



METRO

***NOTE:** Special date and day due to Thanksgiving Day
(Metro will be closed November 25, 1993)

DATE: November 23, 1993*
MEETING: Metro Council
DAY: Tuesday*
TIME: 4:00 p.m.
PLACE: Metro Council Chamber

Approx.
Time*

Presented
By

4:00 CALL TO ORDER/ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS TO THE COUNCIL ON NON-AGENDA ITEMS

3. EXECUTIVE OFFICER COMMUNICATIONS

4:05
(5 min.) **4. CONSENT AGENDA** (Action Requested: Motion to Adopt the Consent Agenda)

4.1 Minutes of November 10, 1993

4:10
(5 min.) **5. ORDINANCES, FIRST READINGS**

5.1 Ordinance No. 93-525, An Ordinance Amending Ordinance No. 93-487A Revising the FY 1993-94 Budget and Appropriations Schedule for the Purpose of Transferring Contingency to Fund Remaining Metro Regional Center Project Commitments; and Declaring an Emergency (Action Requested: Refer to the Regional Facilities Committee and the Finance Committee)

6. ORDINANCES, SECOND READINGS

REFERRED FROM THE PLANNING COMMITTEE

4:15
(5 min.) **6.1 Ordinance No. 93-510, For the Purpose of Amending the Regional Wastewater Management Plan and Authorizing the Executive Officer to Submit it for Recertification PUBLIC HEARING (Action Requested: Motion to Adopt the Ordinance)**

McLain

REFERRED FROM THE GOVERNMENTAL AFFAIRS COMMITTEE

4:20
(20 min.) **6.2 Ordinance No. 93-517A, An Ordinance For the Purpose of Adopting a New Title to the Metro Code Pertaining to Elections PUBLIC HEARING (Action Requested: Motion to Adopt the Ordinance)**

For assistance/services per the Americans with Disabilities Act (ADA), dial TDD 797-1804 or 797-1534.

* All times listed on the agenda are approximate; items may not be considered in the exact order listed.

METRO COUNCIL AGENDA

November 23, 1993

Page 2

6. ORDINANCES, SECOND READING (Continued)

REFERRED FROM THE FINANCE COMMITTEE

4:40
(10 min.)

- 6.3 Ordinance No. 93-518, An Ordinance Amending Ordinance No. 93-487A**
Revising the FY 1993-94 Budget and Appropriations Schedule For the Purpose
of Funding Replacement of Personal Computers in the Office of General
Counsel; and Declaring an Emergency PUBLIC HEARING (Action
Requested: Motion to Adopt the Ordinance)

Devlin

5:00

RECESS (30 min.)

5:30 Time
Certain

7. OTHER BUSINESS (45 min.)

- 7.1 Presentation of Tax Study Committee's Final Report** PUBLIC HEARING

6:15
(1 hr.)

8. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

- 8.1 Discussion of Tax Study Committee's Final Report**

7:15

ADJOURN

Meeting Date: November 23, 1993
Agenda Item No. 4.1

MINUTES



METRO

DATE: November 18, 1993

TO: Metro Council
Executive Officer
Interested Parties

FROM: Paulette Allen, Clerk of the Council

RE: AGENDA ITEM NO. 4.1; MINUTES OF NOVEMBER 10, 1993

The Metro Council minutes of November 10, 1993, will be provided under separate cover to Councilors on or before Monday, November 22, 1993, and will be available to the public at the Council meeting November 23, 1993. Persons who wish to obtain a draft copy before that date may contact the Clerk at 797-1534.

Meeting Date: November 23, 1993
Agenda Item No. 5.1

ORDINANCE NO. 93-525

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 93-525 AMENDING ORDINANCE NO. 93-487A REVISING THE FY 1993-94 BUDGET AND APPROPRIATIONS SCHEDULE FOR THE PURPOSE OF TRANSFERRING CONTINGENCY TO FUND REMAINING METRO REGIONAL CENTER PROJECT COMMITMENTS AND DECLARING AN EMERGENCY

Date: November 17, 1993

Presented by: Neil Saling

PROPOSED ACTION

This ordinance would release funds for construction of the Metro Regional Center now budgeted as contingency to complete the final elements of that project.

BACKGROUND AND ANALYSIS

The net amount of funds made available from the sale of Revenue Bonds for the reconstruction of the Sears Building as the Metro Regional Center totaled \$23,627,906 including estimated interest income. To this amount has been added \$487,040 from outside sources, primarily the PP&L FinAnswer loan of \$293,672.

Reports estimate that \$446,444 of project funds remain unexpended. A detailed reconciliation of all project expenditures is being completed and will be available at a later date. These remaining funds are from outside sources as all bond funds and interest on bond funds have been expended.

Estimated commitments and projections for the reconstruction project presently total \$433,790 which will fully exhaust all project resources. A summary of these commitments is attached.

In preparing the FY 1993-94 budget, it was necessary to provide sufficient appropriation authority to cover the actual amount of the beginning fund balance including all bond proceeds and other resources. Financial Planning and Regional Facilities staff prepared a detailed estimate of what the FY 1993-94 beginning fund balance would be if all expenditures were made on time. This estimate was slightly over \$1 million. In addition, the staff recognized the possibility for delay in certain payments at the end of FY 1992-93. The possibility for delay would increase the beginning fund balance over the \$1 million estimate. As a result, the amount budgeted for the beginning fund balance for the Construction Account was set at \$1.3 million -- the estimated beginning balance plus an amount allowing for any delay of expenditures. The amount of the budgeted beginning balance that was in excess of the original estimate was placed in Contingency. The actual audited beginning balance for the General Revenue Bond Fund, Construction Account is \$1,142,473. Because the actual balance is less than the amount budgeted, the actual amount of Contingency in the Construction Account which is funded is \$133,572.

Ordinance 93-514, currently under consideration by the Council, transfers \$30,020 of the funded Contingency to Personal Services to pay for the General Revenue Bond Fund's share of the Construction Manager. The remaining funded Contingency after transfer for the Construction Manager is \$103,552. Thus, to fund remaining commitments and projections for the Metro Regional Center Project as they are known at this time requires release of all remaining Contingency funds for the Construction Account.

This action would transfer \$103,552 from the Construction Account Contingency to the Construction Account Capital Outlay thereby making it possible to draw down the Construction Account to zero.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Ordinance No. 93-525.

kr:ord93-94:genbond:SR.DOC

ATTACHMENT 1

Commitments and Projections (Unexpended)

Project Management	\$49,433
Project Management (Mr. Taylor)	30,020 ¹
Brokers Fee	67,000
Tenant Improvement Design	5,263
Parks/Greenspaces/Exhibit	130,341
Interior Signage	7,233
Plaza Retail Finishes	75,000
Child Care Center Improvements	5,000
Community Policing Office	10,000
Parking Garage Improvements	49,500
Parking Garage Signage	<u>5,000</u>
	\$433,790

¹ Action pending on Ordinance No. 93-514 which would withdraw this amount from the Construction Account Contingency.

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING ORDINANCE)
NO. 93-487A REVISING THE FY 1993-94)
BUDGET AND APPROPRIATIONS)
SCHEDULE FOR THE PURPOSE OF)
TRANSFERRING CONTINGENCY TO FUND)
REMAINING METRO REGIONAL CENTER)
PROJECT COMMITMENTS; AND)
DECLARING AN EMERGENCY)

ORDINANCE NO. 93-525

Introduced by Rena Cusma,
Executive Officer

WHEREAS, The Metro Council has reviewed and considered the need to transfer appropriations within the FY 1993-94 Budget; and

WHEREAS, The need for a transfer of appropriation has been justified; and

WHEREAS, Adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL HEREBY ORDAINS:

1. That Ordinance No. 93-487A, Exhibit B, FY 1993-94 Budget, and Exhibit C, Schedule of Appropriations, are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring \$103,552 from the Construction Account Contingency to the Construction Account Capital Outlay to fund remaining Metro Regional Center Project commitments.

2. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this _____ day of _____, 1993.

Judy Wyers, Presiding Officer

ATTEST:

Clerk of the Council

Exhibit A
Ordinance No. 93-525

FISCAL YEAR 1993-94		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
GENERAL REVENUE BOND FUND							
Construction Account							
	Total Personal Services	1.39	98,724	0.00	0	1.39	98,724
	Total Materials & Services		145,740		0		145,740
	<u>Capital Outlay</u>						
571300	Purchases-Buildings, Exhibits & Related		45,000		0		45,000
571500	Purchases-Office Furniture & Equipment		327,173		0		327,173
574520	Const. Work/Materials-Bldgs, Exhibits & Rel.		437,284		103,552		437,284
	Total Capital Outlay		809,457		103,552		809,457
	TOTAL CONSTRUCTION ACCOUNT	1.39	1,053,921	0.00	103,552	1.39	1,053,921
Debt Service Account							
	TOTAL DEBT SERVICE ACCOUNT		1,494,332		0		1,494,332
General Expenses							
	<u>Contingency and Unappropriated Balance</u>						
599999	Contingency		261,079		(103,552)		157,527
	Construction Account		212,792		0		212,792
599990	Unappropriated Balance						
	Debt Service Account				0		120,905
	• Metro Regional Center		120,905		0		230,348
	• Parking Structure		230,348		0		1,807,548
	Debt Reserve		1,807,548		0		
	Total Contingency and Unapp. Balance		2,632,672		(103,552)		2,529,120
	TOTAL FUND EXPENDITURES	1.39	5,180,925	0.00	0	1.39	5,077,373

Exhibit B
Schedule of Appropriations
Ordinance No. 93-525

	Current Appropriation	Revision	Proposed Appropriation
GENERAL REVENUE BOND FUND			
Construction Account	98,724	0	98,724
Personal Services	145,740	0	145,740
Materials & Services	809,457	103,552	913,009
Capital Outlay			
Subtotal	1,053,921	103,552	1,157,473
Debt Service Account			
Debt Service	1,494,332	0	1,494,332
Subtotal	1,494,332	0	1,494,332
General Expenses			
Contingency	473,871	(103,552)	370,319
Subtotal	473,871	(103,552)	370,319
Unappropriated Balance	2,158,801	0	2,158,801
Total Fund Requirements	5,180,925	0	5,180,925

This Ordinance assumes adoption of Ordinance No. 93-514, sharing funding of the Construction Manager position with the Zoo

All Other Appropriations Remain As Previously Adopted

Meeting Date: November 23, 1993
Agenda Item No. 6.1

ORDINANCE NO. 93-510



METRO

DATE: November 18, 1993

TO: Metro Council
Executive Officer
Interested Parties

FROM: Paulette Allen, Clerk of the Council *PA*

RE: AGENDA ITEM NO. 6.1; ORDINANCE NO. 93-510

Copies of the Regional Wastewater Management Plan will be available at the Council meeting November 23. Persons who wish to obtain a copy before that date may contact the Clerk at 797-1534.

PLANNING COMMITTEE REPORT

CONSIDERATION OF ORDINANCE NO. 93-510 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 3.02, AMENDING THE REGIONAL WASTEWATER MANAGEMENT PLAN AND SUBMITTING IT FOR RECERTIFICATION

Date: November 10, 1993

Presented By: Councilor McLain

Committee Recommendation: At the November 9 meeting, the Planning Committee voted unanimously to recommend Council adoption of Ordinance No. 93-510. Voting in favor: Councilors Van Bergen, Kvistad, Monroe, and Moore. Absent: Councilors Devlin and Gates.

Committee Issues/Discussion: Rosemary Furfey, Water Resources Planner, presented the staff report. She explained that the Regional Wastewater Management Plan is required under the federal Clean Water Act. It was first adopted by the Metro Council in 1980 and is now reviewed on an annual basis. It was last amended in December, 1992. Following approval from the Metro Council, this plan will need the recertification of the Department of Environmental Quality (DEQ) and the Environmental Protection Agency (EPA).

The federal act requires identification of the region's water quality management problems, complete with short and long-term solutions. The Regional Plan delineates service areas for collection, transmission and treatment of wastewater. Coordination with local plans is required. Local plans must comply with the Regional Plan prior to the allocation of federal monies or revolving loans for construction or upgrading of wastewater treatment facilities from the State of Oregon.

This revision makes seven territorial changes. Most of the changes reflect recent annexations, although one change is related to a de-annexation within the Unified Sewerage Agency.

The ordinance has been reviewed and endorsed by the Metro Policy Advisory Committee (MPAC) and by the Water Resources Policy Advisory Committee (WRPAC). A public hearing was offered at the Planning Committee level, but no one appeared to testify.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE)	ORDINANCE No. 93-510
REGIONAL WASTEWATER MANAGEMENT)	
PLAN AND AUTHORIZING THE)	Introduced by the
EXECUTIVE OFFICER TO SUBMIT IT)	Planning Committee
FOR RECERTIFICATION)	

WHEREAS, The Regional Wastewater Management Plan is adopted under Section 3.02.002 of the Code of the Metropolitan Service District; and

WHEREAS, Under Section 3.02.001(a), the Regional Plan includes the Collection and Treatment System Service Areas Maps; and

WHEREAS, Section 3.02.009(b) sets out procedures for amending the Regional Plan and support documents; and

WHEREAS, The maps must be updated to reflect annexations and de-annexations to the cities of Beaverton, Forest Grove, Gresham, Milwaukie, Oregon City and Tigard, and the Unified Sewerage Agency; and

WHEREAS, The Water Resources Policy Advisory Committee (WRPAC) met July 28, 1993, and recommended Council adoption of an amendment to the Plan to reflect these annexations and de-annexations; and

WHEREAS, Goal One of Metro's Regional Urban Growth Goals and Objectives (RUGGOs) calls for establishment of a Metro Policy Advisory Committee (MPAC) to review functional planning activities and MPAC met on September 22, 1993 and accepted the WRPAC recommendations to amend the Plan to reflect these annexations and de-annexations; now, therefore,

THE METRO COUNCIL HEREBY ORDAINS:

Section 1. The Regional Wastewater Management Plan is amended by adopting Collection and Treatment System Service Areas Maps attached to this Ordinance as Exhibit A.

Section 2. The Executive Officer is authorized to submit the Regional Wastewater Management Plan as amended to the Oregon Department of Environmental Quality and the U.S. Environmental Protection Agency for Recertification.

ADOPTED by the Metro Council this ____ day of _____, 1993.

Judy Wyers, Presiding Officer

Attest:

Clerk of the Council

RF/erb
e:\pd\res&ord\93-510

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 93-510 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 3.02, AMENDING THE REGIONAL WASTEWATER MANAGEMENT PLAN AND SUBMITTING IT FOR RECERTIFICATION

Date: July 19, 1993

Presented by: Rosemary Furfey

FACTUAL ANALYSIS

On July 28, 1993, the Water Resources Policy Advisory Committee (WRPAC) held its quarterly meeting for the purpose of reviewing the Regional Wastewater Management Plan (208 Plan) at which the following amendments were recommended. The amendments concern the modification of collection and treatment area maps. Updated maps are attached as Exhibit A.

City of Beaverton

The collection map has been changed to reflect relevant annexations.

City of Forest Grove

The collection map has been changed to reflect relevant annexations.

City of Gresham

The collection and treatment maps have been changed to reflect relevant annexations.

City of Milwaukie

The collection map have been changed to reflect relevant annexations.

City of Oregon City

The collection map have been changed to reflect relevant annexations.

City of Tigard

The collection map has been changed to reflect relevant annexations.

Unified Sewerage Agency

The collection and treatment maps have been changed to reflect relevant de-annexations.

An informational presentation was made to the Metro Policy Advisory Committee (MPAC) on September 22, 1993, where they accepted the WRPAC recommendations.

BACKGROUND

The Federal Water Pollution Control Act of 1972 (Public Law 95-500), commonly known as the Clean Water Act, required the creation of a Regional Wastewater Management Plan, which was first adopted by the Metro Council in 1980. Since that time, the Regional Plan has been periodically updated. The plan is now reviewed on an annual basis as part of Metro's continuing "208" Water Quality Program and was last amended December 1992. The Oregon Department of Environmental Quality approved the amended plan in December 1992.

The Clean Water Act, requires that the Regional Plan accurately identify the region's water quality management problems and their solutions, both short-term and long-term. The Regional Plan must also delineate the region's water quality management service areas for collection, transmission and treatment of wastewater. Local jurisdictions are required to coordinate their plans with Metro and to comply with the Regional Plan prior to the allocation of federal funds and state revolving loans for the construction or upgrading of any wastewater treatment facilities.

For the last several years WRPAC has met each July to review the Regional Plan and to consider proposed changes and amendments. This year our meeting was held on July 28, 1993. The Regional Wastewater Management Plan is a component of Metro's water quality functional plan and, therefore, an informational presentation was made to MPAC on September 22, 1993. The changes and amendments recommended by WRPAC are contained in the factual analysis section of the Staff Report.

Accompanying this Staff Report is a letter from the Executive Officer reporting on other regional water resource planning accomplishments over the last year (Attachment 1).

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 93-510.



METRO

ATTACHMENT 1

October 8, 1993

**The Honorable Judy Wyers, Presiding Officer
and Metro Council
600 N.E. Grand Avenue
Portland, OR 97232-2736**

Honorable Presiding Officer and Councilors:

Re: Staff Report to Ordinance No. 93-510

The accompanying Staff Report lists the 1993 technical changes to Metro's Regional Wastewater Management Plan recommended by the Water Resources Policy Advisory Committee at its meeting on July 28, 1993, and approved by the Metro Policy Advisory Committee on September 22, 1993. In addition to these technical changes to the Plan, there have been numerous important regional initiatives and Metro water resource projects addressing water quality issues in the region.

Metro's Region 2040 Project has been a major planning initiative during the past year. The Water Resources Policy Advisory Committee (WRPAC) has provided technical review and comment on the three Region 2040 growth concepts. WRPAC subcommittees representing the region's water providers and wastewater managers have met periodically with Region 2040 staff to evaluate the water resource implications of the urban forms and make recommendations for any refinements to the growth concepts. WRPAC members will continue to work with Metro staff and consultants in the coming year as the growth concepts are refined and infrastructure costs are calculated. Eventually, one concept will be selected by the Metro Council in July 1994.

