

1972

A Comment on Metropolitan Government: A Review of Stanley Baldinger's Planning and Governing the Metropolis

Ferdinand P. Schoettle

Follow this and additional works at: <https://scholarship.law.umn.edu/mlr>



Part of the [Law Commons](#)

Recommended Citation

Schoettle, Ferdinand P., "A Comment on Metropolitan Government: A Review of Stanley Baldinger's Planning and Governing the Metropolis" (1972). *Minnesota Law Review*. 1297.

<https://scholarship.law.umn.edu/mlr/1297>

A Comment on Metropolitan Government: A Review of Stanley Baldinger's Planning and Governing the Metropolis*

Ferdinand P. Schoettle**

John Fisher was impressed. In 1969 when he wrote in *Harper's* magazine about Minnesota's Metropolitan Council he characterized it as the most promising and innovative governmental mechanism yet designed to cope effectively with problems engendered by metropolitan growth.¹ The Metropolitan Council was formed in 1967 and includes Minneapolis and Saint Paul, Minnesota within its seven county areal jurisdiction. *Planning and Governing the Metropolis* by Stanley Baldinger is the most detailed account yet published of this important governmental institution. As such Mr. Baldinger's work deserves the critical attention of urbanologists from various disciplines. This comment first briefly summarizes Mr. Baldinger's account of the birth and early years of the Metropolitan Council. The second part then relates the Council and the perceptions of the "metropolitan problem" which attended both its conception and early operation to various current prescriptions for the improved government of metropolitan areas.

Mr. Baldinger's book succinctly traces the course of events through the administration of three governors. In 1959 Governor Orville Freeman held a conference after a State Department of Health study found contaminated wells in 39 suburban communities. A report the following year by the Executive Secretary of the Commission on Municipal Laws called for a single multi-purpose agency to deal with water and sewer problems of the metropolitan area. That report evoked only fears of losing local autonomy and engendered no response from Minnesota's legislature. A conference convened in 1961 by newly-elected Governor Elmer L. Andersen concerning metropolitan approaches to the area's problems generated little public interest. Public interest was stirred, however, in 1964 when the President of the

* *PLANNING AND GOVERNING THE METROPOLIS*. By Stanley Baldinger. New York: Praeger, 1971. Pp. xxvi, 286. \$17.50.

** Professor of Law, University of Minnesota.

1. Fischer, *The Minnesota Experiment: How to Make a Big City Fit to Live In*, HARPER'S, April 1, 1969, at 12.

Hennepin County League of Municipalities journeyed to Toronto to investigate the federated system of government for the Toronto metropolitan area. That same year the mayors of Minneapolis and Saint Paul called for a multi-city governmental mechanism to be established by the state legislature. Subsequent events moved quickly. In 1966 committees of the Minnesota legislature visited San Francisco, Los Angeles, Toronto and Washington, D. C. in order to secure information about appropriate responses to the increasing need for metropolitan organization.

When the legislature convened in 1967 it was presented with a remarkable consensus within the metropolitan community. The Citizens League (an influential private group), the Metropolitan Section of the League of Minnesota Municipalities, the Hennepin County (Minneapolis and some suburbs) League of Municipalities, the Ramsey County (Saint Paul and some suburbs) League of Municipalities, the Chambers of Commerce for both major cities, the Metropolitan Planning Commission and both political parties endorsed the formation of a metropolitan council. Moreover, there was general agreement upon the essentials of the proposed council. Almost all agreed that the council should not represent subsidiary units of government, should have members elected from equal population districts and should coordinate all special districts within the metropolitan area. The "metropolitan area" was conceived as including the seven counties which comprised the areal jurisdiction of the Metropolitan Planning Commission, not just the five-county area within the Bureau of the Census' Standard Metropolitan Statistical Area.

