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June 15, 1976

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TO: Committee III, Land Use, Recreational and Cultural Activities.

FROM: Bromleigh S. Lamb

SUBJECT: LCDC Appeals

Committee member Barbara Jaeger has provided us with the enclosed article from 1,000 Friends of Oregon Newsletter, which we thought might be of interest to you.

BSL/dmm

Encl.

1,000 Friends of

OREGON

NEWSLETTER

A monthly forum on land use in Oregon

Vol. 1, No. 8  
May, 1976

## LCDC Reduces Emphasis on Agricultural Goal in Review of Lane County Plan

Robert E. Stacey, Jr.

The Department of Land Conservation and Development's program of plan review coupled with grants and time extensions, explained in last month's *Newsletter*, is efficiently processing the large work load involved. However, as an increasing number of cities and counties receive generous extensions of time to meet basic goal requirements, it appears that neither the department staff nor the Commission has a clear sense of direction for the extension process.

The problem lies in the nature of the process itself. The planning extension power of LCDC derives from a section of Senate Bill 100 which requires LCDC to step in and directly plan and zone any city or county which misses the January 1, 1976, deadline for compliance with LCDC goals. This tough provision was fashioned after a similar one in Senate Bill 10 (1969 Session) which gave the governor such direct authority. Like the earlier law, Senate Bill 100 also included a safety valve: even if the local government missed the deadline, LCDC would not be forced to take over if the city or county (1) had a complying plan or zoning ordinance under consideration and (2) showed "satisfactory progress toward the adoption" of the plan or ordinance.

This was a narrow exception. The legislature was showing its resolve that state-wide comprehensive planning, required since 1969, be implemented without further delay. January 1, 1976—nearly three years away when SB 100 was adopted in the spring of 1973—seemed a reasonable deadline. The legislative scheme was simple: LCDC will adopt goals at the end of 1974; local governments will have all of 1975 to enact and amend plans and ordinances; by 1976 the job should be done, or else.

### 1976 Deadline Ignored

Practice did not follow theory, however. For one thing, most of the goals adopted by LCDC required counties and cities to apply certain processes—such as citizen involvement, detailed inventoring, documentation of decisions, and plan adoption procedures—rather than enact particular standards. In other words, the goals described how to go about decisionmaking. Most of them did not set down the decisions. They obviously took time to implement. But just as importantly, the few goals which did require specific action—particularly Goal 3, requiring exclusive farm zoning for agricultural lands, and Goal 14, requiring an urban growth boundary around each city—were ignored throughout 1975 by most cities and counties. The prevalent attitude was that "the goals aren't law yet"; therefore subdivision of agricultural land and sprawl at the edge of cities could continue.

LCDC's choice of goals with a strong emphasis on planning processes cannot be faulted. These goals will help to build strong planning programs in areas which lack experience and expertise in planning. Extensions of time to allow these processes to work are obviously justified.

Unfortunately, areas which have a long history of planning and large, talented staffs are receiving extensions as well. When those extensions do not require immediate action to comply with farmland and urbanization goals, they are unjustified. In these larger jurisdictions, compliance with Goal 3 and Goal 14 requires only that the county amend existing plans and ordinances and observe the new rules, such as EFU zoning. They already have well-established, well-understood planning processes.

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"... Lane County was granted—in advance, and without the detailed justification required by Goal 2—an exception from the Agricultural Lands Goal."

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Lane County is an instructive example. In April it received a three-year planning extension from LCDC on very favorable terms. First, Lane County was granted—in advance, and without the detailed justification required by Goal 2—an exception from the Agricultural Lands Goal. Lane, unlike other counties, will not zone EFU those areas which it judges to be "precommitted" to non-farm uses. It will still be required to show its rationale for each such decision, but LCDC has given the green light to possible undermining of Goal 3.

Second, and more importantly, Lane will not be required to finish zoning unzoned farm areas EFU until mid-1978, and will not be required to begin rezoning farm areas which now have more permissive zoning until that time. What that means is that residential building permits will continue to be issued by the county in unzoned farmland like the Coburg bottom, just 15 minutes from downtown Eugene, for up to two more years. Lane County's unzoned area ordinance does not require a permit for less than five single family residences on one parcel. The county does not require a showing of plan compliance to obtain a building permit. Lane County's extension means that the area-wide zoning in the Coast Fork subarea adopted in February—which did not zone any farmland EFU, but zoned it Farm-Forestry and Agriculture, Grazing Timber—may stand, valid, until July, 1979. Farm-Forestry permits single-family residences as of right with no showing of farm-relatedness. AGT zoning permits a number of non-farm uses including stadiums.

*Continued on page 2*

## Citizens Prepare Lake Oswego Resource Inventories

Lake Oswego has completed a comprehensive inventory of its natural resources and land uses. The inventory is remarkable for two reasons: its quality and breadth of research, and the fact that it was prepared largely by citizen volunteers who worked more than 4,000 man-hours in cooperation with the city's planning staff.

The Resources Inventory compiled information on existing land use, historic sites, geology, soils, hazardous areas, hydrology, vegetation, wildlife, air, water and noise quality, and distinctive areas. With the exception of a detailed soils survey conducted by the U.S.D.A. Soil Conservation Service and hazards evaluation by an engineering geologist, the research, field surveys and report preparation were accomplished by 167 local residents.

The Resources Inventory information will be used to identify lands best suited for development of structures, parks, open space areas, cultural sites and community facilities; to establish resource conservation methods; and to meet many other community objectives. The Resources Inventory also allows the city to meet LCDC's goals on citizen involvement in data gathering and resources conservation.

It is expected that with this inventory in hand, planning commission, city council, staff planners, environmentalists, land developers, realtors, and conservationists will be able to make better informed decisions, to plan for growth and development which is compatible with physical resources.

The project began in February, 1976, when Community Development Director Mike O'Brien requested volunteer assistance on the Inventory. The work was divided into three processes: field surveys and mapping; task force research and writing; and coordination, review and final report production.

Field survey teams walked and described details of quarter-section (1/2 mile x 1/2 mile) areas in terms of geologic features, water features, vegetation, wildlife, existing land use and distinctive sites. Sixty-one maps with accompanying field notes and photographs were prepared as a basic physical description of the planning area.

Eight special area task forces on geology, water resources, vegetation, wildlife, existing land use, history, air quality and noise undertook in-depth research and preparation of written reports, maps, findings and recommendations.

A steering committee composed of task force chairmen, a production force and project director reviewed, checked, compiled, edited and prepared maps for the completed Inventory Report.

The results are a series of maps (1" = 200' field survey quarter-sections, 1" = 400' area-wide maps and 1" = 800' transparent overlays) describing the seventeen square-mile planning area, a detailed written report including reduced facsimile maps, and a vastly better understanding by staff and residents of the workings and interrelationships of natural physical systems and existing developments.

Many long-sought answers are now available, such as:

- How many acres in the planning area are yet undeveloped? Which are wooded, on stream banks, wetlands, steep slopes, agricultural soils, wildlife habitat?
- What are the boundaries of hazard areas? flood plains? landslides? high ground water? erodible soils?
- What sites are prized by community members?

Jeanne Robinette

This project was the joint venture of the Lake Oswego Planning Department and citizens. Long hours were spent together, collecting and evaluating the data finally presented. Many old stereotypes about "staff" and "citizen" fell into disuse as the city and the citizens took these initial steps of long range planning together. The resulting lessons in both the frustration and value of group effort and the importance of comprehensive planning are expected to make rational planning possible. In fact, Lake Oswego is now in a subsequent phase of its comprehensive planning process, as 135 citizens, supportive of the planning process, are developing policy recommendations prior to the drafting of the comprehensive plan.

Jeanne Robinette was Project Director of the Resource Inventory.

## Arguments Heard in Green

On April 29, the Oregon Supreme Court heard oral argument in *Green v. Hayward* on review from a decision of the Court of Appeals. 1000 Friends has filed an *amicus curiae* (friend of the court) brief in the case, which involves an application of the rule announced in *Baker v. City of Milwaukie*: a zoning ordinance which allows a more intensive land use than that permitted by the plan must fail.

Petitioners, local residents, challenged Lane County's decision to rezone land zoned agricultural in order to permit the expansion of an existing non-conforming industrial plant. Lane County and the developer argued unsuccessfully to the Court of Appeals, which struck down the zone change, that the plan was merely advisory for the area in question and was intended to govern only an area closer to the cities of Eugene and Springfield.

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## LCDC Plan Review *Continued from page 1*

The exception for "precommitted" areas poses problems as well. The Lane Planning Commission has forwarded to the county commissioners a proposal to designate 1,800 acres of open farmland as Industrial in the comprehensive plan because it is presently zoned for industry. Ten years of M-3 zoning have caused no significant changes in ownership or use of the land. Is this "precommitted" to non-farm use? Or take the planning commission's decision of May 11 to rezone 70 acres of predominantly Class II and III soils from FF-20 to AGT-5 so that the owners could subdivide and sell as acreage homesites. The justification is that the area is "precommitted" to rural residential.

LCDC's decision to give Lane County three more years to comply with the goals belies Chairman L.B. Day's public promise in January, 1976 that the Commission would emphasize rapid compliance with Goals 3 and 14. The Commission's failure to stand firm shifts the burden to citizens to try to enforce the goals through petitions to LCDC to review specific decisions. LCDC's willingness to compromise in advance must make citizens wonder how effective such petitions will be.

Local governments should be given all the time they need to do a good job of complying with the procedural goals, such as Goal 5, which requires natural resource inventories but no specific result once inventories are done. But there is no reason why local governments should not be required to zone farmland EFU immediately, and to designate interim urban growth boundaries around major cities before the end of 1976. To demand less is to violate Senate Bill 100. It is not "satisfactory progress" to plant farmland with septic tanks until 1980.

# Local Government Boundary Commissions Act to Guide Growth

Donald E. Carlson and Carolyn Gassaway

The 1969 Legislature created Local Government Boundary Commissions to guide the growth of cities and special districts in order to prevent illogical extensions of urban services and to reduce the proliferation of special districts.

There are three commissions: one for Clackamas, Columbia, Multnomah and Washington Counties; one for Marion and Polk Counties and one for Lane County. Commission members are appointed by the governor and serve without compensation.

## Responsibilities of Boundary Commissions

Boundary commissions have authority over the creation, consolidation and dissolution of cities and certain special districts as well as over annexations to and withdrawals of areas from cities and special districts in their respective areas. The districts under commission jurisdiction include those for water supply, sewers, rural fire protection, parks and recreation, street lighting, and vector control as well as sanitary authorities, county service districts, and metropolitan service districts. The commissions do not have jurisdiction over school or port districts.

The commissions also must approve any creation of a privately-owned community water system or sewerage system and any extension of water and sewer lines beyond the boundaries of a city or special district or the service territory of a community water system.

The authority of the boundary commissions make them able to help implement a city's or region's urban growth boundaries.

Boundary commissions are not authorized to do comprehensive land use plans, but their decisions often impact land use plans. Often a property owner or developer desires to annex land to a city or a water or sanitary district in order to get services for potential development. The decision to annex the property then determines whether the property can be developed at all or whether it can develop at a greater density than it would without the needed services.

When the Portland Metropolitan Area Boundary Commission studies a proposal, the commission consults appropriate city, special district and county plans as well as the draft plan of the Columbia Region Association of Governments (CRAG), and examines the quantity, quality and availability of the urban services involved. For example, the commission takes into consideration whether the proposed development can be served by municipal water and sewer lines and whether the city to which it is being annexed has an adequate water supply which, for example, meets the state Health Division's requirements.

## Decisions Apply LCDC Goals

Because it is a state agency, the boundary commission must also act in accordance with ORS 197.180, a provision of Senate Bill 100, which says, "State agencies shall carry out their planning duties, powers and responsibilities and take actions that are authorized by law with respect to programs affecting land use in accordance with state-wide planning goals and guidelines...."

More and more the LCDC goals have been factors in the Portland Commission's decision making, particularly the following goals: Goal 10, "to preserve and maintain agricultural land"; Goal 11, "to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development"; and Goal 14, "to provide for an orderly and efficient transition from rural to urban land use."

Two factors make boundary decision-making more difficult: 1) the many uncoordinated local plans and 2) the lack of compliance of local adopted plans with LCDC goals and guidelines. When a local plan appears to violate LCDC goals, the Portland Commission tries to apply the goals in its decision. These difficulties should disappear as the LCDC acknowledges local plan compliance with state-wide goals.

Carolyn Gassaway is editor of the *Newsletter* and vice-chairman of the Portland Metropolitan Area Local Government Boundary Commission; Donald E. Carlson is Executive Director of the Portland Boundary Commission.

## CRAG Drafts Regional Plan, Goals and Objectives

The Board of Directors of the Columbia Region Association of Governments (CRAG) is in the process of marking up the third draft of its regional planning goals and objectives, land use framework plan, and rules for adoption and implementation of the two regional plan elements.

Following completion of the mark-up, copies of the draft will be made available to the public for a period of time prior to final Board action on the documents. According to Dick Paulson, CRAG's Citizen Communications Specialist, the Board is not planning additional public hearings on the latest draft.

The draft land use framework plan, which will be marked up by the Board following completion of work on the Goals and Objectives, divides land in the region into three broad classifications—urban, rural, or natural resource. Urban areas include existing urban areas and future urbanizable lands anticipated as necessary for growth up to the year 2000. Rural lands, designed for sparse settlement with fewer typical urban services provided, and natural resource areas, primarily designed for agriculture, forestry and other resource-related uses, would have much lower housing densities based on a minimum lot-size approach.

Designation of urban, rural and natural resource areas has been the product of months of discussion between CRAG's Land Use Framework Task Force and local officials and citizens. Six major study areas remain in the current draft. These study areas include the South Shore area along the Columbia River, the Rock Creek area in Clackamas County, and a large area east of Hillsboro in Washington County.

The framework plan will be binding upon CRAG member jurisdictions following its adoption, with local governments having six months to bring their plans into conformance with the regional plan. The goals and objectives will be binding only upon CRAG as it prepares the next regional plan elements (housing, transportation, parks and open space, economic development, etc.). Local jurisdictions will comply with the goals and objectives through compliance with the plan elements as they are adopted by the CRAG Board.

Members of the public are invited to attend the June 17 session and additional mark-up sessions as they are set by the Board. Further information on the goals and objectives and framework plan may be obtained through CRAG's Information Center in the CRAG offices, 527 S.W. Hall Street in Portland.

# Hearings Officer Makes Recommendations on Appeals to LCDC

The hearings officer for the Land Conservation and Development Commission (LCDC) filed "Opinions and Recommendations" with LCDC on five major appeals in April. The Opinions, together with "exceptions," or replies by the parties and LCDC staff, and briefs by the parties, have been presented to LCDC for final decision.

## Petitioners Have "Standing"

All five appeals (*Coos Bay Estuary Plan*, *Forest Park Estates rezoning*, *Clackamas Town Center plan amendment*, *East Marion County rezoning* and *Yamhill County Plan amendment*) were filed by citizens and citizen groups. Senate Bill 100 (ORS 197.300[1][d]) requires that individuals and groups demonstrate that they have interests which are "substantially affected" by the challenged plan or zoning ordinance in order to have the right ("standing") to bring an appeal.

The hearings officer read the statute broadly and found that all petitioners in all five appeals had standing to file petitions for review. The hearings officer found (1) that adoption of a plan element or amendment substantially affected every resident of a city or county (*Coos Bay*, *Clackamas Town Center*, *Yamhill County*); (2) that the zoning or rezoning of a large area substantially affected every resident of the area zoned (*East Marion County*), and (3) that an organization whose members are substantially affected can represent those members in an LCDC appeal (*East Marion County*).

The Opinions acknowledge the broad range of interests sought to be protected by SB 100. If LCDC adopts the hearings officer's findings on standing, the appeals process will be open to many citizens who would be precluded from judicial review under traditional standing rules.

## No Appeal of Plans While Review Pending

The hearings officer recommended that the appeal of the *Coos Bay Estuary Plan* be dismissed because it was only a part or one element of the county-wide comprehensive plan. He recommended that LCDC treat plan elements as "interim plans" and protect them from review petitions until they are integrated into completed city or county comprehensive plans.

The hearings officer also recommended that the Commission not review appeals of comprehensive plans while LCDC staff is reviewing city and county planning efforts for compliance with state-wide goals. He reasoned that staff review might "moot" (resolve) the issues raised in a plan appeal.

The practical effect of the hearings officer's recommendations, if adopted by LCDC, would be to eliminate petitions to review comprehensive plans and plan elements. The 60-day time limit (set by statute from the date of the local decision) for appeals will expire before most plan elements are integrated into full comprehensive plans. Citizens could still petition LCDC to review plan elements once a full plan is adopted. But LCDC would entertain these petitions only after LCDC determines that the plan complies with the state-wide goals. Obviously, no citizen, city, county, state agency, or district will file such a petition during this staff review period which they know will be meaningless since 60 days will expire before staff review is complete.

An unimpaired appeals process is essential to a successful state-wide land use planning program. LCDC review of an appeal focuses on specific allegations of goal violations. Appeals are conducted in a formal manner according to procedures which protect the rights of participants. The process is open to persons whose interests are affected.

Staff review, on the other hand, is necessarily cursory and general because of the large number of plans to be reviewed. It is directed toward determining whether a city or county is progressing toward goal compliance. It is largely closed to citizens.

LCDC decisions on appeals provide the standards and goal interpretations for application in staff plan review as well as provide guidance to local jurisdictions. Appeals also provide an opportunity for citizen involvement in the plan review process.

LCDC scheduled a special meeting on May 21 to take actions on each appeal. LCDC can adopt, amend or reject the Opinions and Recommendations of the hearings officer. The *Newsletter* will report the decisions on the appeals in a later issue.

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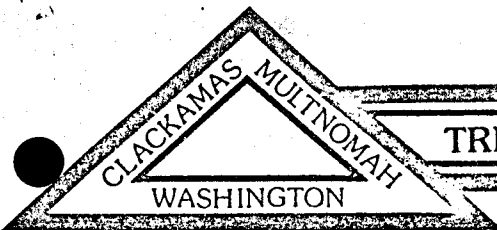
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TO: COMMITTEE III, Land Use and Cultural and Recreational Activities

FROM: Ken Martin and Bromleigh S. Lamb

SUBJECT: Suggested Functional Allocations, Per Model III, of Library Services and Parks and Recreation

The accompanying material suggests a possible allocation to three tiers of government of the activities under the functions of Libraries and Parks and Recreation. In suggesting the allocations, consideration was given to the comments and recommendations of the resource persons consulted in these areas.

Persuant to your chairperson's request, we have diagrammed the allocations on a chart, rather than simply laying them out on the matrix. The accompanying text explains the charts.

BSL:els  
Attachment: Text on Libraries, Parks and Recreation,  
2 charts.

LIBRARIES

The bulk of administration would remain with the cities and counties at the middle tier. Some lesser amount of administration might be transferred to the upper level to handle some functions better performed at that level (those functions are described below). Also, the setting of standards for administration would be placed at the state or upper tier.

Facilities maintenance is a function which is best left with whatever unit currently owns and operates the particular facility. Most currently existing facilities would, therefore, remain at the middle tier. If new facilities were constructed or rented which were primarily operated to serve regionally, these might possibly be maintained by the upper tier.

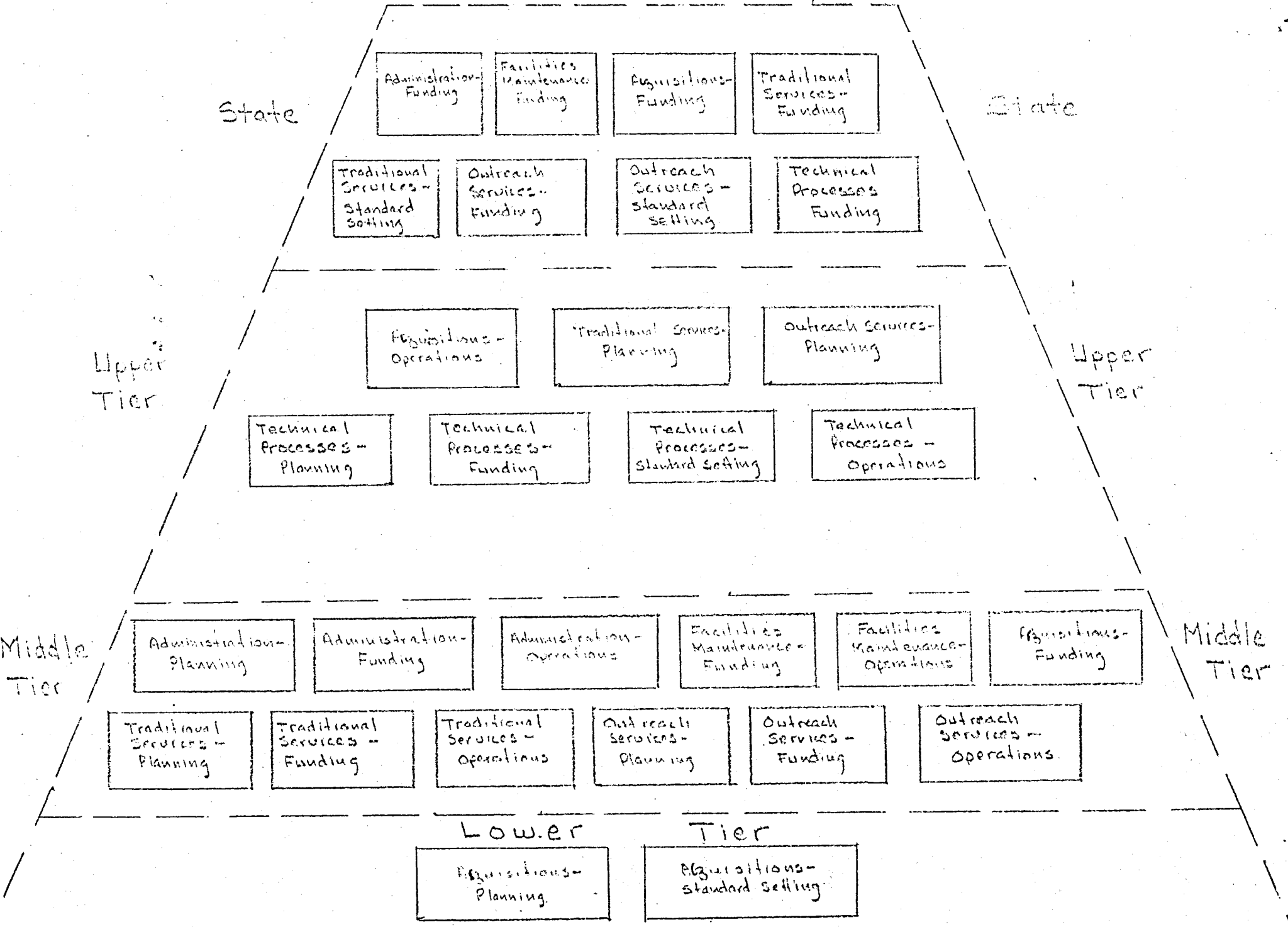
In most instances, acquisitions should be governed locally in terms of choice of what to acquire. An exception to this would be decisions to acquire certain reference and other materials which either need not be duplicated at every branch or are too costly to acquire for every library in the area. While the planning of acquisitions should, therefore, be basically local the actual purchasing should be done by an upper tier in order to attain optimum prices and service from the suppliers.