Two water resource grants were awarded to Metro from the Oregon Department of Environmental Quality (DEQ) and have been implemented during the past year. The first grant is the Phase II Fairview Creek Project to continue water quality sampling and analysis of water quality trends on Fairview Creek. The creek originates in Gresham and flows north through Fairview before emptying into the upper Columbia Slough. Streamflow measurements were coordinated with the U.S. Geological Survey. In addition, the creek was surveyed for potential sites for a water quality enhancement project. Metro staff will work with the City of Gresham's Engineering Department staff and local citizens to establish a stream restoration project. The

The Honorable Judy Wyers, Presiding Officer
and Metro Council
October 8, 1993
Page 2

Phase I Project, which was also funded by DEQ, produced a final report entitled *Fairview Creek Water Quality Modeling Project* which was submitted to DEQ in November 1992.

The second DEQ grant involves establishing three leaf compost facilities to filter industrial stormwater run-off in the Tualatin River basin. This project is being implemented in cooperation with the City of Portland's Bureau of Environmental Services, Washington County's Department of Land Use and Transportation, and the Oregon Department of Agriculture. This innovative best management practice to treat stormwater is appropriate for urban setting due to its minimum land requirements and ability to treat industrial run-off. An experimental drop-in stormwater filtration module is being tested. This project will be completed in March 1994.

Metro staff have participated in several regional integrated watershed planning initiatives. These include development of enhancement projects on Johnson Creek with the Johnson Creek Corridor Committee, development of a watershed action plan for Fairview Creek with the Fairview Creek Watershed Conservation Group, and planning for the establishment of the Columbia Slough Watershed Council representing all stakeholders in the Columbia Slough watershed. Metro staff provided technical and organizational assistance to carry out these planning efforts.

The draft *FY 1994-99 Water Resources Work Plan* was presented to the Metro Planning Committee on September 28, 1993. This Plan addresses the new Metro Charter mandates for development of a Regional Framework Plan including regional planning for water supply and storage as well as other issues of regional concern or mandated by the state. The Plan includes water supply planning in cooperation with the Phase II Regional Water Supply Planning effort and development of a regional water conservation strategy. The water quality issues include coordination with the Region 2040 project, compliance with Charter mandates for water quality, establishment of a watershed program and continuing annual updates of the Wastewater Management Plan. The Planning Committee gave a favorable review to the draft plan and now staff will present the draft plan to the relevant technical and policy committees before seeking a Metro Council resolution to adopt the work plan.

Metro also co-sponsored or assisted with implementation of several regional conferences and workshops. These include the National Park Service's annual River and Trails Conservation Assistance Program Conference held in Portland and the Adopt-A-Stream Conference held in October 1992. A successful workshop was held in July 1993 with a staff member from the Metropolitan Washington Council of Government's Anacostia River Watershed Restoration Project. In addition, Metro staff were featured speakers at the Adopt-A-Stream Conference and DEQ's Nonpoint Source Pollution Control Conference held in April 1993.

Other regional water resource initiatives include the Willamette River Water Quality Study coordinated by DEQ with participation and funding from the State of Oregon, Oregon Association of Clean Water Agencies, Association of Oregon Industries and the U.S. Geological Survey. This study has produced numerous technical papers describing water quality conditions and results of biological studies. A final report is expected by the end of 1993.

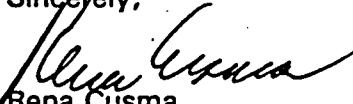
The Honorable Judy Wyers, Presiding Officer
and Metro Council
October 8, 1993
Page 3

Another important regional study is the current planning effort in Clackamas County which is examining the need for future wastewater facilities to serve the County's growing population. This inter-jurisdictional effort termed the KOLTT Study will identify four options for future wastewater treatment facilities. A final option will be selected by May 1994. The KOLTT study is incorporating Region 2040 growth projections as a basis for its planning analysis.

As a result of the Metro Charter mandates, Metro's water planning section has been incorporated into the Growth Management Section in the Planning Department. It will serve an integral role in future development of the Regional Framework Plan.

In conclusion, the past year has been productive. Several ongoing research projects were initiated, watershed planning efforts continued and a new *Water Resources Work Plan* will guide future work efforts. We look forward to the coming year and continued success in Metro's expanding role in regional water resources planning.

Sincerely,



Rena Cusma
Executive Officer

RC/RF/erb
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Enclosure

Meeting Date: November 23, 1993
Agenda Item No. 6.2

ORDINANCE NO. 93-517A



METRO

DATE: November 18, 1993

TO: Metro Council
Executive Officer
Interested Parties

FROM: Paulette Allen, Clerk of the Council

RE: AGENDA ITEM NO. 6.2; ORDINANCE NO. 93-517A

The Council agenda will be printed before the Governmental Affairs Committee meets to consider Ordinance No. 93-517A on November 18. The committee report will be provided in advance to Councilors and available at the Council meeting November 23.

BEFORE THE METRO COUNCIL

DRAFT

AN ORDINANCE FOR THE PURPOSE
OF ADOPTING A NEW CHAPTER TITLE
TO THE METRO CODE PERTAINING TO
ELECTIONS

)
)
)
)

ORDINANCE NO. 93-517-A

Introduced by Governmental
Affairs Committee

THE METRO COUNCIL HEREBY ORDAINS:

Section 1. The following title is added to the Metro Code:

TITLE IX

ELECTIONS

CHAPTERS:

9.01	Voters' Pamphlet
9.02	Vacancies in Office
9.03	Ballot Measures, Initiative and Referendum
9.04	Initiative and Referendum

CHAPTER 9.01

VOTERS' PAMPHLET

SECTIONS:

9.01.010	State Voters' Pamphlet
9.01.020	Definitions
9.01.030	District Measures Included in the Voters' Pamphlet
9.01.040	Preparation and Judicial Review of Ballot Titles
9.01.050	Preparation and Judicial Review of Explanatory Statements
9.01.060	Arguments Support and Opposing Measures
9.01.070	Filing of Material with the Secretary of State
9.01.080	Inclusion of Material in County Voters' Pamphlet

9.01.010 State Voters' Pamphlet: Metro believes it to be in the interest of the Electors of the District that ballot titles, explanatory statements and arguments relating to District measures be included in the Voters' Pamphlet, as authorized by ~~ORS 251.285 Oregon Law~~ and provided for in this Chapter.

9.01.020 Definitions: As used in this Chapter:

- (a) "Committee Director" has the meaning given that term in ORS 260.005.
- (b) "Court" means the Circuit Court of the State of Oregon for the County of Multnomah.
- (c) "Filing Officer" means the director of the Multnomah County Division of Elections.
- (d) "Measure" has the meaning given that term in ORS 251.005.
- (e) "Political Committee" has the meaning given that term in ORS 260.005.
- (f) "Voters' Pamphlet" means the State Voters' Pamphlet published pursuant to ORS chapter 251, or a County Voters' Pamphlet as provided in Section 9.01.080.

9.01.030 District Measures Included in the Voters' Pamphlet: A District Measure shall qualify for inclusion in the Voters' Pamphlet under the provisions of ~~ORS 251.285 and this Chapter if:~~

- (a) The Measure is submitted to the Electors at an election for which a Voters' Pamphlet is printed;

(b) All procedures set forth in this ~~Chapter Code~~ relating to the preparation of the ballot title and explanatory statement for the measure have been completed on or before the ~~75th~~^{3rd} day prior to the date of the election at which the Measure is to be submitted to the Electors which is the last date material may be submitted for publication in the Voters Pamphlet; and

(c) In the case of a Measure proposed by Initiative or Referendum petition:

- (1) The Filing Officer certifies that the petition has sufficient qualified signatures to require submission of the Measure to the Electors; and
- (2) Such certification is filed with the Executive Officer on or before the 90th day preceding the election at which the Measure is to be submitted to the Electors.

~~9.01.040 Preparation and Judicial Review of Ballot Titles:~~

~~(a) A ballot title for a Measure proposed by Metro Initiative or Referendum petition shall be prepared as provided in ORS 255.145. A ballot title for a Measure referred to the Electors by the District shall be prepared by the District.~~

~~(b) Judicial review of any ballot title for a District Measure shall be as provided in ORS 255.155.~~

9.01.050 Preparation and Judicial Review of Explanatory Statements:

(a) Explanatory statements for all District Measures shall be prepared by the General Counsel and shall be filed with the Executive Officer. An explanatory statement shall be an impartial, simple and understandable statement of 500 words or less, explaining the measure and its effect. The explanatory statement for a Measure referred by the District shall be filed with the Executive Officer and the Council no later than five days after a resolution referring a Measure is acted upon by the Council. The explanatory statement for a Measure proposed by Initiative or Referendum petition shall be filed with the Executive Officer not later than the seventh business day after the petition is submitted to the Filing Officer for signature verification.

(b) Upon receipt of an explanatory statement, the Executive Officer shall publish in the next available edition of a newspaper of general circulation in the District a notice of receipt of the statement including notice that an Elector may file a petition for review of the statement not later than the date referred to in subsection (c) of this section. The Executive Officer and the Filing Officer may jointly publish notice of the explanatory statement and ballot title for a Measure in the same publication.

(c) Any Elector dissatisfied with an explanatory statement for a District Measure may petition the Court stating the reasons why the statement does not meet the requirements of subsection (a) of this section. The petition shall be filed not later than the seventh business day after the statement is filed with the Executive Officer. An Elector filing a petition with the Court shall also file a copy of the petition with the Executive Officer not later than the end of the next business day following the date the petition is filed with the Court. The Court shall review the statement and Measure, hear arguments, if any, and certify to the Executive Officer a statement for the Measure which meets the requirement of subsection (a) of this section. Review by the Court shall be first and final.

9.01.060 Arguments Supporting and Opposing Measures:

(a) Arguments in support of or opposition to a Measure which is subject to this Chapter may be filed with the Executive Officer not later than the 75th 3rd day prior to the date of the election at which the Measure is to be submitted to the Electors which is the last date material may be submitted for publication in the Voters' Pamphlet by:

- (1) Any person who tenders a filing fee in the amount of \$300 and submits a statement on such form as the Executive Officer may prescribe or provide, which:
 - (A) Identifies the name of the person who submitted the argument;
 - (B) Identifies the name of the organization the person represents, if any;
 - (C) Indicates whether the argument supports or opposes the Measure; and
 - (D) Indicates who authorized publication of the argument.
- (2) A person who files a petition for the inclusion of the argument in the Voters' Pamphlet which contains the signatures of not less than 1,000 Electors of the District. Before the argument is filed with the Executive Officer, the signatures on the petition shall be verified by the Filing Officer. Prior to the circulation of a petition under this paragraph, a prospective petition shall be filed with the Executive Officer, on such form as the Executive Officer may prescribe or provide, which:
 - (A) Sets forth the text of the proposed argument;
 - (B) Identifies the name of the person who submitted the argument;

- (C) Indicates the name of the organization the person represents, if any;
- (D) Indicates whether the argument supports or opposes the Measure; and
- (E) Indicates who authorized publication of the argument.

(b) Arguments shall be typewritten and shall be prepared for printing on 29.7 square inches of the Voters' Pamphlet.

9.01.070 Filing of Material with the Secretary of State: The Executive Officer shall file all Measures, ballot titles, explanatory statements and arguments that meet the requirements of this Chapter with the Secretary of State and the Clerk of the Council not later than the 70th day prior to the date of the election for which a Voters' Pamphlet will be printed.

9.01.080 Inclusion of Material in County Voters' Pamphlet: During the period that section 1, chapter 811, Oregon Laws 1993 (SB 1072) shall be in effect: (1) instead of filing all material with the Secretary of State, the Executive Officer shall cause all Measures, ballot titles, explanatory statements, and arguments filed with the Executive Officer pursuant to this Chapter to be filed in a timely fashion with the appropriate officials of Multnomah, Washington and Clackamas counties for inclusion in any Voters' Pamphlet published by a county; and ~~Otherwise, all other provisions of this Chapter shall remain in full force and effect except that "Voters' Pamphlet" shall include any voter pamphlet published by Multnomah, Washington or Clackamas counties.~~ (2) the term "Voters' Pamphlet" as used in this Chapter shall mean any voters' pamphlet published by Clackamas, Multnomah or Washington counties.

CHAPTER 9.02

VACANCIES IN OFFICE

SECTIONS:

9.02.010	Definitions
9.02.020	Vacancy in Office
9.02.030	Filling of Vacancy
9.02.040	Term of Appointment

9.02.010 Definitions: For the purposes of this Chapter, unless the context requires otherwise:

(a) "Director" means the Director of the Division of Elections of Multnomah County, or the authorized representative.

(b) "Elective Office" means the office of:

- (1) Executive Officer;
- (2) Metro Auditor; or
- (3) Metro Councilor.

9.02.020 Vacancy in Office: An Elective Office of Metro shall become vacant:

(a) Upon the incumbent's:

- (1) Death;
- (2) Adjudicated incompetence;
- (3) Recall from the office;
- (4) Upon the failure of the person elected or appointed to the office to qualify for it within 10 days after the time for the term of office to commence;
- (5) In the case of a member of the Metro Council, upon absence from all regularly scheduled meetings of the Metro Council within any 60-day period, without the Council's consent Attendance at meetings of Council

Committees or other Metro or Metro-related bodies shall not be considered attendance at Metro Council meetings;

- (6) Ceasing to reside in the District from which elected or appointed, except when District boundaries are reapportioned and a Councilor is assigned to a District where the Councilor does not reside and the Councilor becomes a resident of the reapportioned District within 60 days after the reapportionment is effective;
- (7) Ceasing to be a qualified elector under State law;
- (8) Conviction of a felony, or conviction of a federal or state offense punishable by a loss of liberty and pertaining to his or her office;
- (9) Resignation from office;
- (10) Becoming an elected officer of the state or a city, county or special district, as used in this Chapter special district does not include school districts;
- (11) In case of the Executive Officer or Auditor, upon his or her ceasing to reside within the District; or
- (12) In the case of the Auditor, if the incumbent ceases to hold the designation of Certified Public Accountant or Certified Internal Auditor.

9.02.030 Filling Declaration of Vacancy: The Metro Council, upon becoming aware of grounds to find that a vacancy exists in an Elective Office, shall promptly determine and declare the date of vacancy by the adoption of a resolution. The incumbent shall be entitled to receive notice of the filing of a resolution to declare a vacancy by the mailing of such notice to the incumbent's last known address. The incumbent shall be entitled to appear before the Council to show cause, if any may exist, why the Council should not declare the existence of a vacancy.

~~(a) Whenever a vacancy occurs on the Council, the Council shall commence a process to fill the vacancy by appointment by a majority vote of the remaining members of the Metro Council.~~

~~(1) The appointment process shall include the following:~~

~~(A) Notification of the appointment process in a newspaper of general circulation in the District, in local newspapers which serve the Council subdistrict, and other journals, publications~~

~~and circulars deemed appropriate at least three weeks prior to the appointment.~~

- ~~(B) — Notification of the appointment process to official neighborhood organizations, cities, civic groups, and other recognized groups with territory within the vacant Council subdistrict at least three weeks prior to the appointment.~~
- ~~(C) — Distribution of a Council appointment application to interested citizens at least two weeks prior to the appointment.~~
- ~~(D) — Conduct of a public hearing in the vacant District before a subcommittee of the Council appointed by the Presiding Officer. The subcommittee shall report all testimony received to the full Council.~~
- ~~(E) — Conduct of interviews with applicants for the vacant position before the Council.~~

~~(2) The Council shall in a public meeting appoint the person to fill the vacancy from a list of applicants who have been nominated and seconded by Councilors. Voting for the person shall be by a written signed ballot. The Clerk of the Council shall announce the results of each ballot following the vote and shall record the result of each Councilor's ballot. Any applicant who receives a majority of the votes by the remaining members of the Council shall be elected to the vacant position. If no applicant receives a majority vote of the Council on the first ballot, the Council shall continue to vote on the two applicants who receive the most votes until an applicant receives a majority vote of the Council.~~

~~(b) — If a vacancy occurs in office of Executive Officer or Auditor, the Metro Council shall appoint a person to fill the vacancy in the manner described in (a)(2) above.~~

~~9.02.040 Term of Appointment: If the vacancy occurs more than 20 days prior to the next general election day and there are more than two years remaining to the term of office, the appointment shall be for the period until the first Monday in January following the next general election day. If the vacancy occurs during a time period other than that provided for in subsection (a) above, the appointment shall be for the remainder of the term of the office in which the vacancy exists.~~

9.02.040 Filling of Vacancy: Election to Fill a Vacancy.

(a) If a vacancy occurs in a Metro elective office and the term of office expires three years or more after the vacancy occurs, then a person shall be elected at the next available

election date to fill the vacancy for the period until the first Monday in January following the next general election day.

(b) If a vacancy occurs in a Metro elective office more than 20 days prior to the next general election day and there are more than two years, but less than three years, remaining to the term of office, or if a vacancy has been filled by election pursuant to Section 9.02.040(a), then a person shall be elected at the general election to fill the vacancy for the remainder of the term of office.

(c) If a vacancy occurs in a Metro elective office after the period provided for in Section 9.02.040(b), and there is more than one year remaining to the term of office, then a person shall be elected at the next available election date to fill the vacancy for the remainder of the term of office.

(d) If an election is required to fill a vacancy, pursuant to Section 9.02.040(a) or 9.02.040(c), the Council shall call such an election on the next available election date which is not sooner than the 45th day after the date of declaration of vacancy.

(e) The person receiving the most votes at an election held pursuant to this Section shall be elected notwithstanding the fact that they may not have received a majority of the votes cast. Nomination for election to fill a vacancy shall be made by the method established by state law for the selection of candidates for nomination at a primary election. Except as otherwise provided by state law for nominations to fill a vacancy at a general election, such petition or declaration shall be filed with the Director of Elections not later than the 34th day prior to the date of the election.

9.02.060 Appointments to Fill Vacancy: Whenever a vacancy occurs in a Metro elective office the Council shall make an appointment to fill the vacancy. The term of the appointment shall be for the period until a successor is elected and qualified. If no election to fill the vacancy is held then the appointment shall be for the remainder of the term of office.

9.02.070 Method of Making Appointments:

(a) Whenever a vacancy occurs on the Council, the Council shall commence a process to fill the vacancy by appointment by a majority vote of the remaining members of the Metro Council. The appointment process shall include the following:

- (1) Notification of the appointment process and of the availability of application forms in a newspaper of general circulation in the District, in local newspapers which serve the Council subdistrict, and other journals, publications and circulars deemed appropriate at least four weeks prior to the appointment.