How such widespread consensus occurred is a question which Mr. Baldinger leaves largely unanswered. He attributes the consensus in part to the work of the Metropolitan Planning Commission which had over a period of years emphasized through various publications the procedures by which metropolitan decisions should be made. Whatever its genesis, there seemed to be general agreement in 1967 that a metropolitan council was not to be a competitor of local government but would assume only area-wide functions which were not traditionally viewed as municipal matters. As the League of Minnesota Municipalities Municipal Section said in testimony before the legislature:

[T]here is a general recognition and acceptance of the need for some type of governmental structure encompassing the seven-county metropolitan area. The purpose of such a unit . . . is not to rationalize the structure of local government or to perform services which have traditionally been provided at

the municipal level, but rather to assume responsibilities and render services which are not, in a historical sense, municipal functions and which municipalities, either individually, or collectively, are not capable of performing.²

This testimony was echoed by the Chairman of the Hennepin County League of Municipalities who, when a state agency was proposed, said that the League looked "on metropolitan government as local government,"³ and preferred the council approach.

Within the Twin Cities metropolitan area the only important opposition to a council came from the City of Bloomington, which had a high tax base and ready access to the Minnesota River for future sewer service, and from the suburban *Sun* newspapers, whose owner regarded the metropolitan council as the first step in the creation of a remote monolithic governmental structure. The county officials, although opposed to the council, were too late in organizing and too limited in their approach to have a serious impact upon the legislature.

Major opposition to the formation of an elected metropolitan council came from the outstate members of the legislature who worried about the political power which such an elected body might wield. A bill introduced at the behest of the Conservative leaders of the legislature provided for a 15-member metropolitan council with the members appointed at large by the governor and, except for the chairman, approved by the senate. By contrast to the weakening of the provisions concerning election, the Conservative bill in the state senate gave the metropolitan council more power over the plans of local governments, but moved the council from an operating to a planning and review agency as far as transit, sanitary sewage and mosquito control were concerned. A compromise measure by which a 14-member council would be appointed from districts of equal population with the chairman appointed at large passed both houses of the legislature in May of 1967 and was signed by then Governor Levander on May 26. The votes in the house and senate against making the council elective were close, 66 to 62 and 33 to 33 respectively.

The powers of the Metropolitan Council were not greatly different from those which had originally been sought. The 14 members were appointed for staggered six year terms with the chairman serving at the pleasure of the governor. The chairman was to act as the chief executive officer of the Council and

2. Cited in S. BALDINGER, *PLANNING AND GOVERNING THE METROPOLIS* 99-100 (1971).

3. *Id.* at 153.

to appoint all employees subject to Council approval. He alone was to receive a salary. Other members were to receive \$35 per meeting and expenses. The Council was empowered to establish advisory committees whose members were to serve without compensation. The Council was charged with submitting biennial reports to the legislature which, among other things, were to recommend metropolitan area legislation. The Council was further charged with preparing a metropolitan development guide and given power to review all long term plans of commissions, boards and agencies which were determined by the Council to have an area-wide impact, a multi-community effect or a substantial effect on metropolitan development. All such plans were to be submitted to the Council for review and, unless approved, could not take effect until 60 days after submission. With respect to these plans the Council was given the power to suspend them indefinitely and, if agreement could not be reached, to make recommendations for legislative consideration.

Local governments were directed to submit to the Council long terms plans and any matter having a substantial effect on metropolitan area development. The Metropolitan Council was then required to notify all governmental units which might be effected. Upon request from a unit of government, the Council was required to conduct a hearing at which views could be aired. The Council had no coercive power but was to act only as mediator.

Furthermore, the Council was given power to review and comment upon all applications for federal assistance from governmental units operating in the metropolitan area. For all special districts operating in the metropolitan area the Council was allowed to appoint one of its members to serve without a vote. Finally, the Council was directed to engage in continuous study and make recommendations concerning a list of enumerated problem areas which included air and water pollution, parks and open spaces, solid waste disposal, storm water drainage, assessment practices and metropolitan fiscal disparities.

The act creating the Metropolitan Council did not contain an elaborate enumeration of specific powers. The Council was prohibited from engaging in any operating functions. Its main power was to review proposals of the various special districts and to act as a spokesman for the metropolitan area. Negative comments by the Council, though an important factor, would not preclude federal funding. Disputes between units of local government could not be authoritatively settled, only

mediated. Even with respect to the special districts, if no accommodation could be reached, the legislation contemplated that a record of the disagreement would be made for consideration and authoritative disposition by the legislature. The revenue provisions of the act creating the Council were in accord with that body's limited function: the Council was given the right to levy a one-half mill tax within the seven county metropolitan area.

