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City Club Report on Ballot Measures 26-91 & 26-92

City Club of Portland (Portland, Or.)

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A City Club Report on Ballot Measure 26-91



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City of Portland Measure 26-91

AMENDS CHARTER: CHANGES FORM OF CITY GOVERNMENT

The Portland City Council has referred four proposed charter amendments to the May 15, 2007 ballot. One of them, Measure 26-91, proposes to amend the city charter to replace the present commission form of government with one headed by a mayor with increased executive authority and a strengthened chief administrative officer. City commissioners would lose all direct responsibility for, and authority over, bureau operations and would perform purely legislative duties.

Your committee concludes that, while the proposed change in form of government would likely promote greater efficiency in city government, the changes would also jeopardize the innovation and resiliency that benefit Portland under the current form. By granting considerable authority to each commissioner, the current form attracts strong leaders to run for City Council and offers commissioners real opportunities to implement innovative policies and projects through their assigned bureaus. Furthermore, by spreading authority broadly among commissioners, the current form not only offers citizens greater access to city leaders, it ensures that diffuse leadership can serve as a bulwark against an ineffectual or reckless mayor. Your committee recommends that Portland voters not risk losing those advantages.

Your committee believes that each form of city government has inherent advantages and disadvantages, and that substituting one form of government for another may cause unintended negative consequences. This risk analysis is particularly meaningful when considering the present proposal, where the proponents have not made a strong case that change is either necessary or beneficial. Further, your committee believes that the mayor and City Council can and must cooperate to make Portland's commission form of government operate more effectively, while preserving the resiliency and creativity that is possible with our current form of government.

City Club and the greater Portland community may want to reconsider this issue in the future, but at this time, your committee is convinced that the proposed change is unwarranted.

Your committee unanimously recommends a "No" vote on Measure 26-91.

City Club members will vote on this report on Friday, April 20, 2007. Until the membership vote takes place, City Club of Portland does not have an official position on this report. The outcome of this vote will be reported in the City Club Bulletin dated May 4, 2007 and online at www.pdxcityclub.org.

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INTRODUCTION

Ballot Measure 26-91 will appear on the ballot as follows:

Caption: Changes form of City government

Question: Shall executive authority be transferred from Commissioners to the Mayor, and Council exercise legislative and quasi-judicial duties?

Summary: The measure changes the structure of city government adopted in 1913. City Council members and Mayor currently share all executive, legislative, quasi-judicial and administrative functions. This measure distributes executive and administrative functions to Mayor and legislative and quasi-judicial functions to Council. The Mayor remains a voting member of Council, but does not have veto power. The Mayor prepares the budget, distributes work among offices, hires and discharges most employees, subject to civil service. Council adopts the budget and strategic plans, and exercises legislative oversight through investigations and hearings. The measure authorizes Chief Administrative Officer (CAO) to manage and coordinate city operations, administration and personnel, under supervision of the Mayor. The Mayor hires the CAO, subject to Council confirmation. The Mayor may fire the CAO. Bureau directors are currently hired by individual Commissioners. The measure transfers responsibility for performance, including hiring and firing of bureau directors, to the Mayor. The measure also changes the process for filling vacancies in City elective office. This measure is effective January 1, 2009.

(The caption, question, and summary were prepared by the city attorney.)

Ballot Measure 26-91 proposes replacing Portland's 94-year-old commission form of government with a mayor-council form of government and a strengthened chief administrative officer.

City Club's Board of Governors chartered a study to review the measure and assist Club members and the public to better understand the implications of the proposed changes and to recommend a "yes" or a "no" vote. The eight members of your committee were screened to ensure that no member had a conflict of interest or had taken a public position on the subject of the measure. The study was conducted during February and March of 2007. Committee members interviewed proponents and opponents of the measure, members of the charter review commission, neighborhood and business representatives, and current and former city officials and employees. Your committee reviewed relevant articles, written presentations and testimony, past City Club reports, and a range of other materials.

BACKGROUND

COMMON TYPES OF CITY GOVERNMENT

Four distinct forms of municipal government are commonly found in the United States: (1) city manager-city council; (2) mayor-city council; (3) commission; and (4) town meeting. According to the National League of Cities, the predominant forms are distributed as follows: city manager-city council with 58 percent; mayor-city council with 38 percent; and commission, town meeting and other forms combining for 4 percent. (See Appendix A for descriptions of the three most common types of city government.)

POWERS OF GOVERNMENT

Understanding the debate over the proposed measure requires basic definitions of common terms used to describe the functions of municipal governments: legislative authority, executive authority, administrative authority and quasi-judicial authority.

Legislative authority is the ultimate power to make legislation — to create the ordinances and policies that bind a city. Those directives likewise bind the executive authority, which under Portland's current form of government consists of commissioners and bureau directors responsible for specific bureaus. Legislative authority also implicitly includes the power of oversight — the legislative body's right to hold hearings and inquire about whether ordinances and policies are being properly implemented.

Executive authority is the power to implement and administer the ordinances and policies set by the legislative authority and to manage the personnel and resources of a city.

Administrative authority, in the context of this measure, refers to the day-to-day operations of bureaus.

In a municipal setting, **quasi-judicial authority** is exercised when the city council decides land-use or other kinds of appeals and is required to make formal findings and conclusions, which are guided by legal requirements.

PORTLAND'S CITY GOVERNMENT: THE COMMISSION FORM

Under Portland's city charter, the city is governed by a commission made up of a mayor and four full-time commissioners, all elected at large in nonpartisan elections. Portland's government does not separate executive and legislative functions. The mayor and the four commissioners serve as the legislative body — developing policy, setting the city's budget, and passing ordinances. All five members of the commission also serve as executive heads of bureaus assigned by the mayor. (See Appendix B for a list of current bureau assignments.) The mayor and commissioners hire professional managers to run the day-to-day operations of their bureaus and have the authority to fire both the directors and the staff of the bureaus assigned to them. The full City Council also acts in a quasi-judicial capacity when hearing land-use and other appeals.

The mayor and the four commissioners each have one vote and are generally equal in rank and power. The mayor's additional authority includes the assignment and reassignment of bureaus to individual commissioners, chairing City Council meetings, and preparation of a proposed unified budget for consideration by the full council. Under the current form of government, City Council has created the position of chief administrative officer to direct and coordinate the Office of Management and Finance and provide expert advice to the mayor, Council and bureaus on citywide matters related to administration, finance and budget. Because the Office of Management and Finance is currently under the jurisdiction of the mayor, it is the mayor who possesses the authority to hire and fire the chief administrative officer.

In addition to the mayor and four commissioners, Portland elects a city auditor to conduct financial and performance audits of city government. Each of the six elected positions holds a four-year term; the mayor and two commissioners are elected at the same time; the auditor and two other commissioners are elected two years later.