- (2) Notification of the appointment process and of the availability of application forms to official neighborhood organizations, cities, civic groups, and other recognized groups with territory within the vacant Council subdistrict at least four weeks prior to the appointment.
- (3) Notification may be given at the direction of the Presiding Officer in advance of any formal declaration of a vacancy by the Council.
- (4) The Presiding Officer may establish a deadline for the receipt of applications which shall be no earlier than one week prior to the date set for the making of the appointment at the time notice is given.
- (5) Conduct of a public hearing in the vacant District before a subcommittee of the Council appointed by the Presiding Officer. The subcommittee shall report all testimony received to the full Council.
- (6) Conduct of interviews with applicants for the vacant position before the Council.
- (7) The Council shall in a public meeting appoint the person to fill the vacancy from a list of applicants who have been nominated and seconded by Councilors. Voting for the person shall be by a written signed ballot. The Clerk of the Council shall announce the results of each ballot following the vote and shall record the result of each Councilor's ballot. Any applicant who receives a majority of the votes by the remaining members of the Council shall be elected to the vacant position. If no applicant receives a majority vote of the Council on the first ballot, the Council shall continue to vote on the two applicants who receive the most votes until an applicant receives a majority vote of the Council.

(b) If a vacancy occurs in the office of Executive Officer or Auditor, the Metro Council shall appoint a person to fill the vacancy subject to the following procedure. The appointment process shall include the following:

- (1) Notification of the existence of the vacancy and that the Council will be making an appointment to fill the vacancy shall be given in a newspaper of general circulation in the District and in such other manner as deemed appropriate by the Council at the time the vacancy is declared.
- (2) Conduct of interviews with applicants for the vacant position before the Council.

- (3) The Council shall in a public meeting appoint the person to fill the vacancy from a list of applicants who have been nominated and seconded by Councilors. Voting for the person shall be by a written signed ballot. The Clerk of the Council shall announce the results of each ballot following the vote and shall record the result of each Councilor's ballot. Any applicant who receives a majority of the votes by the remaining members of the Council shall be elected to the vacant position. If no applicant receives a majority vote of the Council on the first ballot, the Council shall continue to vote on the two applicants who receive the most votes until an applicant receives a majority vote of the Council.

9.02.080 Emergency Succession. In the event of the death of the Executive Officer or the declaration of a vacancy in that Office, the Deputy Executive Officer shall immediately take the oath of office and become the Executive Officer until such time as the Council shall fill the vacancy by appointment or a successor shall be elected and qualified. If the Deputy Executive Officer shall not be qualified or if a vacancy exists in that position, then the Director of Finance and Information shall so serve while continuing to hold the position of Director. If that position shall also be vacant or the person shall not qualify, then the Council shall in emergency session designate a qualified person to so serve.

CHAPTER 9.03

BALLOT MEASURES, INITIATIVE AND REFERENDUM

SECTIONS:

9.03.010	Definitions
9.03.020	Referrals by Metro Council
9.03.030	Prospective Petition
9.03.035	One Subject Determination
9.03.040	Ballot Title; Appeal
9.03.050	Petition and Circulation Requirements
9.03.060	Filing and Percentage Requirements; Verification
9.03.070	Election Dates
9.03.080	Election Notice and Procedure
9.03.090	Applicability of State Law

9.03.010 Definitions: As used in this Chapter, unless the context requires otherwise:

(a) "Director" means the director of the Multnomah County's Division of Elections, or the Director's designees, or any officer subsequently performing the present duties of the Director, or the designees of that officer.

(b) "Elector" means any legal voter of the District.

(c) "Initiative" means a duly authorized command from the Electors of the District to allow the Electors of the District to determine whether a matter that constitutes Metro legislation should be adopted.

(d) "Measure" means any Metro Legislation, Proposition or Question.

(e) "Metro Legislation" means any legislation which has been or lawfully may be enacted by Metro, and includes any amendment, revision or repeal of the 1992 Metro Charter, but does not include any Proposition or Question.

(f) "Proposition" means any request for voter approval of a property tax levy, tax base, general obligation bond Measure, or any tax requiring voter approval pursuant to Section 11 of the 1992 Metro Charter, or other similar matter submitted to the Electors of the District for the purpose of authorizing the imposition of any ad valorem real property tax.

(g) "Question" means any matter other than Metro Legislation or a Proposition including but not limited to an advisory matter submitted by the Council to the Electors of the District for approval or rejection.

(h) "Referendum" means a duly authorized command from the Electors of the District to require that Metro Legislation adopted by the Metro Council be subject to approval of the Electors of the District before it shall become effective.

(i) "Referral" means an action taken by the Metro Council to submit any Measure directly to the Electors of the District.

(j) "Regular Election" means any election held on the same date as a regular biennial statewide primary or general election.

(k) "Special Election" means any election held on a date other than a Regular Election date.

9.03.020 Referrals by Metro Council:

(a) The Metro Council may directly refer any Measure to the Electors for their approval or rejection including Metro Legislation, any Proposition or any Question, and may directly refer to the Electors proposed amendments, or revisions of the 1992 Metro Charter or parts thereof. Prior to submitting any revision of the 1992 Metro Charter to the voters, the Council shall conduct at least two public hearings with the second hearing to be held at least 28 days after the first hearing.

(b) The Council shall act to refer a Measure by the adoption of a resolution. The resolution shall contain either directly or as an exhibit the Measure referred to the Electors, the ballot title, and any other material required by law.

(c) In the case of a Measures the Metro Council refers under subsection (a) of this section, the Metro Council shall prepareapprove a ballot title complying with the requirements of Oregon Laws, and shall certify such ballot title to the Director.

(d) The Director, upon receiving a ballot title for a District Measure referred by the Metro Council, shall publish in the next available edition of a newspaper of general circulation in the District a notice of receipt of the ballot title including notice that an Elector may file a petition for review of the ballot title not later than the date referred to in subsection (e) of this section.

(e) Any Elector may petition the Court to challenge the ballot title prepared by the Metro Council. Such petition must be filed with the Court within seven business days of the Metro Council's certification. Any person filing a petition of review with the Court must file a copy of the challenge with the Director and the Executive Officer not later than the end of

the business day next following the date the petition is filed with the Court. Nothing in this section is intended to invalidate a petition that is timely filed with the Court.

(f) A Measure shall be considered referred under this section as of the date the Metro Council certifies its ballot tile to the Director.

9.03.030 Prospective Petition:

(a) Prior to circulating a petition proposing an Initiative or Referendum on Metro Legislation among the Electors, the chief petitioners shall file a prospective petition with the Director, in such form as the Director shall prescribe or provide, showing:

- (1) The signatures, printed names and mailing addresses of at least one but not more than three chief petitioners, all of whom must be Electors of the District;
- (2) In the case of Initiative Measure, the text of Metro Legislation proposed for adoption, amendment, revision or repeal, and, where applicable, the title, ordinance number, and charter or ordinance section numbers proposed for amendment, revision or repeal; and
- (3) In the case of Referendum Measures, the text of Metro Legislation proposed for Referral, and where applicable, the title, ordinance number or ordinance section numbers of Metro Legislation proposed for Referral.

(b) The Director shall inscribe the date of filing upon any prospective petition filed in the Director's office.

(c) After a prospective petition for a Referendum Measure has been filed with the Director, and the Director has determined that the prospective petition complies with the requirements of this Chapter, and other applicable law, the Director shall forthwith certify to one of the chief petitioners that petitions for the Referendum Measure proposed by the prospective petition may be circulated among the Electors, in accordance with the procedures set forth in Section 9.03.050.

9.03.035 One Subject Determination:

(a) Not later than the fifth business day after receiving a prospective petition for an Initiative Measure, the Director shall determine in writing whether the Initiative Measure meets the requirements of section 1(2)(d), Article IV of the Oregon Constitution, and Sections 35 and 40 of the 1992 Metro Charter.

(b) If the Director determines that the Initiative Measure meets the requirements of section 1(2)(d), Article IV of the Oregon Constitution, and Sections 35 and 40 of the 1992 Metro Charter, the election officer shall proceed as required in Section 9.03.040. The Director shall include in the publication required under Section 9.03.040(b) a statement that the Initiative Measure has been determined to meet the requirements of section 1(2)(d), Article IV of the Oregon Constitution, and Sections 35 and 40 of the 1992 Metro Charter.

(c) If the Director determines that the Initiative Measure does not meet the requirements of section 1(2)(d), Article IV of the Oregon Constitution, or Sections 35 or 40 of the 1992 Metro Charter, the Director shall immediately notify the petitioner, in writing by certified mail, return receipt requested, of the determination.

(d) Any Elector dissatisfied with a determination of the Director under subsection (a) of this section may petition the Court of the judicial district in which the administrative office of the district is located seeking to overturn the determination of the Director. If the Elector is dissatisfied with a determination that the Initiative Measure meets the requirements of section 1(2)(d), Article IV of the Oregon Constitution, and Sections 35 and 40 of the 1992 Metro Charter, the petition must be filed not later than the seventh business day after the ballot title is filed with the Director. If the Elector is dissatisfied with a determination that the Initiative Measure does not meet the requirements of section 1(2)(d), Article IV of the Oregon Constitution, or Sections 35 or 40 of the 1992 Metro Charter, the petition must be filed not later than the seventh business day after the written determination is made by the Director.

(e) The review by the Court shall be the first and final review, and shall be conducted expeditiously to insure the orderly and timely circulation of the petition.

9.03.040 Ballot Title; Appeal:

(a) Prior to the conclusion of the business day next following the filing of a prospective petition which proposes an Initiative Measure and which complies with the requirements of this Chapter, and other applicable law, the Director shall transmit two copies to the General Counsel of Metro, who shall, within five business days after receiving the prospective petition, prepare a ballot title for the Measure proposed. The ballot title shall consist of:

- (1) A caption of not more than 10 words which reasonably identifies the subject of the Measure;
- (2) A question of not more than 20 words which plainly phrases the chief purpose of the Measure so that an affirmative response to the question corresponds to an affirmative vote on the Measure; and

- (3) A concise and impartial statement of not more than 85 words summarizing the Measure and its major effect.

After preparing the ballot title, the General Counsel shall immediately return one copy of the prospective petition and title to the Director and shall immediately transmit one copy of the prospective petition and title to one of the chief petitioners.

(b) The Director, upon receiving a ballot title for a Metro Measure, shall publish in the next available edition of a newspaper of general circulation in the District a notice of receipt of the ballot title including notice that an Elector may file a petition for review of the ballot title not later than the date referred to in subsection (c) of this section.

(c) Upon receiving the prospective petition and title from the General Counsel, the Director shall inscribe the date of receipt on it. Within seven business days after that date, any Elector may petition the Court for the county to challenge the ballot title prepared by the General Counsel. At the end of the seven-day period, or following the final adjudication of any challenge, the Director shall certify the ballot title as prepared by the General Counsel or as prescribed by the court, as the case may be, to one of the chief petitioners.

(d) Any person filing a petition of review with the Court must file a copy of the challenge with the Director and the Executive Officer not later than the end of the business day next following the date the petition is filed with the Court. Nothing in this section is intended to invalidate a petition that is timely filed with the Court.

(e) The procedures set forth in subsections (a) through (d) of this section for preparation of, and challenges to, ballot titles for Initiative Measures shall also apply to Referendum Measures. However, the completion of such procedures shall not be a prerequisite to the circulation of petitions for Referendum Measures under 9.03.050, and ballot titles need not be stated on petitions circulated to propose Referendum Measures.

9.03.050 Petition and Circulation Requirements:

(a) After the requirements of subsection (c) of 9.03.030 have been met in the case of Referendum Measures, and after the requirements of 9.03.040 have been met in the case of Initiative Measures, the chief petitioners and any other persons eligible to circulate Initiative and Referendum petitions under state law may circulate a petition for the Measure among the Electors. Each copy of the petition so circulated shall consist of a cover page and signature sheet or sheets.

(b) The cover page shall state the names and mailing addresses of the chief petitioners, shall contain the information required by paragraph 2 of subsection (a) of section 9.03.030 or paragraph 3 of subsection (a) of section 9.03.030 and, shall state the ballot title certified by the Director under subsection (c) of section 9.03.040.

(c) Each signature sheet shall contain space for signatures of 20 Electors. Each Elector signing the petition shall do so by affixing the Elector's signature, the date of the signature, and by printing the Elector's name, residence address and, if known, the Elector's precinct number.

(d) Each signature sheet of an Initiative petition shall contain the caption of the ballot title.

(e) Each signature sheet of a Referendum petition shall contain the title, ordinance number or ordinance section numbers of Metro Legislation proposed by Referral.

(f) No signature sheet shall be circulated by more than one person. Each signature sheet shall contain a statement signed by the circulator that each Elector who signed the sheet did so in the circulator's presence, and, to the best of the circulator's knowledge, each such Elector is a legal voter of the District and that the information placed on the sheet by each such Elector is correct.

9.03.060 Filing and Percentage Requirements: Verification:

(a) The Director shall accept for signature verification in accordance with this Chapter only petitions which comply with the requirements of this Chapter and other applicable law.

(b) No petition shall be accepted for filing unless it contains at least the required number of verified signatures to submit the Measure to the Electors, as prescribed by subsections (g), (h) or (i) of this section.

(c) No Initiative petition shall be accepted for signature verification more than six months after the date of the Director's certification under subsection (c) of section 9.03.040.

(d) Any petition to refer legislation adopted by the Metro Council must be submitted for verification not more than 90 days after Metro's adoption of such legislation, and no later than the effective date of the ordinance if the ordinance contains an emergency clause. Legislation adopted by the Metro Council is not subject to the Referendum after the date it becomes effective or 90 days whichever is sooner.

(e) An Initiative or Referendum petition shall not be accepted for signature verification if it contains less than 100 percent of the required number of signatures.

(f) Upon the acceptance of a petition, the Director shall verify the signatures thereon. Such verification may be performed by random sampling in a manner approved by the Secretary of the State of Oregon.

Within 15 days after the Director's acceptance of a petition, the Director shall certify to Metro whether the petition contains a sufficient number of qualified signatures to require the submission of the proposed Measure to the Electors, and shall also state in the certificate the number of qualified signatures prescribed by subsections (g), (h) or (i) of this section to require the proposed Measure to be submitted to the Electors. The petition shall be considered filed as of the date of the Director's certification.

(g) An Initiative Measure proposing the amendment, ~~revision~~ or repeal of the 1992 Metro Charter, or parts thereof, shall be submitted to the Electors if the number of qualified signatures on the petition therefor equals or exceeds 8 percent of the total number of votes cast in the District for all candidates for Governor of Oregon at the most recent previous general election at which the office of Governor was filled for a four-year term.

(h) An Initiative Measure proposing the adoption, amendment or repeal of any other Metro legislation, or parts thereof, shall be submitted to the Electors in the number of qualified signatures on the petition therefor equals or exceeds 6 percent of the total number of votes cast in the District for all candidates for Governor at the most recent previous general election at which the office of Governor was filled for a four-year term.

(i) A Referendum Measure shall be submitted to the Electors if the number of qualified signatures on the petition therefor equals or exceeds 4 percent of the total number of votes cast in the District for all candidates for Governor of Oregon at the most recent previous general election at which the office of Governor was filled for a four-year term.

9.03.070 Election Dates:

(a) Upon receiving the Director's certificate that a petition has been filed with sufficient qualified signatures to require an Initiative or Referendum to be submitted to the Electors under Section 9.03.060, ~~or upon referring the Measure on its own motion under Section 9.03.020,~~ the Metro Council shall call an election for submission of the Measure to the Electors. The Metro Council shall call the election no later than the next available general or primary election date that is not sooner than the 90th day after the date of the Director's certificate certifying sufficient signatures, but may call the election in its discretion at an earlier election date available under state law for which the filing deadlines may be met.

(b) In the event of a Metro Council Referral of a Measure under section 9.03.020, the election shall be held on ~~the~~ election date specified by the Metro Council in the resolution referring the Measure to the voters.

9.03.080 Election Notice and Procedure:

(a) In the case of Special Elections, the Metro Council shall cause notice thereof by publication in two newspapers of general circulation within the District one each week for

three consecutive weeks prior to the election. The notice shall contain the date of the election, the hours the polls will be open and the ballot title of the Measure. In addition, on the day preceding or the day of the election, the Director shall cause the polling places at which Electors may register their votes to be published in at least two newspapers of general circulation within the District. The Director shall appoint clerks for any Special Election and may combine precincts in accordance with state law.

(b) Notice of elections on Measures to be submitted to the Electors on Regular Election dates shall be given in accordance with state law and such elections shall be conducted in conjunction with the elections of offices and other Measures to be submitted to the Electors on said election dates.

(c) The requirements of subsections (a) and (b) of this section do not apply when the election is to be conducted by mail in accordance with state law.

(d) Measures referred by the Metro Council shall be designated on the ballot "Referred to the People by the Metro Council."

(e) Measures proposed by referendum petition shall be designated on the ballot "Referred by Petition of the People."

(f) Measure proposed by Initiative petition shall be designated on the ballot "Proposed by Initiative Petition."

(g) Within 20 days following any election, the Director shall certify the election results to the Metro Council. The Metro Council shall thereupon canvass the vote and enter its proclamation of the results in the Council records.

(h) Metro Legislation adopted by the Electors shall take effect upon the certification of the results of the election at which it is adopted after the election, unless such Measure expressly provides a later effective date. The results of elections on Propositions or Questions shall be effective upon the proclamation of the results.

9.03.090 Applicability of State Law: Applicable provisions of state law, dealing with any Initiative and Referendum procedures or other election matters regulated by this Chapter, shall be controlling where there is a direct and irreconcilable conflict with the provisions of this Chapter. However, the provisions of this Chapter shall be given full force and effect and shall be construed liberally in order that they shall be found not to conflict with provisions of state elections law and shall be considered paramount relating to matters subject to regulation and legislation by the Metro Council.

////

Section 2. The provisions of Chapter 2.10 and Section 2.01.180 of the Metro Code are hereby repealed.

ADOPTED by the Metro Council this ____ day of _____, 199__.

Judy Wyers, Presiding Officer

ATTEST:

Clerk of the Council

gl
1136



METRO

DATE: October 7, 1993
TO: Metro Council
FROM: Casey Short, Council Analyst
RE: Ordinance No. 93-517

Ordinance No. 93-517 has been introduced by the Governmental Affairs Committee for first reading at the Council's October 14 meeting. This ordinance would add a new chapter to the Metro Code, pertaining to elections.

The ordinance does not include a staff report at this time. General Counsel Dan Cooper drafted the ordinance, at the request of Councilor Gates, but did not draft a staff report prior to going on vacation. He will draft a staff report before the Council meeting, and it will be distributed to the Governmental Affairs Committee in the committee's next agenda packet.

I apologize for any inconvenience.