Traditional services include circulation, reference and inter-library loan. Planning responsibility should be assigned to the middle and upper tiers. Funding is primarily a middle tier responsibility. Standards are basically set at the state level. Operations are conducted mostly at the middle level through existing facilities. Some reference materials should probably be maintained as regional resources, but this can be done through inter-library loan.

Outreach services include service to institutions, books by mail, bookmobile, etc. The pattern for planning, funding, standards and operations is the same as for traditional services.

Technical processes involves cataloguing and preparing the materials for circulation. Planning, funding, standard setting and operations should all be done by the upper tier.

Funding for library services at present involves no state monies. It was the consensus of the resource persons that a state floor be established for funding of library services. Under this plan, the state should guarantee a base amount for all aspects of library service provided by local governments. This is reflected in the chart.





PARKS AND RECREATION

The term "leisure activity area", suggested by the resource persons, was adopted and was broken down into three categories. A fifth facet, namely acquisition, was added to the regular matrix facets of planning, funding, standard setting and operation.

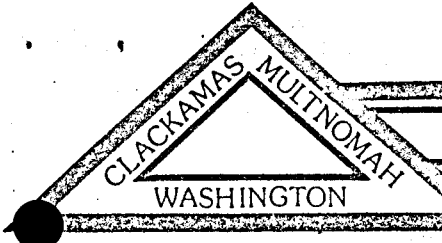
Major leisure activity areas were assumed to be those that were truly regional in their utilization and all facets thereof were allocated to the upper tier.

Community leisure activity areas were assumed to be those that principally serve the residents of the city or county maintaining them. All facets were allocated to the middle tier, except planning. It was felt that this facet should be shared with the upper tier to provide rationalization and coordination of site location.

Neighborhood leisure activity areas were assumed to be those that principally serve residents in an immediate area considerable smaller in size than the city or county. All facets were allocated on a shared basis between the middle tier and the lower tier, with the exception of funding and acquisition which were assumed to be middle tier responsibilities.

Utilization of sites other than those owned by the entity itself, e.g. use of school grounds and facilities for recreation was allocated on the same basis as neighborhood leisure activity areas.

For all activities, it was assumed that, in addition to the funding indicated above, there would be available some state funding from the allocation of Bureau of Outdoor Recreation monies.



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TO: Committee III, Land Use, Recreational and Cultural Activities
Committee V, Finance, Taxation and Administrative Service
FROM: Bromleigh S. Lamb
SUBJECT: Material on State Financing from Library Association

At its meeting with librarians, Committee III requested copies of the Oregon Library Association's draft legislation for state aid to libraries. This has been received from the association, together with a resolution endorsing state revenue sharing. Copies are enclosed.

BSL/dmm

Encl. Oregon Library Association's draft



## OREGON LIBRARY ASSOCIATION

WHEREAS Oregon's public libraries receive their operating funds from city and county governments; and

WHEREAS city and county governments are experiencing increasing financial difficulties, endangering the maintenance of existing services and precluding expansion or improvement of services or establishment of new services; and

WHEREAS the League of Oregon Cities expects to seek Legislative approval in the 1977 session, of a State revenue-sharing plan for cities, amounting to 4% of the State personal and corporate income taxes; and

WHEREAS the Association of Oregon Counties expects to seek Legislative approval in the 1977 session, of the assumption by the State of a significantly greater proportion of court costs which are now being paid by the counties, thus freeing county funds for other purposes; and

WHEREAS enactment of both of the above described proposals would ease the fiscal problems of cities and counties and would improve the funding possibilities for public libraries; and

WHEREAS enactment of these proposals in no way diminishes the need for direct state financial aid to public libraries which would still be required to improve library services beyond the level possible by local government; now therefore, be it

*Resolved*, That the Oregon Library Association does hereby endorse and approve the above described proposals and urges their enactment by the 1977 Legislative Assembly as well as enactment of legislation and funding for direct state aid to public libraries.

LC 293  
3/5/76  
(42)

A BILL FOR

AN ACT

Relating to public libraries; appropriating money; and  
declaring an emergency.

Be It Enacted by the People of the State of Oregon:

Section 1. The Legislative Assembly finds that local public library service for all residents is a matter of state-wide concern and that to promote the establishment, development and support of library services for all its people is a responsibility of the state.

Section 2. The state shall provide financial assistance for public library service to public libraries established pursuant to law from funds specifically appropriated therefor by annual grants to units of local government. The grants shall be expended to:

(1) Broader access to existing information resources by strengthening public libraries and encouraging cooperation among units of local government and among public, private, school and academic libraries;

(2) Extend public library services to persons not served by local public libraries; and

(3) Permit new services and new types of services as local need therefor is determined.

Section 3. (1) There shall be paid to each county that provides public library services to all persons in the county a per capita amount for each person residing in the county.

(2) Where public library services are provided by a unit of local government having jurisdiction in more than one county, there shall be paid to the unit that provides the service a per capita amount for each person residing in the unit.

(3) Where public library services are not provided as described in subsection (1) or (2) of this section, but a unit of local government having jurisdiction less than county-wide is providing services, there shall be paid to the unit a per capita amount for persons residing in the unit.

(4) Where public library services are provided both by a unit of local government within a county and by the county, there shall be paid to the unit a per capita amount for each person residing in the unit and to the county a per capita amount for each person residing outside the unit but within the county.

(5) The per capita amount shall be a uniform amount that is reasonably calculated to distribute all the money appropriated therefor.

Section 4. In addition to the financial assistance authorized by section 3 of this Act, units of local government and counties may apply for annual establishment grants. The grants may be made from funds specifically appropriated therefor and are to be used to extend public library services to persons residing in areas not provided such services. The services may be provided by cooperative arrangements and by extension and expansion of existing services. Establishment grants shall be renewable no more than three times.

Section 5. The Trustees of the State Library shall administer the provisions of this Act and shall adopt rules governing the application for and granting of funds under sections 3 and 4 of this Act.

Section 6. In addition to and not in lieu of any other appropriation, there is appropriated to the Trustees of the State Library, out of the General Fund, for the biennium beginning July 1, 1977, the sum of \$ \_\_\_\_\_ to be expended as follows:

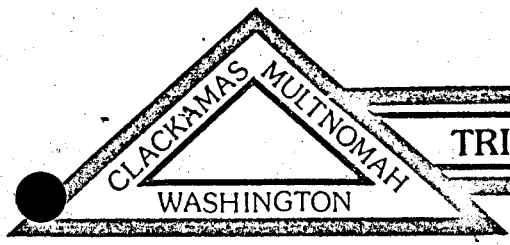
(1) \$1,200,000 for financial assistance under section 3 of this Act, to be distributed at the annual rate of \$0.25 for each person in the subject population.

(2) \$300,000 for establishment grants under section 4 of this Act.

(3) \$ \_\_\_\_\_ for administrative expenses incurred by the Trustees of the State Library in carrying out their duties under this Act.

Section 7. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect July 1, 1977.

4-00



TRI-COUNTY LOCAL GOVERNMENT COMMISSION

1912 S.W. SIXTH, ROOM 244

PORTLAND, OREGON 97201

(503) 229-3576

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Chairman  
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June 21, 1976

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Julie WILLIAMSON  
Roger W. YOST

MEMORANDUM

TO: COMMITTEE III, LAND USE, RECREATIONAL AND  
CULTURAL ACTIVITIES  
FROM: JUDITH KENNY  
RE: LAND USE - - - IMPLEMENTATION MEASURES

Attached is a paper on the administration of zoning, sub-  
division ordinances and building codes in the Tri-County  
area. This outlines the current allocation of responsibility  
for the implementation measures of Land Use policy.

JK:els



COMMITTEE III

LAND USE, RECREATIONAL AND CULTURAL ACTIVITIES

Implementation

Zoning, subdivision ordinances and building codes are the specific implementation measures of land use policy. Historically, the adoption and administration of these regulations have been as fragmented as the local governments themselves. A greater coordination of planning and uniformity in administration has developed, however, as a result of state legislation and court decisions. The purpose of this paper is to examine the implementation of land use policy in the Tri-County area, considering the efficiency, effectiveness, equity and accountability of its administration.

Zoning

County - - As a result of Senate Bill 100, all counties and cities are drafting and/or revising their zoning ordinances. Senate Bill 100 was designed to promote comprehensive and coordinated land use policy by requiring each jurisdiction to draw up a comprehensive plan and means to implement it, which conform with state goals and guidelines. The counties are responsible for coordinating the local jurisdictions' plans and planning for the unincorporated areas. Multnomah, Washington and Clackamas counties are reviewing their county plans and, as a result, will revise the zoning ordinances to conform with the revised plans.

Due to the Fasano court decision, the process required to change a zone has become quite uniform. In all three counties, an individual must present his case to the planning commission in a public hearing proving that the proposed zone change is in the public interest, that that interest is best served by granting the change at the time, and that it is in accord with the county's comprehensive planning goals. If approved by the planning commission, the request is heard by the county commissioners, in order to change the zoning ordinances. The length of time required from the application for a zone change to the final decision is approximately six weeks for each county.

The process for acquiring variances and conditional use permit is similar to that of a zone change. The applicant must submit a written request with an explanation of hardship or need to the planning staff. The staff gives public notice of the hearing and prepares a report on the request. Approximately a month after the application is filed, the request is heard by the County Board of Adjustments. In Multnomah and Washington counties, the board consists of three members of the Planning Commission. Clackamas County, however, has a seven member board from the unincorporated areas appointed by the county commission. Each of these boards meet at least once a month to hear the requests for variances and conditional use permits.

City - - The zoning requirements and responsibilities are quite similar for the cities. Requests for zone changes are generally taken to the city planning commissions and the Fasano format is followed. The city of Portland is unique

in that they have a special hearings officer who hears and decides requests for zone changes. If there is an appeal on the decision, the matter is taken to the planning commission to determine. Otherwise, the request then goes to the city council for a change in the zoning ordinances. Portland also has a special board to hear requests for variances. This is an appointed seven-member board which hears requests for variances once a month. The other cities have their planning commissions hear the requests for variances.

The standardization of the zone change and variance process has reduced the confusion for the metropolitan area land owner. The various zoning ordinances are required to implement each area's land use goals, but similar administration can assure some degree of equity in their implementation throughout the Tri-County area. One suggestion has been made, however, to increase the uniformity in the administration of zoning ordinances and that is to adopt one zoning nomenclature for the entire area. A study was done recently on this subject, and it was found that there are seventeen different zoning ordinance forms which the realtor, businessman or other interested party must deal with. It was suggested that the Tri-County area adopt a uniform zoning code similar to the Mid-Willamette Valley Code. This code has been in place in Salem, Marion and Polk counties since 1962. The success of the code is difficult to measure since no attempt has been made to reprint maps or ordinances, and, so in everyday business, the old codes are still used.

#### Subdivision Ordinances

County - - Each jurisdiction must also have subdivision ordinances in order to comply with Senate Bill 100. Subdivision ordinances are important regulatory measures in the implementation of land use development policies. The three counties administer these ordinances through their planning staff and commissions. Plans for subdivisions are submitted to the planning staff, but in all counties the departments of public works and public health must review the plans to insure that the subdivision is in conformance with the requirements of these departments. The planning commissions hear the request for the subdivision and the staffs' reports and, usually, have a decision in 90 days.

City - - Subdivision requests are handled similarly in cities. The city administrator or planning staff prepares a report on the request for the subdivision and the plans, and also have the public works department review the request and plans. When the subdivision is close to the city's boundaries, relevant county agencies are also contacted. The city planning commission then decides on the request. All the major cities have subdivision ordinances except Portland. In the past, the Portland Planning Commission weighed requests for subdivisions without any ordinances. In order to comply with Senate Bill 100, all jurisdictions will have to have subdivision ordinances to implement their comprehensive plans. The Portland Planning Commission expects to adopt a subdivision ordinance within the year.

#### Building Codes and Permits

County - - The state has developed a uniform building code, setting minimum and maximum structural requirements. The administration of the code, however, is quite fragmented. Each county issues their own permits for construction in

unincorporated areas, and in the case of Clackamas and Washington counties this involves numerous agencies. Multnomah County, however, has initiated a one-stop building permit program, which has reduced the applicant's number of trips from eleven to two. This has been accomplished by consolidating four divisions into one bureau (e.g. building, plumbing, sewer and drive-way access inspection services and permits). The applicant brings in the building plans to the building permit department in the Environmental Service Bureau. The plans are then circulated through the zoning department, and the four inspection divisions. Fire inspection services are also provided in the one-stop process. This program has been in effect for eight months and has received favorable reviews from the Home Builders Association. In the last six months, one hundred percent of the applications have been processed within ten days. The county is working on incorporating water permits into the one-stop process, as it is the only local permit which is not included.

There is a similar program at the state level for all state issued permits. The Oregon State One-Stop Permit began operation in January 1976. The Intergovernmental Relations Division provides information on both local and state permit-issuing agencies. The one-stop review process extends, however, only to state permits. To obtain state permits, a master application form can be filled out and, after a 30-day review period, the specific permit applications are mailed out.

Washington and Clackamas require more time and effort on the part of the citizen, in order to obtain the necessary permits. In Washington County, each applicant must check their plans with the zoning, building, engineer, public health and public works departments and the United Sewerage Agency. This takes from two to three weeks to complete. Clackamas county has consolidated the number of stops in obtaining permits for building. Due to the close proximity of the public works and planning departments, requests for permits and their plans are routed through the planning and inspection divisions for the individual. A water permit and fire inspection are the only other required stops. The length of time involved in obtaining permits is from one to four weeks.

City - - Each city issues the building permits for its jurisdiction. Generally, the permit is issued by the city building inspector or public works department. In smaller cities, permits are often issued quickly because of the close proximity of the city departments, and the speed with which the permit circulates through them. In the City of Portland, however, it takes approximately three weeks. The applicant does the 'leg-work', moving his permit request between three different inspection divisions of the public works department (engineering, plumbing and electrical) and the water and planning bureaus. There is an attempt being made to consolidate the operation within the public works department, in order to reduce costs and increase the speed of processing permit applications. Some consolidation of the three inspection divisions has been made already, and they have been able to reduce the staff from 104 to 89. A further consolidation of permit-issuing agencies has been questioned, because of the physical separation of the agencies.

Each jurisdiction not only issues its own building permits, but also issues its own application form. This decreases the effective use of building permits as a source of comparative statistics. The United States Conference of Mayors has recommended the adoption of a uniform permit form in order to increase the speed of compilation of the data and increase its value in the planning process.

Two different forms are commonly used in the Tri-County area now; they are the U. S. Department of Commerce form and the Urban Information Systems form. The adoption of one form throughout the Tri-County area has been suggested by CRAG to improve the use of building information for planning purposes.

State land use legislation and the Fasano decision are standardizing the administration of zoning, subdivision ordinances and building codes. Greater efficiencies and effectiveness might be gained by considering the consolidation of permit-issuing agencies as was done in the Multnomah County One-Stop permit. Changes such as that would improve the service to the citizen as well as reduce the pressures on the agencies administering these implementation measures.

Mult Co  
Hearings Council - zone chgs  
cond. use  
Subdivisions / 3 members as  
board adjustment,  
2 plan comm. chgs  
on Council  
1-time hearing unless review requested

major + minor partitioning  
2-3 pieces w/out new access

n

LU-69

QUARTER/JUNE 1976

# Metro Council guides regional growth

BY FORREST D. NOWLIN, JR. AND JOHN HOEFT

The Minnesota Legislature, in the 1976 Session, completed the establishment of the legal structure for a regional growth management system in the Twin Cities Metropolitan Area. The Metropolitan Land Use Planning Act, Laws 1976, Chapter 127 and the Metropolitan Significance Act, Laws 1976, Chapter 321, together create one of the most complete regional-local growth guidance processes in the United States. The Planning Act requires the preparation and adoption by 1980 of local comprehensive plans for the entire metropolitan area, and provides for a regional review and limited power to modify those plans to ensure consistency with four metropolitan systems. The Metropolitan Significance Act directs and authorizes the adoption of regulations by September 1, 1976, establishing a regional-scale review of projects having potential for metropolitan effect. These Acts, in a sense, are a natural outgrowth of Minnesota's experience in regional government begun nearly twenty years ago with the establishment in 1957 of the Twin Cities Metropolitan Planning Commission. A brief review is helpful in understanding these Acts.

In 1967, largely because of sewer service delivery and Lake Minnetonka pollution problems, the Legislature transformed the Planning Commission into the Metropolitan Council, a special-purpose regional government, and authorized it to prepare a comprehensive development guide for the orderly and economic development, public and private, of the metropolitan area. At about the same time, two regional operating agencies, the Metropolitan Transit Commission and the Metropolitan Sewer Board, were created and directed to acquire the major metropolitan bus system and the large sewer interceptors and treatment works owned by the sanitary sewer districts and municipalities in the area. The Metropolitan Council was given the job of supervising those acquisitions from a distance and doing long-range planning for the orderly expansion of these systems. While this regional system of categorical aids to regional structure was being established by the State, the United States Congress, having funded a massive system of categorical aids to local governmental units for public works, decided that a regional review and prioritization of local needs was necessary to distribute federal aid in the most equitable and efficient way.

In 1966, with the Demonstration Cities and the Metropolitan Development Act, 42 USCA 3334, and again in 1968 with the Intergovernmental Cooperation Act, 42 USCA 4231, 4233, Congress passed legislation directing the adoption of regulations binding on all agencies, to channel all categorical aid applications to regional clearinghouses for review to determine consistency with local, state and area-wide plans (OMB Circular A-95 Revised, also known as "A-95 Review").

The Metropolitan Council proved more durable and effective than other regional organizations. In part, because of the independence of its gubernatorially-appointed membership, its property taxing authority, and because of a fortuitous demographic and political situation. From 1968 through 1973, the Metropolitan Council applied most of its resources to establishing and planning sewer and transit/transportation systems and to preparing and adopting functional area-wide plans to enable it to do a reasonable job of performing A-95 reviews. These plans, adopted as Chapters of the Metropolitan Development Guide, deal with sewers, transportation, open space, airports, housing, criminal justice, and aging. They contain both policies and functional system plans aimed at the future. In 1973 the Legislature brought the Council into health facility expansion

review with passage of a state Certificate of Need Act. In addition, the Council during this period, also supported passage of a regional Fiscal Disparities Act which attempts to prevent local tax base concerns from predetermining local land use decisions through a pooling of part of the growth in the region's commercial and industrial tax base.

It wasn't until about 1973 that the Council had enough time to begin work on the single comprehensive land use guide clearly envisioned in the 1967 enabling act. As functional plans were developed and as more experience in review, prioritization and knowledge of the area's problems was gained, the need became obvious. Single-function reviews did not spoil overall or cross-functional coordination.

A direct impetus to coordinate also came from observing financial ramifications of metropolitan public facilities decisions. Monies used to extend roads and sewers to help problem settlement areas could not be used to rebuild, fix up, or assist in filling in vacant but developable land. The cost differential between expansion and redevelopment allocations was so great that it simply could not be overlooked by the Council. In addition to being a close observer of this large differential, the Council acquired first-hand knowledge of another major financial cost of sprawl.

In 1971, with the regional sewer system largely acquired, the Council and Sewer Board set up a system for charging the costs of reserved capacity back to the communities for which, from an engineering standpoint, the sewer capacity was being reserved. The charge-back system failed because the communities for which most of the capacity was reserved had insufficient tax base to generate the metropolitan payment. This experience made the Council directly aware of the fact that public facility expansion, to a large degree, is either directly subsidized or given long-term financing by the residents of previously-unburdened areas. The construction of a metropolitan interceptor for Forest Lake in 1972, due largely to lake pollution, illustrated the same point. Approximately 5,000 resi-

dent of Forest Lake and 600,000 residents of Minneapolis/St. Paul and first and second-tier suburbs funded this expansion. Federal capital grant programs were also observed to have a similar effect, with income tax revenues coming from the concentrated urbanized area being spent on the fringes to expand the public service web.

In 1973, under the chairmanship of Council member Robert Hoffman, a former Bloomington Councilman, the Physical Development Committee of the Metropolitan Council took on the job of preparing an overall physical land use guide for the metropolitan area. At the outset, the committee faced the choice of preparing a regional plan or a regional guide/system. Vermont and Hawaii were at that time in the process of reasserting the state interest and control over local land use decision-making. The New York appellate court had sustained a novel county-wide growth control system for Ramapo, New York. The option of establishing a regional land use plan superior to that of local governmental units appeared as a somewhat realistic alternative at the outset. The attitude of the newly appointed Council chairman, John Boland, and Hoffman toward metropolitan municipalities, however, was such that the idea of a binding regional plan was rejected in favor of a two-tiered regional land plan guide/system embodied in the Development Framework Guide Chapter. The demonstrated municipal capability and a Council feeling that the regional job couldn't be done if the regional body got bogged down with matters which traditionally and logically belonged at the local level were also instrumental in this decision.

The problem of how to tie the two tiers together was the second major choice facing the committee. The Council, since 1967, had been charged with the review of local comprehensive plans. During much of that period the potency of a plan, in legal sense, was minimal—both locally or nationally. Only a small number of local units bothered to have them prepared, although federal money was available, and fewer still took them seriously enough to send them to the Council for review. The Council staff's planning background, together with the Physical Development Committee's insistence that there be some local jurisdiction-wide determination regarding development resulted in the selection of the local comprehensive plan as the vehicle by which local and metropolitan physical decision making was tied together.

With those structural decisions made, the bulk of the committee's time and effort was directed at figuring out what to say and how to say it. The "what" and "how" emerged from legislative design, Council experience and numerous hearings and meetings. "What" in the evolution of the Development Framework became a staged, flexible metropolitan urban service line, staged municipal population and employment levels and capacities, a directive to locally determine whether what was predicted was acceptable, and generalized policy statements aimed largely at the utilization of existing public services before expansion. The metropolitan area was divided into an urban service area and a rural service area, with the urban

or metropolitan service area scheduled to receive metropolitan sewer and transit service and other metropolitan systems. The metropolitan service area line was drawn in such a manner that a five-year oversupply of land would always be available for development.

Late in the summer of 1974, while the final hearings on Development Framework implementation were being conducted, the Council began to develop a bill that would implement the Development Framework approach, and to draft metropolitan significance regulations. The Metropolitan Reorganization Act of 1974 had included a provision requiring the Council to adopt regulations for the review of matters of metropolitan significance. The concept of a metropolitan review of such matters had existed in the statutes, without a remedy, in various versions since 1957. From 1967 through 1973, the Council had debated metropolitan significance in connection with eight matters, and its finding that the Pig's Eye Coal facility in St. Paul was not of metropolitan significance prompted the State Senate to ac-

tion. After fruitless attempts at definition, the Legislature, largely at the insistence of the Senate, succeeded in enacting a provision directing the preparation of regulations setting standards and establishing a procedure for the review of public and private matters determined to be of potential regional significance. The novel statutory provision established general parameters for the regulations and granted the power to suspend a proposed matter of metropolitan significance for up to one year following review. The Metropolitan Council was directed to submit the drafted regulations to the 1975 Session for approval.

During its work on the Framework, regulations and land use bill, it gradually became apparent that the logical primary regional concern was with protecting existing and planned "metropolitan systems" from underutilization, premature expansion or forced realignment. After numerous attempts at defining metropolitan systems, the legislative authors of the land use bill, the Council and the principal metropolitan local government organizations reached tentative agreement on a definition in March of 1975. It was agreed that metropolitan systems should be defined to include the facilities, plans, development programs and capital improvement programs and capital improvement budgets for the metropolitan sewer, transportation, parks, and open space and airport agencies. This definition was incorporated as the standard for regional review in both the planning bill and the metropolitan significance regulations. Despite this agreement, the land planning bill, at the end of the 1975 Session, was re-referred by a one-vote margin to the Senate Metropolitan and Urban Affairs Committee for further study and consideration.