HISTORY OF PORTLAND'S FORM OF GOVERNMENT

Following a nationwide reform movement, Portland adopted the commission form of government in 1913. Before this movement, most cities were governed by a strong mayor or a city ward system with district-elected council members. Many city governments throughout the country changed from the ward form and moved to the commission form because of corruption and inefficiency under the ward system. By 1917, 500 cities were using the commission form. The same year, as many cities across the country began to adopt the mayor-council or city manager-council form, Portland voters rejected two measures to repeal the commission form. In 1926 and 1927, Portland voters approved simplification and retention of the commission form. Since 1913, Portland has voted on measures to change its city government seven times and retained the commission form each time. Of the 30 largest U.S. cities by population, Portland is the only city that continues to use the commission form of government.¹

CITY CLUB POSITIONS ON PORTLAND'S FORM OF GOVERNMENT

1933 and 1958 — Recommended City Manager: In 1933, City Club issued a report that recommended adoption of the council-city manager form of government. A similar proposal went to the ballot as an initiative in 1958 with City Club's support. Voters rejected the proposal by a margin of 53 percent to 47 percent.

1960s — Recommended Strong Mayor:

On May 19, 1961, after over one year of study, a City Club committee published a report analyzing the various forms of city government. The report concluded that Portland's government was weakened by the diffusion of management to five equal commissioners who also made up the legislative body. The report also stated that the legislative function was weakened by the inherent conflict in attending to citywide priorities and bureau-specific administrative responsibilities.

Study committee members unanimously recommended that Portland adopt a strong mayor-council form of government with a legislative city council of eight members elected at large. The report was overwhelmingly adopted by the City Club membership.

Following the Club's adoption of the 1961 report, a City Club sub-committee was charged with drafting a proposed new city charter, based on the report's recommendations. That subcommittee proposed a revised city charter on July 5, 1963, which was approved by the Club membership.² Thereafter, a coalition of civic and political groups obtained the necessary signatures to put a measure substantially similar to the one proposed by City Club on the May 1966 ballot. The Club issued a report recommending a "yes" vote on the measure, which City Club members adopted by a margin of eight to one. The citizens of Portland rejected the measure by a margin of nearly two to one.

2002 — Recommended Retaining Commission Form, Further Study:

Measure 26-30 was placed on the May 21, 2002 ballot by citizen initiative and proposed changing Portland's government from the commission form to the mayor-council form. The measure proposed giving the mayor all executive and administrative authority and the Council all legislative and quasi-judicial authority. The Council would have been increased to nine members — two elected at large and seven elected from geographically defined districts. The mayor would have been given veto power, subject to Council override.

On May 3, 2002, City Club published a 64-page report on Measure 26-30. The majority of the committee recommended adoption of the measure, claiming efforts to patch the commission form and coordinate the city's administrative functions had failed. The report concluded Measure 26-30 would remove structural barriers that increased costs and disenfranchised citizens. The majority concluded that consolidating executive power under the mayor would improve government efficiency and a purely legislative City Council would increase effectiveness and access to government.

However, a minority of the committee opposed Measure 26-30. The minority report acknowledged that city government could improve, but recommended an extensive analysis of the problems and an examination of alternative solutions rather than an immediate change in structure. The minority argued that, at that time, no one knew whether Portland's accomplishments since 1961 had come about because of the form of

government or in spite of it. The minority recommended that the city create a charter review commission to determine whether charter changes were warranted.

In a controversial vote, City Club members adopted the minority report, calling for a “no” vote on the measure. Portland voters rejected Measure 26-30 by a wide margin.

MAJOR ELEMENTS OF MEASURE 26-91

If passed, Measure 26-91 would eliminate the current commission form of government and institute a mayor-council form of government, with a strengthened chief administrative officer. Under the proposal, the role of the city’s chief administrative officer would be expanded to oversee and coordinate management of the city’s bureaus, operations and finances — a role currently performed by City Council. The chief administrative officer would be appointed by the mayor, subject to confirmation by City Council, and would be accountable to the mayor. The mayor would be the city’s chief elected executive official, with ultimate authority and political accountability for city operations and would possess the authority to fire most city employees. City Council members would focus on legislative oversight of city operations and management, policy development, long-term strategic planning and constituent representation. Key changes would include the following:

Mayor

- would have executive authority over all city bureaus
- would continue as a voting member of City Council
- would not have veto power
- would be required to appoint a qualified chief administrative officer and bureau directors, subject to confirmation by City Council
- would have sole authority to fire the chief administrative officer
- would have authority to fire all city employees except for personal staff of elected officials and limited other officials

City Council

- would consist of the mayor and four council members elected at large
- would exercise comprehensive legislative authority through ordinances and resolutions
- would conduct oversight of the management of city affairs by the mayor and chief administrative officer to ensure efficient, effective and equitable delivery of services (for example, by implementation of oversight committees on which citizens may serve)
- would develop and articulate the city’s policies, goals and long-term strategic plan
- would approve and adopt the city’s budget
- would confirm appointments of chief administrative officer, bureau directors and Council-created boards and commissions
- would appoint and remove the city attorney
- would provide constituent services and avenues for constituents to voice opinions and concerns

Chief Administrative Officer

- would be appointed by the mayor, subject to confirmation by City Council
- would report to and be accountable to the mayor and would be subject to removal by the mayor
- would direct and coordinate day-to-day operations and administration of all bureaus
- would recommend qualified nominees to the mayor to fill bureau director vacancies
- would appoint, direct and discharge all city employees other than bureau directors, the personal staff of elected officials and other officials whose appointment is otherwise provided for in the city charter
- would prepare budget for submission to the mayor and would be responsible for the administration of the adopted budget

Transition

No transition plan has been developed. There has been no detailed analysis of the transition costs nor has there been a cost-benefit analysis of the proposed changes.

PROPONENTS' AND OPPONENTS' ASSERTIONS

MAJOR ASSERTIONS MADE IN FAVOR OF CHANGING PORTLAND'S FORM OF GOVERNMENT

Strategic Direction

- *Portland has outgrown its antiquated commission form of government.* All other major cities in the U.S. abandoned this form long ago. Portland needs a government that can meet complex future challenges, such as population growth, declining state and federal subsidies, and an aging infrastructure.
- *The commission form encourages commissioners to protect their own bureaus at the expense of broader citywide initiatives.* Commissioners too often protect the budgets and interests of their assigned bureaus to the detriment of the overall interests of the city. The proposed form would encourage council members to adopt a comprehensive view of city administration that cuts across bureaus.
- *Under the proposed form, city council members would be able to devote more of their time to legislation and strategic planning.*
- *The mayor and chief administrative officer would be in touch with all aspects of government and would have a better chance of avoiding overlapping projects and problems that take them by surprise, such as Columbia Sportswear's decision to move outside Portland's city limits.*
- *The proposed form would allow the mayor to set priorities for the city without being distracted by second tier projects*

advanced by commissioners. Currently, too many projects are driven by the particular interests of individual commissioners rather than a rational assessment of citywide needs.

