functions relating to the contractual or other provision of local governmental services shall not be effective unless the assumption of the function is approved contemporaneously by the voters of METRO or a majority of the members of the METRO Policy Advisory Committee.* Sercombe
- d. Expressly allow local services contracting ability so that MPAC is excluded from approval requirement? Add a sentence: *No approval under this subsection shall be required for the compensated provision of services by METRO to or on behalf of a local government under an agreement with that government.* Sercombe

**(3) Assumption of Functions and Operations of Mass Transit District.**

- a. Maintain the Metro/Tri-Met 'marriage' clause as it is stated in ORS 268.370?
- a. Clarify the size, powers and roles of the intervening Tri-bet board? (#16, Cooper)
- c. Provide that a take-over occur only through MPAC or voter approval? (RGC, p.5a, 1st graph)
- d. Provide that the take-over cannot occur with an emergency clause? (outline, Issues Determined, VI-B-3)
- e. If Tri-Met is taken over, require a separately elected board? (Joe Ross, candidate for Metro)
- f. Discontinue Metro's ability to take over Tri-Met?

- (4) Assumption of Boundary Commission Functions.
  - a. Delete provision of charter approval constituting approval to take over the Boundary Commission since it could put into question the subsequent authority of the Boundary Commission? (#17, Cooper & RGC, p.5a, 2nd graph)
- (5) Assumption of Other Functions.
  - a. Resolve further conflicts between *functions, matters* and *matters of metropolitan concern*? (#18, Cooper)

**Section 10. General Grant of Powers to Carry Out Functions; Construction of Specified Powers.**

- a. Give Metro a broad grant of authority?
- b. Provide limitations that better align with function limitations in Sections 5,6,7,8 and 9? (#19, Cooper)
- c. Delete *now or in the future*? (RGC, p.6a, 1st graph)

**Section 11. Limitations on Taxing Powers.**

- (1) Referral of certain taxation ordinances.
  - a. Remove provision for ordinances that provide an *exception from taxes*? (#20, Cooper, p.10, paragraph 1)
  - b. Remove requirement for voter approval of *gross receipts* taxes, which could affect Metro's ability to adopt niche taxes by ordinance? (#20, Cooper, p.10, paragraph 2)
  - c. Include *user fees* as exempt from being referred to as taxes. (#20, Cooper, p.10. graph 3.
- (2) Prior Consultation for Tax Imposition.
  - a. Local government representatives of the *tax study committee* should be appointed by MPAC? (RGC, p.6a, 2nd graph)
- (3) Limitations on Certain Tax Revenues.
  - a. Taxes enacted by ordinance should be dedicated to government planning and general operations? (RGC, p.6a, 3rd graph)
  - b. Restrict the use of general fund revenues with the language:  
*Revenues under the limitation imposed by Section 11, shall be used exclusively to carry out the legislative powers, functions and duties of the council and for governmental administrative operations.* (Portland Chamber)
  - c. New taxes for service delivery should require voter approval? (RGC, p.6a, 3rd graph)
  - d. Limit the use of service fees and charges with the language:
    - (a) *The service funds and accounts of each service shall be separate from other accounts and funds of the district and treated as separate from other accounts and funds of the district and treated as separate district operations.*
    - (b) *Service account funds may not be transferred to a general fund account nor to any other special fund which is unrelated to the service. However, transfers between funds within a service account may be made.*  
(Portland Chamber)

- e. Establish a process for setting fees and dedicating those revenues? (Sunset Corridor Assn.)
- f. Add a provision to limit Metro's use of a lodging tax and dedicating its use to tourism:
  1. Metro is authorized to impose by ordinance a tax on gross rent received for lodging by the owner or operator of any hotel, motel, apartment or any other place utilized for lodging occupancy for any period less than monthly. This tax shall not apply to hospitals, convalescent or nursing homes, or public institutions, or places of permanent occupancy as defined by ordinance. The tax shall be based upon rent charged by the operator. The rate of the tax shall not exceed the rate in effect in any jurisdiction within the district on the effective date of the charter.
  2. Any person subject to payment or collection of a tax under this section shall be entitled to a credit against the payment of the tax in the amount due any incorporated city or county within Metro for a lodging tax for the same occupancy made taxable by an act of Metro.
  3. Metro revenues from such taxes shall be credited to a fund which is separate and distinct from the general fund of Metro. Expenditures of lodging tax revenues from the fund shall be dedicated exclusively to the promotion, solicitation, procurement and service of convention business and tourism.

