

## RPAC/MPAC JOINT MEETING

### Summary

FEBRUARY 10, 1993

The meeting was convened by RPAC Chairman Gardner at 5:06 p.m.

RPAC Members in attendance: Chairman Jim Gardner, Richard Benner, Rod Drake, Peggy Lynch, Susan McLain, Alice Schlenker, Chris Utterback.

MPAC Members in attendance included: Bud Farm, Judith Fessler, Charlie Hales, Bonnie Hays, Robert Mitchell, Chuck Peterson, Arnold Polk, Sandra Suran, Loren Wyss.

MPAC/RPAC Members in attendance included: Gary Hansen, Darlene Hooley, Gretchen Kafoury, Richard Kidd, Robert Liddell, Gussie McRobert, Bruce Thompson, Jim Zehren.

Others in attendance included: Mike Gates, Greg Chew, Jeff Condit, Brent Curtis, John Fregonese, Ken Gervais, Noel Klein, Mike McKeever, Vergie Ries, Gail Ryder, Larry Shaw, Bob Stacey, Mark Turpel, Caryl Waters, Mary Weber and Barbara Duncan.

**I Welcome and Introductions.** Questions were raised about the process for new member appointments. Chairman Gardner stated that on the membership list distributed, those with an asterisk were considered to be official.

Peggy Lynch stated she had attended a Washington County meeting and their appointment was Bonnie Hays as the member with Roy Rogers as an alternate.

Mayor Schlenker stated that letters had been sent by Clackamas County cities appointing Bob Liddell to MPAC.

Darlene Hooley also indicated that a letter had been sent for her appointment.

Chairman Gardner responded that the Charter requires a government representative to be appointed by that governmental body. An appointment is official when a copy of minutes or a showing the action or a copy of a resolution is received by Metro. A letter alone is not sufficient. This is to protect from possible later legal challenges about the appointments.

**II Approval of Minutes** of January 13th RPAC meeting.

Mayor McRobert stated she had a correction on pg. 2, paragraph 6. She was not a Charter Committee member. The corrected sentence should read "Mayor McRobert stated that the Charter Committee felt..."

Minutes were unanimously adopted as corrected.

**III Communications from the Public** There were no communications from the public.

**IV Discussion of Implementing MPAC.** Materials distributed included a proposed draft MPAC By-laws by Metro staff, a FOCUS steering committee "Commentary and Suggested Amendments to Draft By-laws", and minutes of Charter Committee July 21, 1992 meeting.

Chairman Gardner stated these proposed By-laws were developed by looking at RPAC By-laws and making a few changes. By-laws are not to be adopted tonight, but discussed. He stated that the Charter does require MPAC to adopt By-laws. He asked for changes proposed.

Commissioner Hooley asked if it was required to adopt the By-laws before making changes.

Chairman Gardner responded that the Charter was unspecific on which action had to come first.

Mayor McRobert asked if MPAC would be official without By-laws?

Larry Shaw stated that the two items were separate in the Charter, and changing the composition of MPAC did not affect the adoption of By-laws.

Arnold Polk stated that without By-laws, however, MPAC wouldn't know what is required for MPAC to take an action.

Larry Shaw responded that in the Charter the initial membership is specifically defined. A separate section in the Charter states that a majority of MPAC members and a majority of Council can decide to change the composition of the group, with no mention of whether By-laws have to come first.

Mayor McRobert stated that the language of the Charter was different from the language in the by laws. She felt it would be less subject to challenge if the mission statement used the Charter language.

Peggy Lynch stated that the Chairman is not an RPAC member, she asked how can he conduct the meeting, and asked whether there are enough MPAC members present to take any actions?

Mayor McRobert stated the groups are still a hybrid.

Chairman Gardner stated that due to all the appointments not being official yet, a majority was not present. Discussion was intended, not a vote.