Delivery of Services and Representation

- *Turf battles between commissioners and between bureau heads significantly reduce coordination and efficiency (i.e., the "silo effect").* Each bureau has its own culture, dependent upon its commissioner and bureau head. Redundancies (e.g., overlapping computer systems and multiple emergency operations centers) and a lack of adequate long-range planning cause inefficiencies that have a high cost to the city and taxpayers. A mayor and chief administrative officer with greater authority would result in greater coordination among bureaus and more effective and efficient delivery of city services.
- *People think the mayor is in charge of the city now; the measure would align perceptions with reality.*
- *The current form of government exposes bureau heads and other city employees to the vagaries of electoral politics and to supervision by commissioners with little or no management experience.* The proposed form would insulate bureau heads and other city employees from political pressure, making it more likely that the city could recruit, hire and retain the best professional management and staff. It would also make it more likely that city employees could do their jobs without the influence of politically motivated or incompetent commissioners.

- *Under the current form of government, commissioners tend to abdicate their oversight responsibilities. Commissioners tend to defer to the commissioner in charge of a particular bureau in order to prevent criticism of their bureaus by fellow commissioners.*
- *Cost overruns for the aerial tram and problems with the water bureau billing system resulted from decentralized management of city services under the commission system.*
- *The proposed change would create clear lines of administrative and political accountability for operation of bureaus through the chief administrative officer to the mayor.*
- *City council members would be more available to help citizens gain better access and service from city government. Under the new form, members of City Council would have more time to visit neighborhoods and to help citizens gain better access and service from city government.*

Process

- *The proposed change resulted from a lengthy, open and deliberative process facilitated by a citizen-led charter review commission. The commission consisted of a diverse group of 26 Portlanders advised by an 11-member honorary advisory committee. The commission conducted more than 70 regular and subcommittee public meetings and participated in more than 30 community outreach meetings over 14 months. The commission also researched national and local best practices and interviewed more than 50 individuals. The recommendations were approved by a majority of commission members.*

MAJOR ASSERTIONS MADE AGAINST CHANGING PORTLAND'S FORM OF GOVERNMENT

Strategic Direction

- *Portland is a highly successful city — whatever problems exist do not justify a drastic change in Portland's government. Portland is consistently ranked one of the most livable cities in the nation and currently enjoys a AAA bond rating. Portland is known across the nation for its many model projects, programs and policies.*
- *Increasing the power of the mayor is unnecessary. Under the current form of government, Portland's mayor possesses the authority to do what he or she wants as long as two other commissioners agree. A good mayor — with a good idea — can easily obtain two additional votes.*
- *The proposed change concentrates too much power in the hands of the mayor. Under the proposed form, a mayor might push through bad decisions. The proposed form creates greater opportunities for abuse of power.*
- *The commission form allows the city to survive a weak or reckless mayor. Under the commission form, four strong commissioners with authority over various bureaus can compensate for a mayor who lacks genuine leadership skills or vision for the city.*
- *The commission form tolerates more internal dissent and debate than a mayor-council form. A system that tolerates internal dissent is more likely to result in well thought-out decisions. Real policy differences*

are aired publicly in the commission form, allowing the commissioners to understand the full range of city operations before setting policy.

- *The proposed change will not guarantee better coordination or efficiency.* Many cities operating under a strong mayor system, such as Seattle, have significant problems with coordination and efficiency.

Delivery of Services and Representation

- *Portland's commission form of government encourages innovation by City Council.* Commissioners have the ability — through executive control of their bureaus — to take the lead in developing and implementing innovative projects (e.g., Portland Streetcar, the green building initiative and a vibrant system of parks). Under a mayor-council form, only projects of interest to the mayor would be pursued.
- *Improvements in coordination and efficiency in city government are already taking effect.*
- *Portland's commissioners are very responsive and directly accountable.* If a citizen has a problem with a city service, it is easy to determine which commissioner to approach; and the commissioner in charge has the power and political incentive to address the problem. Under the proposed form, accountability would erode — a mayor and chief administrative officer could not realistically be responsive and accountable for every city bureau.
- *A mayor and chief administrative officer with more authority would not necessarily have prevented the tram*

and water bureau billing cost overruns. Many cities under the mayor-council form experience problems with cost overruns and poorly selected or executed systems.

- *Legislation is best created by those who would be implementing it.* Commissioners are able to make relevant policy and advocate for critical city needs because they have a detailed understanding of bureau operations and objectives.
- *By taking away the commissioners' executive functions, few talented or entrepreneurial people would choose to run for City Council.* The current commission form attracts active, engaged, and talented citizens to run for office because commissioners have real authority to promote an agenda and create change.
- *Opportunities for citizen engagement are currently very strong.* A stronger mayor system would insulate bureaus from citizens, increase the layers of bureaucracy, and reduce the openness and accessibility of government in Portland. Currently, citizens and community groups have access to City Hall.

Process

- *The charter review commission's report does not articulate any major problems with the current form of government, nor does it attempt to connect the proposed changes with improved city services.*
- *The cost of the proposed changes have not been determined.* There has been neither a cost analysis of the transition process nor a cost-benefit analysis of the proposed change itself.

DISCUSSION & ANALYSIS

FRAMEWORK FOR ANALYSIS

The obvious question when discussing the choice presented by Measure 26-91 is: *Will the proposed form of government improve aspects of city government that function badly, while retaining those that function well?* The latter part of this question is crucial, as Portland is a top-tier city by many measures, often ranking high on the lists of most livable cities, best bicycling cities, most walkable cities and cleanest cities. The proponents of Measure 26-91 acknowledge this, yet they claim Portland has become the city it is despite — rather than because of — the commission form of government. Opponents of the measure argue that Portland risks losing part of what has made it great by taking drastic steps to fix something that is not broken.

Proponents of Ballot Measure 26-91 face a significant challenge.

In your committee's opinion, the proponents have the burden of proof. Portland voters have rejected proposed changes to their form of government seven times. In this instance, the proponents of the measure must demonstrate not only that the current commission form creates significant problems but also that the option the charter review commission selected — the mayor-council form with a strengthened chief administrative

officer — is the best method by which to solve those problems. The onus is on the proponents to present a clear and compelling case that: (1) there are problems with the current government; (2) these problems are attributable to the form of government; and (3) Measure 26-91 offers the best solution to the identified problems without sacrificing the positive attributes of the present form.

“ In this instance, the proponents of the measure must demonstrate not only that the current commission form creates significant problems but also that the option the charter review commission and City Council selected — the mayor-council form with a strengthened chief administrative officer — is the best method by which to solve those problems. ”

CONCRETE EXAMPLES OFFERED BY PROPONENTS

In attempting to answer the question above, your committee asked nearly every witness it interviewed to give concrete examples of problems that have been caused by Portland's present form of government and how things might be different under the proposed form. Following his 2007 State of the

City speech, a City Club board member asked Mayor Potter to comment on what would have been different under his administration if the proposed charter reform had been in effect. In response, Mayor Potter did not provide even one concrete example of what might have been different in Portland had the proposed form of government been in effect.

When asked a similar question by your committee, Mayor Potter focused on the existence of eight emergency operations centers within city bureaus. He stated they are redundant and difficult to coordinate. Mayor Potter also argued that, under the proposed form, he would have the authority to consolidate and eliminate these and other redundancies.