The Land Planning Act passed by the 1976 Session was not envisioned or drafted as a regional land use plan and it does not empower the Council to make local zoning, planning and development decisions as some have charged. Half of the Act is similar to statutes of Florida, California and Oregon, which mandate the preparation and adoption of local comprehensive plans. Plan content is specified by the statute and must include a land use and public facilities plan and a implementation program. To facilitate the primary goal of coordinating local plans with metropolitan system plans, the Act requires that the Metropolitan Council submit to local governmental units by July 1, 1977, a detailed "metropolitan systems statement" describing metropolitan facilities and plans for the provision and expansion of metropolitan systems within that local government's jurisdiction. Each government is then required to prepare its own comprehensive plan. The only constraint placed upon the local governmental unit is that after the plan has been prepared, it must be submitted to the Metropolitan Council for review. If the plan would have a substantial detrimental impact upon metropolitan systems, the local government can be required by the Council to modify the plan to bring it into conformity. A Council order requiring the modification of a local plan can be appealed to an independent hearing examiner, who then sends a report and recommendation back to the Council for further consideration and determination. The Council's final determination may be appealed to the district court as a Chapter 15 contested case. The Act, however, modifies the normal Chapter 15 judicial review in that the record of the independent hearing examiner and the Council's record must be given equal weight by the district court.

The Act establishes an Advisory Land

METRO COUNCIL  
Please turn to page eight.

**"The Acts establish a structure which will require considerable effort, experience and refinement to successfully carry out. The opportunity for second thoughts and legislative reconsideration will be ever-present."**

QUAERE/June 1978

# Metro Council structure

Continued from page seven.

Use Committee to assist the Council in the administration of the Act and the appeals process. Besides directing local governments to prepare plans, Metropolitan area school districts are directed to five-year capital improvement programs and submit them to the Council for review and comment only. The major difference between the 1975 Bill and the Act is in the area of housing. The 1975 version contained little language about housing. The Act requires that a specific housing element be contained in every comprehensive plan and that a plan's implementation program specify how the community will provide sufficient housing to meet the community's share of the metropolitan need for low and moderate income housing. The Act also establishes a modest cost housing study committee. In part, these housing provisions stem from legislative awareness of recent judicial decisions such as *City of Hartford v. Hills*, *Southern Burlington Township NAACP v. Township of Mount Laurel*, 336 A. 2d 713 (1975), *Gatreux v. Chicago Housing Authority*, —Law Week— (1976), *Golden v. Planning Board of Town of Ramapo*, 30 N.Y.2d 359, 334 N.Y.S.2d 138, 285 N.E.2d 291 (1972), *Const. Industry Assn. of Sonoma v. City of Petaluma* (9th Cir. Aug. 13, 1975) *Appeal Dis.*—Law Week— (1976)/*United States v. City of Black Jack*, 508 F.2d 1179 (1974). A separate Act, *Laws 1976, Chapter 176*, provides the Council with approximately \$1,000,000 to grant and loan to local governmental units for planning and implementation assistance.

The Metropolitan Significance Act essentially endorses the systems approach taken by the Council in the regulations which were prepared but not approved in 1975. The regulations have been regarded as an interim companion to the Planning Act. They must be adopted by September 1 and contain a procedure by which a development found to be inconsistent with metropolitan system plans can be suspended up to one year. After 1980, when all local governments have adopted the land use plans required by the Act, it is expected that the role of these regulations will be substantially diminished.

Legislative opposition to the Metropolitan Land Use Planning Bill came largely from persons critical of the Metropolitan Council's past performance or planning in general, and from those representing areas adjacent to the metropolitan area or within the rural portion of the region. The strongest argument against the Act was that it would have the effect of accelerating development in adjacent counties such as Wright, Chisago and Sherburne at a time when they were already experiencing significant problems because of metropolitan exodus. Those who raised this objection were unable to satisfactorily respond to the question: "What are your local units doing to solve these problems?" Existing enabling legislation provides adequate authority for adjacent counties to address and control this potential problem. Goodhue and Rice Counties, for example, have already taken such action.

Taken together, these Acts, including the funding measure, establish a structure which will require considerable effort, experience and refinement to successfully carry out. The opportunity for second thoughts and legislative reconsideration will be ever-present. The 1976 legislative endorsement of the metropolitan planning system cannot be interpreted as anything other than a recognition that significant land use problems exist and a directive to both the Council and local governments to try to effect a solution. If the effort is performed in a reasonable, cooperative and consistent manner and the net effect is not to force people out of the metropolitan area, the system will probably remain unchanged. If the metropolitan planning effort is successful, the results will be of significant benefit to both the metropolitan area and the State of Minnesota.

The authors comprise the Metropolitan Council legal staff. Forrest D. Nowlin, Jr., graduated from the University of the South in 1964 and the University of Minnesota Law School in 1968. He has been the Metropolitan Council's Staff Counsel since 1973.

John Hoof graduated from St. Olaf College in 1969, and the University of Minnesota Law School in 1975. He was admitted to practice in September 1975, and has been Metropolitan Council Assistant Staff Counsel since his admission.

# QUAERE editorial board retires

This issue marks the farewell of QUAERE'S original board of editors. After two years of growing and firmly establishing the roots of QUAERE as a viable tree in this law school, the time has come for us to leave.

Two years ago at this time QUAERE was but the brainchild of the Law Council, who held out a tiny purse and said let's do something with all this money we have lying around. Slowly but surely the Wheeler's began to turn and this tiny atom of a thought became an explosive reality. QUAERE'S first issue was, quite frankly, a bomb. But after the second issue of the Fall of 1974, there was little to fret about, because out of that issue came the original editorial board.

Six people, some with little or no newspaper experience answered QUAERE'S explosive cry for help, and decided that it would be worth going out on a limb to make the idea of a law school newspaper work. Several attempts to start a paper in the past had failed because of a lack of organization. Since volunteers to work on the paper did not exactly come in groves, the original six had to axe themselves how they could best make use of their various talents and still have time to enjoy law school. (sic).

Fred Soule was chosen as the board's first managing editor, because we knew his name was trouble wherever he went, and we thought the best way to avoid too much of it would be to put him in a position where he would look natural smoking his nasty cigars. Fred made the most noble gesture of all when he offered to throw his editor's salary into the general budget just so we could make a go of it.

Kris Hustlebus had more energy than the rest of us, and she was chosen as associate editor. We promoted her to managing editor this year because her brainstorming made us uncomfortable when she was only the associate editor. More ideas sprouted out of her head than the rest of us will think of in several years.

If ever there was a Wheeler dealer, literally, it had to be Tom (Walter) and he was a natural for the business manager job. We gave him the okay by a unanimous vote, 4-1. Tom tried to truncate every issue he could to keep costs down, but he did such a good job of promoting the newspaper with the alumni and with advertisers that it's not a problem any-

more. For production manager we happened upon a ferocious competitor whose Mark is frequently much worse than his Editor; without him, the pulp we've turned out would never have come close to becoming pages. "Make this article shorter, Mark used to say, "It just doesn't fit to print."

Everyone knew that John Elwell was a corny sap, and he was invited to make limited contributions (which he did) in the form of sports articles. After they became popular, we asked him to join the editorial board. If he hadn't punished us so severely these past two years, we'd be glad about the whole thing. Well, we probably got what we asked for.

Now, with a group of people like that you'd think we probably spent out time going around hopping mad; madden at each other; but Nosh, we knew that the group would function better if we had an even number of people, and luckily we found a true journalist to add the clowning touches to our board. A. J. Madden, who had previously been a well-read Arthur writing for a newspaper in Massachusetts, joined our staff as a representative of the proletariat, and proved time and time again that he was worth his weight in pounds. The fluent fruits and nifty nuts which we reaped from his pen are too numerous to mention, but wouldn't you know it, Arthur wrote some of the best editorials you ever sawed. In fact, he really spruced up our paper.

The original board has been operative for two years now, and we hope we've provided a tremendous service to you. We've tried to be informative enough to keep you out of the shade, and interesting enough to keep you momentarily out of your lawbooks; and sometimes, but not too often, funny enough to help you see the trees for all this forest. Thanks for your support, and we'll see you next year when there'll be new editors at the helm.

# MPIRF benefit program planned

An informal benefit for the Minnesota Public Interest Research Foundation Internship program happens June 3 at the Campus Club, Coffman Union, U of M campus, from 8-10:30 p.m. Ralph Nader will be a special guest. Tickets are a tax-deductible \$20, and you can call 375-7242 for tickets and information.

# Writers wanted

for QUAERE next fall. Bill Tilton would love to hear from you—leave a note on the message board or call 373-4531.

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# METROPOLITAN SIGNIFICANCE

## A BILL FOR AN ACT

relating to metropolitan government; standards and guidelines for determining matters of metropolitan significance; allocation of costs among agencies; establishing a committee to study governmental structure; amending Minnesota Statutes, 1975 Supplement, Section 474.173 and Chapter 473, by adding a section.

*Note*  
*Section 1.* **COMMITTEE TO STUDY GOVERNMENTAL STRUCTURE.** A joint committee, consisting of members of the house local and urban affairs committee, the senate metropolitan and urban affairs committee, and the governmental operations committees of house and senate, is established to study governmental structure in the seven county metropolitan area.

The study shall include responsibility of city and county government, and the role and function of these units of government in relation to the metropolitan council.

The joint committee shall make a report to the 1977 session of the legislature.

*Section 2.* Minnesota Statutes, 1975 Supplement, Section 473.173, is amended to read:

**473.173 COUNCIL REVIEW; METROPOLITAN SIGNIFICANCE.** *Subdivision 1.* The council shall review all proposed matters of metropolitan significance to be undertaken by any private organization, independent commission, board or agency, local governmental unit, or any state agency in accordance with the regulations adopted pursuant to this section and the provisions of any other relevant statute.

*Subd. 2.* By September 1, 1976, the council shall adopt and put into effect regulations establishing standards, guidelines and procedures for determining whether any proposed matter is of metropolitan significance, and establishing a procedure for the review of and final determination on such matters in accordance with the powers and requirements set forth in this section. The purpose of these regulations shall be to promote the orderly and economic development, public and private, of the metropolitan area.

*Subd. 3.* In developing the regulations the council and the advisory metropolitan land use committee, as defined in Laws 1976, Chapter 127, Section 2, shall give consideration to all factors deemed relevant including but not limited to the following:

- (1) The impact a proposed matter will have on the orderly, economic development, public and private of the metropolitan area and its consistency with the metropolitan development guide;
- (2) The relationship a proposed matter will have to the policy statement goals, standards, programs and other applicable provisions of the development guide;
- (3) The impact a proposed matter will have on policy plans adopted by the council and on the development programs and functions performed and to be performed by a metropolitan commission;
- (4) Functions of municipal governments in respect to control of land use as provided for under the municipal planning act.

*Subd. 4.* The regulations shall include, without limitation, provisions to effectuate and comply with the following powers and requirements:

- (1) No applicant shall be required to submit a proposed matter for review more than once unless it is materially altered.
  - (1a) A public hearing shall be held prior to the final determination with regard to a proposed matter.
- (2) The council shall be empowered to suspend action on a proposed matter during the period of review and for a period not to exceed 12 months following the issuance of its final determination. In its final determination, the council may prescribe appropriate conditions with regard to a proposed matter which, if incorporated or complied with, would cause the council to remove the suspension.
- (3) The council's recommendation or determination concerning a proposed matter, including the determination as to its metropolitan significance, shall be issued within 90 days following its receipt of a proposal accompanied by adequate supporting information. To avoid duplication, the review may be suspended for not more than 90 days to await completion of review of a matter by another public agency.
- (4) The council shall be required to review a proposed matter upon request of an affected local governmental unit or metropolitan commission. The regulations shall include a procedure for review of a proposed matter upon petition by a specified number of residents of the metropolitan area 18 years of age or older.
- (5) The council shall be empowered to review all proposed matters of metropolitan significance regardless of whether the council has received a request from an affected body to conduct that review.
- (6) The council shall review all proposed matters determined to be of metropolitan significance as to their consistency and effect upon metropolitan system plans as defined in Laws 1976, Chapter 127, Section 2 and their adverse effects on other local governmental units.
- (7) Previously approved policy plans and development programs and areas of operational authority of the metropolitan commissions shall not be subject to review under this section, except as specifically provided in section 473.171.

*Subd. 5.* The regulations and any major alteration or amendment thereto shall be developed and promulgated by the council in accordance with the provisions of this section and, to the extent not inconsistent or at variance with this section, in accordance with the administrative procedures act, Minnesota Statutes, Chapter 15, and regulations pursuant to thereto. Once the development of all of the regulations has been completed by the council and the committee, and no later than



30 days prior to the date specified for their adoption, the council shall hold a public hearing for the purpose of considering the developed regulations and receiving comments and recommendations thereon. Notice of the hearing shall be published in appropriate newspapers of general circulation in the metropolitan area and mailed to all persons who have registered for that purpose under Minnesota Statutes, Chapter 15; appropriate state and regional agencies and all cities, counties, towns, school districts, and watershed districts within the metropolitan area no later than 30 days prior to the hearing. In adopting or amending the regulations the enactment of this section shall be deemed to establish or show the need for and to provide evidence in support of the regulations or amendments as required in Minnesota Statutes, Chapter 15, and regulations pursuant thereto, but the council shall prepare for distribution a written summary describing the basis for the composition of the draft regulations or amendments submitted for hearing and shall afford to all interested persons an opportunity at the hearing to question and make suggestions concerning their composition. Following the hearing, the council may revise the proposed regulations, giving consideration to all comments received, and thereafter the council shall finally adopt these regulations.

*Subd. 6.* The council and the advisory metropolitan land use committee shall review and assess the regulations following their effective date and at least every two years thereafter. On or before January 15 of each year, the council shall report to the legislature concerning metropolitan significance. No major alteration or amendments to standards for determining the necessity for a comprehensive review shall be put into effect by the council until 90 days have elapsed following the report to the legislature in which the alteration or amendment was proposed and recommended by the council.

*Section 3.* Minnesota Statutes, 1975 Supplement, Chapter 473, is amended by adding a section to read:

**473.164 PAYMENT OF METROPOLITAN COUNCIL COSTS.** *Subdivision 1.* The metropolitan parks and open space commission, the metropolitan transit commission, the metropolitan waste control commission, and the metropolitan airports commission shall annually reimburse the council for costs incurred by the council in the discharge of its responsibilities relating to the commission. The costs may be charged against any revenue sources of the commission as determined by the commission.

*Subd. 2.* On or before May 1 of each year, the council shall transmit to each commission an estimate of the costs which the council will incur in the discharge of its responsibilities related to the commission in the next budget year including, without limitation, costs in connection with the preparation, review, implementation and defense of plans, programs and budgets of the commission. Each commission shall include the estimates in its budget for the next budget year and may transmit its comments concerning the estimated amount to the council during the budget review process. Prior to December 15 of each year, the amount budgeted by each commission for the next budget year may be changed following approval by the council. During each budget year, the commission shall transfer budgeted funds to the council in advance when requested by the council.

*Subd. 3.* At the conclusion of each budget year, the council, in cooperation with each commission, shall adopt a final statement of costs incurred by the council for each commission. Where costs incurred in the budget year have exceeded the amount budgeted, each commission shall transfer to the council the additional moneys needed to pay the amount of the costs in excess of the amount budgeted, and shall include a sum in its next budget. Any excess of budgeted costs over actual costs may be retained by the council and applied to the payment of budgeted costs in the next year. Costs incurred during 1976 shall be reimbursed to the council by each commission on or before December 31, 1976, following receipt and in accordance with a statement of costs transmitted by the council.

*Section 4.* This act applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington.

*Section 5.* This act is effective the day following final enactment.



METROPOLITAN COUNCIL  
300 Metro Square Building, Saint Paul, Minnesota 55101

June 24, 1976

Basis for the Composition of the Draft  
Metropolitan Significance Regulations

Background for 1976 Regulations

The concept of metropolitan significance or substantial effect on metropolitan area development has from the beginning been difficult for the Metropolitan Council and others to define. Everyone knows what it is but has difficulty putting it on paper.

The Council began the process of defining the concept in 1969 when a series of requests were made to review "matters which had a substantial effect on metropolitan area development." The quoted language was contained in the 1967 law that established the Metropolitan Council. The first requests for review involved mobile home parks but gradually the "matters" for which review was requested became larger in scope and included gravel pit operations, coal handling trans-shipment terminals and domed stadiums.

The Metropolitan Council's treatment of these cases was not entirely even, but a thread of consistency ran through them. This consistency, whether or not the Council decided to review the matter, related to the effect of the matter on existing or planned metropolitan or area-wide or inter-community facilities.

Out of the two most publicized cases, the coal terminal at Pig's Eye Lake in St. Paul and the domed stadium in downtown Minneapolis, the Legislature became interested in the difficulty of defining matters of metropolitan significance and amended the Council Act to require the preparation of regulations for identifying and reviewing matters of metropolitan significance and submitting these regulations to the Legislature for approval.

The Metropolitan Council, with the assistance of an advisory committee appointed for the purpose, began the process of preparing the regulations. The exploration of alternative methods of defining metropolitan significance began with an attempt to identify types of "matters" that would be of metropolitan significance. This kind of listing was based on a combination of type of activity, size of activity, and to some extent the location or context of the activity. The basic problem with this "shopping list" approach was that it was limited to only those matters that could be thought of at the time the regulations were adopted and even then, the question really remained as to whether or not the matter was "really" significant. This approach was abandoned by the Council and the advisory committee and replaced by the basic approach used previously by the Council in which the basic question was "what effect does this have on the metropolitan systems?"

The advisory committee adopted in February 1975 the following recommendation on the metropolitan significance regulation (underlining added):

Recommendations #3 and #4 are especially important for this discussion.

1. That the Metropolitan Council finish its Metropolitan Development Framework and that it develop system plans which have been designated by the legislature (for example, for transportation, sewers, and parks, and others that are listed in the Metropolitan Council Act);
2. That the Metropolitan Council have the authority to approve comprehensive plans of counties and local municipalities.
3. That metropolitan significance be defined as any project that reaches or exceeds the capacity of one of those metropolitan systems defined by the legislature and the Metropolitan Council;
4. That if a municipality feels that a proposed matter located in another municipality has an adverse effect on it or violates the metropolitan system, that it can appeal to the Metropolitan Council who shall respond within 30 days as to whether or not the project has reached the capacity of the system;
5. That the present Local Elected Officials Advisory Committee be dissolved, that the Metropolitan Council consider appointing a new advisory committee of not more than 17 elected officials from local units of government to participate in the metropolitan significance determination process, and that careful consideration be given to appointing members of the advisory committee so that active participation is assured.

In drafting the regulations the above principles were used. The basic problem was to try to make sure that those matters that might affect metropolitan systems are submitted for review without having a lot of matters submitted that were just delaying tactics and would almost certainly be found to not have any effect on metropolitan

systems. The approach used in the regulations adopted on April 10, 1975, was a combination of a fairly high numerical threshold relating to a metropolitan system coupled with an allegation of substantial effect generally on the function, size, or plans for the metropolitan facility.

Rather than approve or disapprove these regulations adopted on April 10, 1975, the Legislature amended the law to require the Metropolitan Council to adopt under Chapter 15 and put into effect by September 1, 1976, regulations establishing standards, guidelines and procedures for determining whether any proposed matter is of metropolitan significance, and establishing a procedure for the review of and final determination on such matters in accordance with the powers and requirements set forth in the law.

The Metropolitan Council has received strong opinions that the approach to Metropolitan Significance taken in 1975 was basically correct and no strong opinion that this approach was wrong. The regulations prepared for hearing in 1976 are, therefore, of essentially the same nature as those of 1975. The changes are not substantial and look much more extensive than they actually are.

#### Approach to 1976 Regulations

These regulations for the review of matters of metropolitan significance are drafted in fulfillment of the legislative requirement to adopt and put into effect regulations establishing standards, guidelines and procedures for determining whether any proposed matter is of metropolitan significance and establishing a procedure for the review of and final determination on such matters.

The basic purpose of the metropolitan significance regulations is in Minnesota Statutes 473.173, Subd. 2, which states, in part, "The purpose of these regulations shall be to promote the orderly and economic development, public and private, of the metropolitan area." In developing these regulations consideration must be given to all factors deemed relevant including but not limited to:

- (1) the impact a proposed matter will have on the orderly, economic development, public and private of the metropolitan area and its consistency with the metropolitan development guide;
- (2) the relationship a proposed matter will have to the policy statement goals, standards, programs and other applicable provisions of the development guide;
- (3) the impact a proposed matter will have on policy plans adopted by the council and on the development programs and functions performed and to be performed by a metropolitan commission;
- (4) functions of municipal governments in respect to control of land use as provided for under the municipal planning act.

The Development Framework Chapter of the Metropolitan Development Guide is a compilation of policy statements, goals, standards, programs, and maps prescribing guides for an orderly and economic development, public and private, of the metropolitan area.

The purpose of the Metropolitan Significance Regulations and the Development Framework are essentially the same and the Metropolitan Significance Regulations are designed to be one of the implementation devices for the Development Framework.

The Development Framework Chapter is the framework for other chapters of the Metropolitan Development Guide and for the policy plans for metropolitan sewer, transportation, airports and park systems. It is a guide to local units of government that make development decisions affected by metropolitan systems, and it will aid in directing the use of state and federal programs in the metropolitan area. Much more specific policy statements relating to each of these systems is included in the separate system guides. Since its formation in 1967, the Metropolitan Council has been involved in a wide variety of issues, including sewers, parks, highways, transit, airports, and local development plans. As a result of this involvement, the Council has concluded that a long-range regional growth policy is needed to effectively coordinate the various areas of public investment. A growth policy is needed by the Council, local governmental units, and the private sector. The Development Framework is designed to provide long-range policy direction for guiding growth and for making public and private investment decisions.

The principal purpose of the Development Framework is to preserve and improve the quality of life enjoyed by metropolitan residents by guiding the pattern of the region's development. This includes all aspects of metropolitan life -- social, economic, governmental, and environmental. The area is facing several potentially serious problems. Among these are shortages of reasonably priced housing, spiraling public facility costs, an energy shortage, pollution, increasing crime, and neighborhood deterioration. Many of the area's problems are related to its growth rate and pattern of development.

The Metropolitan Council expects the population of the area to increase by 26 per cent or 533,000 persons between 1974 and 1990. Approximately 380,000 new housing units and 400,000 new jobs will be needed to support this growth. The aim of the Development Framework is to accommodate the expected growth rationally and economically. Even less regional growth than mentioned above would not reduce the need to plan for orderly development and would increase the importance of not unnecessarily providing expensive public services to large sparsely developed areas.

Guiding growth could prevent the need for up to \$2 billion worth of public facilities. This difference is based upon the assumption that continued scattered growth would spread out over a 1,000 square mile area between 1970 and 1990 and would create a need for a skeletal system of roads, water, sewer, and drainage. Because the region probably could not afford them, it is unlikely that all of these facilities will actually be built if scattered growth continues. They would be needed, however, and the region would pay a price to go without them in increased traffic congestion, water pollution, and flood damage.