Mayor McRobert suggested the language used in the mission statement-Article 2, section 1 should read "MPAC shall perform the duties assigned to it in this Charter and any other duties the Council prescribes" instead of what is in RPAC By-laws.

Councilmember Hales stated that the problem with the draft before them is that it is a version of RPAC By-laws and does not necessarily conform with the Charter. He stated that they should

try to keep it simple to avoid conflict and confusion.

Councilor McLain stated that it was important that MPAC won't lose ground that RPAC had, that was intention in keeping the By-laws similar.

Mayor McRobert agreed, stated that its safer to use the language in the Charter.

Chairman Gardner stated that By-laws would be unclear if someone didn't have Charter to look at also.

Mayor McRobert stated that it becomes clear in article 2.

Jim Zehren asked if the draft is repeating the language of the Charter and if so, why?

Mayor McRobert stated that they are not identical

Councilor McLain asked (regarding the FOCUS group document pg.1A, bottom paragraph) if MPAC mission and purposes are "not specifically described in the Charter itself", are 1-6, (article 2, mission of the FOCUS group document), intended as a reflection of the Charter?

Mike McKeever responded that the language on pg. 1A was not verbatim, but very close to the Charter.

Mayor McRobert asked if the language in items 1-6 was identical to the language in the Charter.

Mike McKeever responded that the language was very close.

Charlie Hales stated that grouping items 1-6 together made sense, rather than having them scattered as the Charter document does.

Mayor Liddell asked if the next meeting could include the exact Charter language.

Chairman Gardner stated that the items listed (in draft) were same as those previously prescribed to RPAC by the Council. It assumes the same duties will be given to MPAC.

Arnold Polk asked if the items on pg. 1B (of FOCUS group document) were in the grant authority of the Charter?

Chairman Gardner stated they were included as other duties the Council might assign, in RPAC, but not in the Charter.

Charlie Hales stated that the items included a projection that the Council would assign the same duties to MPAC as it had to RPAC.

Arnold Polk asked if that was assuming too much to adopt anything before the authority is clear.

Chairman Gardner responded that that was possible, but many things were unclear at this point. It was not their intention to adopt By-laws tonight.

Larry Shaw offered some clarification based on what had been discussed at earlier meetings. The draft was put together with the assumption that the RPAC duties given by Council and in the RPAC By-laws, as well as the more extensive duties of RPAC enabled by the Charter and RUGGO would continue, substituting MPAC for RPAC. It was thought some Council members and members from the State Growth Agency (?) would join the MPAC membership.

Peggy Lynch stated that the ordinance distributed in the packet would substitute MPAC for RPAC in the RUGGO. She stated that she hoped that duties RPAC had would not be lost if it was decided to dissolve RPAC.

Mayor McRobert stated that it was logical that the duties would remain the same for MPAC as RPAC.

Councilor McLain agreed. She stated that if MPAC and RPAC are going to be joined, that Metro has assumed an ongoing process involving everyone. The Councilor didn't understand leaving the decision regarding whether a Metro Councilor(s), perhaps non-voting, would be added to the membership of RPAC, for later.

Peggy Lynch responded that she had heard legal advise that membership should not be amended until MPAC was official formed, and that advice was different from what Larry Shaw had stated.

Larry Shaw responded that he was in agreement that membership could not be adjusted until MPAC was constituted, which is when there is a meeting of the appointed membership, not necessarily when By-laws are adopted.

Commissioner Hooley agreed with Councilor McLain in that it is hoped that in the By-laws there would be 2 liaison or non-voting member positions from Metro.

Mayor McRobert agreed and explained that the reason there were 2 positions because 1 position from Multnomah County had been given up and one position for Tri-Met had been added.

Chairman Gardner stated that there had been conflict because there was to be "broad geographical representation" with only 2 positions.

Mayor McRobert stated that perhaps one of the positions should be a councilor from Multnomah County, since it would be non-voting, which would give us even numbers.

Commissioner Hooley stated she would also like one position to be from the State Growth Agency, and that it should be specifically someone from LCDC.