That argument suffers from two fundamental flaws. First, regardless of the form of government, any change to the emergency operations centers would have to be approved by Council. Second, Mayor Potter has not yet proposed any such change to his fellow commissioners, so it is impossible to say that the commissioners would oppose any such change.

In other words, a restructuring of the emergency operations centers could happen under the current form as easily as it could be achieved under the proposed form. Mayor Potter does not point to specific hurdles presented by the form of government that have prevented

him from consolidating the centers, nor does he indicate that he has tried to consolidate them — and been thwarted — under the present form. *

Your committee concludes that the existence of eight emergency operations centers is not linked to the current form of government. If there is a good reason to restructure the emergency response system, the mayor or any other commissioner needs simply to make a proposal and convince two other others to support it — the same process that would be required under the proposed form of government.

Considering Mayor Potter's other examples, and the examples cited by other proponents, there was no compelling evidence that the problems they raised were caused by the form of government, or that the problems would not have occurred under the proposed form of government. Other examples cited by proponents include:

Columbia Sportswear leaving Northeast Portland for neighboring Washington County: In 2001, in what was often described as a "surprise" move, Columbia Sportswear moved its headquarters from Portland to Washington County. In the intervening years, there have been barbed accusations directed back and forth about whether the city of Portland was to blame for the loss. Nonetheless, when asked directly, there was near unanimity

* Mayor Potter currently controls the emergency response system. The Web site for the Office of Emergency Management, states: "The Portland Office of Emergency Management (POEM, created in FY 2003-04) centralizes leadership and coordination responsibilities for emergency management into a single organization under the direction of the Mayor."

from witnesses, both proponents and opponents, that Columbia Sportswear leaving Portland had nothing to do with the form of government.

Water bureau billing software

problem: In 2000, the city installed a new software program to bill customers for water and sewer use. Problems with the installation or implementation of the new software caused there to be millions of dollars in billing errors. Proponents of the proposed form of government invoked this problem as evidence that Portland is compromised by its form of government. That analysis, however, is not compelling, because no witness was able to identify any way in which the form of government caused or contributed to the problem. Indeed, the city auditor, Gary Blackmer, whose job includes evaluating problems that arise, noted that every city has these kinds of problems, regardless of the form of government.

Aerial tram cost overruns: The city of Portland, through the Portland Development Commission, was a public partner in the largely private venture of building an aerial tram that connects the new South Waterfront neighborhood to the main campus of Oregon Health Sciences University on Marquam Hill. Costs of the project significantly exceeded original projections, and in the end cost approximately \$57 million dollars. The city's share of this was \$8.5 million. Some proponents suggested that the cost overruns were attributable to a failure of the present form of government. Similar to the water bureau issue, witnesses could not point to any persuasive evidence to support that claim. To the contrary, witnesses stated

“ That analysis, however, is not compelling, because no witness was able to identify any way in which the form of government caused or contributed to the problem. Indeed, the city auditor, Gary Blackmer, whose job includes evaluating problems that arise, noted that every city has these kinds of problems, regardless of the form of government. PP

that the cost overruns were a function of genuine construction issues (e.g., skyrocketing steel prices and changes in design) and of failures of the specific individuals involved.

Near-sale of Mt. Tabor property

to Warner Pacific College: In 2006, representatives of Portland Parks and Recreation signed a memorandum of understanding to sell a piece of city property on Mt. Tabor to Warner Pacific College. Commissioner Randy Leonard opposed the transaction and asserted that the property was owned by the water bureau rather than the parks bureau. After the proposed transaction came to the public's attention, it stalled. Both proponents and opponents used this example to help demonstrate their views about the form of government. Proponents of the measure argued that under the new form of government, there never would have been confusion about which bureau had control over the sale of property and that Council would have set the procedures for the sale of

city property. Opponents argued that, under the proposed form of government, the mayor could have sold the property outright without adequate input from the public or from other Council members. Because Council can — and almost surely would — limit the mayor's authority to sell significant amounts of city-owned property under either form of government, your committee concludes that the near-sale of Mt. Tabor property is not a convincing example for either side of the debate.

Burnside-Couch couplet: For years there has been discussion about changing West Burnside into a one-way street, re-routing traffic moving the opposite direction to Northwest Couch Street. As the Pearl District's development along Northwest Couch has blossomed, opposition to this change has grown. A March 2007 editorial in *The Oregonian* argued both that the couplet had not been thought through and that the commission form of government was to blame. The testimony presented to your committee was contrary to the opinion of *The Oregonian's* editorial board. The proposed changes to Burnside and Couch streets have been part of an overall transportation plan for decades, and nothing about the form of government had any effect on that plan or on the recent dispute about whether the plan is a good idea. In the end, these types of decisions are policy decisions, which would be decided by a Council vote under either form of government.

EVALUATION OF ARGUMENTS

Strategic Direction

Long-Range Planning

Your committee heard many witnesses on both sides of the debate express a desire for citywide long-range planning. Proponents of the measure argue the absence of a comprehensive citywide plan during the last twenty years demonstrates a weakness of the commission form of government. Your committee is not convinced by this argument and believes it to be a red herring. The process for *approval* of a strategic plan must be distinguished from *implementation* of such a plan. The process for approval is the same under either form of government — it requires the agreement of a majority of the entire City Council. Your committee believes that only the latter aspect — the implementation of a strategic plan — is related to the form of government.

Nearly all witnesses agreed there is nothing inherent in the commission form of government that prevents a strong leader — including the mayor — from spurring Council to develop a comprehensive long-term strategic plan for the city. Portland’s history is reflective of this point. A number of past mayors have been successful at planning within this form of government. Under the current form, a mayor needs only two additional votes to promote an agenda that considers all aspects of the city’s responsibilities and broadly addresses the needs of its citizens. Under either form of government, strategic planning relies upon the City Council as a whole.

Nearly all witnesses agreed “there is nothing inherent in the commission form of government that directly prevents a strong leader — including the mayor — from spurring Council to develop a comprehensive long-term strategic plan for the city. PP

Your committee agrees with the proponents that it would be easier under the proposed form of government for a mayor to unilaterally implement projects that are consistent with his or her strategic vision because City Council members would have no authority to interfere with the mayor’s implementation. However, your committee believes that by involving the entire Council in implementation, as well as planning, the current form provides better checks and balances against a mayor who might try to implement flawed policies.

Your committee is persuaded that under the current form of government a mayor, exercising leadership, and commissioners, engaged as cooperative participants, are capable of creating and implementing a citywide strategic plan if they make it a priority.

Budgeting

Your committee is persuaded that, under the commission form of government, the commissioners are inclined to protect the budgets of the bureaus for which they have responsibility and also are inclined not to reduce the budgets of

other bureaus in a quid pro quo effort to shield their own budgets from heavy scrutiny. The proponents of Measure 26-91 argue that a council with no bureau responsibilities would exercise its budget oversight responsibility more diligently.