The history of the Metropolitan Council in operation during its first two years, as outlined by Mr. Baldinger, concentrates upon the legislative programs which the Council presented to the 1969 session of the legislature. By considering preliminary plans and concepts which were then modified in accordance with the criticisms and suggestions of the various units of local government, the Council was able in less than two years to develop for presentation to the 1969 legislature a legislative program which had already been fully considered by members of the metropolitan community. This prior consideration and negotiation permitted the Metropolitan Council to assert that its recommendations pertaining to sewage, open space, a zoo and highway route legislation were matters of local consensus on which the legislature should act. Even though many arguments which had been considered by the Council and rejected were advanced to the legislature, the latter body accorded the Council's determinations substantial weight and enacted its legislative proposals without significant changes.

Although Mr. Baldinger does not quantify the time spent by the Council in preparing its legislative program or delineate the steps which led to a consensus, he does give sufficient detail, especially with respect to the metropolitan sewage proposal, to provide the reader with an insight to the institutional function which a council can perform. First, the Council established advisory committees to consider proposals in the areas of highway route legislation, open space and the establishment of a metropolitan zoo. The creation of these committees and the purposeful involvement of other agencies and local officials in the process of developing legislation both increased community involvement and freed the Council to devote more of its attention to the sewage problem which had plagued the metropolitan community for so long. As to sewage, the Metropolitan Council organized itself into a "committee of the whole" and worked for five months in designing a plan. The plan, as promulgated in July, 1968, contemplated the creation of a Metropolitan Sewer

Board to be appointed by and responsible to the Council. The Council was to have, among other powers, control of both the operating and capital budget. After the original "concept plan" was announced, the Council engaged in further negotiations and amended the proposed charges to municipalities. The plan was approved by the legislature in the spring of 1969 with only four dissenting votes in the senate and by a 116 to 15 vote in the house. The only change of substance was that legal title to the sewage facilities was to rest in the Metropolitan Sewer Board instead of the Metropolitan Council, ending speculation that the Council might choose not to appoint the Sewer Board and operate the system itself. Although Mr. Baldinger does not report it, at this time there was still doubt about whether the Metropolitan Council should be an operating as well as a policy-making body.⁴

The 1969 legislature also authorized the Council to prepare and adopt a comprehensive plan for solid waste disposal, gave it power to review location and development plans for a zoo, ordered it to establish guidelines for land use surrounding a proposed new international airport, and directed the Metropolitan Transit Commission to submit capital expense and capital improvement budgets to the Metropolitan Council for approval. A limited property tax base sharing mechanism which had been proposed by the Citizens League and approved by the Council passed the house but was not acted upon by the senate.

In addition to the proposals recommended by the Metropolitan Council to the state legislature, Mr. Baldinger also describes the activities of the Council in establishing the procedures for metropolitan highway planning. In late 1967 an initial proposal was made by a coordinating committee with members from the Metropolitan Planning Commission (the Council's predecessor), the Minnesota Highway Department, Minneapolis, Saint Paul and each of the seven Metropolitan counties. Negotiations concerning the proper procedures and membership of a review body continued for over 16 months. In April, 1969, the Minnesota Highway Department and the Metropolitan Council signed an agreement designating the council as the agency for comprehensive transportation planning in the metropolitan area. This agreement had been preceded by a period of negotiation in which the Metropolitan Transit Commission, elected municipal officials, the Metropolitan Council and the

4. Interview with Ted Kolderie, Executive Director of the Citizens League, in Minneapolis, Minnesota, November 8, 1971.

Minnesota Highway Department had each supported a different arrangement for metropolitan transportation planning. The final consensus emerging from the various positions provided for establishment of a five-member Membership Committee under the Metropolitan Council comprised of the chairman of the Council, the chairman of the Metropolitan Transit Commission, the commissioner of the Minnesota Highway Department, one representative nominated by the counties in the metropolitan area and one by the municipalities. The Council remained the policy-making body.