The Development Framework helps determine priorities for metropolitan investments. The metropolitan systems - highways, regional parks, airports, mass transit and water pollution control are closely related to the development of the region. A plan is needed to ensure that the metropolitan systems and the local supporting systems are designed to serve overall social, economic, and development objectives rather than single-purpose objectives. This has led the Metropolitan Council to delineate an Urban Service Area; investments that maintain rural service standards would be made in the Rural Service Area and a Rural Service Area. Metropolitan investments that encourage or serve urban development will be made only in the Urban Service Area; investments that maintain rural service standards would be made in the Rural Service Area.

--The preceding needs of the Metropolitan Area were the basis for determining the policy direction of the Development Framework. The conclusions reached by the Metropolitan Council that have a relationship to these regulations are:

- 1) A guided growth policy is needed in the Metropolitan Area. Urban development should be guided into an Urban Service Area, including Freestanding Growth Centers, where urban services such as sewers, roads, transit and parks are or will be provided. The remainder of the Metropolitan Area should be considered a Rural Service Area in which agriculture should be the primary land use. These areas are shown on the Development Framework Plan Map. The metropolitan systems such as sewers, highways, and parks in existence and planned can accommodate the forecasted growth.
- 2) The Urban Service Area, including the Freestanding Growth Centers, has enough land to accommodate all projected population and economic growth in the region past 1990 at prevailing densities after all fragile environmental features are protected. These environmental features include lakeshores, river banks, floodplains, wetlands and steep slopes. The Urban Service Area should be expanded where needed between 1975 and 1990 to permit a broad choice of living and working environments in urban, suburban, and rural town surroundings.
- 3) Development within the Urban Service Area should be planned to achieve continued growth in the Minneapolis and St. Paul downtowns, maintenance and rehabilitation of fully developed communities, orderly development of the urban fringe, and moderate growth in Freestanding Growth Centers. In the Rural Service Area, regions for commercial agriculture should be designated and preserved; development should be allowed only in small towns in which public services are adequate or in regions for general rural use where on-site sewage treatment systems can be effective and where public services are adequate.
- 4) Large-scale employment, shopping, and commercial service facilities should be developed in clusters such as major diversified centers. Such centers are generally more convenient to the population and make more efficient use of the transportation system. The following types of regional centers should be encouraged in the locations shown in Figure 5.
  - a) The Minneapolis and St. Paul downtowns will remain attractive locations for the financial community, corporate headquarters, a large retail trade business, cultural activities, medical services, and government offices. Their function as living centers should be encouraged.
  - b) Major diversified centers should be created by clustering regional scale shopping and service centers, entertainment, office buildings, restaurants, educational and medical facilities, and high density housing. Major diversified centers should serve a sub-regional population of about 200,000 and be convenient to the metropolitan transportation network.

- c) Other major centers, such as large industrial and office parks and large educational and entertainment complexes, should locate within the Urban Service Area near the freeway system or other major highways.
- 4) Investments in metropolitan systems will be made that encourage urban development within the Urban Service Area and agriculture in the Rural Service Area.
  - 5) Reinvestment required for replacement and maintenance of metropolitan systems serving existing development should have priority over investment for expansion except where analysis shows a shortage of land with urban services could seriously affect housing costs.
  - 6) Metropolitan investments should be made in the Rural Service Area only to the extent necessary to maintain rural standards of service and inter-regional transportation routes and in ways which are not detrimental to existing commercial agricultural operations.
  - 7) Improved regulation of on-site waste disposal system installation, maintenance, and annual inspections will probably raise the cost of living in the rural area. However, improved regulations will eliminate the need for metropolitan investment in central sewage facilities in rural areas and thus keep taxes lower throughout the Metropolitan Area.
  - 8) Land uses in the Metropolitan Area should be primarily determined by natural resources and the availability of urban services. Development should not be allowed in areas where the combination of development and the natural conditions would be hazardous to public health or safety.
  - 9) Better installation, maintenance, and inspection of septic tank systems is urgently needed to prevent pollution of surface water and groundwater and the resulting need for costly metropolitan sewer service in rural areas, which eventually destroys the rural atmosphere originally desired by the residents.
  - 10) The planning and implementation responsibilities of the Development Framework should be shared among different levels of government. Counties, municipalities, and townships should prepare and adopt development plans, public facility plans, and capital improvement programs and enact ordinances and tax policies that are consistent with and help promote metropolitan plans and programs. School districts should adopt school facility plans which are consistent with metropolitan, county, and municipal growth plans.
  - 11) To ensure that all jurisdictions in the Metropolitan Area plan for development and public facilities that utilize but do not overload metropolitan systems, the Metropolitan Council should provide planning assistance in the form of professional services, grants, and loans to local governmental units.
  - 12) The Metropolitan Council will prepare and adopt plans for metropolitan systems.
  - 13) Five-Year development programs containing a description and schedule of capital improvements will be approved by the Metropolitan Council for transportation, sewerage, and recreation open space.
  - 14) The capacity of metropolitan systems should be the basis for county and municipal planning in the Urban Service Area.
  - 15) If a governmental unit, after adopting a comprehensive plan, fails to carry out the plan, and the resulting development requires an unplanned extension or upgrading of a metropolitan system, the governmental unit should bear the responsibility for the full cost of the needed extensions of or improvements to the metropolitan system.

The backbone of the Metropolitan Development Framework is the metropolitan system. These systems as discussed in the Development Framework chapter and as defined by the Legislature are airports, waste control, transportation, and regional recreation open space. Implementation of the Development Framework depends upon the protection of the design and function of these existing and planned metropolitan systems. The Metropolitan Significance regulations are designed to bring to the attention of the Metropolitan Council those matters that could substantially effect the design and functioning of the metropolitan systems.

Sections MC 2 through MC 10 state the standards and procedures for initiating a Metropolitan Significance review and the review of the matter by the Metropolitan Council which could result in a final determination that:

- 1) a matter is not of metropolitan significance,

2) a matter is of metropolitan significance and that:

- a) a metropolitan system should be changed to make the matter consistent,
- b) a matter should be suspended for up to a year and that certain conditions or modifications could be met or made that could cause the Council to reconsider the suspension.

Section MC 1 states the scope and purpose of the regulations.

Section MC 2 delineates the thresholds and standards to be used in determining if a matter is of metropolitan significance. Some of the metropolitan system effect thresholds and standards are of two parts. The first part is a numerical threshold stated in terms of gallons of sewage or person trips. These two thresholds are coupled with requirements to demonstrate that there is also substantial effect on the respective metropolitan system. The other metropolitan system effect standards generally require that an initiator state an alleged substantial effect to a metropolitan system. This allegation is then examined by the Council and the Council must make a judgement as to whether or not this really is a substantial effect.

Section MC 2 also contains a provision that a Metropolitan Significance review can be requested because of an alleged adverse effect on units of government other than that in which the matter is located or when a matter would not be consistent with an approved local comprehensive plan.

Because of the high importance that the Legislature and the Metropolitan Council place upon local comprehensive plans, provision is made in Section MC 3 to exempt communities with approved plans from all system effect standards except one or, as appropriate, some of the standards. During the interim period between the issuance of the metropolitan systems statement and the adoption of a plan under the Land Planning Act, the Metropolitan Council may exempt certain standards on the basis of existing plan previously reviewed by the Council.

The Metropolitan Significance regulations are designed first to exempt certain types of matters from review. MC 3 specifies certain types of matters that would be exempt from review. These exemptions generally are matters previously approved, matters under the exclusive jurisdiction of another agency, emergency matters, minor alterations, matters where construction has commenced, and matters consistent with adopted local plans.

The initiation process in MC 5 is generally limited to units of government including the Metropolitan Council. The exception to this is the petition procedure available to all metropolitan residents of legal voting age. However, a petition would require 5,000 signatures. The initiation process requires that the initiator submit certain basic information in support of their claim that a proposed matter is of metropolitan significance.

The Chairman of the Metropolitan Council then has the responsibility under MC 6 to determine if the initiator was eligible and if sufficient information was submitted. If so, the chairman would order a Metropolitan Significance review started. If not, the Chairman will so state and this determination is subject to appeal to the Metropolitan Council.

The detailed review of a proposed matter of metropolitan significance is conducted by the Council through a special Significance Review Committee appointed by the Chairman. The final determination is made by the Council after receiving a report from the Review Committee. Section MC 7 covers the procedures to be used by the Significance Review Committee. This Committee has the option at any point up to the public hearing to ask the State Office of Hearing Examiners to assist them in their review responsibilities. Persons may become parties to a review by submitting information in response to the initial notice of commencement or later in the proceedings with the permission of the Review Committee or hearing examiner.

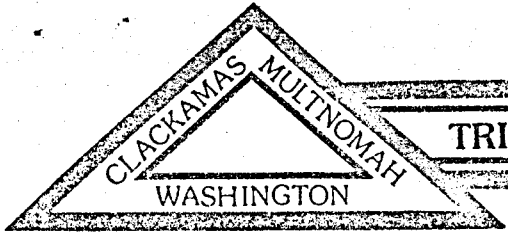
Prior to a public hearing, the Council must prepare a report and send it to all parties. After a public hearing, the Review Committee will prepare findings and recommendations and forward them to the Metropolitan Council for their final determination under Section MC 8.

Section MC 9 lists various situations under which a review may be dismissed, withdrawn, settled, or suspended or under which procedural requirements may be waived by the Metropolitan Council.

Section MC 10 contains general review conditions including a procedure for a quick determination of whether or not a proposed matter is of metropolitan significance. This procedure cannot be used beyond this initial determination.

Section MC 11 contains the definitions. These definitions have been placed at the end of the regulations in order to make the regulations easier for the public to understand and use. The Metropolitan Council feels that the public should not have to read through several pages of definitions before getting to the subject of the regulations. The definitions are just as accessible at the end of the regulations as at the beginning.

Lu-



TRI-COUNTY LOCAL GOVERNMENT COMMISSION

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MEMORANDUM

TO: COMMITTEE III, LAND USE AND CULTURAL AND RECREATIONAL  
ACTIVITIES  
FROM: KEN MARTIN  
SUBJECT: LAND USE PLANNING

Attached are two documents discussing views on  
where areas of responsibility for land use planning should  
be. One document is a land use survey taken by the Oregon  
State Senate involving a questionnaire sent to various city  
and county elected officials. The other is an article from  
Update, the Royal Commission on Metropolitan Toronto, on  
responsibility for planning.

KM:cls

Attachments

## Who is responsible for planning within Metro?

It is clear that all of the area municipalities in Metro are strongly opposed to a strengthened role for Metro in planning. While they agree that Metro does have a role in overall planning and coordination, their comments as to who should be responsible for local planning speak for themselves.

The Borough of North York claims that planning in Metro has only worked in the past because there was no requirement that Metro have an official plan and local bylaws were not required to conform to Metro's 'unofficial' plan. However, 1974 amendments to *The Municipality of Metropolitan Toronto Act* changed this situation and the Borough claims this undermines the local planning role. It calls for amendments to the planning legislation to provide for the primacy of area municipal planning.

Professors John Bossons and David Nowlan agree. They say:

"The impossibility of undertaking objectively 'correct' municipal planning, and the need to involve the public through formally structured agencies rather than simply through some amorphous participation exercise, are both strong arguments against recommending a dominant, highly independent planning role for the Metropolitan level of government. Planning values and ideas must come up from below, from the local municipalities and their agencies. Proposals can be integrated at the Metro level and broad community values debated; but these functions cannot be served properly if Metro is set up as an independent, more isolated, central level of government with dominant planning authority."

The two also argue that the Metro plan should have to be consistent with local plans rather than vice-versa. The Borough of Scarborough agrees, and contends that the most important decisions made by its council are the planning decisions, because they affect the day-to-day environment and lifestyle of Scarborough residents. The Borough of Etobicoke refers to land-use planning as the essence of local self-determination and argues that planning must remain with the area municipalities. The Boroughs of York and North York agree. However, the Borough of Etobicoke suggests that the planning approval process be streamlined by doing away with unnecessary procedures such as the numerous, almost identical, approval processes often required for one planning project. Etobicoke also recommends that subdivision approval powers be devolved to the area municipalities from Metro. The Borough of North York suggests

that existing legislation be amended to give municipalities the option of determining the composition of their planning boards and other related matters without any outside authorization.

Alderman David Smith of the City contends that the level of government which controls land-use planning holds the power. In his view, the City of Toronto could never have dealt with its inner city or core problems under an amalgamated planning authority. The Toronto Real Estate Board suggests that because the core is so critical to the entire Metro community, Metro should have full responsibility for core area planning. Opinion is divided on this issue although it would appear that the majority of those who presented briefs favour City control. Finally, regardless of who is responsible for planning for the core, the Toronto Transit Commission claims that policies with respect to the future of the core must be agreed upon before new transit lines are planned.

Not all of those who made fall submissions to the Commission support such a strong role for the area municipalities in planning. The Toronto Real Estate Board claims that planning in Metro is too fragmented and too heavily influenced by politics. It calls for one main planning body at the Metro level which would be responsible for transportation, communications, the core, housing policies, official plans and major zoning bylaws. The Board recommends that this Metro Planning Board or Committee be composed of representatives from local governments, major private enterprise, the Labour Council, social and community organizations, and the Government of Ontario.

The Urban Development Institute advocates that the Metropolitan Corporation be required to adopt an official plan within a specified period of time. It believes that penalties for failure to do so, such as forfeiting the power to adopt the plan to a provincial minister, ought to be imposed. It goes on to suggest that all area municipality official plans should have to conform to the Metro plan and should be subject to approval by Metro Council.

The Board of Trade of Metropolitan Toronto agrees and adds that Metro should assume a leadership role in establishing planning and housing targets, specifying overall density, and setting ratios of housing to jobs.

Edward Dunlop goes even further. He claims that no single area municipality in Metro can plan effectively and that planning should be the exclusive responsibility of Metro Council, with the area municipalities restricted to plan implementation.



Land Use

LU-39



TRI-COUNTY LOCAL GOVERNMENT COMMISSION

1912 S.W. SIXTH, ROOM 244 PORTLAND, OREGON 97201 (503) 229-3576

Ronald C. CEASE, Chairman; Carl M. HALVORSON, Vice Chairman; A. McKay RICH, Staff Director.

July 20, 1976

MEMO

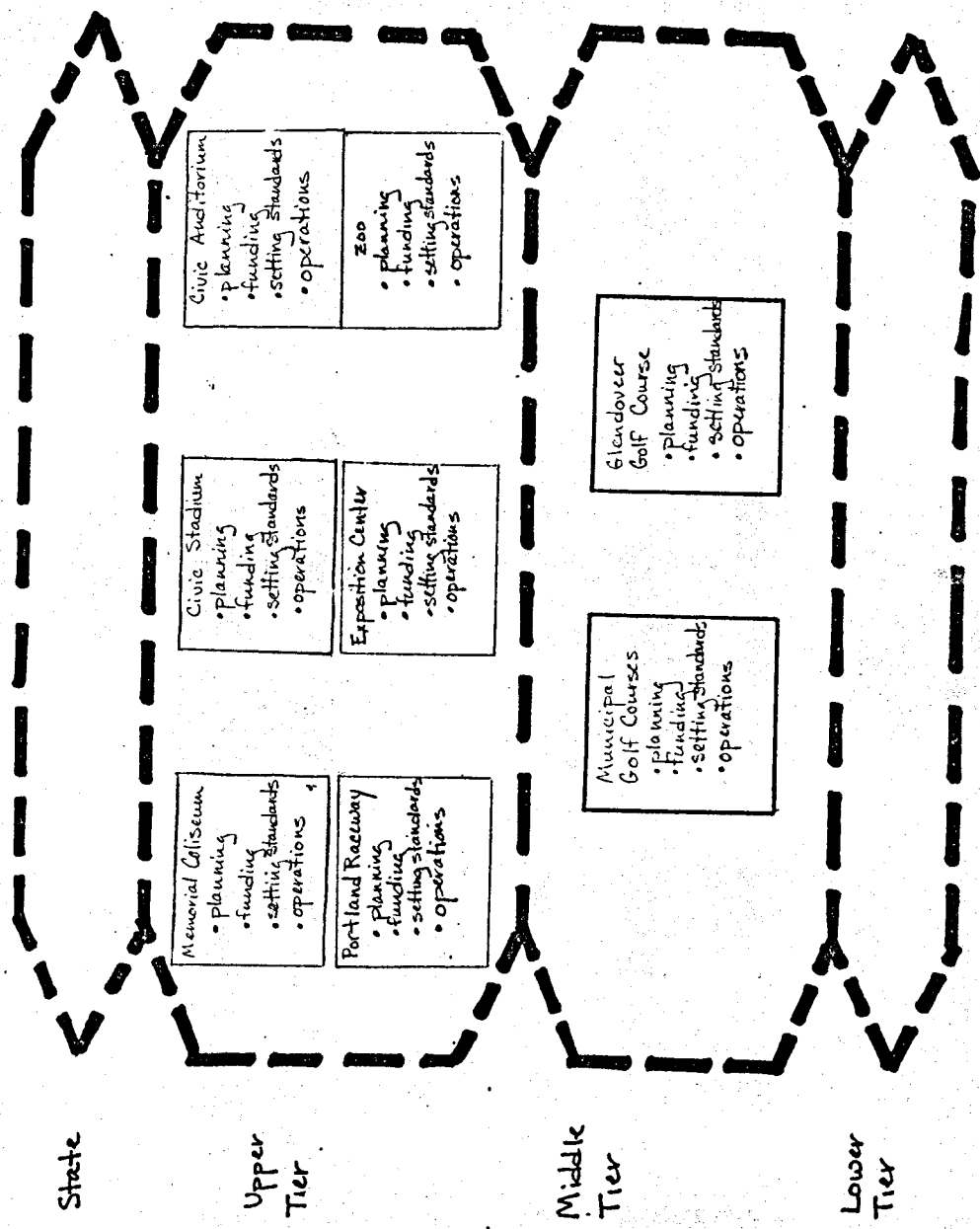
TO: LAND USE, RECREATIONAL & CULTURAL ACTIVITIES COMMITTEE
FROM: JUDITH KENNY
RE: MAJOR CULTURAL FACILITIES

The attached chart represents a possible assignment of responsibility for major cultural facilities. These assignments were made after the consideration of information and remarks from Com. Mildred Schwab and committee members.

All major cultural facilities, with the exception of golf courses, were placed in the upper tier. This would make planning, funding, operation and setting standards for these facilities a regional responsibility. The assignment of these facilities to a regional body reflects the feeling that because these facilities serve a regional clientele they should be a regional responsibility. The voters in the metropolitan area have recognized such a responsibility for the zoo. The other facilities, however, remain under the jurisdiction of Portland and Multnomah county. The need for a regional administration of these other facilities is not quite as obvious or immediate. The Coliseum and Raceway are self-supporting operations, and the amount of city money required to subsidize the Auditorium and Stadium has not been a tremendous burden. Commissioner Schwab suggested that the city's support of these two facilities is balanced by the money recovered by businesses as a result of the facilities' patrons. It is questionable, however, whether other city residents would agree with this, particularly during those years in which the subsidy is very large. The Exposition Center, on the other hand, earns money for the County. The management of all these facilities at the regional level would allow some equalization of costs for all residents of the metropolitan area particularly if money makers as well as money losers are included. In some instances special arrangements exist between governments for uses of facilities. These arrangements should be accommodated so far as possible.

The municipal and county golf courses were maintained at the local level. These facilities are generally self-supporting and draw their clientele from their own communities. Local control of planning, standards and operation increases the communities' ability to match their needs with facilities.

- John BAILEY, Herb BALLIN, Mariene BAYLESS, Mary-Elizabeth ELUNT, Philip R. BOGUE, Ito BONYHADI, Alan ERICALEY, Dennis BUCHANAN, Albert BULLIER, Sr., Joe BURGESS, Ted CLARNO, Fisa COLEMAN, John FFEWING, Dean GIVOLD, William GREGORY, Lloyd HAMMEL, Hazel G. HAYS, Stephen B. HERRELL, Nancy HOOVER, Barbara JAEGER, Leiland JOHNSON, Marlin JOHNSON, Charles JORDAN, Hugh KALANI, June KELLER, Corky KIRKPATRICK, Loyd LANG, Robert LANDAUER, Ed LINDQUIST, Harold LINSTONE, Raymond MAIER, Tom MARSH, G. H. MATTERSOCRFF, Wanda WAYS, Maria Elena BISHOP, McCracken, Hugh McGILVRA, Douglas MONTGOMERY, William MOSHOFSKY, Gary NEES, Jack NELSON, John NIGHTINGALE, Mary OPRAY, Mary RIKE, Frank ROBERTS, Edward ROSENBAUM, Fred RUSSELL, Dotty SCHEPLEN, Robert SCHUMACHER, Mildred SCHWAB, Virginia SEIDEL, Mike SHEPHERD, Robert SIMPSON, Estes SHEDCOR, Larry SPRECHER, Marlene STAHL, Ard STEVENSON, Donna STUHR, Steve TELFER, Ora Faye THORGERSON, Jerry TIPPENS, William E. WEBBER, Julie WILLIAMS, Roger W. YOST



JK:jck



# Libraries 3-Tier

State

Funding

Setting Standards

Upper Tier

Administration

- planning
- Funding
- operations

Acquisitions

- planning
- Funding
- operations

Traditional Services

- planning
- funding
- operations

Outreach Services

- planning
- Funding
- operations

Technical Processes

- planning
- Funding
- operations
- standard setting

Facilities Maintenance

- planning
- funding
- operations

Middle Tier

Lower Tier

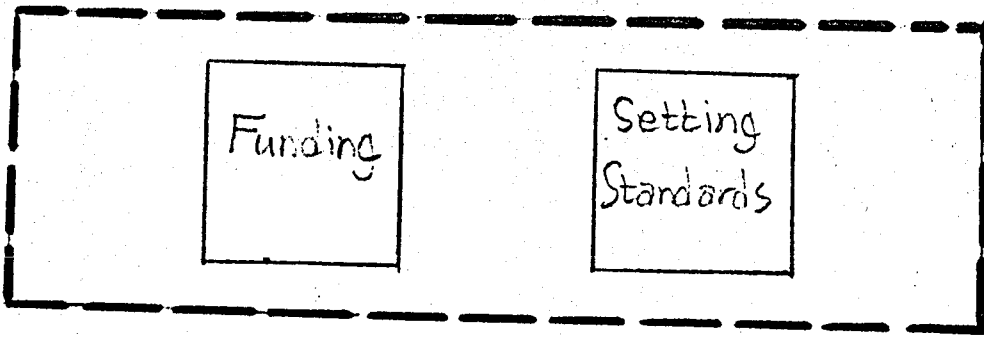
Traditional Services  
• planning (advisory)

Acquisitions  
• planning (advisory)