Your committee agrees that, under the proposed form of government, council members would not have the same incentive to protect individual bureau budgets. However, your committee also believes that the loss of detailed knowledge about a particular bureau's operations would be detrimental to the budgeting process. Commissioners who have a close working knowledge of bureau operations know which sections of the budget are most sensitive to cuts and can effectively advocate for retaining funds for crucial services or projects when funds are scarce. They also can identify more effectively areas where additional funds would have the greatest impact when revenues increase.

Tools are available under the current form that are intended to prevent commissioners from guarding their own bureaus' budgets at the expense of overall city priorities. Under the commission form, a mayor who wishes to pursue a collective vision for the city may champion that agenda. Using the budget process over which the mayor has initial control, the mayor could require a robust debate among all commissioners creating a vision beyond the next fiscal year, such as a five-year plan. Moreover, the commissioners have addressed this issue recently by instituting a policy requiring each commissioner to present his or her bureaus' budgets to two other commissioners for review

and modification before presenting the budget to the mayor's office. Your committee has concluded that these protections mitigate the concerns the proponents seek to address by changing Portland's form of government.

Delivery of Services and Representation

Coordination Among Bureaus

Proponents of the measure argue that city bureaus are isolated from one another and suffer from a profound lack of coordination because of the current form of government. Your committee is persuaded that the city should improve communication and coordination among the bureaus. However, some witnesses familiar with a strong mayor form of government stated that city bureaus operating under a strong mayor form also sometimes suffer from isolation and lack of communication or, a "silo effect." The term "silo effect" has become a sound bite that stifles thoughtful discussion of a valid point.

**The term 'silo effect' has
“ become a sound bite that stifles
thoughtful discussion of a valid
point.** **PP**

When asked for examples of how the commission form of government has been detrimental to Portland, proponents of the measure often cite the decision by Columbia Sportswear to leave the city without significant consultation with the mayor. However, your committee heard from numerous witnesses, including two former mayors, who did not find a connection between Columbia Sportswear's move and the form of city government. Most witnesses stated the real cause was a lack of communication between the mayor, commissioners and bureau directors and a lack of relationship between City Hall and the business community. Following Columbia Sportswear's move, Mayor Katz instituted a Strategic Development Opportunity Team. This inter-bureau team was designed to bring citywide issues to the attention of the mayor and commissioners.

Moreover, there is no guarantee that a change in the form of government will ensure better inter-bureau collaboration. In fact, several witnesses pointed to Multnomah County as a clear example of a strong executive government that has not prevented silos from developing on a departmental basis.

Your committee has concluded that changing the form of government is not the only method — and certainly not the best method — available to foster collaboration and communication among bureaus. There are examples of collaboration under the current form: two recent reports on cross-bureau planning projects, the Asset Status and Condition Report (Dec. 2006) and the River Renaissance Project's State of the

River Report (Sept. 2006) document how bureaus are working together successfully now.

Nonetheless, while your committee recognizes that the proposed form of government may create incentives for cooperation and communication that do not exist under the current form, your committee is willing to risk some lack of coordination in order to preserve the strengths of the current form.

Efficiency, Cost-Savings and Operations

Under the commission form, the same incentives to defer to other commissioners during the budgeting process leads to tacit agreements not to inquire too deeply about other commissioners' bureau operations. Your committee agrees that unified bureau administration would create an environment for increasing oversight, reducing redundant services, and promoting collaboration among bureaus. But, there is nothing magical about the proposed form. As with the current form, increased efficiency and collaboration would rely heavily upon individual officials and employees to pursue inter-bureau cooperation and communication. Hence, the question: can the mayor devise a cost-effective service delivery system if the voters do not adopt Measure 26-91? When directly posed that question by your committee, Mayor Potter answered with a qualified "yes." He observed that the process to achieve that goal would be more burdensome if he did not have all the bureaus under his control.

In considering this argument, your committee is mindful that effective changes to the city's service delivery systems (whether it is reducing the number of computer software systems or the number of emergency operations centers) will occur only if the mayor has Council's support. Further, your committee recognizes that commissioners must run for citywide election on the records they establish during their terms. If the mayor presents an agenda of streamlining services, such as implementing uniform employee training and retention programs, management training, improving public engagement procedures or the like, commissioners who resist those innovations in their bureaus will ultimately have to answer to voters.

Although the proponents argue that a change in form of government would ultimately save taxpayers money, they have presented no compelling evidence to support that assertion. In fact, the city has not determined the cost of the proposed transition or any potential costs or savings that might result from the proposed change.

Proponents of Measure 26-91 claim that commissioners often have little management experience, or that the present form of government allows for election of amateur bureaucrats to run technically complex bureaus. Your committee does not find this argument to be compelling because, under the present form of government, each bureau director is a professional manager. Portland's bureau directors have had generally stable tenures, even though the commissioners to whom they report

Your committee believes that
“ Portland is enhanced by our city commissioners having a detailed, working knowledge of bureaus, a knowledge that commissioners gain by exercising executive authority.

PP

change occasionally due to elections or reassignments.

More importantly, as it relates to the difference between the present and proposed forms of government, the present form of government allows commissioners to develop an intricate knowledge about how city bureaus work. Your committee believes that Portland is enhanced by our city commissioners having a detailed, working knowledge of bureaus, a knowledge that commissioners gain by exercising executive authority. By contrast, under the proposed form of government, eliminating commissioners' responsibility for implementing legislative decisions would generally diminish their understanding of the needs of the bureaus and of the city as a whole.

Even if your committee had been persuaded that Measure 26-91 would vastly improve efficiency in providing city services, proponents of the measure have not presented voters with an analysis of new costs that might offset savings. Indeed, while proponents frequently have cited potential cost savings in the millions or tens of millions of dollars, your committee found no evidence

to support those figures. Not much is known about the costs of a more centralized administration. Furthermore, the proposed form of government would likely add some costs in the form of additional staffing in the offices of the mayor and the chief administrative officer. At least one commissioner has also suggested that, like the Oregon Legislature, City Council under the proposed form of government would require additional personnel to engage in legislative oversight of the mayor's performance of executive duties.

Your committee listened carefully to proponents' arguments that the aerial tram cost overruns and the water bureau billing difficulties are indicative of a lack of streamlined management of city services and would not have occurred under the proposed form of government. However, we were persuaded that such overruns and problems can and do occur in cities across the United States, irrespective of form of government, and in the private sector as well.

Meeting Public Perception

The contention that this measure would align public perception with reality — giving the mayor the authority over all city functions that the public already assumes he has — is also unpersuasive. If most people think the city runs the zoo, or that the city owns the bridges that span the Willamette River, should ownership of Metro's zoo and Multnomah County's bridges be transferred to the city of Portland? Citizens frequently call the mayor's office seeking solutions and are directed to the commissioner in charge of the relevant bureau. Your committee did

not find any evidence to suggest that Portland residents do not understand that different people might be in charge of different bureaus, nor did we find evidence that residents face significant barriers to learning that commissioners are in charge of bureaus assigned by the mayor. In fact, your committee found that citizens generally believe the commissioners and city bureaus are accessible. The 2006 report, *Common Themes & Comments from Portland's Neighborhood Leaders* — an outcome of an all-day meeting attended by representatives of over 80 neighborhood associations as well as members of the charter review commission — also concluded Portland's government is accessible.