Tri-County Lodging Assn.

- g. Revenues from enterprise funds should be dedicated to those enterprises? (RGC, p.6a, 4th graph)
- h. Add a provision that Metro may not set up an urban renewal district without the consent of the jurisdiction where it will be located? (RGC, p.6a, 6th graph)
- i. Add language that describes what Metro's power to impose franchise fees would be? (RGC, p.7a, 1st paragraph)
- j. Prohibit Metro from imposing an excise tax on transit operations if Tri-Met is taken over? (RGC, p.6a, last graph)
- k. Require that the enactment of all taxes receive approval from voters?

**Section 12. Limitations on Authority to Contract.**

- a. Delete section because it could be interpreted as an unfair labor practice? (#21, Cooper)

**Section 13. Regulatory Powers.**

- a. Align with other charter provisions that limit Metro's powers? (#22, Cooper)
- b. Remove provision that allows METRO regulations addressed to *social, economic or regulatory objectives* to prevail over local government regulations? (Sunset Corridor Assn.)

## CHAPTER III

### FORM OF GOVERNMENT

- a. Return to the current separation of powers form of government?
- b. Create a council/manager form of government?

#### Section 14. Council.

- a. Reduce the council size to 7 or 9 members? (RGC, p.7a, 2nd graph)
- b. Reduce council size to 5 members?
- c. Make council full time?
- d. In the second paragraph, for reapportionment, should there be a provision to allow the president to respecify the district boundaries if the council stalemates? (6/4 subcommittee, p.2)

#### Section 15. Councilors.

- a. Add language that enables councilors to be elected in primary elections, provide they receive a majority of the vote? (RGC, p.8a)

#### Section 16. METRO President.

#### Section 17. Terms of Office.

#### Section 18. Appointive Offices and Commissions.

- a. Allow the council to make appointments rather than just confirmation? (6/4 subcommittee, p.5)
- b. Make it clear that the president has the authority to remove the manager without council approval? (#23, Cooper, p.12, paragraph 1)
- c. Under the description in this section, in appointing offices, does the president have the power to appoint general counsel and department heads? (6/4 subcommittee, p.6)
- d. Should there be a provision as to what happens when the council fails to confirm an appointment? (6/4 subcommittee, p.6)
- e. Should there be a provision for removing officers or commission members other than by the president, subject to council approval? (6/4 subcommittee, p.9)
- f. Provide wording to guarantee the continuation of the Metro Committee on Citizen Involvement? Wording from the Multnomah County charter:
  - (1) The office of Citizen Involvement is hereby established. The Office of Citizen Involvement shall develop and maintain citizen involvement programs and procedures designed for the purpose of facilitating direct communication between the citizens and the board of county commissioners.
  - (2) A citizens' committee and the structure of the citizen involvement process shall be established by ordinance.



(3) The board of county commissioners shall appropriate sufficient funds for the operation of the office and the committee.

(4) The citizen's committee shall have authority to hire and fire its staff.

Metro Committee on Citizen Involvement

## CHAPTER IV

### COUNCIL

**Section 19. Distribution of Powers.**

**Section 20. Meetings of the Council.**

- a. Include a provision for calling special meetings, such as by the president or five councilors? (6/4 subcommittee, p.12)

**Section 21. Quorum.**

**Section 22. Increase in Membership.**

**Section 23. METRO President.**

- a. Place all executive and administrative authority with the president? (Multnomah County Commissioners)
- b. Do not have the president sitting on the council?
- c. Don't have the president acting as presiding officer?
- d. Remove the president's sole authority to set the agenda at council meetings? (RGC, p.9a)
- e. Provide that the full council may adopt rules governing its business, including the setting of the agenda? (RGC, p.9a)
- f. Delete the provision allowing the president to propose a budget? (RGC, p.9a)
- g. Allow the president to appoint department heads?