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 93-517 FOR THE PURPOSE OF ADOPTING A NEW TITLE TO THE METRO CODE PERTAINING TO ELECTIONS

Date: October 14, 1993

Presented by:
Daniel B. Cooper

FACTUAL BACKGROUND AND ANALYSIS

Ordinance No. 93-517 has been prepared by the Office of General Counsel. The purpose of the ordinance is to adopt and codify rules and procedures for the conduct of elections.

The ordinance would add three new chapters to the Metro Code: Chapter 9.01 Voters' Pamphlet, Chapter 9.02 Vacancies in Office, and Chapter 9.03 Ballot Measures, Initiative and Referendum.

New Metro Code Chapter 9.01 pertaining to the Voters' Pamphlet is based in its entirety upon the present provisions of the Metro Code dealing with the same subject. Two additions, or changes, have been made to the current Code provisions in the version contained in this ordinance. The requirement that all court challenges to ballot titles and explanatory statements be resolved prior to 75 days before an election has been eliminated. This deadline was included in the original version created for Metro on the belief that the Secretary of State's office required this requirement. Later work has revealed that this requirement is not necessary, it is possible to resolve challenges to ballot titles and explanatory statements occur after the filing deadline as long as the court challenge is resolved prior to the printing deadline. Eliminating this provision would allow the Council greater flexibility in scheduling decisions on when to place items on the ballot. The second change is the addition of a section that reflects the present status of the law in which Metro measures are not allowed in the statewide Voters' Pamphlet, but must be included in local county voters' pamphlets, if any. The provision of Section 9.01.080 provides for this inclusion during the time period the current law is in effect. The current prohibition on Metro measures being in the statewide Voters' Pamphlet is for the next four years only and contains a sunset provision.

Chapter 9.02 provides for the Council to determine when vacancies in office have occurred and provides procedures for filling vacancies. The provisions relating to the occurrence of a vacancy in office are taken from the 1992 Metro Charter. The provisions for filling vacancies are based on the requirements of the Charter and the current procedures the Council has adopted for filling vacancies on the Metro Council to extent they are consistent

with the Charter requirements. A final provision is added that clarifies what the length of the term of an appointment to a vacancy is.

New Chapter 9.03 relating to ballot measures, initiative and referendum, is based on similar provisions that have been adopted by other home rule entities such as Multnomah County, the City of Portland, Washington County, and the cities of Salem and Eugene. In general, this chapter provides for clear definitions and pathways by which the Council can refer matters to the voters, or the voters may exercise their Constitutional right to initiative and referendum. Because State election law allows the Council to place matters on the ballot that cannot be placed there by the voters either through the initiative or referendum process this chapter provides for those circumstances.

The version of the ordinance that has been filed with the Council for first reading and referral to the appropriate Committee was a draft prepared by this Office and submitted to the Governmental Affairs Committee for their consideration and review. The present version does contain certain inaccuracies, typographical errors, and other technical inconsistencies that should be discussed and amended by the Committee before final consideration by the Council.

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1141

BEFORE THE METRO COUNCIL

AN ORDINANCE FOR THE PURPOSE)
OF ADOPTING A NEW CHAPTER TO THE)
METRO CODE PERTAINING TO)
ELECTIONS)

ORDINANCE NO. 93-517
Introduced by Governmental
Affairs Committee

THE METRO COUNCIL HEREBY ORDAINS:

Section 1. The following title is added to the Metro Code:

TITLE IX

ELECTIONS

CHAPTERS:

9.01	Voters' Pamphlet
9.02	Vacancies in Office
9.03	Ballot Measures
9.04	Initiative and Referendum

CHAPTER 9.01

VOTERS' PAMPHLET

SECTIONS:

9.01.010	State Voters' Pamphlet
9.01.020	Definitions
9.01.030	District Measures Included in the Voters' Pamphlet
9.01.040	Preparation and Judicial Review of Ballot Titles
9.01.050	Preparation and Judicial Review of Explanatory Statements
9.01.060	Arguments Support and Opposing Measures
9.01.070	Filing of Material with the Secretary of State
9.01.080	Inclusion of Material in County Voters' Pamphlet

9.01.010 State Voters' Pamphlet: Metro believes it to be in the interest of the Electors of the District that ballot titles, explanatory statements and arguments relating to District measures be included in the Voters' Pamphlet, as authorized by ORS 251.285 and provided for in this Chapter.

9.01.020 Definitions: As used in this Chapter:

- (a) "Committee Director" has the meaning given that term in ORS 260.005.
- (b) "Court" means the Circuit Court of the State of Oregon for the County of Multnomah.
- (c) "Filing Officer" means the director of the Multnomah County Division of Elections.
- (d) "Measure" has the meaning given that term in ORS 251.005.
- (e) "Political Committee" has the meaning given that term in ORS 260.005.
- (f) "Voters' Pamphlet" means the State Voters' Pamphlet published pursuant to ORS chapter 251.

9.01.030 District Measures Included in the Voters' Pamphlet: A District Measure shall qualify for inclusion in the Voters' Pamphlet under the provisions of ORS 251.285 and this Chapter if:

- (a) The Measure is submitted to the Electors at an election for which a Voters' Pamphlet is printed;

(b) All procedures set forth in this Chapter relating to the preparation of the ballot title and explanatory statement for the measure have been completed on or before the 75th day prior to the date of the election at which the Measure is to be submitted to the Electors; and

(c) In the case of a Measure proposed by Initiative or Referendum petition:

- (1) The Filing Officer certifies that the petition has sufficient qualified signatures to require submission of the Measure to the Electors; and
- (2) Such certification is filed with the Executive Officer on or before the 90th day preceding the election at which the Measure is to be submitted to the Electors.

9.01.040 Preparation and Judicial Review of Ballot Titles:

(a) A ballot title for a Measure proposed by Metro Initiative or Referendum petition shall be prepared as provided in ORS 255.145. A ballot title for a Measure referred to the Electors by the District shall be prepared by the District.

(b) Judicial review of any ballot title for a District Measure shall be as provided in ORS 255.155.

9.01.050 Preparation and Judicial Review of Explanatory Statements:

(a) Explanatory statements for all District Measures shall be prepared by the General Counsel and shall be filed with the Executive Officer. An explanatory statement shall be an impartial, simple and understandable statement of 500 words or less, explaining the measure and its effect. The explanatory statement for a Measure referred by the District shall be filed with the Executive Officer and the Council no later than five days after a resolution referring a Measure is acted upon by the Council. The explanatory statement for a Measure proposed by Initiative or Referendum petition shall be filed with the Executive Officer not later than the seventh business day after the petition is submitted to the Filing Officer for signature verification.

(b) Upon receipt of an explanatory statement, the Executive Officer shall publish in the next available edition of a newspaper of general circulation in the District a notice of receipt of the statement including notice that an Elector may file a petition for review of the statement not later than the date referred to in subsection (c) of this section. The Executive Officer and the Filing Officer may jointly publish notice of the explanatory statement and ballot title for a Measure in the same publication.

(c) Any Elector dissatisfied with an explanatory statement for a District Measure may petition the Court stating the reasons why the statement does not meet the requirements of

subsection (a) of this section. The petition shall be filed not later than the seventh business day after the statement is filed with the Executive Officer. An Elector filing a petition with the Court shall also file a copy of the petition with the Executive Officer not later than the end of the next business day following the date the petition is filed with the Court. The Court shall review the statement and Measure, hear arguments, if any, and certify to the Executive Officer a statement for the Measure which meets the requirement of subsection (a) of this section. Review by the Court shall be first and final.

9.01.060 Arguments Supporting and Opposing Measures:

(a) Arguments in support of or opposition to a Measure which is subject to this Chapter may be filed with the Executive Officer not later than the 75th day prior to the date of the election at which the Measure is to be submitted to the Electors by:

- (1) Any person who tenders a filing fee in the amount of \$300 and submits a statement on such form as the Executive Officer may prescribe or provide, which:
 - (A) Identifies the name of the person who submitted the argument;
 - (B) Identifies the name of the organization the person represents, if any;
 - (C) Indicates whether the argument supports or opposes the Measure; and
 - (D) Indicates who authorized publication of the argument:
- (2) A person who files a petition for the inclusion of the argument in the Voters' Pamphlet which contains the signatures of not less than 1,000 Electors of the District. Before the argument is filed with the Executive Officer, the signatures on the petition shall be verified by the Filing Officer. Prior to the circulation of a petition under this paragraph, a prospective petition shall be filed with the Executive Officer, on such form as the Executive Officer may prescribe or provide, which:
 - (A) Sets forth the text of the proposed argument;
 - (B) Identifies the name of the person who submitted the argument;
 - (C) Indicates the name of the organization the person represents, if any;

(D) Indicates whether the argument supports or opposes the Measure; and

(E) Indicates who authorized publication of the argument.

(b) Arguments shall be typewritten and shall be prepared for printing on 29.7 square inches of the Voters' Pamphlet.

9.01.070 Filing of Material with the Secretary of State: The Executive Officer shall file all Measures, ballot titles, explanatory statements and arguments that meet the requirements of this Chapter with the Secretary of State and the Clerk of the Council not later than the 70th day prior to the date of the election for which a Voters' Pamphlet will be printed.

9.01.080 Inclusion of Material in County Voters' Pamphlet: During the period that section _____, chapter _____, Oregon Laws 1993 (SB 1072) shall be in effect instead of filing all material with the Secretary of State, the Executive Officer shall cause all Measures, ballot titles, explanatory statements, and arguments filed with the Executive Officer pursuant to this Chapter to be filed in a timely fashion with the appropriate officials of Multnomah, Washington and Clackamas counties for inclusion in any Voters' Pamphlet published by a county. Otherwise, all other provisions of this Chapter shall remain in full force and effect except that "Voters' Pamphlet" shall include any voter pamphlet published by Multnomah, Washington or Clackamas counties.

CHAPTER 9.02

VACANCIES IN OFFICE

SECTIONS:

9.02.010	Definitions
9.02.020	Vacancy in Office
9.02.030	Filling of Vacancy
9.02.040	Term of Appointment

9.02.010 Definitions: For the purposes of this Chapter, unless the context requires otherwise:

(a) "Director" means the Director of the Division of Elections of Multnomah County, or the authorized representative.

(b) "Elective Office" means the:

- (1) Executive Officer;
- (2) Metro Auditor; or
- (3) Metro Councilor.

9.02.020 Vacancy in Office: An Elective Office of Metro shall become vacant:

(a) Upon the incumbent's:

- (1) Death;
- (2) Adjudicated incompetence;
- (3) Recall from the office;
- (4) Upon the failure of the person elected or appointed to the office to qualify for it within 10 days after the time for the term of office to commence;
- (5) In the case of a member of the Metro Council, upon absence from all meetings of the Council within a 60-day period without the Council's consent;

- (6) Ceasing to reside in the District from which elected or appointed, except when District boundaries are reapportioned and a Councilor is assigned to a District where the Councilor does not reside and the Councilor becomes a resident of the reapportioned District within 60 days after the reapportionment is effective;
- (7) Ceasing to be a qualified elector under State law;
- (8) Conviction of a felony, or conviction of a federal or state offense punishable by a loss of liberty and pertaining to his or her office;
- (9) Resignation from office;
- (10) Becoming an elected officer of the state or a city, county or special district;
- (11) In case of the Executive Officer or Auditor, upon his or her ceasing to reside within the District; or
- (12) In the case of the Auditor, if the incumbent ceases to hold the designation of Certified Public Accountant or Certified Internal Auditor.

9.02.030 Filling of Vacancy: The Metro Council, upon becoming aware of a vacancy in an Elective Office, shall promptly determine and declare the date of vacancy.

(a) Whenever a vacancy occurs on the Council, the Council shall commence a process to fill the vacancy by appointment by a majority vote of the remaining members of the Metro Council.

(1) The appointment process shall include the following:

- (A) Notification of the appointment process in a newspaper of general circulation in the District, in local newspapers which serve the Council subdistrict, and other journals, publications and circulars deemed appropriate at least three weeks prior to the appointment.
- (B) Notification of the appointment process to official neighborhood organizations, cities, civic groups, and other recognized groups with territory within the vacant Council subdistrict at least three weeks prior to the appointment.

- (C) Distribution of a Council appointment application to interested citizens at least two weeks prior to the appointment.
- (D) Conduct of a public hearing in the vacant District before a subcommittee of the Council appointed by the Presiding Officer. The subcommittee shall report all testimony received to the full Council.
- (E) Conduct of interviews with applicants for the vacant position before the Council.

(2) The Council shall in a public meeting appoint the person to fill the vacancy from a list of applicants who have been nominated and seconded by Councilors. Voting for the person shall be by a written signed ballot. The Clerk of the Council shall announce the results of each ballot following the vote and shall record the result of each Councilor's ballot. Any applicant who receives a majority of the votes by the remaining members of the Council shall be elected to the vacant position. If no applicant receives a majority vote of the Council on the first ballot, the Council shall continue to vote on the two applicants who receive the most votes until an applicant receives a majority vote of the Council.

(b) If a vacancy occurs in office of Executive Officer or Auditor, the Metro Council shall appoint a person to fill the vacancy in the manner described in (a)(2) above.

9.02.040 Term of Appointment: If the vacancy occurs more than 20 days prior to the next general election day and there are more than two years remaining to the term of office, the appointment shall be for the period until the first Monday in January following the next general election day. If the vacancy occurs during a time period other than that provided for in subsection (a) above, the appointment shall be for the remainder of the term of the office in which the vacancy exists.

CHAPTER 9.03

BALLOT MEASURES, INITIATIVE AND REFERENDUM

SECTIONS:

9.03.010	Definitions
9.03.020	Referrals by Metro Council
9.03.030	Prospective Petition
9.03.035	One Subject Determination
9.03.040	Ballot Title; Appeal
9.03.050	Petition and Circulation Requirements
9.03.060	Filing and Percentage Requirements; Verification
9.03.070	Election Dates
9.03.080	Election Notice and Procedure
9.03.090	Applicability of State Law

9.03.010 Definitions: As used in this Chapter, unless the context requires otherwise:

(a) "Director" means the Director of the County's Division of Elections, or the Director's designees, or any officer subsequently performing the present duties of the Director, or the designees of that officer.

(b) "Elector" means any legal voter of the District.

(c) "Initiative" means a duly authorized command from the Electors of the District to allow the Electors of the District to determine whether a matter that constitutes Metro legislation should be adopted.

(d) "Measure" means any Metro Legislation, Proposition or Question.

(e) "Metro Legislation" means any legislation which has been or lawfully may be enacted by Metro, and includes any amendment, revision or repeal of the 1992 Metro Charter, but does not include any Proposition or Question.

(f) "Proposition" means any request for voter approval of a property tax levy, tax base, general obligation bond Measure, or any tax requiring voter approval pursuant to Section 11 of the 1992 Metro Charter, or other similar matter submitted to the Electors of the District for the purpose of authorizing the imposition of any ad valorem real property tax.

(g) "Question" means any matter other than Metro Legislation or a Proposition including but not limited to an advisory matter submitted by the Council to the Electors of the District for approval or rejection.

(h) "Referendum" means a duly authorized command from the Electors of the District to require that Metro Legislation adopted by the Metro Council be subject to approval of the Electors of the District before it shall become effective.

(i) "Referral" means an action taken by the Metro Council to submit any Measure directly to the Electors of the District.

(j) "Regular Election" means any election held on the same date as a regular biennial statewide primary or general election.

(k) "Special Election" means any election held on a date other than a Regular Election date.

9.03.020 Referrals by Metro Council:

(a) The Metro Council may directly refer any Measure to the Electors for their approval or rejection including Metro Legislation, any Proposition or any Question, and may directly refer to the Electors proposed amendments, or revisions of the 1992 Metro Charter or parts thereof. Prior to submitting any revision of the 1992 Metro Charter to the voters, the Council shall conduct at least two public hearings with the second hearing to be held at least 28 days after the first hearing.

(b) The Council shall act to refer a Measure by the adoption of a resolution. The resolution shall contain either directly or as an exhibit the Measure referred to the Electors, the ballot title, and any other material required by law.

(c) In the case of Measures the Metro Council refers under subsection (a) of this section, the Metro Council shall prepare a ballot title complying with the requirements of Oregon Laws, and shall certify such ballot title to the Director.

(d) The Director, upon receiving a ballot title for a District Measure referred by the Metro Council, shall publish in the next available edition of a newspaper of general circulation in the District a notice of receipt of the ballot title including notice that an Elector may file a petition for review of the ballot title not later than the date referred to in subsection (e) of this section.

(e) Any Elector may petition the Court to challenge the ballot title prepared by the Metro Council. Such petition must be filed with the Court within seven business days of the Metro Council's certification. Any person filing a petition of review with the Court must file a copy of the challenge with the Director and the Executive Officer not later than the end of

the business day next following the date the petition is filed with the Court. Nothing in this section is intended to invalidate a petition that is timely filed with the Court.

(f) A Measure shall be considered referred under this section as of the date the Metro Council certifies its ballot tile to the Director.

9.03.030 Prospective Petition:

(a) Prior to circulating a petition proposing an Initiative or Referendum on Metro Legislation among the Electors, the chief petitioners shall file a prospective petition with the Director, in such form as the Director shall prescribe or provide, showing:

- (1) The signatures, printed names and mailing addresses of at least one but not more than three chief petitioners, all of whom must be Electors of the District;
- (2) In the case of Initiative Measure, the text of Metro Legislation proposed for adoption, amendment, revision or repeal, and, where applicable, the title, ordinance number, and charter or ordinance section numbers proposed for amendment, revision or repeal; and
- (3) In the case of Referendum Measures, the text of Metro Legislation proposed for Referral, and where applicable, the title, ordinance number or ordinance section numbers of Metro Legislation proposed for Referral.

(b) The Director shall inscribe the date of filing upon any prospective petition filed in the Director's office.

(c) After a prospective petition for a Referendum Measure has been filed with the Director, and the Director has determined that the prospective petition complies with the requirements of this Chapter, and other applicable law, the Director shall forthwith certify to one of the chief petitioners that petitions for the Referendum Measure proposed by the prospective petition may be circulated among the Electors, in accordance with the procedures set forth in Section 9.03.050.

9.03.035 One Section Determination:

(a) Not later than the fifth business day after receiving a prospective petition for an Initiative Measure, the Director shall determine in writing whether the Initiative Measure meets the requirements of section 1(2)(d), Article IV of the Oregon Constitution.