Public Participation & Accountability

Despite both proponents and opponents of the measure claiming that their favored form of government maximizes public participation, your committee is persuaded that the proposed form of government threatens the current high levels of civic engagement, government responsiveness, and citizen access to government. Instead of five commissioners who can respond to constituent requests and complaints like mayors, the proposed form would likely compromise the mayor's ability to hear citizens and take action because of the increased breadth of the job and the buffering effect of an unelected chief administrative officer and his or her staff. From a citizen perspective, access to decision-makers and city responsiveness would likely be reduced. Your committee found that the commission form is likely to be more accessible than the single-point of contact proposed by the

measure suggested by the proposed form. In fact, your committee heard constituents complain that their access to the mayor's office was diminished when Mayor Potter took all of the bureaus into his portfolio early in his tenure.

Moreover, under the current form, accountability to the public ultimately rests with the elected official in charge of a bureau. Because bureaus are assigned to commissioners, the commissioner is both the administrator in charge (with the aid of professional bureau directors) and the elected official who is ultimately accountable. As a result, voters can hold commissioners responsible for the poor performance of particular bureaus at election time. Under the proposed form of government, the mayor would become responsible for all of the bureaus, necessarily lessening Council's collective knowledge about the specifics of bureau services and, therefore, able to defer its accountability for problems.

Your committee is convinced that Portland's many successes are in part the result of the character and involvement of its citizens. Their insistence on a participatory and open government is instrumental and will be the foundation of the city's health regardless of the form of government. Nonetheless, we are convinced that the current form of government fosters broad public debate and harnesses the civic energy of Portlanders in a way that would be diminished by the proposed change.

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proposed change.**

pp

Personnel

Elected officials

One point on which witnesses broadly agree is that good government depends far more on the talent, vision and abilities of the participants than it does on the form of government. Portland's history validates this. Your committee believes that, over the past 35 years, City Council has attracted many strong, visionary leaders who have been able to implement significant projects through their work as commissioners in charge.

A significant factor contributing to Portland's success is its ability to attract and retain talented and visionary leaders. Your committee is convinced that there is a direct relationship between entrepreneurial leadership and the commission form of government. Your committee learned from present and past commissioners and other witnesses that strong leaders are attracted to Council — in part — because of the opportunity that commissioners have to effect real change in the city.

Your committee is concerned that if Measure 26-91 were to pass, the reduced role of city commissioners would not

attract the kind of talent Portland needs. The potential for strong leadership on City Council is one of the primary benefits of the commission form of government worth preserving.

Professional Staff and Employees

Some witnesses suggested that Measure 26-91 would better enable Portland to recruit high-level professional management for the bureaus if those professionals reported to a unified executive, insulating them from the day-to-day politics of the current form. Nonetheless, past and present city employees testified that Portland now attracts, and the city has hired, some of the most talented and committed individuals in the country to run and operate its bureaus. Your committee is not persuaded either way whether the current or proposed form of government is more conducive to recruiting and retaining the best professional staff.

Beyond questions of recruitment, some proponents of the measure argue that the involvement of politicians with day-to-day operations of the bureaus politicizes basic administrative decisions and that commissioners can, and do, micromanage employees within a bureau.

Your committee found it hard to believe that Measure 26-91 would substantially change the relationship between government employees and elected officials. Under the present form of government, commissioners are responsible for their own bureaus and are held accountable for the actions of their own bureaus. Employees of those bureaus are ultimately responsible to the

commissioner in charge of their bureau. Commissioners have a vested interest in making sure that their bureaus follow legislative policies and directives.

By comparison, Multnomah County operates under a form of government very similar to the one proposed in Measure 26-91. Your committee heard testimony that, even though county commissioners are not directly responsible for executive or administrative decisions, conflicting demands from those county commissioners creates a difficult work environment for county employees. Even if one did believe that insulating bureaus from politics is a good idea, your committee sees the county's experience as evidence that the changes in Measure 26-91 would not necessarily insulate bureau employees from political influence.

With regard to city employees' efficiency under the proposed form of government, your committee accepts the likelihood that employees could do their jobs more efficiently if they no longer had to answer to elected officials. But your committee concludes that city employees will have scrutiny from elected officials under any form of government and that city employees — like elected officials — are accountable to the citizens of the city they serve. In addition, given the bureaucracy that would likely develop under a purely legislative commission — a group of legislative staff whose job would be engaging in oversight of bureaus — no form of government would, or should, shield public employees from council oversight.

Process & Implementation

Your committee believes the charter review commission conducted its study and deliberations with great effort and passion for the success of the city. The commission engaged in a lengthy and inclusive process and its membership voted for the recommendations embodied in the measure. However, your committee did not find the commission's report to be compelling: it failed to discuss the commission's evaluation of evidence; it did not create a connection between its research and its recommendations; and hence, its recommendations do not provide Portland voters a useful analytic framework for considering the merits of the measure.

The charter review commission's report on the form of city government does not make a case for the changes it proposes. While your committee does not consider the shortcomings of the report alone enough to recommend a "No" vote on Measure 26-91, we have weighed it as a factor in our analysis.

Moreover, there are several weaknesses in the language of the amendment itself. First, the proposed charter does not create a tight structure for creating and implementing a citywide strategic plan. Council is not required to execute its new planning responsibility on a regular, ongoing basis; and most importantly, budget preparation, approval, and review are not tied to the strategic plan.

Second, there is no transition plan, nor an estimate of transition costs or additional costs the proposed form would generate.

Third, the meaning of several of the proposed changes is still the subject of dispute between people who have read the measure closely. For example, the provisions governing how to fill vacancies and the authority to fire staff in the city auditor's office remain unclear. More importantly, the mayor's authority to sell property without Council's approval is unclear and is the subject of contentious debate between proponents and opponents. Even proponents of Measure 26-91 concede that Council would have to pass ordinances to establish procedures that would constrain the authority granted to the mayor to dispose of public property.

Finally, the proposed role of council members is not sufficiently articulated in the measure. Your committee encountered wide disagreement about the time commitment that would be required to perform the legislative function and about whether council seats would continue to be full-time positions under the proposed form. It is also unclear to your committee whether commissioners would retain their present salaries and staff levels. Proponents could not clearly articulate exactly what Council would do beyond saying that council members would provide oversight of the bureaus (by holding hearings and forming committees), legislate, approve the budget and advocate for citizens. Without better definition of Council's tasks, there is a risk that Council would become significantly weaker or an adversarial impediment to the mayor and the chief administrative officer.

PAST CITY CLUB REPORTS

Your committee gave substantial weight to past positions taken by the Club on the same or related issues. Over the past half-century, several City Club study committees concluded the current form of city government is inadequate, and all of those committees recommended a change from the present commission form of government. We have reviewed those reports and realize that we are the first study committee to depart from the established City Club study committee precedent — including the most recent City Club report of 2002 in favor of the change that was not adopted by City Club members. We, like previous study committees, agree that city government must improve, but we depart from the trend of endorsing a different form of government.