Mayor McRobert agreed and but stated that if we continue to receive state funds, we have to show how we are benefiting the state as well as the region.

Mayor Liddell suggested the position could be rotating.

Mayor McRobert stated that we have to be careful to not talk too much about the process instead of the results.

Chairman Gardner stated that this was too much detail for tonight, should look at the items with limited discussion until we're at a point of voting.

Councilmember Hales asked if the Council had the authority to remove items from the RPAC/MPAC By-laws that are not from the Charter.

Chairman Gardner stated the Council had the authority to dissolve RPAC and probably would. Metro does not have the authority to approve or change the By-laws, but authority described in the By-laws that is not in the Charter would have no legal basis. The Charter gives specific powers to MPAC and states that others may be added by the Council.

Peggy Lynch stated that to move forward there was a need to see an original document with MPAC basics with amendments separate from the original which could include changes to membership, dissolution of RPAC, etc.

Councilor Gates stated it would probably be recommended that Metro would have to, by ordinance or resolution, give duties to MPAC that are outside of the By-laws.

Arnold Polk stated that those who were not on RPAC would greatly benefit from a document as suggested by Peggy Lynch.

Chairman Gardner requested a document that lists only what was specifically mentioned in the Charter, the documents available now both have assumptions about membership and duties of MPAC.

Peggy Lynch clarified that she was not suggesting another draft By-laws document, rather to have amendments available so that when By-laws are passed, as listed in the Charter, the next steps of amending membership could be taken.

Richard Kidd stated that that would have the advantage of the work done by the FOCUS group. We still need to assume that Council will assign the same duties to MPAC as were had by RPAC.

Arnold Polk asked if it would be appropriate to have a FOCUS group of RPAC/MPAC members meet together to report back at the next meeting to bring the new MPAC members up to speed.

Chairman Gardner agreed that would be appropriate and that the FOCUS committee was serving as that function already.

Peggy Lynch asked if an amendment would take a majority of MPAC members and Metro Council members.

Mayor Schlenker asked that the 3 part document have the original Charter language, and on a separate page, the changes proposed and by whom. She also asked that it be clear what is needed to have appointed people be official members so that there is a quorum by the next meeting in order to deal with By-laws.

Chairman Gardner responded that the letter from Councilor Wyers told what was needed - a copy of a resolution or minutes showing the action.

Mayor Schlenker asked if the Council could be asked to act on the "other prescribed duties" before the next meeting.

Chairman Gardner responded that he couldn't guarantee that the Metro Council would be ready to act that quickly.

Councilor McLain stated that a 3 column document is needed so everyone can see the original Charter document in one column and the other columns showing the amendments and who they were proposed by. She also stated that RPAC shouldn't disappear until it is assured that RPAC powers won't be lost. Perhaps the groups need to be flexible enough to meet together, even if only MPAC votes.

Councilor Fessler agreed that paperwork needs to be settled to ensure a quorum before next meeting.

Greg Hansen suggested that the first action after MPAC adopts By-laws should be request that Council transfer the duties of RPAC to MPAC. He stated the only disputed item might be whether the Council members would be voting or not.

Commissioner Hooley stated agreement that a FOCUS committee should work with Metro staff and RPAC members to get a clear document together.

Chairman Gardner stated that having MPAC members who were not on RPAC on this committee would be helpful to those "new members".

Peggy Lynch asked that the alternates issue be resolved in an amendment. She asserted that the

Charter didn't call for any alternates.

Mayor McRobert stated that item 3A should be deleted.

Mayor Liddell mentioned Article 4 regarding rules on quorum and meeting cancellation.

Councilor McLain asked if Metro staff could bring an agenda item to the Chair.

Mayor McRobert responded yes, that was appropriate. She asked about what was required for a quorum.

Chairman Gardner stated that the Charter required a majority of the members of MPAC for a quorum. (Page 4A. article 4B).