(b) If the Director determines that the Initiative Measure meets the requirements of section 1(2)(d), Article IV of the Oregon Constitution, the election officer shall proceed as

required in 9.03.040. The Director shall include in the publication required under 9.03.040(b) a statement that the Initiative Measure has been determined to meet the requirements of section 1(2)(d), Article IV of the Oregon Constitution.

(c) If the Director determines that the Initiative Measure does not meet the requirements of section 1(2)(d), Article IV of the Oregon Constitution, the Director shall immediately notify the petitioner, in writing by certified mail, return receipt requested, of the determination.

(d) Any Elector dissatisfied with a determination of the Director under subsection (a) of this section may petition the Court of the judicial district in which the administrative office of the district is located seeking to overturn the determination of the Director. If the Elector is dissatisfied with a determination that the Initiative Measure meets the requirements of section 1(2)(d), Article IV of the Oregon Constitution, the petition must be filed not later than the seventh business day after the ballot title is filed with the Director. If the Elector is dissatisfied with a determination that the Initiative Measure does not meet the requirements of section 1(2)(d), Article IV of the Oregon Constitution, the petition must be filed not later than the seventh business day after the written determination is made by the Director.

(e) The review by the Court shall be the first and final review, and shall be conducted expeditiously to insure the orderly and timely circulation of the petition.

9.03.040 Ballot Title; Appeal:

(a) Prior to the conclusion of the business day next following the filing of a prospective petition which proposes an Initiative Measure and which complies with the requirements of this Chapter, and other applicable law, the Director shall transmit two copies to the General Counsel of Metro, who shall, within five business days after receiving the prospective petition, prepare a ballot title for the Measure proposed. The ballot title shall consist of:

- (1) A caption of not more than 10 words which reasonably identifies the subject of the Measure;
- (2) A question of not more than 20 words which plainly phrases the chief purpose of the Measure so that an affirmative response to the question corresponds to an affirmative vote on the Measure; and
- (3) A concise and impartial statement of not more than 85 words summarizing the Measure and its major effect.

After preparing the ballot title, the General Counsel shall immediately return one copy of the prospective petition and title to the Director and shall immediately transmit one copy of the prospective petition and title to one of the chief petitioners.

(b) The Director, upon receiving a ballot title for a Metro Measure, shall publish in the next available edition of a newspaper of general circulation in the District a notice of receipt of the ballot title including notice that an Elector may file a petition for review of the ballot title not later than the date referred to in subsection (c) of this section.

(c) Upon receiving the prospective petition and title from the General Counsel, the Director shall inscribe the date of receipt on it. Within seven business days after that date, any Elector may petition the Court for the county to challenge the ballot title prepared by the General Counsel. At the end of the seven-day period, or following the final adjudication of any challenge, the Director shall certify the ballot title as prepared by the General Counsel or as prescribed by the court, as the case may be, to one of the chief petitioners.

(d) Any person filing a petition of review with the Court must file a copy of the challenge with the Director and the Executive Officer not later than the end of the business day next following the date the petition is filed with the Court. Nothing in this section is intended to invalidate a petition that is timely filed with the Court.

(e) The procedures set forth in subsections (a) through (d) of this section for preparation of, and challenges to, ballot titles for Initiative Measures shall also apply to Referendum Measures. However, the completion of such procedures shall not be a prerequisite to the circulation of petitions for Referendum Measures under 9.03.050, and ballot titles need not be stated on petitions circulated to propose Referendum Measures.

9.03.050 Petition and Circulation Requirements:

(a) After the requirements of subsection (c) of 9.03.030 have been met in the case of Referendum Measures, and after the requirements of 9.03.040 have been met in the case of Initiative Measures, the chief petitioners and any other persons eligible to circulate Initiative and Referendum petitions under state law may circulate a petition for the Measure among the Electors. Each copy of the petition so circulated shall consist of a cover page and signature sheet or sheets.

(b) The cover page shall state the names and mailing addresses of the chief petitioners, shall contain the information required by paragraph 2 of subsection (a) of section 9.03.030 or paragraph 3 of subsection (a) of section 9.03.030 and, shall state the ballot title certified by the Director under subsection (c) of section 9.03.040.

(c) Each signature sheet shall contain space for signatures of 20 Electors. Each Elector signing the petition shall do so by affixing the Elector's signature, the date of the signature, and by printing the Elector's name, residence address and, if known, the Elector's precinct number.

(d) Each signature sheet of an Initiative petition shall contain the caption of the ballot title.

(e) Each signature sheet of a Referendum petition shall contain the title, ordinance number or ordinance section numbers of Metro Legislation proposed by Referral.

(f) No signature sheet shall be circulated by more than one person. Each signature sheet shall contain a statement signed by the circulator that each Elector who signed the sheet did so in the circulator's presence, and, to the best of the circulator's knowledge, each such Elector is a legal voter of the District and that the information placed on the sheet by each such Elector is correct.

9.03.060 Filing and Percentage Requirements; Verification:

(a) The Director shall accept for signature verification in accordance with this Chapter only petitions which comply with the requirements of this Chapter and other applicable law.

(b) No petition shall be accepted for filing unless it contains at least the required number of verified signatures to submit the Measure to the Electors, as prescribed by subsections (g), (h) or (i) of this section.

(c) No Initiative petition shall be accepted for signature verification more than six months after the date of the Director's certification under subsection (c) of section 9.03.040.

(d) Any petition to refer legislation adopted by the Metro Council must be submitted for verification not more than 90 days after Metro's adoption of such legislation, and no later than the effective date of the ordinance if the ordinance contains an emergency clause. Legislation adopted by the Metro Council is not subject to the Referendum after the date it becomes effective or 90 days whichever is sooner.

(e) An Initiative or Referendum petition shall not be accepted for signature verification if it contains less than 100 percent of the required number of signatures.

(f) Upon the acceptance of a petition, the Director shall verify the signatures thereon. Such verification may be performed by random sampling in a manner approved by the Secretary of the State of Oregon.

Within 15 days after the Director's acceptance of a petition, the Director shall certify to Metro whether the petition contains a sufficient number of qualified signatures to require the submission of the proposed Measure to the Electors, and shall also state in the certificate the number of qualified signatures prescribed by subsections (g), (h) or (i) of this section to require the proposed Measure to be submitted to the Electors. The petition shall be considered filed as of the date of the Director's certification.

(g) An Initiative Measure proposing the amendment, revision or repeal of the 1992 Metro Charter, or parts thereof, shall be submitted to the Electors if the number of qualified

signatures on the petition therefor equals or exceeds 8 percent of the total number of votes cast in the District for all candidates for Governor of Oregon at the most recent previous general election at which the office of Governor was filled for a four-year term.

(h) An Initiative Measure proposing the adoption, amendment or repeal of any other Metro legislation, or parts thereof, shall be submitted to the Electors in the number of qualified signatures on the petition therefor equals or exceeds 6 percent of the total number of votes cast in the District for all candidates for Governor at the most recent previous general election at which the office of Governor was filled for a four-year term.

(i) A Referendum Measure shall be submitted to the Electors if the number of qualified signatures on the petition therefor equals or exceeds 4 percent of the total number of votes cast in the District for all candidates for Governor of Oregon at the most recent previous general election at which the office of Governor was filled for a four-year term.

9.03.070 Election Dates:

(a) Upon receiving the Director's certificate that a petition has been filed with sufficient qualified signatures to require an Initiative or Referendum to be submitted to the Electors under Section 9.03.060, [or upon referring the Measure on its own motion under Section 9.03.020,] the Metro Council shall call an election for submission of the Measure to the Electors. The Metro Council shall call the election no later than the next available general or primary election date that is not sooner than the 90th day after the date of the Director's certificate certifying sufficient signatures, but may call the election in its discretion at an earlier election date available under state law for which the filing deadlines may be met.

(b) In the event of a Metro Council Referral of a Measure under section 9.03.020, the election shall be held on election date specified by the Metro Council in the resolution referring the Measure to the voters.

9.03.080 Election Notice and Procedure:

(a) In the case of Special Elections, the Metro Council shall cause notice thereof by publication in two newspapers of general circulation within the District one each week for three consecutive weeks prior to the election. The notice shall contain the date of the election, the hours the polls will be open and the ballot title of the Measure. In addition, on the day preceding or the day of the election, the Director shall cause the polling places at which Electors may register their votes to be published in at least two newspapers of general circulation within the District. The Director shall appoint clerks for any Special Election and may combine precincts in accordance with state law.

(b) Notice of elections on Measures to be submitted to the Electors on Regular Election dates shall be given in accordance with state law and such elections shall be

conducted in conjunction with the elections of offices and other Measures to be submitted to the Electors on said election dates.

(c) The requirements of subsections (a) and (b) of this section do not apply when the election is to be conducted by mail in accordance with state law.

(d) Measures referred by the Metro Council shall be designated on the ballot "Referred to the People by the Metro Council."

(e) Measures proposed by referendum petition shall be designated on the ballot "Referred by Petition of the People."

(f) Measure proposed by Initiative petition shall be designated on the ballot "Proposed by Initiative Petition."

(g) Within 20 days following any election, the Director shall certify the election results to the Metro Council. The Metro Council shall thereupon canvass the vote and enter its proclamation of the results in the Council records.

(h) Metro Legislation adopted by the Electors shall take effect upon the certification of the results of the election at which it is adopted after the election, unless such Measure expressly provides a later effective date. The results of elections on Propositions or Questions shall be effective upon the proclamation of the results.

9.03.090 Applicability of State Law: Applicable provisions of state law, dealing with any Initiative and Referendum procedures or other election matters regulated by this Chapter, shall be controlling where there is a direct conflict with the provisions of this Chapter. However, the provisions of this Chapter shall be given full force and effect and shall be construed liberally in order that they shall be found not to conflict with provisions of state

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elections law and shall be considered paramount relating to matters subject to regulation and legislation by the Metro Council.

Section 2. The provisions of Chapter 2.10 and Section 2.01.180 of the Metro Code are hereby repealed.

ADOPTED by the Metro Council this ____ day of _____, 199__.

Judy Wyers, Presiding Officer

ATTEST:

Clerk of the Council

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1136

Meeting Date: November 23, 1993
Agenda Item No. 6.3

ORDINANCE NO. 93-518

FINANCE COMMITTEE REPORT

ORDINANCE NO. 93-518 AMENDING THE FY 1993-94 BUDGET AND SCHEDULE OF APPROPRIATIONS TO FUND REPLACEMENT COMPUTERS FOR THE OFFICE OF GENERAL COUNSEL

Date: November 15, 1993

Presented By: Councilor Devlin

COMMITTEE RECOMMENDATION: At its November 10, 1993 meeting the Committee voted unanimously to recommend Council adoption of Ordinance No. 93-518. All Committee members were present and voting.

COMMITTEE DISCUSSION/ISSUES: Mr. Dan Cooper, General Counsel, presented the Staff Report. He pointed out that in mid-October two of the computers in his office were determined to be beyond the point of repair by the Information Services Division. Replacing the processors was estimated to cost \$750 each. He discussed the problem with the Council Administrator and it was agreed he would inform the Finance Committee of the problem and then proceed with the replacement of the computers. An ordinance amending the budget and appropriation schedule would follow after the replacement was implemented. Council Staff referred the Committee to the memo which was distributed to the Committee in October informing them of this emergency situation (See Exhibit A to this Report). There were no questions from the Committee.



METRO

EXHIBIT A

(Fin. Comm. Rpt/Ord. 93-518)

Date: October 13, 1993
To: Don Carlson, Council Administrator
From: Daniel B. Cooper, General Counsel *DBC*
Regarding: PERSONAL COMPUTER FAILURE
Our file: 6.§13

As we have discussed, I learned when I returned from vacation on October 11, 1993, that ISD has determined that the recent difficulties that Todd Sadlo and Mark Williams were experiencing with their computers was due to the fact that these machines were just worn out. The official diagnosis is that the machines have gone beyond the point where they can be repaired.

The cost for replacement units has been determined as \$750 each. This is for new processors only with no replacement of terminals, keyboards or other peripherals.

Because this equipment failure was not anticipated, the Office of General Counsel budget has no available funds for the cost of replacement. These are capital items and no appropriation for capital expense was requested or approved in the FY 1993-94 budget.

After discussing this matter with you and Dick Engstrom, and based on the immediate need for replacement equipment, I have asked ISD to immediately order replacements and to seek Council approval of the necessary budget amendment after the fact. To do otherwise would leave two employees who are "expensive" assets of our organization not able to function at their required efficiency level.

Kathy Rutkowski is preparing an ordinance for the budget adjustment for filing for first reading at the next Council meeting. I will be available to discuss this matter with the Finance Committee at their pleasure.

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING ORDINANCE)
NO. 93-487A REVISING THE FY 1993-94)
BUDGET AND APPROPRIATIONS)
SCHEDULE FOR THE PURPOSE OF)
FUNDING REPLACEMENT OF PERSONAL)
COMPUTERS IN THE OFFICE OF GENERAL)
COUNSEL; AND DECLARING AN)
EMERGENCY)

ORDINANCE NO. 93-518

Introduced by Rena Cusma,
Executive Officer

WHEREAS, The Metro Council has reviewed and considered the need to transfer appropriations within the FY 1993-94 Budget; and

WHEREAS, The need for a transfer of appropriation has been justified; and

WHEREAS, Adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL HEREBY ORDAINS:

1. That Ordinance No. 93-487A, Exhibit B, FY 1993-94 Budget, and Exhibit C, Schedule of Appropriations, are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance for the purpose transferring \$1,500 from the Support Service Fund Contingency to Capital Outlay in the Office of General Counsel to fund replacement of two personal computers.

2. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this _____ day of _____, 1993.

Judy Wyers, Presiding Officer

ATTEST:

Clerk of the Council

Exhibit A
Ordinance No. 93-518

FISCAL YEAR 1993-94		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
SUPPORT SERVICE FUND:Office of General Counsel							
	Total Personal Services	6.00	434,876	0.00	0	6.00	434,876
	Total Materials & Services		23,715		0		23,715
	<u>Capital Outlay</u>						
571500	Purchases-Office Furniture & Equipment		0		1,500		1,500
	Total Capital Outlay		0		1,500		1,500
	TOTAL EXPENDITURES	6.00	458,591	0.00	1,500	6.00	460,091

SUPPORT SERVICE FUND:General Expenses

	<u>Interfund Transfers</u>						
581513	Trans. Indirect Costs to Bldg. Fund-Metro Center		0		0		0
581513	Trans. Indirect Costs to Bldg. Fund-Regional Center		507,283		0		507,283
581615	Trans. Indirect Costs to Risk Mgmt. Fund-Gen'l		30,791		0		30,791
581615	Trans. Indirect Costs to Risk Mgmt. Fund-Workers' Comp		41,597		0		41,597
	Total Interfund Transfers		579,671		0		579,671
	<u>Contingency and Unappropriated Balance</u>						
599999	Contingency						
	• General		243,374		(1,500)		241,874
	• Builders License		23,165		0		23,165
599990	Unappropriated Fund Balance-Contractors License		151,566		0		151,566
	Total Contingency and Unappropriated Balance		418,105		(1,500)		416,605
	TOTAL EXPENDITURES	84.72	6,802,525	0.00	0	84.72	6,802,525

Exhibit B
Schedule of Appropriations
Ordinance No. 93-518

	Current Appropriation	Revision	Proposed Appropriation
SUPPORT SERVICES FUND			
Finance and Management Information			
Personal Services	2,238,932	0	2,238,932
Materials & Services	794,941	0	794,941
Capital Outlay	77,891	0	77,891
Subtotal	3,111,764	0	3,111,764
Regional Facilities			
Personal Services	551,748	0	551,748
Materials & Services	312,436	0	312,436
Capital Outlay	5,000	0	5,000
Subtotal	869,184	0	869,184
Personnel			
Personal Services	534,856	0	534,856
Materials & Services	59,646	0	59,646
Capital Outlay	6,675	0	6,675
Subtotal	601,177	0	601,177
Office of General Counsel			
Personal Services	434,876	0	434,876
Materials & Services	23,715	0	23,715
Capital Outlay	0	1,500	1,500
Subtotal	458,591	1,500	460,091
Public Affairs			
Personal Services	669,686	0	669,686
Materials & Services	91,247	0	91,247
Capital Outlay	3,100	0	3,100
Subtotal	764,033	0	764,033
General Expenses			
Interfund Transfers	579,671	0	579,671
Contingency	266,539	(1,500)	265,039
Subtotal	846,210	(1,500)	844,710
Unappropriated Balance	151,566	0	151,566
Total Fund Requirements	6,802,525	0	6,802,525

All Other Appropriation Levels Remain As Previously Adopted

STAFF REPORT

**CONSIDERATION OF ORDINANCE NO. 93-518 AMENDING ORDINANCE NO. 93-487A
REVISING THE FY 1993-94 BUDGET AND APPROPRIATIONS SCHEDULE FOR THE
PURPOSE OF FUNDING REPLACEMENT OF PERSONAL COMPUTERS IN THE OFFICE
OF GENERAL COUNSEL AND DECLARING AN EMERGENCY.**

Date: October 15, 1993

Presented by: Dan Cooper

BACKGROUND AND ANALYSIS

In mid-October, two personal computers in the Office of General Counsel experienced serious malfunctions. Both computers were 286's. The Information Services Division recommended the replacement of both computers. The department replaced the CPU portion of the computer but utilized the monitor and keyboards of the old computers. The cost was \$750 per CPU, or a total of \$1,500. The immediate replacement of the computers was necessary in order for the department to perform its functions. The Council Finance Committee was appraised of the need at it's meeting of October 13, 1993.

The expenditure was considered a capital outlay item. The Office of General Counsel's budget did not anticipate the replacement of these computers and does not have sufficient capital outlay appropriation to fund the expenditure. This action transfers \$1,500 from the Support Service Fund Contingency to the Office of General Counsel, Capital Outlay to fund the expenditure.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 93-518 funding the replacement of two personal computers in the Office of General Counsel.