Mr. Baldinger has performed a substantial service in summarizing the facts surrounding the council's genesis and early years. The book's main defect, if it may properly be so labeled, lies not in errors of commission—I could find no factual errors of consequence—but in the author's failure to address himself to some of the broader questions and implications of his study. First, in narrating the history of the Metropolitan Council, Mr. Baldinger does not attempt to account for the original consensus which attended its formation or the metropolitan consensus which seemingly accompanied the Council's legislative proposals. Such an inquiry would have entailed a more detailed factual study than Mr. Baldinger undertook. One can be sympathetic to the exigencies of time which constrain the reach of any study; however, it is not unfair to point out that these important questions are largely unanswered. A second omission of consequence lies in Mr. Baldinger's failure to place the Metropolitan Council within the normative and political framework which has accompanied various proposed "solutions" to metropolitan problems advanced in recent years. It is unfortunate that Mr. Baldinger did not address himself to these sorts of issues for it would have led him to explicit exposition of a thesis which is now implicit in his work.

As a normative matter, prescriptions vary since perceptions of the metropolitan problem differ. In 1966 the Committee for Economic Development in its statement on *Modernizing Local Government* recommended the abolition of 80 per cent of the governmental units in the United States. A community in the Minneapolis-Saint Paul metropolitan area, Fridley, Minnesota, was selected by the Committee as an example par excellence of what was wrong with American government. In a caption taken from Ripley—"believe it or not"—the Committee decried the plight of the befuddled citizen of Fridley who existed under

11 separate units of government.⁵ The concerns of the Committee were largely focused on functional efficiency and it so supported its argument. More recently the Committee for Economic Development has shifted its focus from the need for functional efficiency to the absence of authoritative governmental institutions at the metropolitan level. The committee now recommends two levels of government—local and metropolitan—for metropolitan areas.⁶ Larry Margolis, meanwhile, has argued that the metropolitan problem lies not with the structure of local government, but in failure of the state legislatures to modify their procedures and priorities to allow themselves to deal effectively with the problems most often associated with urban areas.⁷ Professor Ylvisaker also believes that regional planning should be carried out by the state legislature.⁸ Mancur Olson, Jr., in one of the more novel pieces of recent years, contends that the need for matching the benefits of collectively provided goods with the areal jurisdictions of institutions responsible for their provision supports the proposition that a "broad array of governmental institutions is a necessary condition of the Pareto-optimal provision of collective goods, and that neither the extreme centralist nor the extreme decentralist position makes sense."⁹ He concludes that the existing network of many thousands of governments, although not faultless, is nonetheless better than many of the proposed alternatives.

Within this set of prescriptions the Metropolitan Council falls more on the side of Olson than on the side of the abolition of local units of government or of the vivification of the state legislature. First, the Twin Cities have resolved the layers-of-government controversy in favor of additional layers. The exist-

5. COMMITTEE FOR ECONOMIC DEVELOPMENT, MODERNIZING LOCAL GOVERNMENT 12 (1966).

6. COMMITTEE FOR ECONOMIC DEVELOPMENT, RESHAPING GOVERNMENT IN METROPOLITAN AREAS 19-20 (1970).

7. Larry Margolis, *The Role of the States in the Urban Crisis*. Address to the Midwest American Assembly, 1970. Copy on file in Minneapolis Citizens League library.

8. *Hearings on Regional Planning Issues Before the Subcommittee on Urban Affairs of the Joint Economic Committee*, 92d Cong., 1st Sess., Part 2, at 280 (1971).

9. Olson, *The Optimal Allocation of Jurisdictional Responsibility: The Principle of "Fiscal Equivalence,"* in JOINT ECONOMIC COMMITTEE, 91ST CONG., 1ST SESS., THE ANALYSIS AND EVALUATION OF PUBLIC EXPENDITURES: THE PPB SYSTEM, 321, 331 (1969). See also Schoettle, *The City and The Metropolitan Area: Legal Structure and Values*, in 1 MINNESOTA EXPERIMENTAL CITY, A COMPENDIUM OF PUBLICATIONS RELATING TO SOCIO-CULTURAL ASPECTS 205 (1969).