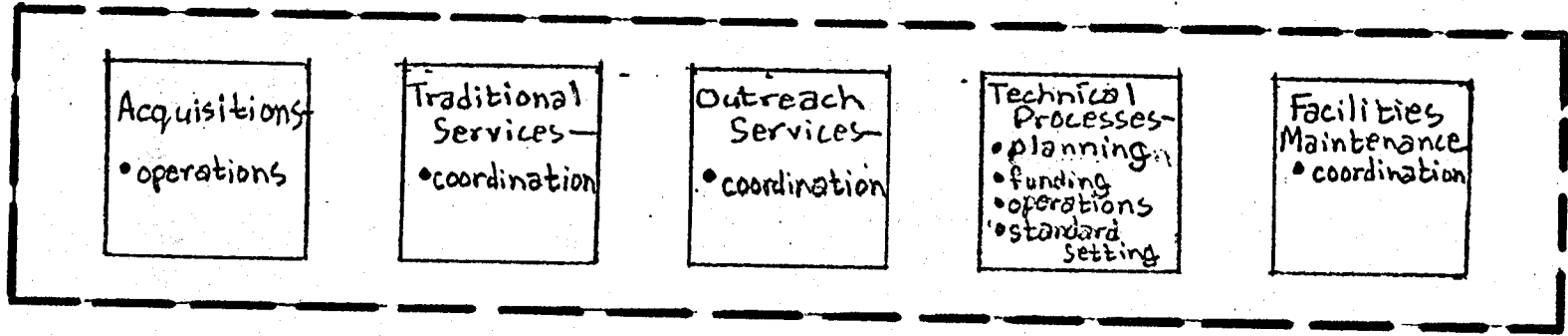
Outreach Services  
• planning (advisory)

# Libraries 3-Tier

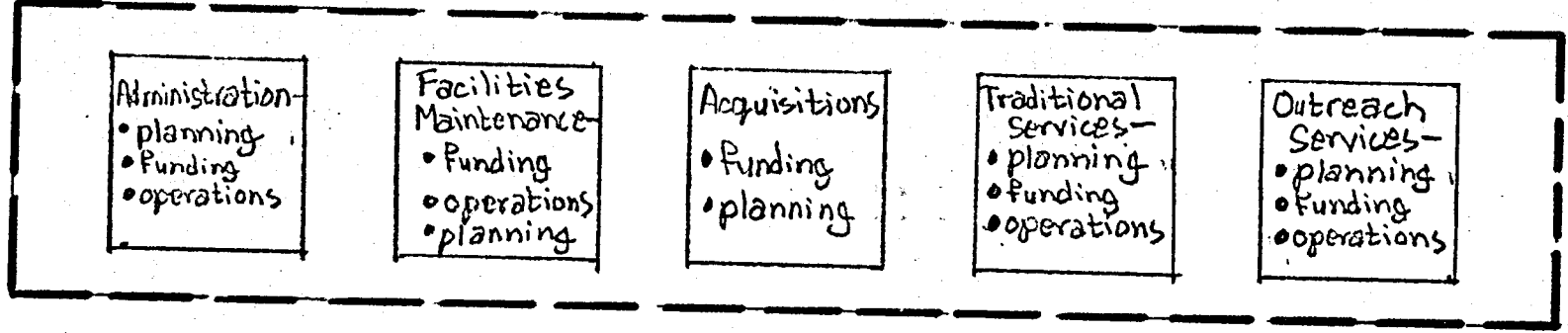
State



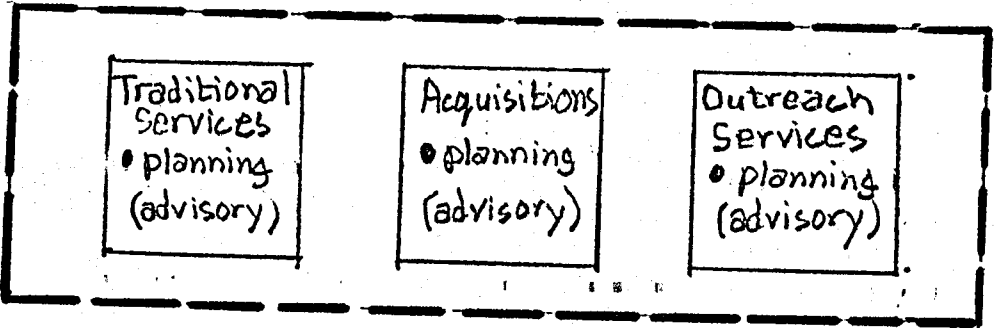
Upper  
Tier



Middle  
Tier



Lower  
Tier

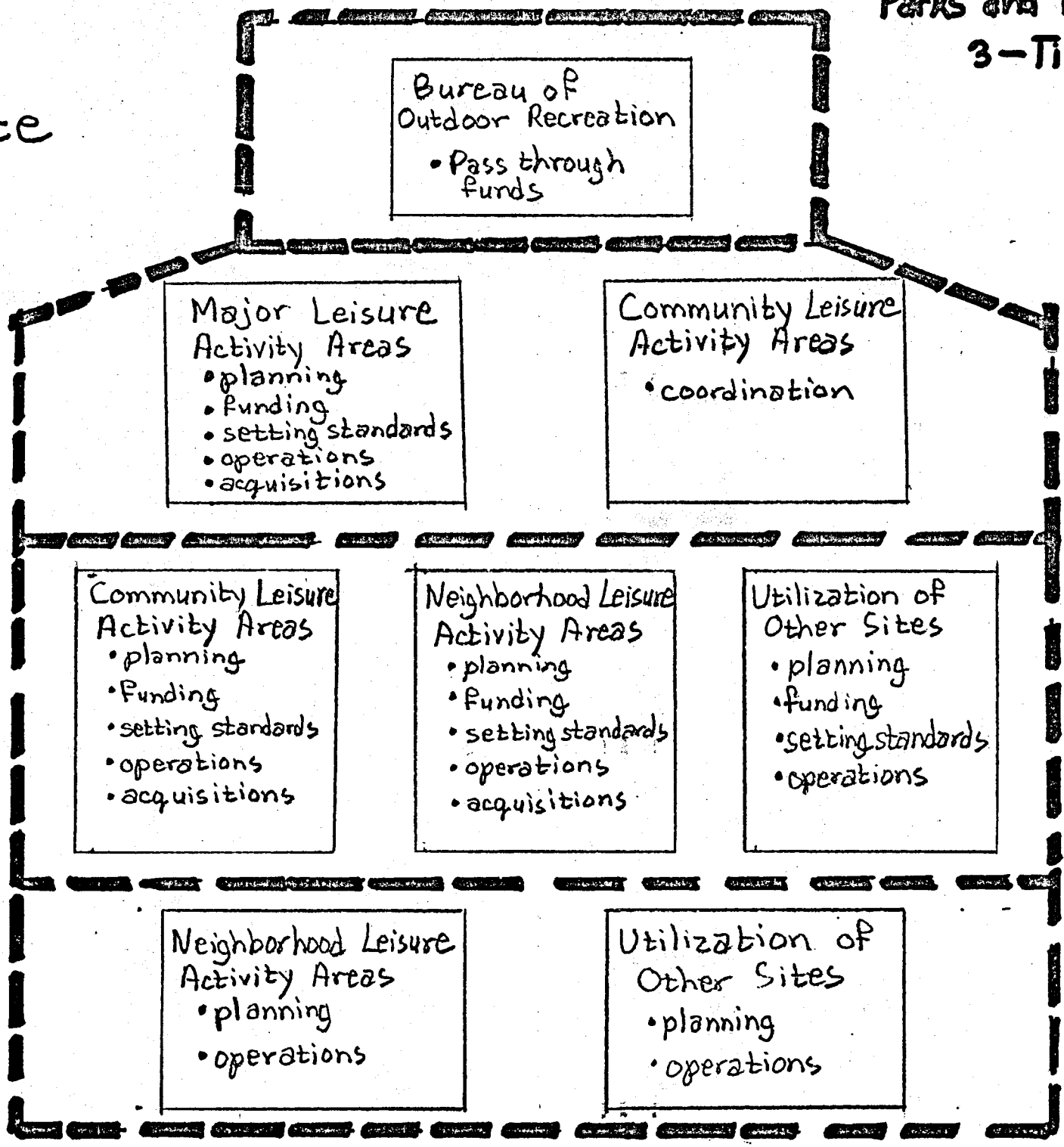


State

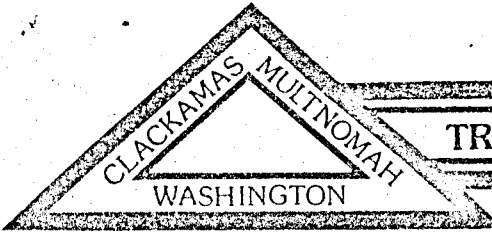
Upper  
Tier

Middle  
Tier

Lower  
Tier



Lu-43



TRI-COUNTY LOCAL GOVERNMENT COMMISSION

1912 S.W. SIXTH, ROOM 244

PORTLAND, OREGON 97201

(503) 229-3576

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Chairman  
Carl M. HALVORSON  
Vice Chairman  
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Staff Director

July 26, 1976

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Julie WILLIAMSON  
Roger W. YOST

MEMORANDUM

TO: COMMITTEE III, LAND USE AND CULTURAL AND RECREATIONAL  
ACTIVITIES

FROM: KEN MARTIN

SUBJECT: FUNCTIONAL ALLOCATIONS OF LIBRARY SERVICES AND  
PARKS AND RECREATION.

REVISED CHART FOR LAND USE PLANNING.

The accompanying material includes revised charts resulting from discussion during the June 29th meeting, and a brief history of the development of the charts, explaining the changes and reasons for arriving at the functional allocations, as presented in the charts.

Also included is the updated land use planning chart, resulting from discussion during the July 20 meeting.

KM:els  
Attachments

## COMMITTEE III

### LAND USE, RECREATIONAL & CULTURAL ACTIVITIES

The accompanying material suggests a possible allocation to three tiers of government of the activities under the functions of libraries, parks and recreation. In suggesting the allocations, consideration was given to the comments and recommendations of the resource persons consulted in these areas.

After discussion with the guest resource persons, the functional listing for Library services was amended, as follows:

#### Library Services:

- Administration
- Facility Maintenance
- Acquisitions
- Traditional Services (circulation, reference & inter-library loan)
- Outreach Services (institutions, books by mail, Bookmobile, etc.)
- Technical Processes (cataloguing, etc.)

The allocations were diagrammed on a chart, rather than simply laying them out on the matrix. Initially, the committee felt the chart was too complex, so it was simplified by combining the function with all its sub-functions into one box.

It was the consensus of the resource persons that a state floor be established for funding of library services. Under this plan, the state should guarantee a base amount for all aspects of library services provided by local governments.

In the upper tier, it was suggested to substitute the word "coordination" for "planning" to avoid confusion with planning of the middle tier.

One committee member suggested to combine the upper and middle tier functions into the upper tier. The feeling was if we are going to have a multi-purpose metro-council, all of the functions should be performed by the upper tier, thus reducing the model to two tiers. However, a regional service may not presently be feasible, since facilities in the three-county area are not equally equipped. It was agreed that there would be two charts: one as presented on June 29 and the other reduced to the two-tier system.

Traditional and outreach services in the lower tier were proposed to be under the label of advisory, since no one wanted groups at the lower level to be institutionalized.

The revised original charts were then presented to the committee for discussion.

The committee decided to eliminate the state from the charts in order to simplify the structure. However, the state is still expected to provide funding, to ease the cities and counties of their present funding burden. If we include the state's role as part of the overall structure for the long term, it may help in cutting down the number of governing bodies.

It was also decided not to include coordination in the upper tier, since the initial stage would be complicated by its inclusion. Coordination in the upper tier would be inherent in the longer term structure.

Standard setting was also eliminated as the committee felt it would logically be included in planning and operations, therefore, it didn't make sense to keep it as a separate sub-function. Standard setting would be included if it is attached to funding from the state; otherwise, it isn't applicable.

The new charts presented today illustrate the split on the committee over the question of whether functions should be moved to the upper tier all in one jump or whether they should be moved up gradually. The new charts appear to represent two models: Alternate I would represent a first step, which would be both feasible and politically acceptable, while Alternate II would be more representative of a longer term structure.

#### PARKS AND RECREATION

The charts for Parks and Recreation were amended along with Libraries. The resource persons suggested using the term "Leisure Activity Area", which was broken down into three categories:

- Major leisure activity areas
- Community leisure activity areas
- Neighborhood leisure activity areas (included utilization of other sites)

As with the libraries, the committee chose not to include standard setting and the state's role in the chart for simplification purposes. It is still assumed that some state funding will be available from the allocation of Bureau of Outdoor Recreation monies. It was suggested to change "Major Leisure Activity Areas" to "Regional Leisure Activity Areas" since they are assumed to be truly regional in their utilization. It was also decided to exclude coordination of Community Leisure Activity Areas in the upper tier.

July 26, 1976  
els

Upper Tier

Acquisitions  
• operations

Technical Processes  
• planning  
• funding  
• operations

Middle Tier

Administration  
• planning  
• funding  
• operations

Facilities Maintenance  
• planning  
• funding  
• operations

Acquisitions  
• planning  
• funding

Traditional Services  
• planning  
• funding  
• operations

Outreach Services  
• planning  
• funding  
• operations

Lower Tier

Acquisitions  
• planning  
(advisory)

Traditional Services  
• planning  
(advisory)

Outreach Services  
• planning  
(advisory)

Libraries 3-Tier Alternate I

Upper  
Tier

Administration  
• planning  
• funding  
• operations

Facilities  
Maintenance  
• planning  
• funding  
• operations

Acquisitions  
• planning  
• funding  
• operations

Traditional  
Services  
• planning  
• funding  
• operations

Outreach  
Services  
• planning  
• funding  
• operations

Technical  
Processes  
• planning  
• funding  
• operations

Middle  
Tier

Lower  
Tier

Acquisitions  
• planning  
(advisory)

Traditional  
Services  
• planning  
(advisory)

Outreach  
Services  
• planning  
(advisory)

Libraries 3-Tier Alternate II



Upper  
Tier

Regional Leisure  
Activity Areas

- Funding
- operations

Middle  
Tier

Community Leisure  
Activity Areas

- planning
- funding
- operations
- acquisitions

Neighborhood Leisure  
Activity Areas

- planning
- funding
- operations
- acquisitions

Utilization of  
Other Sites

- planning
- funding
- operations

Lower  
Tier

Neighborhood Leisure  
Activity Areas

- planning
- operations

Utilization of  
Other Sites

- planning
- operations

Parks and Recreation 3-Tier

State Role

Matters of Statewide Concern  
• planning  
• enforcement

Coordination w/ Other State Agencies (DEQ)

Resource Tech assistance

Comprehensive Plan Required of Local Jurisdictions  
• enforcement

Appeals (Resolution of conflict between local jurisdiction if no metro, and between metros)

Conduct for Funding (Fed. grants, etc)

Upper Tier

Matters of Metro Concern  
• planning  
• enforcement

Resource Tech assistance

Appeals (Resolution of conflicts between local jurisdictions)

Conduct for Funding (Fed. grants, etc)

Zoning  
• ordinance format  
• language uniformity

Inspectors  
• training  
• operations (where needed)

Middle Tier

Local Planning  
• funding  
• operations

Implementation (zoning, PUD's, etc)  
• funding  
• operations

Subdivision Control  
• funding  
• operations

Building Inspection  
• funding  
• operations

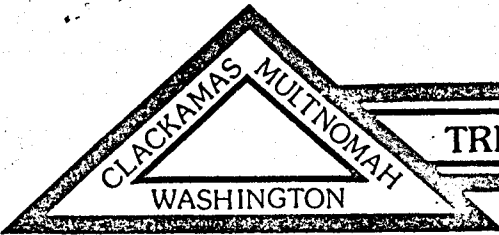
Building Permits  
• funding  
• operations

Lower Tier

Propose, review

Review & Comment on: District Plans  
Zoning  
Capital Improvements

Land Use Planning



# TRI-COUNTY LOCAL GOVERNMENT COMMISSION

1912 S.W. SIXTH, ROOM 244

PORTLAND, OREGON 97201

(503) 229-3576

July 26, 1976

Ronald C. CEASE  
Chairman  
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Vice Chairman  
A. McKay RICH  
Staff Director

## M E M O

TO: COMMITTEE III, LAND USE, CULTURAL & RECREATIONAL ACTIVITIES  
COMMITTEE

FROM: JUDITH KENNY

RE: DELINEATING STATE, METRO AND LOCAL PLANNING CONCERNS

John BAILEY  
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Roger W. YOST

The memo of July 13 reviewed methods several areas have used to allocate planning responsibility. These diverse methods highlight the fact that there is no set criteria for delineating state, metro and local concerns. This memo will further discuss methods for determining jurisdiction reviewing criteria used by the Oregon Supreme Court and Court of Appeals, and the Puget Sound Council of Governments. Attached is additional information on this subject which was prepared for the National Commission on Urban Problems, 1969.

Oregon Courts - - Before 1962, jurisdiction was defined primarily by geographical boundaries. In the landmark State ex ril Heinig v. Milwaukie case, however, the Oregon Supreme Court redefined jurisdiction in terms of interest:

"The real test is not whether the state or the city has an interest in the matter, for usually they both have, but whether the state's interest or that of the city is paramount."

The Heinig case gave new direction to the question of jurisdiction, but was unable to simplify it. The Oregon Court of Appeals used this test in the Allison v. Washington County case (1976) to determine whether a county zoning ordinance was a matter of predominately local concern. The court stated that such cases would have to be determined individually since circumstances could vary the level of concern. Judge Thorton wrote a special concurring opinion which approved the result but disagreed with the principle, stating that:

"...because of the broad language of Senate Bill 100, such county land-use decisions have all become matters of paramount state-wide concern."

Puget Sound Council of Governments - - The Puget Sound Council of Governments is currently involved in reorganization, after the resignation of three of the four member counties. Their negotiating committee has developed a basis of agreement for a new regional council. The council will serve primarily as a regional planning agency with these duties: A-95 review, cooperative regional development, land use, housing and

Page Two

transportation planning, and hearing appeals. The Puget Sound Council of Governments represents the upper tier of a planning hierarchy and the recently created sub-regional planning organizations consist of all of the general purpose governments in their respective sub-regions. They carry the principle burden of planning that is done for the regional plans and policies, and they also have the power to review A-95 applications and environmental impact statements of less than regional significance. Sub-regional issues, as defined, are all planning issues, unless otherwise specified by the Executive Board. An appeals procedure is being developed for those cases where jurisdiction is contested. Any jurisdiction may appeal for the determination of sub-regional or regional significance, with a 2/3 majority vote of the Executive Board required to establish an issue as a matter of regional significance. A system such as this provides an appeals procedure which responds to the various circumstances of a case, as well as providing a definite hierarchical framework for planning concerns and decisions.

Attached: pgs. 74-75, Fragmentation in Land-Use Planning and Control.

Commission on Intergovernmental Relations, the American Law Institute, and the new Urban Institute. Model legislation should provide for:

- (1) The integration of zoning, subdivision control, and housing codes into one set of "development regulations."
- (2) The preparation of a general plan that expresses development policies as well as mapped land-use areas, as a condition for the adoption of development regulations.
- (3) The creation of a state review agency to hear appeals from the administration of land-use controls.

LU  
45

Although improvements in the permissive legislation for land-use control activity are essential, the time is past when states can view themselves solely as facilitators of local action. Direct state involvement in mandating a framework for metropolitan land-use control and planning processes is also required. It is now imperative that the states assume leadership for defining the role of planning at the regional level, carefully distinguishing the nature of metropolitan concerns from local concerns. Implicit in our study is a strategy for immediate action, which is based on the following considerations:

1. Differentiating metropolitan-area from local planning. Assumptions that metropolitan area planning is city planning writ large are not necessarily valid. Any action based on such assumptions can lead to a misallocation of already scarce expertise resources. It could be argued, for example that it is unwise to require professionals at the metropolitan level to spend time on something so uncertain in effect as zoning. Such professionals might better be concerned with (a) the location of region shaping facilities (highways, airports, utilities) and the impact of such facilities on regional growth, (b) the stimulation of cooperation among communities within the region in developing common approaches to social problems, and (c) the coordination of capital improvements with operating programs.

2. Using a variety of techniques which have not been traditionally related to urban land-use policies. Land uses are determined more by the location of highways and other public and private facilities than by zoning or subdivision controls. Often in the past too little attention has been paid to the impact of the location of these facilities on future regional growth patterns. Any meaningful control system must provide opportunities for those concerned with regional growth to be involved in, or informed of, major locational decisions. We have gained experience and theoretical sophistication in the transportation-land-use relationship over the last 15 years. These lessons should be applied to other functional areas.

3. Stressing at the metropolitan level a planning process that emphasizes functional coordination. As in the CRP and Model Cities programs, this process would seek to develop sets of consistent policies among related functions and strategies involving sequential relationships. Federal and state governments can provide incentives for this type of metropolitan planning by requiring a coordinated metropolitan development program as a precondition for financial grants and technical assistance. Ideally, a single program would satisfy both state and Federal requirements.

4. Committing area-wide agencies to the development and maintenance of metropolitan data systems. We have had some experience with massive transportation studies and with 204 review as means of achieving coordination. However, some commentators assert that these are simply bureaucratic methods for securing compliance and are therefore easily circumvented by local officials who have nothing to gain by participating.<sup>127</sup> The transportation studies and 204 review may simply bring the irreconcilable conflicts that exist between and among independent municipalities to a metropolitan level. These perspectives could be reversed by creating local institutions with a vested metropolitan outlook. An initial step here would be the establishment of regional data banks.

If data centers were set up as an integral part of metropolitan planning agencies, and were required by state law as a responsibility of these agencies, it would be possible to generate economic and social data not now available. Everyone knows that such data may never be used; nevertheless, data are essential if metropolitan areas are to devise operational targets for the implementation of urban policies. These data banks can provide an area-wide intelligence function which does not now exist in any metropolitan area.

### No. 3--Organizing Planning at the Regional Scale

The state legislatures should mandate the creation of regional development agencies, acting on a definition of regions made by the state planning agency. Regions should be no smaller than SMSA's and should cover whole counties.

LU 45

The regional development agency should have a governing board, more than half of which should be county, municipal and special district elected officials, and the remainder gubernatorial appointees. It would have the following functions.

- (1) It would be the 204 review agency for the region.
- (2) It would be responsible for preparing a Metropolitan Development Action Plan (MDAP) for the area and for issuing a revision every two years. The MDAP would include guidelines for development of sub-areas in the region. These guidelines would consist of targets for population,



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Vice Chairman  
A. McKay RICH  
Staff Director

M E M O

TO: FULL COMMISSION  
FROM: Staff  
RE: Questions Relating to Structure of Upper-Tier

Attached is a worksheet highlighting some structural issues regarding the upper-tier. Tentative recommendations for resolution of these issues should be reported by each Committee at the August 26 Commission Meeting. Final recommendations will be adopted at the October 2-3 Conference.

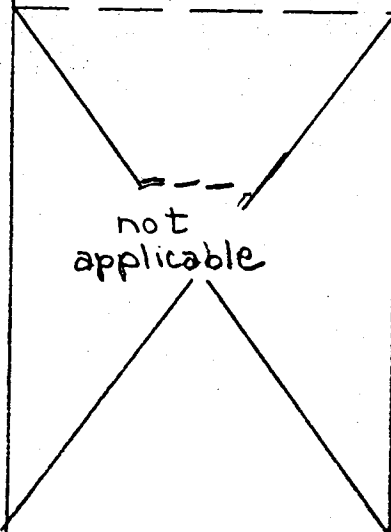
- John BAILEY
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AMR/bjg

Attch.