Meeting Date: November 23, 1993
Agenda Item No. 7.1

TAX STUDY COMMITTEE REPORT



METRO

TAX STUDY COMMITTEE

**REPORT
AND
RECOMMENDATIONS
TO THE
METRO COUNCIL**

NOVEMBER 15, 1993

Metro Executive Officer

Rena Cusma

Metro Councilors by District:

District 1	Susan McLain
District 2	Jon Kvistad
District 3	Jim Gardner
District 4	Richard Devlin
District 5	Mike Gates
District 6	George Van Bergen
District 7	Ruth McFarland
District 8	Judy Wyers
District 9	Rod Monroe
District 10	Roger Buchanan
District 11	Ed Washington
District 12	Sandi Hansen
District 13	Terry Moore

Metro Tax Study Committee members:

Wayne Atteberry, Chair
Rebecca Marshall Chao, Vice Chair
Mike Glanville
Charlie Hales
Darlene Hooley
Philip Kalberer
Wally Mehrens
Ray Phelps
George Scott
Gene Seibel
Amoy Williamson

Metro staff:

Jennifer Sims, Director of Finance and Management Information
Craig Prosser, Financial Planning Manager
Robert S. Ricks, Senior Administrative Services Analyst
Rooney Strom, Administrative Secretary

Metro Financial Advisor:

Public Financial Management, Inc.

Metro is the directly elected regional government that serves Clackamas, Multnomah and Washington counties and the 24 cities that make up the Portland metropolitan area.

Metro is responsible for solid waste management, operation of the Metro Washington Park Zoo, regional transportation and land-use planning, urban growth boundary management, technical services to local governments and, through the Metropolitan Exposition-Recreation Commission, management of the Oregon Convention Center, Civic Stadium and Portland Center for the Performing Arts.



METRO

November 15, 1993

The Honorable Rena Cusma,
The Honorable Judy Wyers,
and the Metro Council
Metro
600 N.E. Grand Avenue
Portland, OR 97232-2736

Dear Executive Officer Cusma, Presiding Officer Wyers,
and the Metro Council:

Enclosed with this letter is the final report of the Metro Tax Study Committee. The Committee held its first meeting on June 30, 1993, and is presenting this report by November 15, 1993, as requested in the Resolution which formed the Committee. During this time, we have held 19 public meetings and have reviewed extensive materials presented by Metro staff. We involved eight individuals representing significant interests in the Metro community in the work of our subcommittees, and held three public hearings as required by your charge to us.

As you will note, our recommendations address Metro's needs in both long-term and short-term time frames.

We feel that in the long-term it is important for Metro to go to the voters to ask for broad based funding support. This is necessary because of the general benefit to all members of the Metro community from the work of Metro and because of the opportunity this will present to better educate voters about the good work and benefits of Metro.

We recognized, however, that it takes time to build support for a broad based solution, and that Metro does not have the time needed to do so if it is going to comply with its Charter-mandated responsibilities. Because of this, we recommend that Metro look to a combination of a Construction Excise Tax and a Real Estate Transfer Tax to fund these needs over the short-term. We also recommend that these short-term solutions sunset after four years to ensure that Metro considers a long-term solution to its funding needs.

The Honorable Rena Cusma, The Honorable Judy Wyers, and
the Metro Council
November 15, 1993

During our three public hearings we heard considerable testimony opposing these short-term tax sources. Despite this, we still feel that they present the most realistic option for Metro to pursue in the short-term. As the Metro Council proceeds with its consideration of this report, we encourage you to work with affected groups and local governments to craft a solution which deals with their concerns while still generating the necessary funds for Metro.

On behalf of the Committee, I would like to thank you for the opportunity to work with you on this important project. We found this to be a most interesting assignment, and we wish you the best as you proceed through the next phase of consideration.

Sincerely,

A handwritten signature in black ink that reads "Wayne Atteberry". The signature is written in a cursive, flowing style.

Wayne Atteberry, Chair
Tax Study Committee

**Metro Tax Study Committee
Report
November 15, 1993**

BACKGROUND

In November 1992, voters approved a Charter for Metro. Prior to this time, Metro's authority had been granted by state legislation. For the first time, Metro was granted authority and responsibility directly by the voters for programs. These programs include Metro's traditional regional functions: solid waste disposal, convention and spectator facilities, the zoo, and regional planning, but most importantly, also include significantly expanded responsibilities in the area of regional planning. The Charter also provides a mechanism for Metro to assume responsibilities for other functions in the future.

The Charter mandated Metro to prepare a Future Vision for the metropolitan region. The Future Vision will identify a 50-year vision of the region's population levels and settlement patterns which can be accommodated within the physical, educational and economic resources of the region. The Future Vision must be completed by July 1, 1995.

The Charter also mandates Metro to prepare a Regional Framework Plan by December 31, 1997. The Regional Framework Plan shall address 1) regional transportation and mass transit, 2) management and amendment of the urban growth boundary, 3) protection of lands outside the urban growth boundary, 4) housing densities, 5) urban design and settlement patterns, 6) parks, open spaces, and recreational facilities, 7) water resources and storage, 8) coordination of growth management and land use with Clark County Washington, and 9) planning responsibilities mandated by state law.

The Charter granted Metro expanded authority and responsibility, but it did not grant Metro a source of funding to pay for these responsibilities. Instead, the Charter provided a mechanism for the Council to use in adopting new funding sources. The Charter grants Metro broad taxing powers, but requires that any taxes of general applicability be approved by the voters prior to implementation. In addition to general taxes, Metro has authority to impose taxes of a more limited nature, applying only to limited classes of payers. These taxes do not require prior voter approval; however, they must be reviewed by a Tax Study Committee prior to implementation.

The Metro Council designated certain key areas for study by the Metro Tax Study Committee. As stated in Resolution 93-1813A (included in Appendix A) the key areas are:

- Planning Functions
 - Transportation
 - Growth Management
 - Greenspaces
 - Emergency Management
 - Data Services
 - Other Special Projects and/or Studies
- Regional Parks and Greenspaces Operations
- General Government Operations
 - Executive Management
 - Council
 - Government Relations
 - Auditor

In preparing for the work of the Tax Study Committee, Metro projected its needs over the ensuing five years, and worked with its financial advisor to research various funding options.

COMMITTEE PROCESS

Metro staff presented the results of the needs projections and funding options research to the Committee. The staff also briefed the Tax Study Committee on the organization and structure of Metro. A list of the revenue options that staff presented to the Committee is included in Appendix B. The Committee then broke into three subcommittees to examine specific aspects of the funding requirements and to develop draft recommendations for the full Committee. The three subcommittees were Fiscal Policy and Philosophy, Functions, and Revenue Sources. Each of the subcommittees supplemented their membership with interested individuals representing significant interests in the community. A complete list of all Tax Study Committee members and subcommittee members is included in Appendix C.

Subcommittee #1 (Fiscal Policy and Philosophy)

Subcommittee #1 was directed to recommend key philosophical/policy choices in the selection and adoption of new funding sources. The subcommittee discussed the approach that Metro should take in the search for new revenue sources and also identified key policy approaches that Metro should adopt to govern the management of any new resource. The subcommittee expressed a strong preference for Metro to go to the voters for approval of a new broad-based source of revenue as a long-term solution to Metro's funding needs, but recognized that a broad-based revenue probably could

not be put in place in time to comply with the Charter-mandated deadlines for the preparation of the Future Vision or the 2040 Plan. The subcommittee therefore identified a short-term approach for Metro based on the use of the existing Excise Tax for General Government and a new niche tax or taxes for Planning. The subcommittee prepared a chart placing the niche tax revenue sources presented by staff on a continuum from Narrow to Broad with a recommendation that the new tax be as broad-based as possible. That chart is included in Appendix D.

Subcommittee #1's recommendations formed the basis of the Committee's Funding Philosophy recommendations.

Subcommittee #2 (Functions)

Subcommittee #2 was charged with the review of Metro's needs projections to determine:

- Were needs adequately presented (over or under projected)?
- Of the needs presented, which should be funded?
- How should start-up costs for emerging issues be treated?
- What are the priorities for funding?

The resolution which created the Tax Study Committee specifically directed the Committee not to conduct an in-depth review of Metro's budget, because the Council reserved this responsibility for itself. Subcommittee #2, therefore, did not attempt to conduct an examination of the budget. Rather, the subcommittee focused its attention on the needs projections and the assumptions used in making those projections. The subcommittee also discussed Metro's categorization of its needs into "Current Programs & Charter Requirements," "Additional Charter Requirements," and "Additional Requirements and Enhancements." The subcommittee reorganized this categorization into "Mandated," "Not Mandated but Authorized," and "Optional." The subcommittee recommended that Metro fund only the needs in the first two categories, "Mandated" and "Not Mandated but Authorized," which total \$7.9 million in FY 94-95. In conjunction with this re-categorization, the subcommittee removed all contingencies which were imbedded within the original needs projections and replaced them with a 5% Forecast Contingency. In addition, the subcommittee added a \$300,000 Seed Money category to provide start-up funding for new projects.

The subcommittee was also concerned that a major element of any governmental funding requirement is for salaries and benefits for employees, and recommended that Metro should bargain toward an incentive-based salary system. Salary surveys should be conducted to ensure that Metro salaries are competitive.

Subcommittee #2 also recommended that Metro closely examine its activities to ensure that functions that can be done by the private sector are done by the private sector.

Finally, subcommittee #2 discussed the relationship between Metro's regional planning efforts and planning programs at the local level. The subcommittee developed a recommendation to emphasize the importance of communication between all levels of government.

The recommendations of subcommittee #2 provided the basis for the Committee's recommendations on Functions and Needs.

Subcommittee #3 (Revenue Sources)

Subcommittee #3 was charged with identifying new revenue sources, based on the work of the first two subcommittees. Specifically, subcommittee #3 was requested to:

- Identify likely revenue sources,
- Identify linkages to functions,
- Identify political acceptability and related issues,
- Receive public testimony and comment,
- Identify impacted parties, and
- identify legislative outcomes and preliminary Committee recommendations.

The subcommittee's work was directed by the results of the other two subcommittees. The policy directions recommended by the first subcommittee and the size requirements recommended by the second subcommittee were used in evaluating the tax options.

Subcommittee #3 narrowed the list of niche tax options presented in the staff's original Strategic Funding Report to four:

- Construction Excise Tax
- Real Estate Transfer Tax
- Utility Account Tax
- Off-Street Parking Tax.

The subcommittee then met with interested parties and developed a list of pros and cons for each of the four sources (included in Appendix E).

The subcommittee's preferred option was to use a combination of the Construction Excise Tax and the Real Estate Transfer Tax to even out the impact on new construction versus existing construction. If for any reason these taxes are subjected to a vote, they should be "linked" on the ballot. Otherwise, if one passes, the amount will not be sufficient and the impact will be skewed. The following chart presents a preliminary analysis of the potential rates needed for these two sources to generate \$3 or \$5 million to fund Metro's needs. Descriptions of the Construction Excise Tax and the Real Estate Transfer Tax are included in Appendix F.

Preliminary
Revenue Potential

	Revenue Target (\$3 million)					Revenue Target (\$5 million)					Additional Information
	% of Target	Revenue (mil)	% of value	Rate (\$ per thousand)	Impact on property value of \$1 mil	% of Target	Revenue (mil)	% of value	Rate (\$ per thousand)	Impact on property value of \$1 mil	
Construction Excise Tax	100%	\$3.0	0.275%	\$2.75	\$413	100%	\$5.1	0.465%	\$4.65	\$698	Start-up & Admin Costs : Negligible Implementation Timeline: Within 1 year Implementation Action: Inter-govt Agreement
	75%	\$2.3	0.205%	\$2.05	\$308	75%	\$3.8	0.345%	\$3.45	\$518	
	50%	\$1.6	0.140%	\$1.40	\$210	50%	\$2.5	0.230%	\$2.30	\$345	
Real Estate Transfer Tax	100%	\$3.0	0.085%	\$0.85	\$128	100%	\$5.0	0.141%	\$1.41	\$212	Start-Up: \$250,000 Annual Admin: \$100,000 Implementation Timeline: Within 1 year Implementation Action: Inter-govt Agreement
	50%	\$1.6	0.045%	\$0.45	\$68	50%	\$2.5	0.071%	\$0.71	\$107	
	25%	\$0.8	0.022%	\$0.22	\$33	25%	\$1.3	0.036%	\$0.36	\$54	

Note:

- Figures are approximate and for preliminary study only.
- The above figures do not account for delinquency or administrative costs

The subcommittee was concerned about the costs of implementing these two revenue sources if they are only viewed as a short-term solution. If these taxes are implemented on a short-term basis only, the implementation costs may not represent a reasonable investment.

Specific findings of the subcommittee concerning these two preferred funding options include:

Construction Excise Tax (A tax imposed on new construction or additions)

- The total revenue potential of the Construction Excise Tax could cover all of Metro's projected need.
- The subcommittee recommended that Metro adopt some limitations such as exempting small projects or certain types of projects (such as public projects, low income projects, etc.).
- Some subcommittee members expressed concern that residential real estate should not be exempted from the Construction Excise Tax because residential property creates greatest planning demands.
- The subcommittee noted that differentiated tax rates could be applied to help implement growth management goals or other planning purposes.
- The subcommittee identified two possible bases of applying the tax: a rate expressed as a percentage of valuation (preferred), or flat rate per square foot (not preferred).
- The subcommittee found that the Construction Excise Tax is not subject to Measure 5 although it relates to property.
- The subcommittee expressed concern that the data base available to Metro and the subcommittee was limited. Work needs to be done to refine accuracy of the analyses on the Construction Excise Tax.

Real Estate Transfer Tax (imposed on the buyer when real property changes ownership)

- The subcommittee noted that during negotiations for the Metro Excise Tax authorization, the Governor of Oregon was told that the Real Estate Transfer Tax would be seriously reviewed as a revenue source.

- The subcommittee cautioned that if the Real Estate Transfer Tax is adopted and the Legislature overrides the Governor's veto of HB 2883, which extended the state-wide moratorium on use of the Real Estate Transfer Tax, Metro could lose any money collected to date of override.

Subcommittee #3 also reviewed the Off-Street Parking Tax (a flat tax levied against parking spaces) and the Utility Account Tax (imposed on customers of utilities), but the subcommittee felt that their disadvantages outweigh their advantages. The primary reasons these taxes were not recommended included: legal concerns, the difficulties in imposing and collecting the taxes and the difficulties in managing them. The chart of pros and cons (in Appendix D) provides a more complete listing of the aspects considered. The subcommittee also noted that both of these taxes may involve taxing other governments. The legal authority is uncertain and would need further research if the sources are to be considered.

Subcommittee #3 also presented findings on additional revenue sources, though they were not included in the subcommittee recommendations:

- **Gas tax and Motor Vehicle Registration** both are currently authorized by the state Constitution only for highway use and planning for highways. They are not authorized for any other planning or non-highway function. Metro cannot put a Constitutional Amendment to broaden the use of these directly onto the ballot; that can only be done by the Legislature or the initiative process. Metro could adopt a gas tax under its Charter authority without prior approval by the voters, but proceeds would still be subject to the constitutional use restriction. The Oregon Transportation Plan recommended amending the Constitution to permit use of the Vehicle Registration Fee for broader purposes but that has not been approved by the voters.

Local jurisdictions also currently have authority to adopt a local motor vehicle registration fee in addition to the state registration fee. This fee would require approval by Multnomah, Washington, and Clackamas counties and the City of Portland. This fee must also first be approved by the voters.

- **Voluntary Local Government Dues** are still appropriate to support functions of Metro. The subcommittee recommended continuing the dues, but noted that local government dues cannot be made mandatory by Metro. In FY 93-94, local government dues generate approximately \$600,000.
- **Fees for Services** are of interest to the subcommittee, though it was not sure how to obtain market information, cost of services and revenue estimates.

Finally, subcommittee #3 recommended that Metro adopt a moratorium on any future use of new property taxes (except for taxes for voter-approved General Obligation bonds). Intergovernmental cooperation regarding Measure 5 is an important bond rating factor. Since Metro has outstanding General Obligation bonds and may wish to issue new General Obligation bonds for the Greenspaces program, it also needs to be concerned about its rating and the importance of this cooperation. Therefore, the subcommittee recommended that Metro take a pro-active stance by imposing a moratorium upon using property taxes as a long-term revenue source until either compression ceases to be a problem or the affected governments agree jointly to that use.

PUBLIC HEARINGS AND REVIEW

The work of the Committee was conducted over a five-month period, from late June to mid November 1993. During that period, the Committee held 19 public meetings and 3 public hearings in each of the three counties within the Metro region. The Committee distributed over 800 copies of its draft report to local governments, affected groups, and interested individuals prior to the public hearings.

The Committee received written and oral testimony from individuals and groups at its public hearings. A complete list of individuals and groups submitting written and oral testimony to the Committee is included in Appendix G. The issues most often raised in this testimony included:

- Too many fees and taxes on property.
- The impact of taxes on affordable housing.
- The need for a broad base of payers.
- The need for more time for the education and involvement of local governments and affected interest groups.
- The need for Metro to prove its case for additional funding.

After the public hearings, the Committee reconvened to discuss the testimony presented and, as a result, modified several of its recommendations. The Committee's final recommendations are shown in the following section.

FUTURE ACTIONS

Once the Council receives the report of the Tax Study Committee, it will hold additional hearings and deliberations and may take action to adopt a new funding source. The Council is not bound to follow the recommendations of the Tax Study Committee, though it cannot adopt a non-voter approved fund source which has not been reviewed by a Tax Study Committee.

Appendix A

Metro Resolution No. 93-1813A

BEFORE THE METRO COUNCIL

[Signature]
Clerk of the Council

FOR THE PURPOSE OF CREATING A)	RESOLUTION NO. 93-1813A
TAX STUDY COMMITTEE,)	
ESTABLISHING A SCOPE OF WORK,)	Introduced by Rena Cusma,
AND CONFIRMING APPOINTMENTS)	Executive Officer

WHEREAS, The 1992 Metro Charter grants significant additional responsibilities to Metro, particularly in the area of planning; and

WHEREAS, Pursuit of these additional responsibilities are a high priority for Metro; and

WHEREAS, Metro does not have the financial resources to implement the Charter-mandated responsibilities without identifying additional sources of funding; and

WHEREAS, Other functional areas of Metro will experience the need for additional financial resources within the next five years; and

WHEREAS, Metro needs to begin a process to identify its future financial needs and to identify alternate sources of funding to support those needs; and

WHEREAS, Metro Charter Chapter 3, Section 13, requires the Metro Council and Executive Officer to establish and seek advice from a tax study committee prior to the adoption of any tax which does not require prior approval of the voters of Metro; and

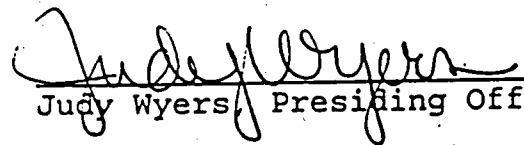
WHEREAS, Metro Code Chapter 2.13 establishes procedures for the creation, appointment, and final report of a tax study committee formed to comply with the provisions of Metro Charter Chapter 3, Section 13; now, therefore,

BE IT RESOLVED,

1. That a Tax Study Committee is hereby created with a scope of work, time deadline and staffing arrangement as shown on Exhibit A attached.