ence of a Metropolitan Council has rationalized the institutional arrangements for regional decision-making. However, it has in turn given rise to new governmental institutions at the metropolitan level—a Metropolitan Council, a Metropolitan Sewer Board, a Metropolitan Park Board and a Metropolitan Transit Commission. Furthermore, these new “levels”—if that is an accurate term—have not resulted in citizen dismay. To the contrary, as Mr. Baldinger reports, even the most vociferous of the Metropolitan Council’s early critics now regard it as a valuable and worthwhile institution. The suburban newspapers’ concern about loss of local control has been replaced with praise for regional coordination. To my mind anyway, the concern over “layers” of government expressed in the Committee for Economic Development’s 1966 work and the maxims of Professor Ylvisaker¹⁰ seem unrelated to empirical reality. The question whether a metropolitan “layer” of government should exist is largely moot. Within most metropolitan areas metropolitan institutions abound in the form of various special districts and regional arrangements. Furthermore, the existence of such bodies can be defended upon normative grounds. According to Olson’s argument, planning for and provision of such collectively provided goods as sewage, transportation, solid waste disposal, police services and parks can properly be restricted to a body whose areal jurisdiction is less than that of the state as a whole. Furthermore, by implication, it is not necessarily unreasonable for a state legislature to be unwilling to devote its energies and funds to devising and paying for appropriate policy responses to the various problems engendered by congestion in the metropolis.

Second, although the documentation of the Council’s day-to-day activities is not so detailed as one might wish, Mr. Baldinger implicitly describes a functional division of power between the Metropolitan Council and the Minnesota legislature. The sewer proposal—a matter which had previously resulted in legislative impasse—was drafted by the Council in sessions extending over five months. After promulgation of the plan the Council considered criticisms and amended it. Negotiations concerning the proper institutional arrangement for metropolitan highway planning occurred over a 16 month period. These activities of the council seem complements, not alternatives, to action by the state legislature. As a permanent body solely concerned with the met-

10. Ylvisaker, *Some Criteria for a “Proper” Areal Division of Governmental Powers*, in *AREA AND POWER* 27, 36 (A. Maass ed. 1959).

ropolitan area the Metropolitan Council was able to present the state legislature with proposals which had been fully considered and debated by the affected parties. The presence and recommendations of the Council allowed the state legislature to act with a higher degree of confidence that it was enacting measures desired by the metropolitan community. Moreover, many of the activities of the Council, such as reviewing the plans of other units of government and making overall plans for metropolitan development, seem too locally centered and "administrative" to be logical subjects for study and action by the state legislature.

The Metropolitan Council performs at least four functions. First, the Council acts as a policy-making body for the metropolitan region. It sets regional priorities. Through review of the plans of local governments and both the plans and budgets of the various regional agencies it attempts to insure that those policies are followed. Second, the Council acts as a regional spokesman before the state legislature. Third, the presence of the Council has resulted in an altered division of power between the public and the private sector. Robert C. Wood in his study of the political economy of the New York region concluded that the institutional arrangements for public decision-making left most of the important decisions of regional development to the private marketplace.¹¹ The decisions of the regional agencies—of which the New York Port Authority was the most important—were both largely unreviewed and dictated by the economics of survival, not considerations of public policy. The local governments of the area lacked the areal jurisdiction to exercise effective regional power. Professor Wood concluded that for the New York metropolitan area "public policy rarely seems to be the initiating force in the pattern of population settlement or economic growth."¹² For the Twin Cities area the existence of the Metropolitan Council provides a measure of public power where before there was none. Fourth, although the norm of efficiency, as opposed to that of regulation and control, has not been an especially important concern, the new metropolitan boards, such as the Sewer Board, probably provide some economies of scale. Certainly there is efficiency in the sense that in reviewing the budgets and plans of the various regional bodies the Metropolitan Council can attempt to insure some measure of equivalency of marginal benefits from various regional expenditures.

11. R. C. WOOD, 1400 GOVERNMENTS 173 (1961).

12. *Id.* at 174.

In the national debate concerning new forms of government the Metropolitan Council has consistently held to the position that the council-of-governments approach to regional organizations is less desirable than a more metropolitan approach. It has been thought that those who did not hold local office or represent subsidiary units of government would have both a broader metropolitan outlook without potential conflicts of interest and more time to devote to metropolitan problems. The legislation establishing the Metropolitan Park Board did not speak to the question of whether local government officials were disabled from membership on the Board. However, the Council followed the policy directive contained in the legislation establishing the Sewer Board and appointed only private citizens. This policy preference which is best expressed in the legislation forming the Metropolitan Council itself is directly contrary to that embodied in the federal government's Demonstration Cities and Metropolitan Development Act of 1966. The 1966 Act directs that regional review agencies should to the greatest extent practicable be "composed of or responsible to the elected officials."¹³ As Mr. Baldinger correctly points out, the supporters of the Council believe that its effectiveness stems in no small part from a membership which is appointed—the controversy over whether the Council should be elective has yet to be definitively settled—from 14 districts of equal population. The "metropolitan problem" as defined in Minneapolis-Saint Paul is not the absence of cooperation between local governments but the need for a legitimate public authority whose views and areal jurisdiction encompass the entire metropolitan community. Mr. Baldinger's analysis of the Metropolitan Council comes at a time when the federal government does not have an overall strategy for metropolitan planning.¹⁴ Some recent bills introduced in Congress contain language supporting the council-of-governments approach, while others are silent on the subject. On the other hand, the recent report of the Environmental Protection Agency concerning water and waste management for the Washington, D. C. metropolitan region concludes that a council similar to the Minneapolis-Saint Paul Metropolitan Council would best meet