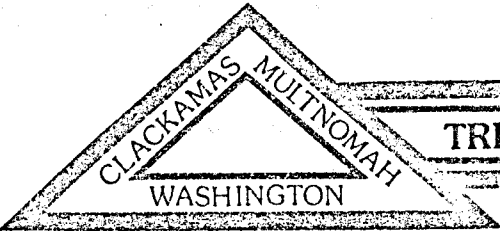
nonpartisan

WORKSHEET FOR OVERALL ORGANIZATION AND ELECTORAL PROCESS

	Size of Council	Method of Selection (ie appointed or elected; and if elected, at large or by district?)	Term of Office	Compensation
Tri-County Council	15	elect nonpartisan	4, 2 terms	= legis.
Tri-County Executive Structure	 not applicable	elected at large nonpartisan	4, 2 terms	fixed to? about 35



Lu-51  
Kirkpatrick



TRI-COUNTY LOCAL GOVERNMENT COMMISSION

1912 S.W. SIXTH, ROOM 244

PORTLAND, OREGON 97201

(503) 229-3576

Ronald C. CEASE  
Chairman  
Carl M. HALVORSON  
Vice Chairman  
A. McKay RICH  
Staff Director

August 2, 1976

MEMORANDUM

TO: COMMITTEE ON LAND USE, RECREATIONAL & CULTURAL ACTIVITIES  
FROM: KEN MARTIN

The committee has spent the major portion of seven full meetings on the subject of land use. One early meeting was devoted to relations between various governmental entities involved with land use with particular emphasis on relations between the Land Conservation and Development Commission (LCDC) and local agencies. Resource people addressing the committee on this occasion included:

- Steve Schell, member, LCDC
- Andy Jordan, counsel, CRAG
- Martin Crampton, Planning Dir., Multnomah Co.
- Gus Rivera, Planning Dir., Clackamas Co.
- John Rosenberger, Planner, Washington Co.
- Ernie Bonner, Planning Dir., City of Portland
- Richard Bolen, Planning Dir., City of Tigard

Another meeting concentrated on the viewpoints of individuals and groups who are affected by the land use process particularly at the state level. Guest speakers at this meeting were:

- Robert E. Stacey, counsel - 1,000 Friends of Oregon
- Steve Janik, attorney

The "implementation" aspects of land use planning - - zoning, subdivision control, building and housing codes, etc. - - were dealt with at a meeting attended by:

- Robert Baldwin, Land Development Mgr., Multnomah Co.
- Jim Griffith, Dir., Bureau of Buildings, City of Portland
- Al Clarc, Admin. Mgr., Bureau of Buildings, City of Portland
- Dave Beckman, Inspections Mgr., Bureau of Buildings, City of Portland

Other meetings were devoted to review and revision of assignment charts. These charts were devised to visually display the suggested assignment of various aspects of the planning function to the different levels of government. Several special memos requested by

John BAILEY  
Herb BALLIN  
Marlene BAYLESS  
Mary-Elizabeth BLUNT  
Philip R. BOGUE  
Ilo BONYHADI  
Alan BRICKLEY  
Dennis BUCHANAN  
Albert BULLIER, Sr.  
Joy BURGESS  
Ted CLARNO  
Elsa COLEMAN  
John FREWING  
Dean GISVOLD  
William GREGORY  
Lloyd HAMMEL  
Hazel G. HAYS  
Stephen B. HERRELL  
Nancy HOOVER  
Barbara JAEGER  
Leland JOHNSON  
Martin JOHNSON  
Charles JORDAN  
Hugh KALANI  
Julie KELLER  
Corky KIRKPATRICK  
Loyal LANG  
Robert LANDAUER  
Ed LINDQUIST  
Harold LINSTONE  
Raymond MAIER  
Tom MARSH  
G. H. MATTERSODORFF  
Wanda MAYS  
Maria Elena Bazan  
McCRACKEN  
Hugh McGILVRA  
Douglas MONTGOMERY  
William MOSHOFSKY  
Gary NEES  
Jack NELSON  
John NIGHTINGALE  
Mary OPRAY  
Mary RIEKE  
Frank ROBERTS  
Edward ROSENBAUM  
Fred RUSSELL  
Betty SCHEDEEN  
Robert SCHUMACHER  
Mildred SCHWAB  
Virginia SEIDEL  
Mike SHEPHERD  
Robert SIMPSON  
Estes SNEDECOR  
Larry SPRECHER  
Marlene STAHL  
Ardis STEVENSON  
Donna STUHR  
Steve TELFER  
Ora Faye THORGERSON  
Jerry TIPPENS  
William B. WEBBER  
Julie WILLIAMSON  
Roger W. YOST

the committee were studied and discussed during these meetings also. Issues of particular concern which have been discussed and not yet resolved by the committee are enforcement and criteria for determining what is a matter of local, regional or state-wide concern.

During their deliberations on land use the committee adopted a method for categorizing the subject which was suggested by one of its own members. The adopted division is, as follows:

LAND USE

- Comprehensive Planning
  - Land Use
  - Housing
  - Economic Development
  - Public Facilities and Services
  - Recreation, Open Spaces and Cultural Affairs
  - Air, Land, Water Quality
  - Transportation

- Implementation
  - Zoning
  - Subdivision Control
  - Building Code and Housing Code
  - Capital Improvements Program (streets, sewer, water, public facilities)
  - Subsidized Housing

This division is reflected in the committee's latest draft of a chart for suggested organization of the land use function within the tri-county area.

CURRENT DRAFT

Assumptions - Several major assumptions have evolved out of the committee's extensive discussions which are important to an understanding of their assignment of functions. First, it is the committee's intention to come up with a chart which reflects the commission's interest in a short term model. The committee has discussed many possible changes in the status quo and numerous functions have remained as is, not because the committee felt the function should not be performed elsewhere, but because it was deemed inappropriate to change the level of delivery as part of an initial step. The committee has consciously maintained a conservative posture in its initial suggestions for change. Second, the committee is very much concerned with the idea of overlap between the state, the metropolitan and the local levels. Matters of state-wide concern, metropolitan-wide concern and local concern are to be considered as mutually exclusive as possible. The terminology and phraseology of the chart are designed to transmit this concern. Third, the committee has considered as paramount the Commission's adopted policy on maintaining functions at the lowest possible level of government capable of feasible delivery. Fourth, the committee has attempted to provide for what they see as a greater need for more significant citizen and neighborhood input at all levels while maintaining the advisory nature of neighborhood groups as apposed to giving them more substantive powers.

Assignment of Functions - As noted earlier the Committee determined that land use planning should be divided into matters of state-wide concern, matters of metropolitan-wide concern and matters of local concern. With certain exceptions, the state's involvement in land use planning would be limited to matters of state-wide concern. The state should set goals (such as LCDC's goals) which apply everywhere in the state, but which apply only to very broad concerns which impact the entire state. The state's role in planning should also include designation of matters of state-wide concern and coordination of its planning goals with the operations of other state agencies. As mentioned earlier the committee has not yet addressed the issue of defining what is of state, metropolitan and local significance but has intentions of doing so in the near future. The committee wanted the coordination function specified in order to assume that critical land use concerns would not conflict with decisions being made by such state agencies as the Department of Environmental Quality, State Engineer's Office, Boundary Commission's, etc. The coordination role is currently reflected at the state level within the LCDC statute. That statute mandates the cooperation and coordination of all other state agencies with LCDC.

The Committee determined that in addition to a state role in very broad planning, the state should have certain tools of implementation. These tools include methods of accomplishing the state's role in very broad planning, as well as continuation of certain state functions which relate to lower tiers of government. The state currently sets standards for building codes through the state uniform building code. The Committee felt it desirable that this be continued. The role of the state in reviewing federal grant applications and passing through federal monies for various programs relating to planning should be maintained. The Committee was particularly concerned with the program whereby the state makes grants to metropolitan and local units to finance planning efforts. It was felt that this state role should be maintained and expanded if at all possible. Finally, the state should serve as an arbitrator of disputes between two metropolitan areas or two local areas, which could not be resolved at the metropolitan level. However, disputes to be solved in this fashion would only be those which involve matters of state-wide concern. If the issue involved in a dispute is of metropolitan-wide or local concern it should be resolved at the local or metropolitan area with appeals to the courts. The Committee felt this was an important aspect of its effort to cut down on unnecessary processing and overlap.

Matters of metropolitan concern are issues which the Committee thought should be dealt with on a metropolitan-wide basis. Again the Committee desired to emphasize the relative exclusiveness of matters which should only be dealt with at the regional level. Broad planning includes only those concerns which are identified as having area wide significance. The upper tier should be responsible for adoption of broad development policies which are clearly related to matters of area wide concern. These policies should be developed in the areas of housing, economic development, public facilities services, recreation (including open space and cultural affairs, transportation and air, water and land quality. These policies should be designed to control the area-wide impact of these categories without impairing local abilities to deal with local aspects of the same categories.

The Committee determined that there were two areas of technical assistance which could best be handled by the upper tier. This determination was made on the basis of testimony from resource persons and staff research. First, the

Committee recommends that the upper tier be responsible for the initial universalizing of terminology in zoning and subdivision ordinances and the updating of such terminology as needed thereafter. This is not intended to imply the need for uniform zoning or subdivision ordinances, only that various terms commonly employed in such ordinances be provided with universally recognized meaning. Second, the Committee thought that the upper tier might legitimately involve itself in establishment of uniform training of building inspectors. Since the state uniform building code must be enforced by trained personnel certified by the state it was felt that the upper tier might provide this training as a service to middle tier units.

The Committee determined that detailed comprehensive planning should remain a local function. Thus, comprehensive land use plans containing elements for housing, economic development, public facilities and services, recreation (including open spaces and cultural affairs), transportation, air, water and land quality which are currently the function of cities and counties should remain so. These plans must not violate the regional and state-wide goals which are dictated on matters clearly of metropolitan-wide or state-wide concern. On matters of local concern planning done by cities and counties should remain supreme. The tools for implementing such planning are the traditional ones of cities and counties and should remain at this level. These include zoning, subdivision control, building and housing code regulation and capital improvement program planning.

The lower tier received considerable discussion at various stages of the Committee's deliberation. On the one hand, there was a clear consensus that citizens and neighborhood groups should not be formalized in their relationship to the upper tier. Whether a formal and/or legal tie should be established between lower tier groups and the cities and counties of which they are a part was felt best left up to the individual cities and counties. On the other hand, the Committee wished to encourage more significant input by citizens and neighborhood groups at all levels of government. The Committee therefore determined that it strongly supports the opening of new and widening of old channels of citizen and neighborhood input to all levels of government.

els

State

### Matters of Statewide Concern

**Very Broad Planning**

- setting goals
- designating matters of statewide concern
- coordination with other state agencies

**Implementation**

- building code - standard setting
- review of fed. grant applications
- resolution of planning conflicts between 2 metros, or conflicts between 2 locals which can't be resolved at the metro level
- planning grants to metro & local level

Upper Tier

### Matters of Metro Concern

**Broad Planning**

- Adoption of broad development policies
  - housing
  - economic develop.
  - public facilities services
  - recreation open spaces & cultural affairs
  - air, water, land quality
  - transportation

**Implementation**

- mandated compliance of local plans with regional development policies
- resolution of conflicts between local jurisdictions
- review of fed. grant applications for planning and/or capital improvements

**Technical Assistance**

- universalize terminology in zoning & subdivision ordinances
- training of building inspectors

Middle Tier

### Matters of Local Concern

**Detailed Planning**

- housing
- economic development
- public facilities services
- recreation open spaces & cultural affairs
- air, water, land quality
- transportation

**Implementation**

- zoning
- subdivision control
- building code & housing code regulation
- capital improvement program

Lower Tier

Provide citizen input on matters of statewide & local concern

Land Use Planning

MEMORANDUM

August 16, 1976

TO: COMMITTEE ON LAND USE, RECREATIONAL AND CULTURAL ACTIVITIES

FROM: KEN MARTIN

RE: LIBRARIES

Background

The subject of libraries has consumed a good portion of four committee meetings. At the first meeting, the committee had, as resource persons:

Linda Wood, Assistant Librarian, Multnomah County Library

Patricia Stryker, Coordinator, Washington County-wide Cooperative  
Library Service

Paula Hamilton, Clackamas County Librarian

Carol Hildebrand, Lake Oswego Librarian and President, Oregon  
Library Association

The resource people indicated dissatisfaction with the headings used on the Commission's matrix to describe library services. They suggested a new categorization which was accepted by the Committee and has become the basis for the Committee's work. These categories are: Administration, Facility Maintenance, Acquisitions, Traditional Services (circulation, reference and inter-library loan), Outreach Services (institutions, books by mail, book-mobile, etc.) and Technical processes (cataloguing, etc.).

The committee chairman suggested that the assignment of functions be made in graphic as well as written form. Thus, the Committee received a draft of a chart suggesting which functions and subfunctions should be assigned to which level of government. A brief text accompanied the chart.

The initial staff-generated document consisted of four tiers and twenty-nine separate boxes identifying a function, such as Administration, in combination with a subfunction, such as planning or funding. The Committee initially reduced this to four tiers and fifteen boxes. This involved some simple combination of terms, as well as some major shifts in which level ought to do what.

The initial draft was also changed in other ways. Standard setting as a subfunction of the various library related activities was eliminated. The Committee felt this would logically be included in planning and operations and that it, therefore, did not make sense to keep it as a separate subfunction.

Funding for library services at present involves no state monies. It was the consensus of the resource persons that a state floor be established for funding of library services. Under this plan, the state would guarantee a base amount for all aspects of library service provided by local governments. The Committee favored this approach but decided to eliminate the state level from the chart in order to simplify the structure and maintain its focus on tri-county area governmental structure.

The Committee discussed at length a proposal by one committee member that all library services should be provided by the upper tier with the middle tier (cities and counties) excluded entirely from a service for which they are currently the primary providers. While the Committee saw this as a possible long range option, a majority did not feel this should be part of a short range proposal.

Throughout its deliberations, the Committee has endeavored to be pragmatic in its approach to assignment of functions. Political feasibility

has been a constant criteria. Consequently, a number of functions or subfunctions which the Committee felt might someday be performed at a higher level were left at a lower level.

#### Assignment of Functions

In light of the Full Commission's recently expressed desire to pursue a short range proposal and a long range model, the Committee has tentatively designed two such models.

Short Range - Two functions of library services have been assigned to the upper tier.

The Committee determined that the actual operation of Acquisitions could best be performed on a regional basis. This is the purchase of the books for libraries. It was argued convincingly that economies of scale would be significant and that the larger orders which a unified operation could place would receive considerably swifter and more careful attention by the publishing houses. Some of the libraries in the metropolitan area are already doing this joint purchasing through the Multnomah County Library. In recommending that this be an upper tier function, the Committee suggests that this be accomplished by intergovernmental agreement and contract rather than by establishing a separate library function at the upper tier. This could be done by having the libraries at the middle tier contract with the Support Services Department of the short term upper tier model or by having Multnomah County Library expand its present joint purchasing operation.

Technical processes also should be a function of the upper tier. Technical processes involve the cataloguing and preparation of the books which must be done, prior to their being placed on the shelves. Again it was felt that this function could be performed by the upper tier's Support Services



Department through contract with the individual libraries, or by having Multnomah County Library provide the service. Technical processes, the Committee thought, should be planned for and funded, as well as operated at the upper tier.

In the short range, the bulk of library services should remain where they currently are provided, at the middle tier. The Committee is well aware of the growing inability of the cities to finance libraries; still the Committee felt that initially the cities (with increasing cooperation with the counties, in some instances) and counties should continue to provide the bulk of library service. Thus, the planning, funding and operations aspects of Administration, Facilities Maintenance, Traditional Services and Outreach Services are all shown at the middle tier. Facilities Maintenance is just that - - maintenance of the physical plants which house library services. This should continue to be provided by the unit actually operating the library. Traditional services include circulation, reference and inter-library loan. Planning, funding and operations should remain middle tier functions. Some reference materials should probably be maintained as regional resources, but this can be done through inter-library loan, according to the resource persons. Outreach services include service to institutions, books by mail, bookmobile, etc., and like Traditional services all aspects of this, should remain middle tier. Two facets of Acquisitions, planning and funding would also continue to be city and county responsibility, while operations, as noted earlier, would be provided by the upper tier through contract.

The Committee agreed that the lower tier, i.e. neighborhood citizens' input groups, should have an advisory role in deciding what books should be ordered (Acquisitions-planning), how they should be circulated and for what

lengths of time (Traditional services-planning) and what programs should be established to serve those unable to come to the libraries (Outreach services-planning). The chart reflects this lower tier advisory role.

The Committee assumes that any change from its short term proposal to the long term one would be gradual and flexible. Some functions or subfunctions are viewed as likely candidates for fairly immediate removal to a higher tier while other functions may remain at their current levels for a much longer time, if not permanently. The Committee assumes that any reorganization will include a mechanism for the orderly movement of functions to another tier.

Long Term - In the long range, the Committee determined that all facets of library service would be provided by the upper tier, except for the planning of Acquisitions, Traditional Services and Outreach Services. This determination was made on the assumption that a long range model would, in fact, be truly two-tier. Thus, the upper tier, which would essentially be a combination of the three counties, would provide the bulk of the library services. The lower tier, consisting of institutionalized urban community districts and rural community districts, would do the planning, as noted.

The Committee, however, clearly anticipated a transition period between the short range and long range models. During this time, a gradual shifting of some middle tier functions to the upper tier would take place. Some administrative functions could gradually be transferred to the upper tier. If new facilities were constructed or rented which were primarily operated to serve regionally, these might possibly be maintained by the upper tier. Planning responsibility for traditional services could eventually be shifted partially

to the upper tier particularly with regard to reference and inter-library loan activities. Coordination of the planning for new facilities is another function which could be moved fairly quickly to the upper tier. This would alleviate the possibility of facilities being located in close proximity to one another in one instance, leaving vast unserved areas in another.

els  
August 16, 1976

Upper Tier

Acquisitions  
• operations

Technical Processes  
• planning  
• funding  
• operations

Middle Tier

Administration  
• planning  
• funding  
• operations

Facilities Maintenance  
• planning  
• funding  
• operations

Acquisitions  
• planning  
• funding

Traditional Services  
• planning  
• funding  
• operations

Outreach Services  
• planning  
• funding  
• operations

Lower Tier

Acquisitions  
• planning

Traditional Services  
• planning

Outreach Services  
• planning

Libraries Short Range

Upper  
Tier

Administration  
• planning  
• funding  
• operations

Facilities  
Maintenance  
• planning  
• funding  
• operations

Acquisitions  
• planning  
• funding  
• operations

Traditional  
Services  
• planning  
• funding  
• operations

Outreach  
Services  
• planning  
• funding  
• operations

Technical  
Processes  
• planning  
• funding  
• operations

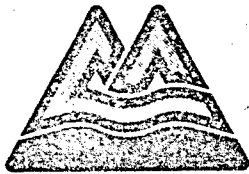
Lower  
Tier

Acquisitions  
• planning

Traditional  
Services  
• planning

Outreach  
Services  
• planning

Libraries Long Range



# MULTNOMAH COUNTY OREGON

## OFFICE MEMORANDUM... DIVISION OF PLANNING AND DEVELOPMENT

DATE August 20, 1976

TO: TCLGC Land Use Committee

FROM: Ardis Stevenson

SUBJECT: Land Use Functions by Tier

In hopes that you're receptive to yet another revision of the land use function chart, please consider the attached. This version is intended to combine the Box Chart and the Stevenson/Jaeger matrix.

A major change exists in the Upper Tier responsibilities. Under Planning, instead of adoption of policies (regional plan), the metro responsibility is only in identifying areas and activities of metro concern and adopting policies for them. (I understand that legislation is being drafted to define regional responsibilities this way.)

Under Technical Assistance, Planning Guides and Training covers terminology in codes and training of inspectors. Middle tier implementation includes more detail than our boxes.

If, prior to Tuesday's meeting, all of us can compare this suggestion with the latest box chart and the matrix, I hope we'll find this is the best method of conveying the land use function.

MATTERS OF STATEWIDE CONCERN

STATE

PLANNING

- Establish Uniform Process
- Set Goals/Comp. Plan Required
- State Agency Coordination
- Designate Matters of Statewide Concern

IMPLEMENTATION

- Review/Conflict Resolution/Plan Compliance
- Uniform Codes
- Regulation: Matters of Statewide Concern

TECHNICAL ASSISTANCE

- Metro-Local Coordin
- Plan. Guides & Train.
- State Agency Coord.

MATTERS OF METRO CONCERN

UPPER TIER

PLANNING

- Set Goals and Objectives
- Define Plan Procedure and Apply
  - Identify Areas/Activities of Concern
  - Designate Planning Process
- Prepare/Adopt Policies and Standards
- Metro Plan Coordination
  - Air Quality
  - Water Quality
  - Transportation
  - Others as Designated

IMPLEMENTATION

- Compliance of Local Plan with Metro Policy
- Review/ Conflict Resolution
- Regulation: Matters of Metro Concern
- A-95 Grant Compliance Procedures

*Standards & Functional Plans*

TECHNICAL ASSISTANCE

- Intergov. Coord.
- Citizen Involvement
- Plan. guides & train.

• *Prepare, Adopt Functional Plan (for metro concerns - water, sewer, etc)*

MATTERS OF LOCAL CONCERN

MIDDLE TIER

PLANNING

- Adopt Comprehensive Plan
- Plan Administration
- Local Agency Coordination

IMPLEMENTATION

- Hearing Process
- Planning Commission Review
- Zoning
- Subdivision
- Construction Codes
- Capital Improvements
- Streets & Roads Improvement
- Local Improvement, Districts
- Development Staging Techniques

TECHNICAL ASSISTANCE

- Citizen Involvement

MATTER OF COMMUNITY CONCERN

LOWER TIER

PLANNING

- May Initiate, Develop, Review Community/Neighbor Plans

IMPLEMENTATION

- May Initiate, Dev., Review Zoning, Subdivisions, PUD, Capital Improvemnets ↓

TECHNICAL ASSISTANCE

*Other plans.*

M E M O R A N D U M

TO: LAND USE, RECREATIONAL & CULTURAL ACTIVITIES COMMITTEE  
FROM: KEN MARTIN  
RE: DEFINITIONS OF REGIONAL, COMMUNITY AND NEIGHBORHOOD LEISURE  
ACTIVITY AREAS

Below are some suggested definitions requested by the committee at its August 3, 1976 meeting.

Neighborhood Leisure Activity Areas - - a one to ten acre site utilized primarily by persons who arrive on foot. Often adjacent to schools, this park traditionally provides such things as ball fields, basketball courts, playground equipment and picnic facilities.

Community Leisure Activity Areas - - a ten to fifty acre park utilized both by persons who arrive by foot and persons who arrive by private or public transit. This site may include such facilities as swimming pools, archery courses, tennis courts, community center buildings, casting pools, lighted ball fields, parking facilities, etc.

Regional Leisure Activity Areas - - a park of fifty acres and larger which serves a wide cross-section of residents from the entire region. Most arrivals at such parks are by means other than walking. Common facilities might include water areas capable of supporting boating and fishing activities, camping areas, nature walks and/or hiking trails, picnic areas, parking, etc.