Mike McKeever stated that a majority of members was a quorum, and a majority of those present constituted an action. For the special case of voting to regionalize a local service the rules would be different.

Chairman Gardner stated that a majority of members is required to take such a vote as well as to change or adopt By-laws.

Arnold Polk questioned if it is wise or normal that if 10 members were there of the 19, 6 of them could adopt an action?

Chairman Gardner responded yes, that was a normal procedure with the exception of the actions mentioned previously. He stated it was an incentive for attendance.

Mayor Liddell asked if there would be a budget to pay for staff.

Mayor McRobert stated MPAC didn't have the authority to require Metro to staff.

Councilor McLain asked if MPAC would annually propose a budget to Council?

Councilor Gates asked if it could be made clear by the next meeting what authority MPAC has to raise its own funds.

Commissioner Hansen stated that MPAC should be cautious about hiring its own staff, especially regarding the legal implications to members concerning potential lawsuits.

Mayor McRobert clarified that if MPAC wanted outside staff, Metro would not pay for that, MPAC would.

Commissioner Hansen asked if MPAC could contract or be an employer separate from Metro?

Commissioner Kafoury stated that this discussion was not the best use of time and should continue in a sub-committee.

Mayor Liddell asked if a By-laws committee could be appointed.

Chairman Gardner asked for volunteers for a sub-committee and that the members should include people who were on the By-laws drafting FOCUS steering committee.

Arnold Polk, Commissioner Hooley, Mayor Liddell, Mayor McRobert, Councilor McLain, Councilor Fessler volunteered and it was recommended that Commissioner Hays also be included. It was also concluded that Mayor McRobert would convene the meeting which would be held at Metro. Notice will go out to all members.

Mayor Schlenker asked if the By-laws group or another group, could be formed to discuss budget issues due to time crunch.

Councilor McLain asked if some legal staff could also join the group.

Chairman Gardner proposed that Larry Shaw attend.

Mayor Schlenker proposed that Lake Oswego City Attorney Jeff Condit also attend as legal staff.

#### **V Local Government Dues**

Chairman Gardner introduced the topic with RPAC and TPAC recommendations and January 26 memo from Dan Cooper which were in the packet along with a copy of the minutes of Charter Committee discussion of dues issue. Historically, because of a state statute, Metro has used local government dues. This legislation expires this Fiscal Year. He asked whether the dues should be extended. He asked whether the Charter prohibits or intend that to continue? He asked about the viability of voluntary dues.

Chairman Gardner stated that the materials distributed explain the expenditures and the assessment process, based on population, at current level of \$0.43 per capita.

Mayor McRobert asked if the Charter eliminates local dues.

Larry Shaw's stated that the Charter was silent on the issue. He further stated that the legislation authority ends June 30, 1993. TPAC and RTAC both recommended the dues continue on a mandatory basis to resolve any potential inequities between those districts who do pay to those who don't. He stated that present statutes require Metro to give legal notice to local governments if there is going to be mandatory dues in the next year.

Mayor McRobert stated that Gresham City Council was willing to pay, voluntarily, the dues for a half year, until the Charter authorized revenues were in place, or a whole year's dues if there



would be a refund of the portion not spent.

Councilor McLain requested some legal response to be sure the level of funding was appropriate for those governments who would pay voluntarily without legislation.

Commissioner Kafoury stated that it should go through the legislature in Salem. She asserted that voluntary payment of dues may not be an equitable way to go.

Chairman Gardner stated that the governments would need to be unified for it to get through the legislature.

Commissioner Kafoury asked if a motion by RPAC could be made to go to the legislature for a 2 year authority extension?

Greg Hansen seconded the motion. He asked that Metro also send out a notice of the action that would serve as a dues notification as it will not be resolved by the legislature by March 1.

Chairman Gardner agreed that a notice needs to be out by March 1, even if it was later concluded that the dues would be voluntary.

Mayor Schlenker asked if it would not be easier for MPAC membership to agree to keep a budget going for 6 months, rather than go through the legislature.