13. 42 U.S.C. § 3334(a) (1) (1970).

14. Thomas, *Revenue Sharing: What Will Be Its Impact on Planning?*, AIP NEWSLETTER, June, 1971, at 6; Thomas, *Administration's Special Revenue Sharing Planning Features Are Not Consistent and Do Not Lead to Coordinated National Policies*, AIP NEWSLETTER, July, 1971, at 8.

the needs of the nation's capital for a regional authority.¹⁵ Certainly the evidence from the Twin Cities is sufficiently strong that the federal government should not as a matter of uniform national policy advance only the council-of-governments approach to regional problems. At a time when federal highway projects are stalled throughout the country because of the absence of politically sensitive institutions which can consider alternatives and arrive at a politically acceptable and enforceable conclusions, serious federal consideration should be given to supporting institutions which have both the political base and the legal authority to make regional decisions.¹⁶ In this respect the Metropolitan Council can be recommended on two grounds: first, its members have a metropolitan perspective which is undistorted by refraction through representation of other units of government; second, and more important, it has a majoritarian voting structure which allows it to reach authoritative decisions on matters which do not command unanimous support. A regional body established according to a one-man one-vote criterion with authority to reach final conclusions about debatable propositions seemingly has a better long-term potential as a metropolitan decision-making unit than a regional council of governments, which characteristically has neither a broad perspective nor authority to act without a consensus.

As to the fears of racial minorities that a metropolitan government might deprive them of newly won power in the central cities and as to suburbanites' fears of a monolithic supergovernment, the Minneapolis-Saint Paul experience does provide some measure of solace. First, the creation of the regional body has not diminished the powers of local governments in important ways. The Council's powers are largely complementary to, not competitive with, the powers of the various units of local government. Second, the activities of the Metropolitan Government have at least minimally contributed to redistributive measures

15. ENVIRONMENTAL PROTECTION AGENCY, NATIONAL CAPITAL REGION WATER AND WASTE MANAGEMENT REPORT, at VI-1 to VI-15 (1971).

16. A recent report by the Comptroller General to the United States Congress reviewed the activities of the Council of Governments for the greater Detroit area and concluded with respect to that area and "other major urban areas" that:

Because of the difficulty in getting numerous independent governmental units to agree on a master plan . . . it appears that the planning process will not have a major impact in directing future area development toward the most desirable growth patterns.

COMPTROLLER GENERAL OF THE UNITED STATES, PROGRESS AND PROBLEMS OF URBAN AND TRANSPORTATION PLANNING 1 (1971).

which favor the needy cities—for example, the proposed sharing of any additions to the industrial and commercial tax base of the metropolitan area which passed one house of the legislature in 1969, was enacted in 1971.¹⁷ Although I have substantial doubts that redistributive issues of major importance will ultimately find their resolution in metropolitan forms of government, the presence of such a government does give the center cities an additional forum in which to present the case for increased aid. In any event, even though the Twin Cities area does not have a large minority group population, it seems to me mistaken to regard all forms of metropolitan government as anti-city, and thus in some cases as anti-black.

Despite its failure to place the Metropolitan Council within a broader framework, Mr. Baldinger's book is a valuable addition to the library of any serious student of metropolitan forms of government. The descriptions of the workings of the Council, although not so detailed as one might wish, give valuable insights which transcend what can be learned from a bare reading of the laws establishing the Council.

17. Minn. Laws, ch. 24, § 473F.01 *et seq.* (spec. session) (1971).