2. That the appointments to the Committee made by Executive Officer Rena Cusma as shown on Exhibit B attached are hereby confirmed.

ADOPTED by the Metro Council this 24th day of June, 1993.


Judy Wyers, Presiding Officer

TAX STUDY COMMITTEE SCOPE OF WORK

Purpose of Committee

The purpose of the Tax Study Committee is to consult with and provide advice to the Council on the adoption of any proposed new tax or taxes necessary to fund the functions, programs or activities identified below in this Scope of Work.

Funding Needs

The Tax Study Committee shall study the following Metro functions, programs or activities to determine operational funding needs:

- 1. Planning Functions
 - Transportation
 - Growth Management
 - Greenspaces
 - Emergency Management
 - Data Services
 - Other Special Projects and/or Studies
- 2. Regional Parks and Greenspaces Operations
- 3. General Government Operations
 - Executive Management
 - Council
 - Governmental Relations
 - Performance Auditor

In conducting the Study, the Committee shall in general terms identify levels of need considering Charter mandates, presently Council approved activities and/or plans and likely and possible future requirements. The needs identified in this phase shall be compared to projections of currently existing, authorized, and reasonably anticipated revenues to identify where any additional or different funding will be required.

The Committee shall not attempt to conduct an in-depth review or determination of all data and assumptions related to the projections of needs; rather, the Committee shall attempt to generally validate the information presented and shall use this data to inform itself as to the functions and requirements of Metro. The results of this review shall be

used as a basis for the Committee to identify and consider various revenue alternatives available to Metro.

Tax Revenue Possibilities

The Committee shall identify, analyze and make recommendations on tax sources which are appropriate to fund the functions, programs and activities listed above. The Committee shall consider as many potential tax sources as are reasonably possible. In the course of its study the Committee shall consider the following factors and shall report to the Council on the weight that these considerations were given in its final recommendations:

- 1 The dedication of revenue to specific activities vs. the acquisition of discretionary tax sources.
- 1 The cost or difficulty in administration of the tax source.
- 1 The identification of tax sources which can be used to implement policy goals (other than just raising revenue) vs. identification of policy neutral tax sources.
- 1 The relationship of this effort to other funding studies currently underway.

Public Process

The Committee shall function primarily as a study committee and as advisors to the Metro Council. All meetings of the Committee or any subcommittees that may be established shall be open to the public. The Committee shall conduct at least three public hearings during the course of its deliberations one in each of the three counties within the Metro region. The Committee may hold additional hearings as deemed necessary by the Chair of the Committee. The Committee may use subcommittees from time to time as necessary and as structured by the Committee Chair. The Committee Chair shall provide an oral progress report at the 2nd Council meeting each month beginning in July 1993.

Final Product/Report

The Committee shall submit a final written report to the Council no later than November 15, 1993. The report shall contain a summary of the process followed by the Committee; identify assumptions and criteria used; identify alternative tax sources studied; include significant findings and issues discussed; and contain the Committee's recommendations on tax source(s) to implement. The report may also include other matters and information as deemed appropriate by the Committee.

Committee Staff

The Department of Finance and Management Information shall have primary responsibility to provide staff support to the Committee.

c:\wp51\karen\js-memos\93-1813.mem

RESOLUTION NO. 93-1813A

EXHIBIT B

TAX STUDY COMMITTEE MEMBERSHIP

Mike Ragsdale, Chair

Wayne Atteberry, Vice Chair

Charlie Hales

Darlene Hooley

Phil Kalberer

[~~Eric Merrill~~]

Ray Phelps

George Scott

Amoy Williamson

Rena Cusma, Ex Officio

Judy Wyers, Ex Officio

AMENDED BY RESOLUTION NO. 93-1834 (see Exhibit A, p. A-7)
August 12, 1993

RESOLUTION NO. 93-1834 (EXHIBIT B)

TAX STUDY COMMITTEE MEMBERSHIP REVISIONS

Wayne Atteberry, Chair

Rebecca Marshall Chao, Vice Chair

D. Michael Glanville

Notified A True Copy of the Original
[Signature]
Clerk of the Council

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING) RESOLUTION No. 93-1834
AN APPOINTMENT TO THE TAX)
STUDY COMMITTEE AND) Introduced by Rena Cusma,
CONFIRMING DESIGNATION OF THE) Executive Officer
CHAIR AND VICE-CHAIR)

WHEREAS, Resolution 93-1813A created the Tax Study Committee as required by the 1992 Metro Charter and confirmed members, chair, and vice-chair of the committee; and

WHEREAS, The chair has resigned from the from the Tax Study Committee; and

WHEREAS, Metro Code Chapter 2.13.030 provides, "If a vacancy occurs during the time a study committee is functioning, the position shall be filled in the same manner as the original appointment and confirmation"; now, therefore,

BE IT RESOLVED,

1. That the appointment to the Tax Study Committee, made by Executive Officer Rena Cusma, of Michael Glanville is hereby confirmed.
2. That the designation, made by the Executive Officer Rena Cusma, of Committee vice-chair Wayne Atteberry, as chairman of the Tax Study Committee is hereby confirmed.
3. That the designation, made by the Executive Officer Rena Cusma, of Committee member Rebecca Marshall Chao as vice-chair of the Tax Study Committee is hereby confirmed.

ADOPTED by the Metro Council this 12th day of August 1993.

[Signature]
Judy Wyers, Presiding Officer

Appendix B

Revenue Options Considered by the Metro Tax Study Committee

Likely Options

- Auto Rental Tax
- Construction Excise Tax
- Off-Street Parking Tax
- Real Estate Transfer Tax
- Utility Account Tax

Less Likely Options

- Airport Ground Transportation Fee
- Land Corner Preservation Fee
- Motor Fuel Tax
- Motor Vehicle Registration Fee
- Occupational Privilege Tax
- Transient Lodging Tax (Hotel/Motel Tax)

Appendix C

Metro Tax Study Committee Members and Subcommittee Members

METRO
TAX STUDY COMMITTEE

1. WAYNE ATTEBERRY, Chair
Standard Insurance Company
Portland, OR 97229
2. REBECCA MARSHALL CHAO, Vice-Chair,
President, Regional Financial Advisors, Inc.
Portland, OR 97205
3. MIKE GLANVILLE
National Mortgage Co.
Portland, OR 97205
4. CHARLIE HALES
City Commissioner
City of Portland
1220 SW Fifth Ave., #404
Portland, OR 97204
5. DARLENE HOOLEY
Chair, Clackamas County Board of County Commissioners
906 Main Street
Oregon City, OR 97045-1819
6. PHILIP KALBERER
President, Kalberer Hotel Supply Co.
Portland, OR 97209
7. WILLIAM "WALLY" MEHRENS
Exec. Sec., Columbia Pacific Bldg. & Construction Trades Council
Portland, OR 97266
8. RAYMOND A. PHELPS
Vice President, Pacific/West Communications Group, Inc.
Portland, OR 97204
9. GEORGE C. SCOTT
(retired CPA)
Portland, OR 97229
10. GENE SEIBEL
Administrator, Tualatin Valley Water District
Beaverton, OR 97006
11. AMOY D. WILLIAMSON
Senior Management Auditor
Office of the City Auditor, City of Portland
Portland, OR 97204

METRO
TAX STUDY COMMITTEE

Resigned:

1. **MIKE RAGSDALE** Chair
Beaverton, OR 97006

METRO
TAX STUDY COMMITTEE

Subcommittee #1 - Fiscal Policy and Philosophy

1. PHILIP KALBERER, Chair
Tax Study Committee
2. CHARLIE HALES
Tax Study Committee
3. DARLENE HOOLEY
Tax Study Committee
4. RAYMOND A. PHELPS
Tax Study Committee
5. AMOY D. WILLIAMSON
Tax Study Committee
6. ROBIN WHITE
BOMA
Portland, OR 97204
7. SUSAN KIEL
City of Portland
Bureau of Environmental Services
Portland, OR 97204
8. JOHN D. REES
Rees & Associates
Beaverton, OR 97005
(Sunset Corridor Assn.)

METRO
TAX STUDY COMMITTEE

Subcommittee #2 - Functions

1. GENE SEIBEL, Chair
Tax Study Committee
2. MIKE GLANVILLE
Tax Study Committee
3. GEORGE C. SCOTT
Tax Study Committee
4. WALT HITCHCOCK
Mayor, City of Sherwood
Sherwood, OR 97140
5. NOEL KLEIN
Western Advocates
Lake Oswego, OR 97035

METRO
TAX STUDY COMMITTEE

Subcommittee #3 - Revenue Sources

1. REBECCA MARSHAL CHAO, Chair
Tax Study Committee
2. AMOY D. WILLIAMSON
Tax Study Committee
3. WILLIAM "WALLY" MEHRENS
Tax Study Committee
4. FRED MILLER
Vice President, Public Affairs
Portland General Electric
Portland, OR 97204
5. BOB DAWSON
PacifiCorp
Portland, OR 97204
6. MIKE RAGSDALE
Beaverton, OR 97006

Appendix D
Revenue Source Base Continuum

Revenue Source Base Continuum

Revised 8-27-93

Narrow			Medium		Broad	
Auto Rental Tax	Transient Lodging Tax	(Property) Land Corner Preservation Fee		Excise Tax (Existing)	Gas Tax	Income Tax
Airport Ground Transportation Fee	Food & Beverage Tax	Construction Excise Tax			Local Government Dues	Property Tax
Taxi Tax		Real Estate Transfer Tax			Off-Street Parking Tax	General Sales Tax
					Utility Tax	
					Motor Vehicle Registration Fee	
					Occupational Privilege Tax	

Excise Tax

Narrow		Medium			Broad	
Parking Fees	Zoo				Solid Waste	
Sublease Income	Planning Fees					
	Convention Center					

Appendix E

**Pros and Cons
Construction Excise Tax
Real Estate Transfer Tax
Off-Street Parking Tax
Utility Account Tax**

**PROS AND CONS OF REVENUE OPTIONS
CONSTRUCTION EXCISE TAX**

PRO	CON
Could generate significant revenues at relatively low rates	Cyclical nature of building activity
Low set-up and administrative costs	Increases construction costs in region -- possible impact on competition with non-Metro areas
Existing "collection point" for application of the tax	Impact on low-income housing (depending on how the tax is applied)
Strong connection to Growth Management (Planning)	May encourage builders or homeowners to avoid getting building permits
Minimal problem with delinquencies if collected at time of building permit issuance	Possible competition/confusion with System Development Charges
Ability to tailor tax to help meet planning goals	Would raise the cost of new housing
	May have problem taxing construction projects of other governments

**PROS AND CONS OF REVENUE OPTIONS
REAL ESTATE TRANSFER TAX**

PRO	CON
Could generate significant revenues at relatively low rates	Cyclical nature of real estate activity
Strong connection to Growth Management (Planning)	Legislative moratorium could be re-imposed
Generally progressive (based on value)	High set-up costs -- collection system would have to be created in Multnomah and Clackamas Counties
Would spread burden over broader base of payers than the Construction Excise Tax	Difficulty in tracking property transfers that do not go through a title company
May be less cyclical in nature than the Construction Excise Tax	Limited ability to collect delinquent accounts
As yet unused resource in Oregon (except for Washington County)	Possible competition with other jurisdictions

**PROS AND CONS OF REVENUE OPTIONS
UTILITY ACCOUNT TAX**

PRO	CON
Broad tax base	Likely strong opposition from utilities and low income groups
Existing collection and billing system	Regressive (tax on essential service)
Could generate significant revenues at relatively low rates	Impact on low income citizens
	Potential competition with other jurisdictions
	May create bias towards certain energy sources if not applied to all fuel sources (electricity, natural gas, oil)
	May not be able to apply to other governmental units (i.e., water or sewer utilities, PUDs)
	Economic impact on energy intensive industries
	Least tie to Planning

**PROS AND CONS OF REVENUE OPTIONS
OFF-STREET PARKING TAX**

PRO	CON
Strong tie to transportation and transit planning	Lack of reliable inventory of spaces
Encourages transit ridership	High start up and administrative costs (need to create collection system)
Stable revenue flow	Impact on auto-dependent businesses
	Possible competition with Tri-Met
	Impact on Park & Ride lots
	Time needed to set up inventory and collection system
	Impact on employers with large employee parking requirements

Appendix F

Descriptions

**Construction Excise Tax
Real Estate Transfer Tax**

CONSTRUCTION EXCISE TAX

DEFINITION

A Construction Excise Tax is imposed on new construction or additions that increase the square footage of currently existing buildings. It could be levied on any or all classes of real estate including, but not limited to, single residence, multi-family housing, industrial facility, office building, and nonprofit facility.

MODELS

Howard County, Maryland

In 1992, Howard County, Maryland began imposing a Construction Excise Tax. The rate is \$0.60 per square foot for residences, offices and retail spaces; and \$.30 per square foot for distribution, manufacturing and institutional facilities. Because Howard County collects the tax when the permit is issued and does not allow for postponement, there are no problems with tax delinquency. This means that all the County needs to administer the tax are computers which can perform simple calculations. Both the set-up and ongoing administrative costs are minimal. Mr. George Martin of the Building Permits office indicated that there has not been much opposition to this tax.

Montgomery County, Maryland

In 1991, Montgomery County, Maryland approved a Construction Excise Tax which was to go into effect beginning January 1, 1993. However, implementation has been postponed until July 1, 1994 because of the weak economy. The tax is calculated as a dollar amount per "gross square footage" of construction that adds square footage to the building. The first 1,200 square feet are exempt. Other exemptions are provided for:

1. Buildings used primarily for religious activities.
2. Certain subsidized moderate dwelling units.
3. Certain subsidized productivity housing units.
4. Rent controlled housing.

The Construction Excise Tax rates are as follows:

	Per Gross Square Footage
Single-family residential	\$3.75
Multi-family residential	\$3.00
Warehouse, manufacturing R & D,	\$2.40
Other nonresidential (office, retail)	\$4.00
Nonprofit care-giving facilities	\$1.00

Montgomery County structured the collection of the tax such that taxpayers who were purchasing property to develop are able to postpone payment of the tax until the time of closing (as opposed to paying the tax when a building permit is issued). This means that the County will have to keep track of these people from the time the permit is issued until the tax is paid at closing. The County needs some way to track each transaction to ensure payment of the tax. County officials said this will be a very onerous and costly system. In particular, the County needs to be able to track real estate transactions and tie the transaction to a tax account ID number for each taxpayer. Montgomery County officials estimate that their computer set-up costs will be approximately \$275,000 to \$300,000 because of this complexity.

State of Oregon

Municipalities in Oregon currently collect fees for plan review and permit issuance on construction activities pursuant to ORS 455.020. The State of Oregon establishes a schedule printed in the "Uniform Building Code" which states the maximum fee level that a municipality may charge for these services. The system for gathering information and determining the value of construction is generally well-established since municipalities currently collect a myriad of charges associated with taking out a construction permit.

TOTAL REVENUE POTENTIAL

The following charts represent potential revenues based on Howard County and Montgomery County's tax rates applied to construction activity within Metro's boundaries. *The construction square footage and value reflect calendar year 1992 figures which were obtained from jurisdictions inside Metro's areas by Metro Data Resource Center. This data was collected for purposes other than revenue planning, therefore should be used for preliminary study only. The individual jurisdictions will need to be contacted to get more updated and accurate data.* The following analysis assumes that the amount of square footage under construction would remain at the level recorded during calendar year 1992. Future revenues generated will vary depending on future construction patterns and the impact this tax may have on building activities.

Howard County Model

Using Howard County's Model and excluding the first 1,200 square feet, Metro could collect \$27.3 million in gross revenues from the Construction Excise Tax. With this tax structure, a new 2,000 square foot house would be assessed \$480. Set up and ongoing administrative costs would be negligible.

	RATE (\$/sq ft)	SQUARE FOOTAGE	REVENUE
Single-Family	\$0.60	4,910,815	\$2,946,489
Multi-Family	\$0.60	4,551,268	\$2,730,761
Commercial, Office, Other	\$0.60	32,774,003	\$19,664,402
Industrial	\$0.30	2,763,101	\$828,930
Public, Medical, Education	\$0.30	3,771,871	\$1,131,561

Gross Annual Collection

\$27,302,143

Montgomery County Model

Using the same tax rates as used in Montgomery County and excluding the first 1,200 square feet, the tax would generate as much as \$173.6 million dollars to Metro. With this rate structure, a new 2,000 square foot house would be assessed \$3,000. Set-up and ongoing administrative costs are unknown.

	RATE (\$/sq ft)	SQUARE FOOTAGE	REVENUE
Single Family	\$3.75	4,910,815	\$18,415,556
Multi-Family	\$3.00	4,551,268	\$13,653,804
Commercial, Office, Other	\$4.00	32,774,003	\$131,096,012
Industrial	\$2.40	2,763,101	\$6,631,442
Public, Medical, Education	\$1.00	3,771,871	\$3,771,871

Gross Annual Collection

\$173,568,686

REVENUE POTENTIAL FOR METRO

The following chart identifies one possible rate schedule which would result in gross annual revenues of \$5.46 million. Assuming that local jurisdictions who collect the tax for Metro keep 5% of gross revenues to offset administrative costs, and assuming that the tax is not applied to the first 1,200 square feet, net revenues to Metro would be approximately \$5.19 million. A 2,000 square foot house would be assessed \$96.

REVENUE POTENTIAL

	RATE (\$/sq ft)	SQUARE FOOTAGE	REVENUE
Single-Family	\$0.12	4,910,815	\$589,298
Multi-Family	\$0.12	4,551,268	\$546,152
Commercial, Office, Other	\$0.12	32,774,003	\$3,932,880
Industrial	\$0.06	2,763,101	\$165,786
Public, Medical, Education	\$0.06	3,771,871	\$226,312
Gross Annual Collection			\$5,460,429

FUNCTIONAL CONNECTION

Because real estate development increases demands for solid waste facilities, transportation and general planning, tax proceeds could be directed to Planning or Solid Waste.

IMPLEMENTATION ACTION REQUIRED

1. Determine the rate and the collection method.
2. Determine the governmental entities which will collect this tax, and enter into governmental agreements with Cities and Counties to collect the tax.
3. Evaluate staffing and computer systems at the three counties.
4. Purchase and install any additional computer systems.
5. Train staff.