KM:els



M E M O R A N D U M

TO: COMMITTEE ON LAND USE, RECREATIONAL AND CULTURAL ACTIVITIES  
FROM: KEN MARTIN

Parks and recreation was considered at four separate meetings by the committee. The committee heard from six resource persons at an early meeting on the subject of parks and recreation. These were:

Howard Terpenning, Supt., Tualatin Hills Park & Recreation District

Estella Ehelebe, Supt. of Parks, Multnomah County

Dale Christenson, Supt., Bureau of Parks, City of Portland

Mel Stout, Regional Planner, State Parks Division;

Bob Taylor, State Parks Division

Linda MacPherson, Planner, CRAG

Don Carlson, Executive Officer, Portland Metropolitan Area

Local Government Boundary Commission

The resource persons indicated that the Commission's matrix should be changed in two ways. First, there was a general consensus that "parks" should be referred to by the more general term, "leisure activity areas". Second, it was pointed out that the matrix did not take into consideration the use of school facilities by city park programs and by the Tualatin Hills Park and Recreation District.

The resource persons were not generally in agreement on whether any aspects of parks and recreation should be performed by an upper tier. Problems such as utilization of facilities by non-district or city residents, lack of service to certain high population density unincorporated areas, and unequal support for facilities utilized by the entire region, were mentioned,

but the representatives of the various jurisdictions seem to favor continuation of the current delivery system despite these problems. One of the resource persons did respond that planning, standard setting and some tax equalization might be appropriate functions for an upper tier.

The committee's first cut at Parks and Recreation produced general agreement that the state's role should continue to be that of allocating Bureau of Outdoor Recreation funds (federal) as it currently does. The upper tier would handle all aspects of major leisure activity areas which were "assumed to be those of that were truly regional in their utilization". Additionally, the upper tier would be involved in planning for community parks. Community parks were identified as those "that principally serve the residents of the city or county maintaining them" All other aspects of community parks were to be left at the middle tier where they are currently performed. The middle tier would also continue to provide all aspects of neighborhood parks, except that planning and operations would be shared with the lower tier. Neighborhood parks were defined as those "that principally serve residents in an immediate area considerably smaller in size than the city or county." The resource persons' suggestion that the utilization of sites other than those owned by the park agency be included in the analysis was heeded. Thus, utilization of other sites was included by the committee as a major facet of the parks and recreation function. All of the above was displayed graphically following the format established with consideration of the Libraries function.

Following the committee's initial discussion, the chart was revised to combine various boxes which seemed repetitive. The revised chart reflected basically the assignment originally made by the committee. The discussion on this revised chart centered on terminology. The terms "regional",

"major", "standard setting", and "coordination" were discussed and revisions suggested.

A third revision was accomplished by the committee. It was determined that while the state function of passing through BOR funds would continue, this need not be shown on the chart. At the upper tier, coordination of community leisure activity areas was eliminated as a major operation. The committee felt that the upper might ultimately perform a coordination role for community parks but initially it was decided not to have the upper tier directly and officially involved. The committee also decided at this point to redesignate Major Leisure Activity Areas as Regional Leisure Activity Areas, since in fact, these are regional in nature. It was also determined that the upper tier should only fund and operate Regional facilities - - that planning and acquiring new facilities should not initially be a function of the upper tier. Standard setting was eliminated from all functional boxes on the charts. The committee felt that standard setting was really an understood part of planning and operations and need not be separately stated.

The chart revised to reflect the above considerations was generally accepted by the committee, but the definitions of regional, community and neighborhood were felt to need additional attention. The following were ultimately decided upon by the committee.

August 23, 1976  
KM:els

9/7/76  
LAND USE COMMITTEE

LU-64

Dean,

1. On Ardis' chart (and in text) the Committee wanted something on appeals inserted. I think this was in upper tier Implementation but I missed their exact desires. Can you remember?
2. I have treated Land Use w/out dividing it into short and long range because we never really talked about long range. On the other hand there may well be some suggestions we are making which could be a little advanced for immediate implementation in the short range. What do you think?
3. The last category — Recommendations for Intergovernmental Relations — is a catchall which could include any observations or recommendations which the committee might care to make that do not relate directly to structure or functions. Suggestions?
4. (This should have been the first point in that <sup>it</sup> is strictly a matter of form.) The format of the report (headings and order) has been adopted universally so that all of those writing the various sections are covering the same ground and so that the report has some order for the reader.

D R A F T

## REPORT OF LAND USE, RECREATIONAL AND CULTURAL ACTIVITIES COMMITTEE

STATEMENT OF PURPOSE

The committee on Land Use, Recreational and Cultural Activities was assigned four functional areas in Phase II of the operations of the Tri-County Commission. These were land use, parks and recreation, libraries and cultural activities/facilities. The committee was charged with examining each area and determining the most appropriate level of government for delivery of the service. Additionally, the committee has participated in the commission-wide effort to formulate a governmental system which can best accommodate provision of services at the levels determined by the five committees. Finally, the committee was asked to note other recommendations or suggestions relating to their subject area which resulted from their examinations.

FUNCTIONSLibrariesCommittee Proceedings - -

The subject of libraries consumed a good portion of four committee meetings. At the first meeting, the committee had, as resource persons:

Linda Wood, Assistant Librarian, Multnomah County Library

Patricia Stryker, Coordinator, Washington County-wide  
Cooperative Library Service

Paula Hamilton, Clackamas County Librarian

Carol Hildebrand, Lake Oswego Librarian and President,  
Oregon Library Association

The resource people indicated dissatisfaction with the headings used on the Commission's matrix to describe library services. They suggested a new

categorization which was accepted by the committee and became the basis for the committee's work. These categories were: Administration, Facility Maintenance, Acquisitions, Traditional Services (circulation, reference and inter-library loan), Outreach Services (institutions, books by mail, bookmobile, etc.) and Technical processes (cataloguing, etc.).

The committee chairman suggested that the assignment of functions be made in graphic as well as written form. Thus, the committee received a draft of a chart suggesting which functions and subfunctions should be assigned to which level of government. A brief text accompanied the chart.

The initial staff-generated document consisted of four tiers and twenty-nine separate boxes identifying a function, such as Administration, in combination with a subfunction, such as planning or funding. The committee initially reduced this to four tiers and fifteen boxes. This involved some simple combination of terms, as well as some major shifts in which level ought to do what.

The initial draft was also changed in other ways. Standard setting as a subfunction of the various library related activities was eliminated. The committee felt this would logically be included in planning and operations and that it, therefore, did not make sense to keep it as a separate subfunction.

Funding for library services at present involves no state monies. It was the consensus of the resource persons that a state floor be established for funding of library services. Under this plan, the state would guarantee a base amount for all aspects of library service provided by local governments. The committee favored this approach but decided to eliminate the state level from the chart in order to simplify the structure and maintain its focus on tri-county area governmental structure.

The committee discussed at length a proposal by one committee member that all library services should be provided by the upper tier with the middle tier (cities and counties) excluded entirely from a service for which they are currently the primary providers. While the committee saw this as a possible long range option, a majority did not feel this should be part of a short range proposal.

Throughout its deliberations, the committee endeavored to be pragmatic in its approach to assignment of functions. Political feasibility was a constant criteria. Consequently, a number of functions or subfunctions which the committee felt might someday be performed at a higher level were left at a lower level.

#### Assignment of Functions - -

In light of the full Commission's desire to pursue a short range proposal and a long range model, the committee tentatively designed two such models.

Short Range - - Two functions of library services were assigned to the upper tier.

The committee determined that the actual operation of Acquisitions could best be performed on a regional basis. This is the purchase of the books for libraries. It was argued convincingly that economies of scale would be significant and that the larger orders which a unified operation could place would receive considerably swifter and more careful attention by the publishing houses. Some of the libraries in the metropolitan area are already doing this joint purchasing through the Multnomah County Library. In recommending that this be an upper tier function, the committee suggested that this be accomplished by inter-governmental agreement and contract rather than by establishing a separate

library function at the upper tier. This could be done by having the libraries at the middle tier contract with the Support Services Department of the short term upper tier model or by having Multnomah County Library expand its present joint purchasing operation.

Technical processes also should be a function of the upper tier, the committee decided. Technical processes involve the cataloguing and preparation of the books which must be done, prior to their being placed on the shelves. Again it was felt that this function could be performed by the upper tier's Support Services Department through contract with the individual libraries, or by having Multnomah County Library provide the service. Technical processes, the committee thought, should be planned for and funded, as well as operated at the upper tier.

In the short range, the bulk of library services should remain where they currently are provided, at the middle tier. The committee is well aware of the growing inability of the cities to finance libraries; still the committee felt that initially the cities (with increasing cooperation with the counties, in some instances) and counties should continue to provide the bulk of library service. Thus, the planning, funding and operations aspects of Administration, Facilities Maintenance, Traditional Services and Outreach Services are all shown at the middle tier. Facilities Maintenance is just that - - maintenance of the physical plants which house library services. This should continue to be provided by the unit actually operating the library. Traditional services include circulation, reference and inter-library loan. Planning, funding and operations should remain middle tier functions. Some reference materials should probably be maintained as regional resources, but this could be done through inter-library loan, according to the resource persons. Outreach services include service to institutions, books by mail, bookmobile, etc., and, like Traditional Services, all aspects of this should remain middle tier. Two facets of Acquisitions,



planning and funding, would also continue to be city and county responsibility , while operations, as noted earlier, would be provided by the upper tier through contract.

The committee agreed that the lower tier, i.e., neighborhood citizens' in-put groups, should have an advisory role in deciding what books should be ordered (Acquisitions-planning), how they should be circulated and for what lengths of time (Traditional services-planning) and what programs should be established to serve those unable to come to the libraries (Outreach services-planning). This lower tier advisory role is reflected in the attached chart.

The committee assumed that any change, from its short term proposal to the long term one, would be gradual and flexible. Some functions or subfunctions were viewed as likely candidates for fairly immediate removal to a higher tier, while other functions may remain at their current levels for a much longer time, if not permanently. The committee assumed that any reorganization will include a mechanism for the orderly movement of functions to another tier.

Long Term - - In the long range, the committee determined that all facets of library service would be provided by the upper tier, except for the planning of Acquisitions, Traditional Services and Outreach Services. This determination was made on the assumption that a long range model would, in fact, be truly two-tier. Thus, the upper tier, which would essentially be a combination of the three counties, would provide the bulk of the library services. The lower tier, consisting of institutionalized urban community districts and rural community districts, would do the planning, as noted.

The committee, however, clearly anticipated a transition period between the short range and long range models. During this time, a gradual shifting of some middle tier functions to the upper tier would take place. Some

administrative functions could gradually be transferred to the upper tier. If new facilities were constructed or rented which were primarily operated to serve regionally, these might possibly be maintained by the upper tier. Planning responsibility for traditional services could eventually be shifted partially to the upper tier particularly with regard to reference and inter-library loan activities. Coordination of the planning for new facilities is another function which could be moved fairly quickly to the upper tier. This would alleviate the possibility of facilities being located in close proximity to one another in one instance, leaving vast unserved areas in another.

All of the above recommendations are noted in the two attached charts.

Upper Tier

Acquisitions  
• operations

Technical Processes  
• planning  
• funding  
• operations

Middle Tier

Administration  
• planning  
• funding  
• operations

Facilities Maintenance  
• planning  
• funding  
• operations

Acquisitions  
• planning  
• funding

Traditional Services  
• planning  
• funding  
• operations

Outreach Services  
• planning  
• funding  
• operations

Lower Tier

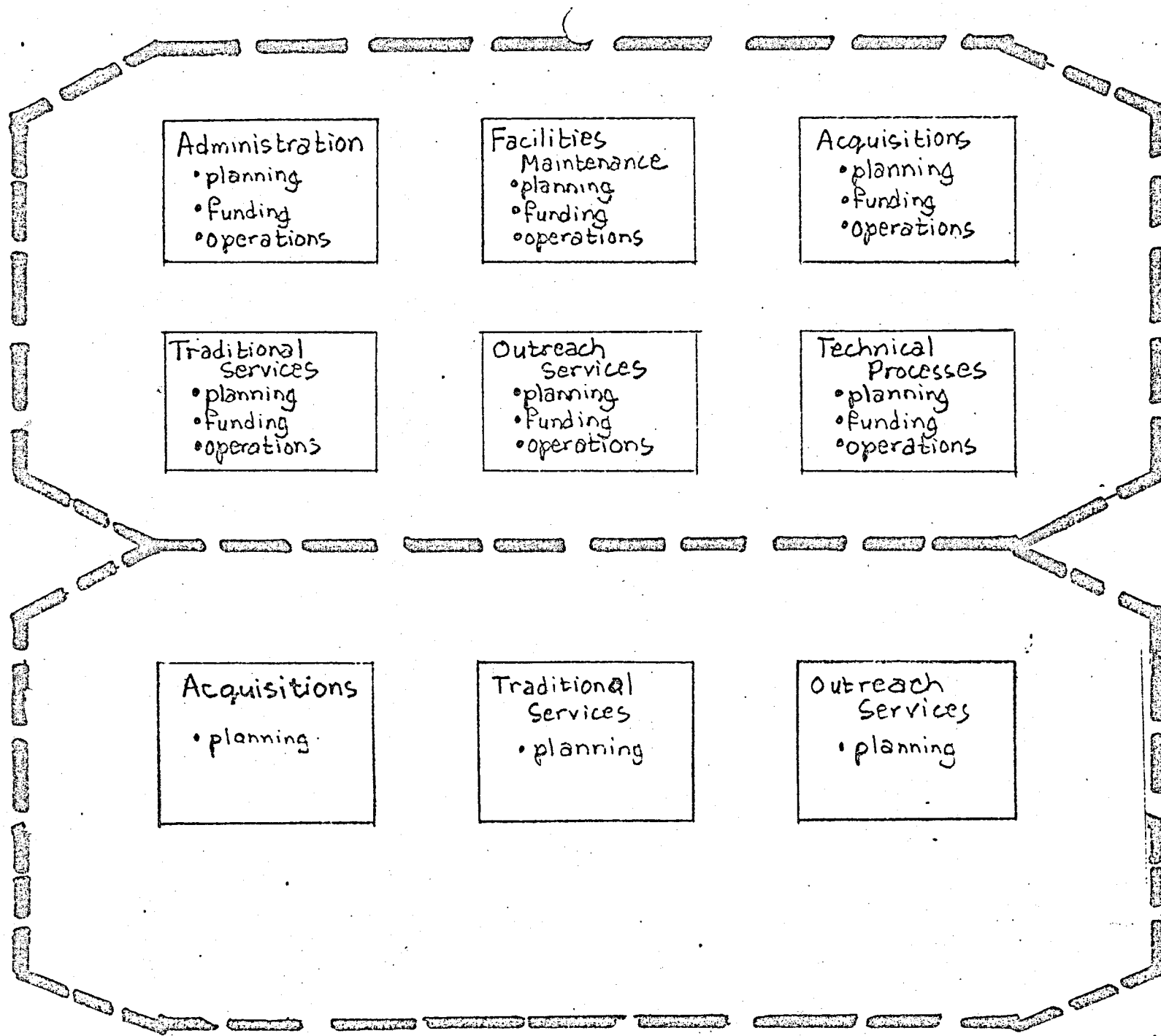
Acquisitions  
• planning

Traditional Services  
• planning

Outreach Services  
• planning

Libraries Short Range

Upper  
Tier



Lower  
Tier

Libraries Long Range

Parks and Recreation

Committee Proceedings - -

Parks and recreation was considered at four separate meetings by the committee. The committee heard from six resource persons at an early meeting on the subject of parks and recreation. These were:

Howard Terpenning, Supt., Tualatin Hills Park & Recreation District

Estella Ehelebe, Supt. of Parks, Multnomah County

Dale Christenson, Supt., Bureau of Parks, City of Portland

Mel Stout, Regional Planner, State Parks Division;

Bob Taylor, State Parks Division

Linda MacPherson, Planner, CRAG

Don Carlson, Executive Officer, Portland Metropolitan Area

Local Government Boundary Commission

The resource persons indicated that the Commission's matrix should be changed in two ways. First, there was a general consensus that "parks" should be referred to by the more general term, "leisure activity areas". Second, it was pointed out that the matrix did not take into consideration the use of school facilities by city park programs and by the Tualatin Hills Park and Recreation District.

The resource persons were not generally in agreement on whether any aspects of parks and recreation should be performed by an upper tier. Problems, such as utilization of facilities by non-district or city residents, lack of service to certain high population density unincorporated areas, and unequal support for facilities utilized by the entire region, were mentioned, but the representatives of the various jurisdictions seemed to favor continuation of the current delivery system despite these problems. One of the resource persons did respond

that planning, standard setting and some tax equalization might be appropriate functions for an upper tier.

The committee's first cut at Parks and Recreation produced general agreement that the state's role should continue to be that of allocating Bureau of Outdoor Recreation funds (federal) as it currently does. The upper tier would handle all aspects of major leisure activity areas which were "assumed to be those of that were truly regional in their utilization".

Community

Community parks were identified as those "that principally serve the residents of the city or county maintaining them". Community parks were to be left at the middle tier where they are currently performed. The middle tier would also continue to provide all aspects of neighborhood parks, except that planning and operations would be shared with the lower tier. Neighborhood parks were defined as those "that principally serve residents in an immediate area considerably smaller in size than the city or county." The resource persons' suggestion, that the utilization of sites other than those owned by the park agency be included in the analysis, was heeded. Thus, utilization of other sites was included by the committee as a major facet of the parks and recreation function. All of the above was displayed graphically, following the format established with consideration of the Libraries' function.

Following the committee's initial discussion, the chart was revised to combine various boxes which seemed repetitive. The revised chart reflected basically the assignment originally made by the committee. The discussion on this revised chart centered on terminology. The terms "regional", "major", "standard setting", and "coordination" were discussed and revisions suggested.

Assignment of Functions, Short Term - -

It was determined that while the state function of passing through BOR funds would continue, this need not be shown on the chart. At the upper tier, coordination of community leisure-activity areas was eliminated as a major operation. The committee felt that the upper tier might ultimately perform a coordination role for community parks, but initially, it was decided not to have the upper tier directly and officially involved. The committee also decided to designate Major Leisure Activity Areas as Regional Leisure Activity Areas, since, in fact, these are regional in nature. It was also determined that the upper tier should only fund and operate Regional facilities - - that planning<sup>and</sup>/acquiring new facilities should not initially be a function of the upper tier. Standard setting was eliminated from all functional boxes on the charts. The committee felt that standard setting was really an understood part of planning and operations and need not be separately stated. Final definitions for the three types of parks were determined, as follows:

Neighborhood Leisure Activity Areas - - a one to ten acre site, utilized primarily by persons who arrive on foot. Often adjacent to schools, this park traditionally provides such things as ball fields, basketball courts, playground equipment and picnic facilities.

Community Leisure Activity Areas - - a ten to fifty acre park, utilized both by persons who arrive by foot and persons who arrive by private or public transit. This site may include such facilities as swimming pools, archery courses, tennis courts, community center buildings, casting pools, lighted ball fields, parking facilities, etc.

Regional Leisure Activity Areas - - a park of fifty acres and larger which serves a wide cross-section of residents from the entire region. Most arrivals

at such parks are by means other than walking. Common facilities might include water areas capable of supporting boating and fishing activities, camping areas, nature walks and/or hiking trails, picnic areas, parking, etc.

Assignment of Functions, Long Term - -

The committee agreed that in the long range view, most parks and recreation functions should be handled by the lower tier (consisting of urban community districts and rural community districts. The upper tier, in a long range two-tier model, should be responsible for the funding and operations of all regional leisure activity areas. Planning, funding, operations and acquisitions of community and Neighborhood Leisure Activity Areas and planning, funding and operations, as they relate to utilization of other sites, are all functions best performed at the lower tier, according to the committee.

Charts reflecting both the long and short range recommendations are attached.



Upper Tier

Regional Leisure Activity Areas

- funding
- operations

Middle Tier

Community Leisure Activity Areas

- planning
- funding
- operations
- acquisitions

Neighborhood Leisure Activity Areas

- planning
- funding
- operations
- acquisitions

Utilization of Other Sites

- planning
- funding
- operations

Lower Tier

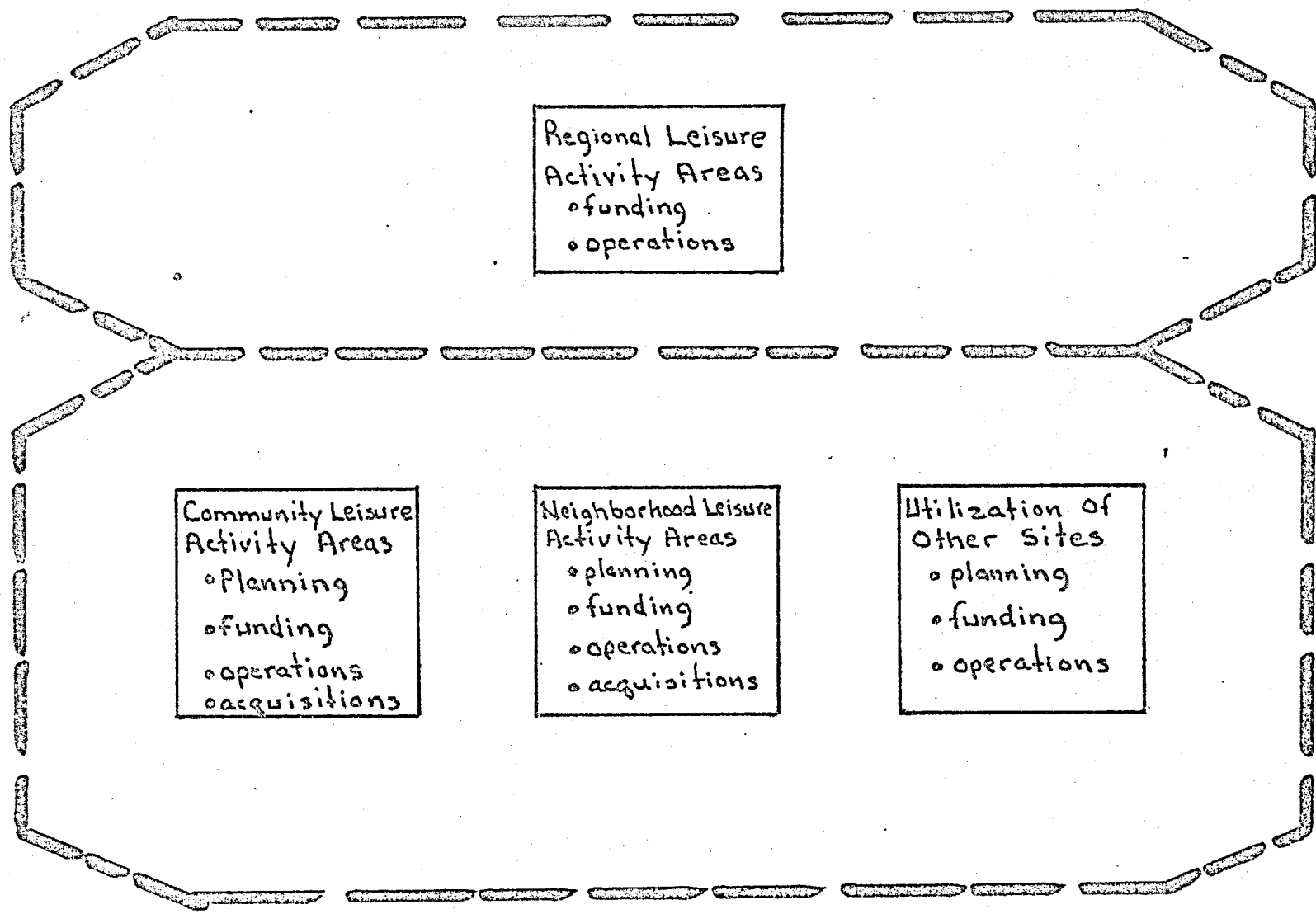
Neighborhood Leisure Activity Areas

- planning
- operations

Utilization of Other Sites

- planning
- operations

# Parks and Recreation SHORT RANGE



Upper Tier

Lower Tier

# Parks and Recreation — Long Range

Cultural Activities/Facilities

Committee Proceedings - -

The committee spent two meetings on cultural activities/facilities, received an information memo from staff on the subject and heard from Commissioner Mildred Schwab, Commissioner in charge of the city's civic stadium.