**Section 24. Council Vice-Chair.**

**Section 25. Qualifications.**

- a. In (3) would being a precinct committee person qualify as an elective office of a county and not be allowed? Would school board members be in conflict?

**Section 26. Vacancies in Office.**

- a. In (8) for conviction of a felony, remove the words *pertaining to his or her office*. (Henry Kane)

**Section 27. Filling Vacancies.**

- Section 28. Limitations of Terms of Office.**  
a. Take away term limitation. (Tanya Collier)

## CHAPTER V

### OFFICERS, COMMISSIONS AND EMPLOYEES

- Section 29. METRO Manager.**  
a. In (1) involve the council in the manager firing decision? (RGC, p.11a)  
b. In (2)b, remove the words *directions of the council* because it implies that the council has a direct supervisory role over the manager? (#23, Cooper, 2nd paragraph)  
c. In (5) delete the non-interference provision. (Jim Gardner)

- Section 30. METRO Policy Advisory Committee.**  
a. Eliminate the MPAC provisions because they may be subject to a one man-one vote principle in the courts? (#24, Cooper, p.13)  
b. In k., define *special service district* because the term is not used in Oregon law? Would this include county service districts which are governed by county commissioners? (#24, Cooper, 2nd paragraph)  
c. In k., more clearly define *special service district* so that it doesn't include school districts? (Susan McLain)

- Section 31. Compensation.**  
a. Allow for full-time, paid council?

- Section 32. Oath.**

## CHAPTER VI

### ELECTIONS

- Section 33. State Law.**  
**Section 34. Nominations.**  
**Section 35. Election of METRO Officers.**  
**Section 36. Recall.**  
**Section 37. Initiative and Referendum.**  
**Section 38. Amendment and Revision of Charter.**

**CHAPTER VII**  
**ORDINANCES**

**Section 39. Ordaining Clause.**

**Section 40. Adoption by Council.**

- a. Should there be any changes to the ordinance adoption procedure?
- b. In order to be enacted an ordinance must receive the affirmative votes of a majority of the council. Should that apply as well to all questions before the council? (6/4 subcommittee, p.7)

**Section 41. Endorsement.**

**Section 42. Effective Date of Ordinances.**

- a. Eliminate 2/3 vote requirement for an emergency clause and return to council majority as provided in state law? (#25, Cooper)

**Section 43. Content of Ordinances.**

**Section 44. Procedures by General Ordinance.**

**CHAPTER VIII**

**MISCELLANEOUS PROVISIONS**

**Section 45. Transition Provisions.**

- a. Clarify wording referring to section 7 that could be interpreted to require that Metro's existing provision of governmental service would be subject to the constraints of the regional framework plan. (#26, Cooper)

**Section 46. Time of Effect.**

- a. Change effective date to allow for statutory change? (Henry Kane)
- b. Condition the implementation of the charter on passage of conforming state legislation? (RGC, p.17a)

**Section 47. Severability; Headings.**

**Section 48. State Legislation.**

- a. Eliminate ties between ORS Chapter 268 and Metro. (RGC, p.17a)
- b. Add a passage that states that the charter passage is a mandate of the region's voters and that the legislature should pass conforming legislation. (RGC, p.17a)

## OTHER PROVISIONS

### Section AA. Auditor.

- a. Auditor? Elected? Certified public accountant or internal auditor? Term limitation?  
Guaranteed salary? Wording follows based on Washington County charter:

(a) There shall be an elected, non-partisan county auditor. At the time of election the auditor shall hold the designation of certified public accountant or be a certified internal auditor. The term of office shall be four years and be concurrent with the president. Compensation for the auditor shall be eighty percent of the salary of a district court judge.

b) The auditor shall be responsible to the people. The auditor shall:

(1) Make continuous inspections of the business affairs of metro including any and all financial transactions, personnel, equipment and facilities utilization and matters relating thereto.

(2) Make reports to the council disclosing details of any investigation including recommendations for any remedial action.