It is worth noting that the 1961 and 1966 City Club reports focused on the same type of momentous demographic shifts and future growth that the charter review commission's recommendation is based upon. Yet the test of time has not borne out the calamities predicted in these reports; rather, the last 40 years show Portland has been remarkably successful compared to many cities in managing change and growth.

Despite the Club's analysis of earlier proposals, your committee unanimously believes that proponents of change in the form of government have not made a strong case that Portland's present form is unable to produce good results, or that the proposed form will. In addition, we have identified significant potential drawbacks in the proposed form of government. Your committee is not convinced that Measure 26-91 offers the best solution, nor are we comfortable with the associated risks.

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we depart from the trend of
endorsing a different form of
government.**

PP

CONCLUSIONS

Your committee concludes that Portland's government has ample room to improve; the same surely could be said of any government or any other organization — public, private or nonprofit. Yet, we are unpersuaded that Measure 26-91 offers a net improvement to the governance of Portland. The main challenges under the present form of government are (1) effective cross-bureau coordination, especially in formulating and implementing the city's budget, vision and long-range plans; and (2) efficient use of resources to deliver city services. Your committee concludes that these challenges can be met and overcome under the current form and that Portlanders should not accept the negative tradeoffs inherent in the proposed change.

The present form of government creates innovation and flexibility. Your committee concludes that some measure of Portland's success and character is due to the dynamic exchange among commissioners, and between commissioners and the public, that occurs under our commission form of government. Council's ability to take advantage of opportunities that cannot be foreseen by planning is key to innovation. These attributes are valuable, and must be preserved. Also worth preserving is the proven flexibility and resiliency of the current form, where strong commissioners with a detailed working knowledge of bureaus can maneuver through the bureaucratic structures, serve as knowledgeable and effective access points for concerned constituents, and protect against weak or reckless mayoral leadership.

The proposed form of government creates a danger of diminished leadership, innovation and flexibility. As we see it, any proposed change to the form of government must retain or improve upon what works well. Bureau-level innovation, creativity and citizen involvement, which are this city's hallmarks, are at risk if the present form of government is replaced. Your committee also believes that strong and innovative leaders are less likely to seek positions on City Council if Measure 26-91 is approved by voters.

While the city needs to strategically plan its future, the present form of government allows that to happen, without incurring the risks of the proposed form. There is no question that there is significant work to be done by Council. Portland will face important and difficult issues in the coming decades, such as changing demographics, aging infrastructure and strained resources. Those are not categorically different than the challenges that have arisen over the past several decades — decades that saw our present form of government adapt and respond to those challenges. We emphasize that the city cannot coast — the mayor and all commissioners must turn immediately, and collaboratively, to effective long-range planning and to increasing fiscal and operational efficiency.

Specific efforts must be undertaken under the present form to address present and future problems.

While the present form of government is not an impediment to creating a strategic plan, it may pose a potential roadblock to its implementation. Indeed, all commissioners must collaborate with the mayor to implement a long-range, strategic plan. That implementation must include coordinated efforts between commissioners and their assigned bureaus. It must include specific plans for each of the city's bureaus that support and implement the citywide strategic plan, not a series of separate plans that treat bureaus as isolated outposts.

The potential for poor communication among bureaus in supporting and implementing a citywide plan exposes one of the potential weaknesses of the commission form of government. Your committee believes that kind of poor communication could also exist under the proposed form of government. More importantly, previous administrations have illustrated that, when the various bureaus act in concert under strong Council leadership, the commission form of government can be a powerful asset in a cohesive city government. With past experience to guide our thinking about what could occur in the future, Portland has clear evidence that the present form of government is capable of both meeting existing needs, and generating and implementing creative and forward-thinking ideas.

The potential for poor communication among bureaus in supporting and implementing a citywide plan exposes one of the potential weaknesses of the commission form of government.



Voters should reject Measure 26-91.

With such a rejection, the question will become: *within the commission form of government, will the city's elected officials improve systems to promote coordination and collaboration among bureaus and lead the city in implementing an effective strategic plan while maintaining innovation and flexibility?* Your committee concludes that they can, and as concerned citizens, we insist that they must.

Devising systems to ensure collaborative planning and implementation among bureaus is possible if the mayor, exercising leadership, and the commissioners and city auditor, as engaged participants, make collaboration a priority. If they fail to do so, the citizens of Portland must hold them accountable, by replacing them. If compelling evidence develops that the failure to accomplish those goals is due to Portland's form of government, then the citizens of Portland should re-open this conversation. At the present time, no such compelling evidence exists, and the risks of adopting Measure 26-91 outweigh any of the arguments in favor of the change.

RECOMMENDATION

Your committee unanimously recommends a 'No' vote on Measure 26-91.

Respectfully submitted,

Spencer Ehrman
Tony Iaccarino
Gail Meyer
Jonathan Radmacher
Greg Shortreed
Barb Slaughter
Jon Stride
Jim Westwood, chair

Jeannie Burt, research adviser
Chuck Stuckey, research adviser
Wendy Radmacher-Willis, executive director
Wade Fickler, policy director



WITNESSES

- Debbie Aiona**, Action Chair, League of Women Voters of Portland
- Mort Anoushiravani**, Former Administrator, Bureau of Water Works, City of Portland
- Robert Ball**, Member, Charter Review Commission
- Gary Blackmer**, Auditor, City of Portland
- Bud Clark**, Former Mayor, City of Portland
- Jeff Cogen**, Commissioner, Multnomah County
- Carol Cushman**, President, League of Women Voters of Portland
- Neil Goldschmidt**, Former Mayor, City of Portland
- Charlie Hales**, Former Commissioner, City of Portland
- Vera Katz**, Former Mayor, City of Portland
- Gil Kelley**, Director, Bureau of Planning, City of Portland
- David Knowles**, Former Director, Bureau of Planning, City of Portland
- Randy Leonard**, Commissioner, City of Portland
- Paul Meyer**, Member, Charter Review Commission
- Michael Mills**, Ombudsman, City of Portland
- Tom Potter**, Mayor, City of Portland
- Ethan Seltzer**, Director, School of Urban Studies and Planning, Portland State University
- Chris Smith**, Treasurer, Committee for Accountable City Government
- Erik Sten**, Commissioner, City of Portland
- Shawn Sullivan**, Principal, Architect, Sullivan Architectural
- David Wang**, Chair, Charter Review Commission
- James Winkler**, President, Winkler Development Corporation

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¹ National League of Cities.

² City Club Bulletin, Vol. 44, No. 5.

APPENDIX A: COMMON TYPES OF CITY GOVERNMENT

City Manager-City Council

Under this form of government, a city council hires a professional city manager who reports directly to the council. Although the council retains both legislative and administrative powers, it delegates the day-to-day administrative functions to the city manager. Thus, the city manager serves as the professional executive in charge of municipal affairs but reports to and is subject to dismissal by the council. In this form of government the mayor may be elected by the city at large or by the council. The mayor's responsibilities are largely ceremonial with no appointive or administrative power.