A major concern raised by Commissioner Schwab was that any change in administration of the stadium not eliminate the use of that facility by small non-profit producing groups, such as the school districts and the Maverick baseball team.

The committee discussed the idea that the city or county may be subsidizing non-city and county use of the various facilities. On the one hand, it would appear that since many users of the facilities are from outside the city or county, the city or county residents are, in effect, subsidizing the outsiders. On the other hand, it can be argued that the outsiders contribute significantly to the city or county economic healthiness by shopping, eating and sleeping in the city or county as an adjunct to a visit to one of the facilities.

Much time was spent on the issue of what is a metropolitan responsibility and what is not. The zoo was singled out as the best example of a facility which has been clearly recognized as regional.

The committee definitely felt that its major responsibility lay in determining which layer of government should control the identified cultural facilities rather than cultural activities. Cultural activities were felt to be mostly in the hands of the private or semi-public sector and not within the purview of the Commission.

Assignment of Functions - -

SHORT RANGE

All major cultural facilities, with the exception of golf courses, were placed in the upper tier. This would make planning, funding, operation and setting standards for these facilities a regional responsibility. The assignment of these facilities to a regional body reflected the feeling that because these facilities serve a regional clientele, they should be a regional responsibility. It was noted that the voters in the metropolitan area have recognized such a responsibility for the zoo. The other facilities, however, are currently under the jurisdiction of Portland and Multnomah County. The management of all these facilities at the regional level would allow some equalization of costs for all residents of the metropolitan area, particularly if money makers as well as money losers are included. In some instances, special arrangements exist between governments for uses of facilities. These arrangements should be accommodated, so far as possible.

The municipal and county golf courses were maintained at the local level (middle tier). These facilities are generally self-supporting and draw their clientele from their own communities. Local control of planning, standards and operation increases the communities' ability to match their needs with facilities.

LONG RANGE

Upper  
Tier

Memorial Coliseum  
• planning  
• funding  
• setting standards  
• operations

Civic Stadium  
• planning  
• funding  
• setting standards  
• operations

Civic Auditorium  
• planning  
• funding  
• setting standards  
• operations

Portland Raceway  
• planning  
• funding  
• setting standards  
• operations

Exposition Center  
• planning  
• funding  
• setting standards  
• operations

Zoo  
• planning  
• funding  
• setting standards  
• operations

Middle  
Tier

Municipal  
Golf Courses  
• planning  
• funding  
• setting standards  
• operations

Glendoveer  
Golf Course  
• planning  
• funding  
• setting standards  
• operations

Lower  
Tier

Land Use

Committee Proceedings - -

The committee spent the major portion of seven full meetings on the subject of land use. One early meeting was devoted to relations between various governmental entities involved with land use with particular emphasis on relations between the Land Conservation and Development Commission (LCDC) and local agencies. Resource people addressing the committee on this occasion included:

Steve Schell, member, LCDC  
Andy Jordan, counsel, CRAG  
Martin Crampton, Planning Dir., Multnomah County  
Gus Rivera, Planning Dir., Clackamas County  
John Rosenberger, Planner, Washington County  
Ernie Bonner, Planning Dir., City of Portland  
Richard Bolen, Planning Dir., City of Tigard

Another meeting concentrated on the viewpoints of individuals and groups who are affected by the land use process, particularly at the state level.

Guest speakers at this meeting were:

Robert E. Stacey, counsel - - 1,000 Friends of Oregon  
Steve Janik, attorney

The "implementation" aspects of land use planning - - zoning, subdivision control, building and housing codes, etc. - - were dealt with at a meeting attended by:

Robert Baldwin, Land Development Mgr., Multnomah County  
Jim Griffith, Dir., Bureau of Buildings, City of Portland  
Al Clarc, Admin.Mgr., Bureau of Buildings, City of Portland  
Dave Beckman, Inspections Mgr., Bureau of Buildings, City of  
Portland

Other meetings were devoted to review and revision of assignment charts. These charts were devised to visually display the suggested assignment of various

aspects of the planning function to the different levels of government. Several special memos requested by the committee were studied and discussed during these meetings also. . Issues of particular concern which have been discussed and not yet resolved by the committee are enforcement and criteria for determining what is a matter of local, regional or state-wide concern.

During their deliberations on land use, the committee adopted a method for categorizing the subject which was suggested by one of its own members. The adopted division was, as follows:

LAND USE:

Comprehensive Planning

- Land Use
- Housing
- Economic Development
- Public Facilities and Services
- Recreation, Open Spaces and Cultural Affairs
- Air, Land, Water Quality
- Transportation

Implementation

- Zoning
- Subdivision Control
- Building Code and Housing Code
- Capital Improvements Program (streets, sewer, water, public facilities)
- Subsidized Housing

This division was ultimately expand and refined. The three major categories became: Planning, Implementation and Technical Assistance.

Assumptions - -

Several major assumptions evolved out of the committee's extensive discussions which are important to an understanding of their assignment of functions.

First, it was the committee's intention to come up with a chart which reflected the Commission's interest in a short term model. The committee discussed many possible changes in the status quo and numerous functions have remained as is, not because the committee felt the function should not be performed elsewhere, but because it was deemed inappropriate to change the level of delivery as part

of an initial step. The committee consciously maintained a conservative posture in its initial suggestions for change. Second, the committee was very much concerned with the idea of overlap between the state, the metropolitan and the local levels. Matters of state-wide concern, metropolitan-wide concern and local concern are to be considered as mutually exclusive as possible. The terminology and phraseology of the attached chart were designed to transmit this concern. Third, the committee considered as paramount the Commission's adopted policy on maintaining functions at the lowest possible level of government capable of feasible delivery. Fourth, the committee attempted to provide for what they saw as a greater need for more significant citizen and neighborhood input at all levels while maintaining the advisory nature of neighborhood groups, as opposed to giving them more substantive powers.

Assignment of Functions - -

*Short Range*

As noted earlier, the committee determined that land use planning should be divided into matters of state-wide concern, matters of metropolitan-wide concern and matters of local concern. With certain exceptions, the state's involvement in land use planning would be limited to matters of state-wide concern. The state should establish a uniform process for its planning role. The state's role in planning should also include designation of matters of state-wide concern and coordination of its planning goals with the operations of other state agencies.

The committee determined that, in addition to a state role in planning, the state should regulate matters of state wide concern and should continue

certain state functions which relate to lower tiers of government. The state currently sets standards for building codes through the state uniform building code. The committee felt it desirable that this be continued. The role of the state in reviewing federal grant applications and passing through



federal monies for various programs relating to planning should be maintained. The committee was particularly concerned with the program whereby the state makes grants to metropolitan and local units to finance planning efforts. It was felt that this state role should be maintained and expanded, if at all possible. Finally, in the development of comprehensive plans, the state should resolve disputes between metropolitan and local units of government which could not be resolved at the metropolitan level. Whether a specific project or re-zoning <sup>is in accord</sup> Comprehensive with an approved comprehensive plan is not appealable to the next level of government but ~~only to the county~~ <sup>resolved by the court.</sup>

The committee felt this was an important aspect of its effort to cut down on unnecessary processing and overlap. (The committee wanted special note made of the fact that any decisions the state would make along those lines are appealable to the courts.)

The committee determined that there was a valid state role in Technical Assistance. The state should provide coordination between itself and the metropolitan and local governmental levels to assure the conflicts do not develop. The committee felt there would be a role for the state in developing planning guides for the metro and local units and in providing training for in the use of the guides, etc.

The committee wanted the coordination function specified in order to assure that critical land use concerns would not conflict with decisions being made by such state agencies as the Department of Environmental Quality, State Engineer's Office, Boundary Commission's, etc. The coordination role is currently reflected at the state level within the LCDC statute. That statute mandates the cooperation and coordination of all other state agencies with LCDC.

*Metro*

Matters of metropolitan concern are issues which the committee thought should

be dealt with on a metropolitan-wide basis. (Again, the committee desired to emphasize the relative exclusiveness of matters <sup>which</sup> which should only be dealt with at the regional level.) Planning at this level includes only those concerns which are identified as having area-wide significance. The upper tier should be responsible for setting goals and objectives which are clearly related to matters of area-wide concern. The upper tier should define and apply a planning procedure which identifies area/activities of metropolitan-wide concern and then adopts policies and standards for these concerns. Metropolitan-wide planning coordination as this relates to air quality, water quality, transportation, etc. should be accomplished by the upper tier. This level should also prepare and adopt functional/<sup>Plans</sup> (i.e., sewer, water, etc.) for areas of metropolitan concern. These plans should be designed to control the area-wide impact of these categories without impairing local abilities to deal with local aspects of the same categories. Existing metropolitan functional and comprehensive plans and plans in process should be utilized to the maximum extent possible. Particular attention should be given to utilization of these plans as interim tools since adoption of the various policy and functional plans could involve a multi-year process.

The upper tier's role in Implementation was determined to contain four elements by the committee. First, the upper tier should be able to require compliance of local plans with the metropolitan policies and functional plans. Second, this tier would review and ~~hopefully~~ resolve conflicts between two or more local units in the development of comprehensive plans. Third, the upper tier should be able to promulgate regulations on matters of metropolitan-wide concern. Finally, this level should fulfill the traditional regional function of federal (A-95) grant compliance procedures.

Technical Assistance at the upper tier level should include <sup>??</sup> intergovernmental coordination, advice and help to middle tier units on citizen involve-

ment programs, and planning guides and training. In regard to the latter the committee identified two areas of immediate concern.

The committee found there was a need for the initial universalizing of terminology in zoning and subdivision ordinances and the updating of such terminology as needed thereafter. This was not intended to imply the need for uniform zoning or subdivision ordinances, only that various terms commonly employed in such ordinances be provided with universally recognized meaning. Second, the committee thought that the upper tier might legitimately involve itself in establishment of uniform training of building inspectors. Since the state uniform building code must be enforced by trained personnel certified by the state, it was felt that the upper tier might provide this training as a service to middle tier units.

The committee determined that detailed comprehensive planning should remain a local function. Thus, comprehensive land use plans which are currently the function of cities and counties should remain so. These plans must not violate the regional and state-wide goals which dictated on matters clearly of metropolitan-wide or state-wide concern. On matters of local concern, planning done by cities and counties should remain supreme. The tools for implementing such planning are the traditional ones of cities and counties and should remain at this level. These include hearing process, planning commission services, zoning, subdivision control, construction codes, capital improvements, streets and road improvement, local improvement districts and development staging techniques. Technical assistance at the middle tier should include citizen involvement and assistance to lower tier units for <sup>planning</sup> ~~citizen~~ involvement.

The lower tier received considerable discussion at various stages of the committee's deliberation. On the one hand, there was a clear consensus that citizens and neighborhood groups should not be formalized in their relationship

to the upper tier. Whether a formal and/or legal tie should be established between lower tier groups and the cities and counties of which they are a part was felt best left up to the individual cities and counties. On the other hand, the committee wished to encourage more significant input by citizens and neighborhood groups at all levels of government. The committee took note of a commission-supported statement which appeared in the August 9, 1976 Tier Sheet which stated: "Lower tier governmental structures would not be affected by this proposal though larger cities and the counties would be encouraged to develop smaller area councils to advise them on matters of major importance to the neighborhoods." The committee, therefore, determined that it strongly supports the opening of new and widening of old channels of citizen and neighborhood input to all levels of government. The committee determined that the lower tier units should have the option of initiating, developing and reviewing and commenting on community plans. In terms of actual implementation, the committee said the lower tier units should be able to initiate, develop and review zoning, subdivisions, PUD, capital improvements and other plans.

The attached chart reflects the committee's thinking on the matters discussed above.

MATTERS OF STATEWIDE CONCERN

STATE

PLANNING

- Establish Uniform Process
- Set Goals/Comp. Plan Required
- State Agency Coordination
- Designate Matters of Statewide Concern

IMPLEMENTATION

- Review/Conflict Resolution/Plan Compliance
- Uniform Codes
- Regulation: Matters of Statewide Concern
- Planning grants to metro and local levels

TECHNICAL ASSISTANCE

- Metro-Local Coordin
- Plan. Guides & Train.
- State Agency Coord.

MATTERS OF METRO CONCERN

UPPER  
TIER

PLANNING

- Set Goals and Objectives
- Define Plan Procedure and Apply
  - Identify Areas/Activities of Concern
  - Designate Planning Process
  - Prepare/Adopt Policies and Standards
- Metro Plan Coordination
  - Air Quality
  - Water Quality
  - Transportation
  - Others as Designated
  - Prepare/adopt functional plan for metro concerns.

IMPLEMENTATION

- Compliance of Local Plan with Metro Policy/  
standards and functional plans
- Review/ Conflict Resolution
- Regulation: Matters of Metro Concern  
Federal  
(A-95) Grant Compliance Procedures

TECHNICAL ASSISTANCE

- Intergov. Coord.
- Citizen Involvement
- Plan. guides & train.

MATTERS OF LOCAL CONCERN

MIDDLE  
TIER

PLANNING

- Adopt Comprehensive Plan
- Plan Administration
- Local Agency Coordination

IMPLEMENTATION

- Hearing Process
- Planning Commission Review
- Zoning
- Subdivision
- Construction Codes
- Capital Improvements
- Streets & Roads Improvement
- Local Improvement Districts
- Development Staging Techniques

TECHNICAL ASSISTANCE

- Citizen Involvement
- Assistance to lower tier units.

MATTER OF COMMUNITY CONCERN

LOWER  
TIER

PLANNING

- May Initiate, Develop, Review  
Community/Neighbor Plans

IMPLEMENTATION

- May Initiate, Dev., Review  
Zoning, Subdivisions, PUD,  
Capital Improvemnets/and other plans.

TECHNICAL ASSISTANCE

## S T R U C T U R E

The Land Use, Recreational and Cultural Affairs Committee examined structure as it relates to the upper tier of the short range model tentatively accepted for study by the Commission as a whole. Their conclusions are noted below.

Council -- The council should have elected fifteen members which would be roughly equal to a present senate district (70,000 population), and be non-partisan. Terms of office should be four years and limited to a maximum of two terms. The salary of the council should not be set by the council but should be tied to a scale not under its control. The Committee recommends tying council salaries to those of the state legislature, which are currently about \$440 per month.

Executive - - The committee opted for a separately elected executive who would not be a member of the council. The executive should have a four-year term and be limited to two terms. The committee favored tying the salary to that of the State Appeals Court judges who are currently paid \$37,500.

RECOMMENDATIONS FOR INTERGOVERNMENTAL  
RELATIONS

August 30, 1976  
els

FOR TRI-COUNTY LOCAL GOVERNMENT COMMISSION

*Copies to  
Committee III members  
and staff*

Memo Concerning Land Use Aspects of Committee III's Assignment

Following up on discussions at our July 6 meeting, I wish to submit the following thoughts concerning allocation of land use planning (and enforcement) functions:

At the state level there should be planning for matters or areas of statewide significance, with appropriate enforcement. In addition the state land use agency should provide guidance and technical assistance to lower tiers on matters of less than statewide significance, with no enforcement on such matters.

Comment: This departs somewhat from the present law which gives LCDC almost unlimited power to control every facet of all state, regional and local planning, zoning ordinances, etc; already this is proving too cumbersome, unworkable and unpopular. While this proposal purports to limit the state's power to force local planning, the LCDC could require that a local or regional government actually have a plan as a condition to approval of a plan or project of statewide significance. This would be a compromise between SB 10 and SB 100.

At the tri-county level (upper tier) there should be planning (or overseeing of planning) for matters or areas of tri-county (metro or regional) significance, with appropriate enforcement or implementation (zoning, land use restrictions, incentives, eminent domain, etc.) In addition the tri-county agency could provide guidance and technical

*harry - appeals proper role for court*



assistance for lower tiers on matters of less than metropolitan or local significance - with no enforcement powers on such matters. However the metropolitan agency could be empowered to resolve disputes between or among lower tier governments.

Comment: Assuming adoption of a limited state function as outlined above, assignment of planning functions to a tri-county entity as outlined here would be appropriate. Otherwise there would be duplication of functions by the state and the tri-county body. Matters of state concern should be left to the state. Matters of tri-county concern should be left to a regional entity, and matters of local concern left to local entities.

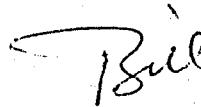
The middle tier (city and county) functions could include planning, zoning, subdivision control, building inspections and building permits generally as indicated in the most recent chart prepared by Ken Martin, subject to planning and control powers vested at the state and tri-county tiers.

General Comment

The biggest difficulty with this proposal is the problem of determining which matters or areas are of statewide significance, tri-county significance or local significance. But such determinations are necessarily at the core of the entire project the Commission is assigned to do. Howard Hallman and Thomas Jefferson call it "partition of cares, descending in gradation from general to particular, that the mass of human affairs can be best managed."

The Commission should be fully cognizant of the danger of too many tiers being involved in every land use decision by providing for multiple level appeals either (1) on the content of plans or (2) on disputes over ordinances implementing the plans. It should also be mindful of the fact that reasonable people (at various levels) can differ (a) as to what is an appropriate land use plan and (b) as to whether nebulous, imprecise goals and guidelines have been properly applied in development of a plan. Probably appeals from land use control agencies should go directly to court rather than to a higher land use control agency. At best, land use proceedings are cumbersome, costly and fraught with delay; they can easily kill projects or even stop them before they get started. Therefore we must strive for clarity and simplicity and avoid overlapping, duplication and "up the tiers" appeals.

I hope this is helpful and understandable.



William J. Moshofsky  
July 14, 1976

7/27/76 ARDS

# Governmental Functions - Land Use

	STATE				REGION			LOCAL				Lowest Tier	
	Set Goals	Policies & Prgms	Jurisdiction Conflicts	Dist. \$	Set Goals	Policies & Prgms	Jurisdiction Conflicts	Distribute \$	Set Goals	Policies & Prgms	Jurisdiction Conflicts		Distribute \$
Comprehensive Planning													
Land Use	X		X		X		X		X	X			
Housing	X		X		X	X							
Economic Development	X		X		X	X							
Public Facilities & Serv.	X				X	X	X		X	X			
Recreation, Open Space, <sup>Cult. Areas</sup>	X				X	X	X		X	X			
Air, Water, Land Quality	X		X		X	X	X						
Transportation	X		X		X	X	X		X	X			

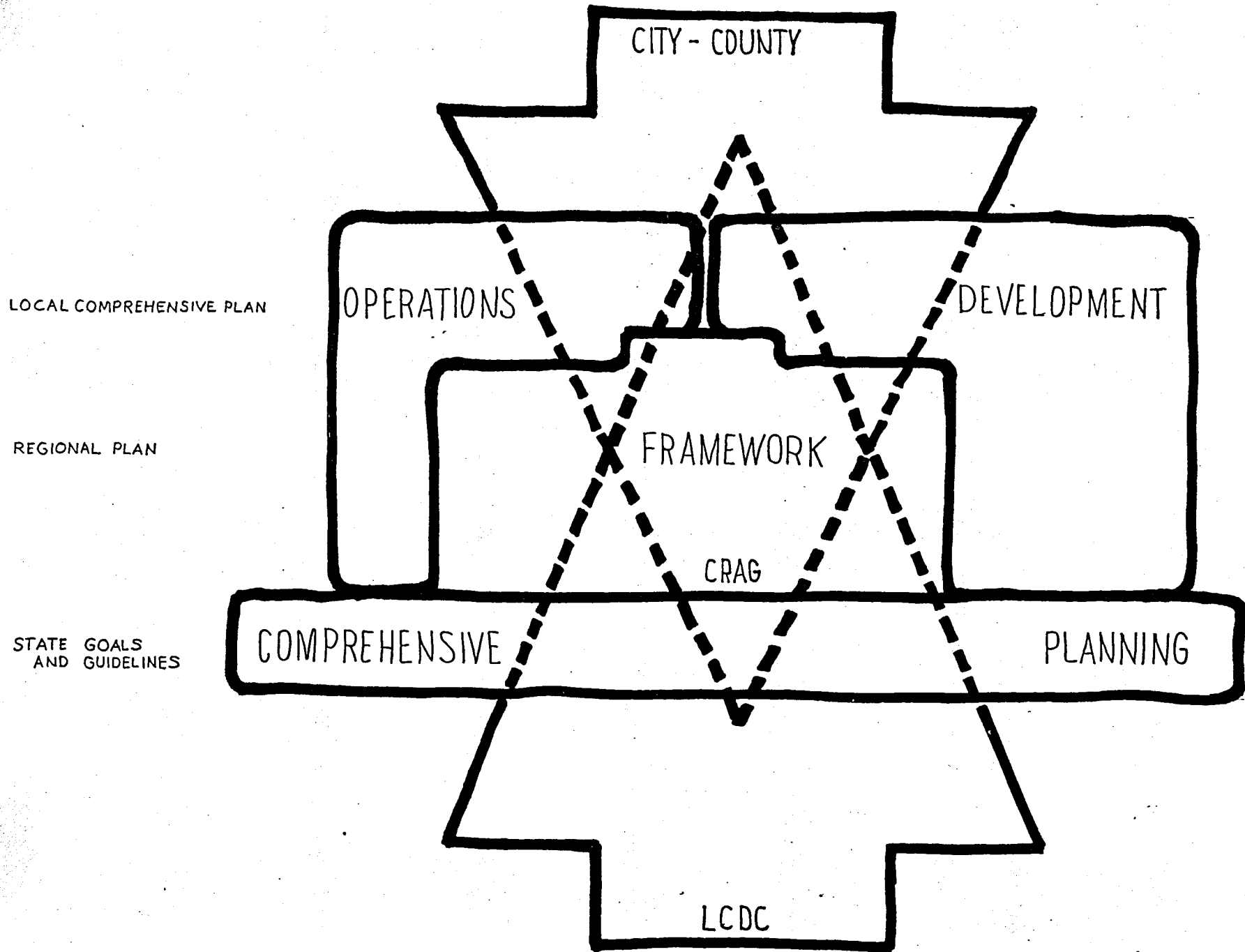
Implementation	STATE			REGION			LOCAL		
	Adm.	Set Standards	Enforcement	Adm.	Set Standards	Enforce.	Adm.	Set Standards	Enforce
Zoning					X		X	X	X
Subdivision Control							X	X	X
Bldg. Code & Housing Code regulation		X					X		X
Capital Imp. Pgm (sewer, water, streets, public facilities)							X		X



## lowest Tier

Funding (contract or rev. sharing - must include Admin. money)

Examples: Social Services  
Park Operation - Planning  
Cap. Improvements  
Public Works (minor)  
Planning (Comm. & Neigh.)  
Bldg. Permits (Handyman)



COMPONENTS

DIRECTIVES

STANDARDS

PLANNING REGION

CONSIDERATIONS LOCAL

COMPREHENSIVE PLANNING — STATEWIDE GOALS/GUIDELINES (1-2) — STATEWIDE GOALS/GUIDELINES (3-15) — REGIONAL PLAN — COMPREHENSIVE PLAN