TIMELINE FOR IMPLEMENTATION

This will depend on the complexity for the rates and the collection method chosen. However, preliminary conversations with county officials suggest that the necessary systems to calculate and collect this tax may be substantially in place at this time. Officials for the City of Portland, who issue the majority of the building permits for Multnomah County, believe it would be relatively simple to calculate a tax based on additional gross square footage. The existing computer system already has a field for square footage and a field for valuation. Clackamas County also already does a similar calculation for a tax they impose on building permits. This could result in a short implementation period.

OTHER INTERESTED GOVERNMENTS / COMPETITION

Local governments inside with Metro's boundaries may find that a Construction Excise Tax may compete with their ability to impose or raise System Development Charges. These charges are often used for transportation or utility infrastructure development, and are assessed at the time of issuance of a development or building permit. Clackamas County began imposing a Transportation System Development Charge as recently as May 3, 1993.

OTHER INTERESTED PARTIES / WHO PAYS

The construction and development industry is the primary group that would be affected by this tax. The tax could create a bias toward existing real estate since these would not be subject to the tax. Builders and buyers of new real estate will face higher costs while sellers of existing real estate may see the value of their real estate raised. A low tax rate may, however, minimize this factor. Coupling this tax with the Real Estate Transfer tax could also mitigate this bias.

Homeowners who may want to add more than 1,200 square feet to their existing houses would be affected by the tax. In Montgomery County, there was opposition from low income housing groups because they believe that the tax will increase the cost of housing for the poor.

The imposition of the tax was postponed in Montgomery County not only because of the strong lobby of the construction industry, but also because of the weak economy. This tax would increase the cost of construction and could depress building activity, depending on the rate applied.

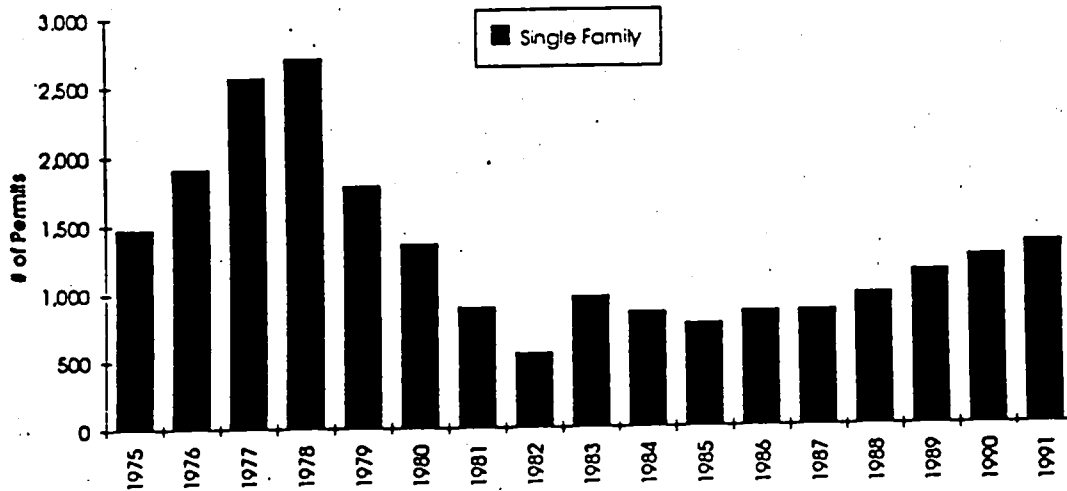
ADVANTAGES

The Construction Excise Tax could generate significant revenues. If the tax is collected at time of permit issuance, set-up and administrative costs would be low. In addition, there is a strong relationship between the type of tax and what the revenues would be used for.

DISADVANTAGES

Opposition to the tax is likely to be strong and well organized. Depending on how the tax is implemented, set-up costs and administrative costs may range from negligible to high. The cyclical nature of construction activities is a major concern since construction could fluctuate widely from month to month and from year to year. The following graph plots the number of single family building permits issued in Multnomah County between 1975 and 1991 and demonstrates the fluctuations in construction from year to year.

Building Permits in Multnomah County



This potential revenue volatility may be mitigated by the establishment of a Tax Stabilization Account (TSA). In conjunction with an expenditure limitation, Metro could impose the tax at a rate slightly higher than its anticipated needs. The surplus revenue would be deposited into the TSA to be used during periods when tax collection falls below anticipated levels.

Construction Excise Tax Revenue Potential

Rate (%)	Rate (\$ per thousand)	Commercial/ Office (\$ Value)	Industrial (\$ Value)	Multi-Family (\$ Value)	Single F./ Mobile Home (\$ Value)	Other (\$ Value)	Educational/ Public/Med. (\$ Value)	Total (\$ Value)
		292,799,748	54,641,986	62,668,294	543,357,039	48,914,437	103,634,980	1,106,016,484
0.15%	\$1.50	\$439,200	\$81,963	\$94,002	\$815,036	\$73,372	\$155,452	\$1,659,025
0.20%	\$2.00	\$585,599	\$109,284	\$125,337	\$1,086,714	\$97,829	\$207,270	\$2,212,033
0.25%	\$2.50	\$731,999	\$136,605	\$156,671	\$1,358,393	\$122,286	\$259,087	\$2,765,041
0.30%	\$3.00	\$878,399	\$163,926	\$188,005	\$1,630,071	\$146,743	\$310,905	\$3,318,049
0.35%	\$3.50	\$1,024,799	\$191,247	\$219,339	\$1,901,750	\$171,201	\$362,722	\$3,871,058
0.40%	\$4.00	\$1,171,199	\$218,568	\$250,673	\$2,173,428	\$195,658	\$414,540	\$4,424,066
0.45%	\$4.50	\$1,317,599	\$245,889	\$282,007	\$2,445,107	\$220,115	\$466,357	\$4,977,074
0.50%	\$5.00	\$1,463,999	\$273,210	\$313,341	\$2,716,785	\$244,572	\$518,175	\$5,530,082
0.55%	\$5.50	\$1,610,399	\$300,531	\$344,676	\$2,988,464	\$269,029	\$569,992	\$6,083,091
0.60%	\$6.00	\$1,756,798	\$327,852	\$376,010	\$3,260,142	\$293,487	\$621,810	\$6,636,099
0.65%	\$6.50	\$1,903,198	\$355,173	\$407,344	\$3,531,821	\$317,944	\$673,627	\$7,189,107
0.70%	\$7.00	\$2,049,598	\$382,494	\$438,678	\$3,803,499	\$342,401	\$725,445	\$7,742,115
0.75%	\$7.50	\$2,195,998	\$409,815	\$470,012	\$4,075,178	\$366,858	\$777,262	\$8,295,124
0.80%	\$8.00	\$2,342,398	\$437,136	\$501,346	\$4,346,856	\$391,315	\$829,080	\$8,848,132
0.85%	\$8.50	\$2,488,798	\$464,457	\$532,680	\$4,618,535	\$415,773	\$880,897	\$9,401,140
0.90%	\$9.00	\$2,635,198	\$491,778	\$564,015	\$4,890,213	\$440,230	\$932,715	\$9,954,148

Data provided by Metro Data Resource Center

Notes:

- (1) Commercial/office category also includes restaurants
- (2) The data reflects construction value indicated on permits issued by various jurisdictions during calendar year 1992. These numbers were collected for purposes other than revenue planning and are intended for preliminary study only.

REAL ESTATE TRANSFER TAX

DEFINITION

A Real Estate Transfer Tax is imposed on the buyer when real property changes ownership and is calculated as a percentage of the purchase price of the property. It is similar to a Sales Tax, only the object of the tax is property transactions instead of goods.

MODELS

Washington County

Washington County began to levy a Real Estate Transfer Tax in 1977. The County can collect the tax from the transfer of any property that can be transferred through grant, sale, exchange, assignment, quit claim or other conveyance of ownership in or title to real property. The following transfers are exempted.

1. Transfers made by or to governmental agencies or its instrumentalities.
2. Transfers made by or to any state or territory of the United States of America.
3. Transfers made by or to foreign countries
4. Transfers made by or to special districts formed pursuant to Oregon law, any municipality or any public corporation
5. Transfers for which the property's selling price is \$13,999 or less
6. Transfers by gift, devise or inheritance
7. Transfers of a grave or cemetery.
8. Transfers between spouses effected by order of any court of competent jurisdiction in a marriage dissolution or separation proceeding

The County's tax rate is 0.1% (\$1.00 per \$1,000) of the property's selling price. During fiscal year ending 1992, the tax produced \$1,443,072 in revenue. The tax is collected through the Recording Office which has approximately 1.5-1.75 full-time equivalents (FTE) working on the administration of the program. The County estimates that program administration will cost \$73,000 next year.

The County is assisted by title companies in the collection of the tax. If a transfer occurs through a title company, the title company collects the tax and passes it on to the County. The system gets bogged down when a transfer occurs but does not go through a title company. This requires the County to do more research and tracking to determine if a transfer has occurred.

The County does not keep track of the rate of delinquency, and the County's ability to handle delinquencies is limited. At the present time, the County Counsel advises the Assessor's office to take the delinquent party to small claims court. That is the only recourse at this time. Because the Transfer Tax is a County Ordinance, the County cannot foreclose on the property as if it were a property tax. The Recording Section of the Assessor's office is exploring ways to amend the ordinance to make collection of delinquencies simpler.

TOTAL REVENUE POTENTIAL

The following chart represents potential revenues for Metro based on the same tax rate as used in Washington County (0.1% or \$1 per \$1000 of property's selling price). The level of future transfers is assumed to remain the same as in FY 91-92. Further analysis on elasticity of demand is necessary to determine the impact this tax may have on future volume of transfers.

REVENUE POTENTIAL

		Clackamas County	Multnomah County	Washington County	Total
\$ Transfers FY Ending '92		\$781,010,595	\$1,718,889,458	\$1,443,072,000	\$3,952,780,053
Capture Rate ¹		87.2%	87.8%	87%	
\$ Transfers Metro Areas		\$531,559,120	\$1,677,438,000	\$1,255,472,000	\$3,464,469,120
Tax Rate	0.10%	\$531,559	\$1,677,438	\$1,255,472	\$3,464,469
Delinquency Rate	5.00%	\$26,578	\$83,872	\$62,774	\$173,224
Gross Annual Collection		\$504,981	\$1,593,566	\$1,192,698	\$3,291,245
Collection/ Administration Costs					\$100,000
NET ANNUAL REVENUE					\$3,191,245

¹Capture Rate represents the percentage of each county's population belonging in Metro's boundaries

FUNCTIONAL CONNECTION

Because transfers of real property increase demands for transportation and general planning, tax proceeds could be directed to Planning.

REVENUE POTENTIAL FOR METRO

A 0.215% tax rate (\$215 on a \$100,000 property) on the property's selling price is projected to generate approximately \$7.1 million in gross annual revenue. After accounting for set-up and administrative costs, net revenue is forecast to be \$6.7 million the first year, and approximately \$7 million per year thereafter.

IMPLEMENTATION ACTION REQUIRED

1. Existing state law prohibits the imposition of new real estate transfer taxes until Jan. 1, 1994. Metro may not impose this tax if a current proposal (HB 2883) to extend the prohibition to July 1, 1996 passes.
2. The computer systems in Clackamas and Multnomah Counties must be purchased, installed and staff must be trained.

TIMELINE FOR IMPLEMENTATION

Implementation maybe accomplished within one year. However, implementation may not be possible until 1996 if the Legislature extends the current prohibition.

OTHER INTERESTED GOVERNMENTS

Metro's competition in implementing a Real Estate Transfer Tax will come from any of the other local jurisdictions with which Metro overlaps: Washington, Multnomah and Clackamas Counties, the City of Portland and numerous other cities in the area. The State of Oregon is also considering Real Estate Transfer Tax this legislative session.

OTHER INTERESTED PARTIES / WHO PAYS

Homeowners and people entering the real estate market could be considered interested parties because they will pay the tax.

ADVANTAGES

The Real Estate Transfer Tax has the potential to raise significant revenues for Metro. The rate necessary to produce substantial revenues would be relatively low. It is generally progressive since it is based on the value of the property.

DISADVANTAGES

There are significant legislative questions about the Real Estate Transfer Tax. Several proposals related to the Real Estate Transfer Tax are before the Legislature. HB 3122 would impose a state excise tax on real estate sales. HB 2883 would extend the prohibition of local imposition of the tax to July 1, 1996. There is a good chance this proposal will be adopted, in which case Metro would not be able to impose this type of tax.

Finally, with the exception of Washington County, the system is not in place to collect the tax and would require a substantial up-front investment of Metro's time and money.

Real Estate Transfer Tax Revenue Potential

Total value of transfers in Metro's Boundaries during fiscal year 1991-92 is \$3,557,492,148

Tax Rate (%)	Rate (\$ per thousand)	Revenue
0.02%	\$0.20	\$711,498
0.03%	\$0.30	\$1,067,248
0.04%	\$0.40	\$1,422,997
0.05%	\$0.50	\$1,778,746
0.06%	\$0.60	\$2,134,495
0.07%	\$0.70	\$2,490,245
0.08%	\$0.80	\$2,845,994
0.09%	\$0.90	\$3,201,743
0.10%	\$1.00	\$3,557,492
0.11%	\$1.10	\$3,913,241
0.12%	\$1.20	\$4,268,991
0.13%	\$1.30	\$4,624,740
0.14%	\$1.40	\$4,980,489
0.15%	\$1.50	\$5,336,238
0.16%	\$1.60	\$5,691,987

Data obtained from Clackamas, Multnomah and Washington County Recording Offices

Notes:

1. Assume that 90% of these recordings fall inside Metro's jurisdictions.
2. The above figures do not account for delinquent accounts or tax evasion.

Appendix G

Oral and Written Testimony Presentations and Summary of Major Issues

Oral Testimony:

Jack Nelson
Associated General Contractors

Pam Zielinski
Lutz Snyder Co. Realtors

Joan Snyder
Dennis Snyder Contractors
and Coldwell Banker Prof. Group

Bruce Griswold
City of Lake Oswego

Dorothy Cofield
Oregonians In Action

Katie Mueller
Washington Co. Assn. of Realtors

*Genoa Ingram
Oregon Institute of Realtors

*Robert C. Alexander
Forest Grove/Cornelius Economic
Development Council

Drake Butsch
Home Builders of Metro Portland

*Jon A. Chandler, Staff Attorney
Common Ground: The Urban Land
Council of Oregon

Dante R. Marrocco
Building Assn.; Ore. Assn. of
Realtors

Sandee Wilson
Stan Wiley, Inc., Realtors

Bob Baker, owner
Skyline Realty

Greg Specht
Specht Dev. and NAIOP

Bob Stutte
Portland Board of Realtors

Bob Stacey
Portland, OR

Willis Rader
Portland, OR

Fred Young
Portland Board of Realtors

Chris Harrison
Chair, Portland Branch of Realtors
Legislative Committee and Stan
Wiley Realtors

Jean Ridings
Troutdale, OR

Jerry Johnson
Hobson & Associates

Bill Cross
Building Owners and Managers
Association

E. John Rumpakis
COMPA

Judy Wyers
Metro Presiding Officer

* Also written testimony

**Written Testimony (received by
November 5, 1993):**

Robin O. White, Exec. VP
Portland BOMA

Yvonne Katz, Superintendent
Beaverton Schools, Dist. 48

Charles D. Cameron
County Administrator
Washington County

Wayne Lowry, Finance Director
City of Tigard

Sharon Murphy
Portland, OR

Pat G. Kaplan
Portland, OR

Tim Schauermann
Schauermann Insurance Associates

Richard G. Kidd, Mayor
City of Forest Grove

Michael N. Wells, SIOR
Lake Oswego, OR

Melvin Mark, Jr., President
Melvin Mark Companies

Ted Aadland, President
Oregon-Columbia Chapter
Associated General Contractors

Bill Supak, Exec. Director
Oregon-Columbia Chapter
Associated General Contractors

Sidney Bluestone
Bluestone & Hockley Realty, Inc.

Frank VanDeventer
Pres., Baugh Construction Oregon,
Inc., and
Director, Tualatin Valley Economic
Development Corp.

Chris Beck, Project Manager
The Trust for Public Land

James C. Homolka
Beaverton, OR

David R. Lintz, Chairman
Suburban Planning Council
BOMA, on behalf of:

Hillman Properties Northwest
Trammel Crow Company
Chicago Title Insurance
Norris, Beggs, Simpson
Cushman & Wakefield
Melvin Mark Companies
Forum Properties
Norris & Stevens
Birtcher Properties

P. L. "Penny" Douglas
Beaverton, OR

Robert R. LaDu
Portland, OR

Mary Anderson, Assoc, Broker
Stan Wiley, Inc., Realtors

Sean R. Kimsey, Sales Assoc.
Professionals 100 Realtors

Frank Rawlins, Sales Assoc.
Professionals 100 Realtors

Pat West, GRI, Assoc, Broker
The Equity Group, Inc.

Written Testimony (continued):

Magnus Johannesson
Professionals 100 Realtors

Patrick M. Whitty
Professionals 100 Realtors

Al Peniche, Sales Assoc.
Professionals 100 Realtors

Shannon Mahar
Stan Wiley, Inc.

Kathy Rader, Sales Assoc.
Stan Wiley, Inc.

Cindy King, Realtor

W. J. "Bill" Easton, Sales Assoc.
Professionals 100 Realtors

Carolyn Marone
Professionals 100 Realtors

Tax Study Committee
Public Hearings Testimony
and Written Testimony (received through Nov. 5, 1993)
Summary
October 27-28-29, 1993

Verbal Testimony = 24
Written Testimony = 16

Economic Impact/ Affordable Housing	Cause/ Disin- centives	Need Exemp- tions	Too many fees/high costs/double tax/no taxes/ doubt sunset	Not Equitable (Cl. Co. or out of region/ impinging on Locals)	Shd. go to Voters	Need Broad Base	More time, education; Locals not in Process	How w/funds be used? Prove needs. Show savings. Value/Return	Planning Duplication	Delay til New Council
18	8	4	22	7	9	15	15	15	5	1

Planning Necessary	Metro needs to plan; Locals can't afford. Supports Reg'l. Gov't.	2040 Plan is Under- funded	Metro Shd. Give Local Grants	Would Like to Help	Need User Fees	Use Local Gov't. Dues	Need Planners Organ.	Try Utility, Motor V., Garbage Tax	Include Mfg. hsg.
6	4	1	1	4	1	1	1	3	1