Peggy Lynch stated that the citizens just wanted the planning to continue and perhaps going to the legislature is the easiest way for that to happen. She asked if the rate recommendation was also needed tonight?

Chairman Gardner responded yes. He also stated that a refund process should be included in the legislation.

Commissioner Wyss stated he was not opposed to continuing to fund. However, he stated that a 1 year extension is a better incentive to find new funding sources than 2 year extension.

Commissioner Kafoury questioned what would happen if the extension wasn't granted?

Commissioner Wyss responded that the group would vote to continue if the legislation didn't go through.

Chairman Gardner stated that 6 months was not practical, as a metro ordinance would not take effect for 90 days.

Commissioner Hooley stated she had no consensus and couldn't vote on it tonight.

Chris Utterback asked if we could vote to say the amount should stay the same or be less?

Chairman Gardner responded the statute has a \$0.51 maximum, for the last two years it had been down to \$0.43.

Mayor Schlenker stated she could vote yes only in concept tonight in order to get it moving.

Chairman Gardner stated the vote was only advisory tonight.

Mayor Liddell stated that he hadn't polled the citizens and would not be comfortable voting tonight, but wants it to move towards the legislature.

Commissioner Wyss asked if it was a high priority, wouldn't it be taken care of before 2 years elapsed?

Chairman Gardner responded that it was the number 1 priority. He stated that other Metro activities have funding sources. He stated that regional planning is the only Metro activity without a specific funding source. He added that local government dues are only a small part of current funding of Metro planning activities.

Peggy Lynch suggested a vote.

Chairman Gardner requested only RPAC members vote. The motion passed unanimously.

#### **VI. UGB & Columbia River Shoreline**

John Fregonese stated that there was a multijurisdictional problem relating to the exact location of the urban growth boundary along the Columbia River. He stated that the confusion about the exact location was due to the dated method of applying tape to a map to show placement of the Urban Growth Boundary (UGB) along the Columbia River Shoreline in the area south of Government Island. The maps are unclear as to whether the UGB includes houseboat moorage which extend into the river or whether the UGB only includes the shoreline. He stated that Metro's Executive Officer has the authority to make an interpretation without any public hearing. An option used elsewhere in similar situations is to define the UGB as being at the high water line. This is a line well established by the Corp of Engineers. There would be exceptions drawn around existing urbanization. A justification for this executive interpretation is that no net developable acreage is added to the area within the UGB.

Commissioner Hansen asked if additional moorages would require an exception amendment?

John Fregonese responded yes.

Councilor Fessler asked whether this action would "grandfather" existing moorages?

John Fregonese responded yes, that was the intended action.

Jim Zehren asked if there were other areas with similar questions about the UGB?

John Fregonese stated no, that the UGB was drawn along property lines or right of way. He further stated that for other areas along other bodies of water, there were no moorages or major uses which conflicted with a shoreline definition of the boundary.

Mayor Schlenker asked why not follow city limits line which is in the middle of the river?

Mayor McRobert responded that no, in Gresham's area the city limits went to the end of the houseboats, not river center.

John Fregonese explained that some city limits extended outside the UGB, although urban uses could not be granted.

Sandra Suran asked why the line wouldn't be drawn at the end of the houseboats.

John Fregonese responded that they need to have a legally clear line to prevent challenges and problems. The intent is to include the houseboats, not to include land the cities didn't want included. He stated that staff was asking the governments involved where they want the line.

Mayor McRobert asked what keeps more houseboats from being added?

John Fregonese responded that you can densify and add to currently urbanized areas. New areas would need an amendment to be added to UGB.

Councilor Kidd asked if this process could be applied as a way to avoid potential problems along other areas of the river?

John Fregonese responded that yes, it would be a good idea to have a written legal document describing where the UGB is.

Chairman Gardner set the next meeting for March 10th and adjourned the meeting at 7:00 p.m.

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