Mayor-City Council

Under the mayor-council form, a mayor is elected at large and is the chief executive officer. The mayor has the power to appoint and remove department heads and is responsible for the preparation of the budget for council consideration. Some cities using a mayor-city council form grant veto power over council decisions and are classified as strong mayor systems. The mayor is also the chief executive officer for the city. A number of cities with this form of government have a chief administrative officer who has professional training and experience similar to that of a city manager. The administrative officer is appointed by and is directly responsible to the mayor for managing daily administrative functions. Legislative functions are vested in the city council. This structure separates administrative responsibilities from legislative policy making.

Commission

The commission form of government combines legislative and administrative responsibilities in a group of elected commissioners (commonly three, five or seven). The mayor is a member of the commission and may be elected separately or chosen from the group of elected commissioners. The mayor may have unique powers and responsibilities, but generally is equal in power to other commissioners. Commissioners commonly have both legislative and executive responsibilities. The commission makes city policy, enacts city ordinances and appropriates city funds. Individual commissioners administer city bureaus.

APPENDIX B: CITY OF PORTLAND

DIVISION OF RESPONSIBILITIES

Commissioner of Public Utilities Sam Adams

- Bureau of Environmental Services
- Office of Transportation

Commissioner of Public Safety Randy Leonard

- Bureau of Water Works
- Bureau of Hydroelectric Power
- Bureau of Emergency Communications
- Bureau of Development Services

Commissioner of Public Affairs Dan Saltzman

- Bureau of Parks & Recreation
- Office of Sustainable Development
- Office of Cable Communications
- Children's Investment Fund

Commissioner of Public works Erik Sten

- Bureau of Fire, Rescue and Emergency Services
- Bureau of Housing & Community Development

Finance & Administration Mayor Tom Potter

- Bureau of Planning
- Bureau of Police
- Office of Neighborhood Involvement
- Office of Emergency Management
- Government Relations
- City Attorney
- Office of Management & Finance
- Portland Development Commission
- Bureau of Licenses

City Auditor Gary Blackmer

- Assessments & Liens
- Audit Services
- City Recorder
- Fire & Police Disability & Retirement
- Hearings Office
- Independent Police Review
- Management Services
- Ombudsman
- Progress Board

APPENDIX C: CITY CODE RELATED TO CURRENT CHIEF ADMINISTRATIVE OFFICER

3.15.010 Organization.

The Office of Management and Finance shall be under the direction and control of the Chief Administrative Officer (CAO). The CAO shall be responsible for the overall coordination and management of the bureaus of the Office of Management and Finance to assure that the goals of the City Council are met and the mission and goals of the Office of Management and Finance are achieved. This includes responsibility for the productivity, responsiveness and effectiveness of the services and programs of the Office of Management and Finance. The Office of Management and Finance also shall be charged with providing ongoing evaluation and proposing improvements to city administrative service functions in all city bureaus. Day-to-day supervision of administrative service functions outside the Office of Management and Finance will remain with bureau managers. The CAO will consult with bureau managers and labor unions in fulfilling his or her duties.

3.15.030 Office of the Chief Administrative Officer.

- A. The Office of the Chief Administrative Officer, City of Portland shall be supervised by the CAO and shall include such other employees as the Council may provide. The Office of Chief Administrative Officer shall be responsible for the overall coordination of the administrative service functions of the City.
- B. In conjunction with the annual budget, the CAO shall provide the City Council a detailed annual workplan to improve city administrative services
- C. The CAO will meet with the City Council at least twice a year to report on efforts to continually evaluate and improve all city administrative services, including those contained in the annual workplan.
- D. The CAO or designee shall perform the duties of the position referred to in the Oregon Revised Statutes as Budget Officer.
- E. The CAO may determine that the City's administrative services are more effectively and efficiently provided by another configuration or organization of bureaus and may recommend such reconfiguration or reorganization to the City Council.

- F. Upon approval of the City Council, the CAO or designee shall have the specific authority to:
1. Implement policies, practices, rules, regulations and systems for providing all city administrative services. All bureaus and agencies shall comply with City Council approved policies, practices, rules, regulations and systems established for administrative services.
 2. Determine if any administrative service should be provided by city staff or outside vendors. Bureaus shall use the services of the Office of Management and Finance unless otherwise authorized by the CAO or directed by the City Council.
 3. Provide administrative services to any other governmental or private agency when it is in the interest of the City to do so.
 4. Provide additional administrative services as directed by the Council.
 5. Recommend to Council organizational structures for providing administrative services citywide.



A City Club Report on Ballot Measure 26-92

Published in the City Club of Portland Bulletin
Vol. 89, No. 16, Friday, April 20, 2007

City of Portland Measure 26-92

**AMENDS CHARTER: DEFINES MISSION, INCREASES OVERSIGHT OF
PORTLAND DEVELOPMENT COMMISSION**

Measure 26-92 is one of four ballot measures that resulted from the work of a charter review commission authorized by City Council and appointed by Mayor Tom Potter in November 2005. The charter review commission made recommendations to amend the city charter as it relates to the Portland Development Commission. Most of those recommendations were addressed in Measure 26-92; however, City Council made several important amendments when referring the measure to the May 2007 ballot. One of those changes was significant enough for your committee to recommend a “no” vote on this measure.

Measure 26-92 proposes that “City Council shall be the budget committee for the Commission.” Your committee believes strongly that this change would give City Council too much control over the decisions now made by PDC and would effectively end the agency’s quasi-independent status. The charter review commission did not recommend that City Council be the budget committee for PDC, and according to the commission’s chair, now that City Council has included this provision in the ballot measure, the idea still has little to no support among members of the charter review commission. In fact, the commission concluded that PDC would best serve the city of Portland by remaining a quasi-independent entity.

Your committee asserts that PDC’s relative independence from City Hall is its greatest asset. While a 2005 City Club report called for changes in PDC’s relationship with City Hall and the planning bureau, as well as a better system for collecting and using input from citizens, your committee believes Measure 26-92 would be a significant step in the wrong direction. The same 2005 report by City Club also found that the very structure of PDC, which is one step removed from the political pressure inherent with elected office, is critical to the effectiveness of the agency.

Your committee found insufficient justification to increase City Council’s direct authority over PDC as called for by Measure 26-92 and its supporters. For the reasons stated above and more thoroughly outlined in the body of this report, your committee unanimously opposes Measure 26-92.

City Club members will vote on this report on Friday, April 20, 2007. Until the membership vote takes place, City Club of Portland does not have an official position on this report. The outcome of this vote will be reported in the City Club Bulletin dated May 4, 2007 and online at www.pdxcityclub.org.

INTRODUCTION

Ballot Measure 26-92 will appear on the ballot as follows:

Caption: Amends Charter: Defines mission, increases oversight of Portland Development Commission.

Question: Shall the Portland Development Commission budget be subject to City Council oversight with financial and performance audits by City Auditor?

Summary: Under the current Charter, the Portland Development Commission (PDC) is the City's urban renewal agency. This measure directs PDC to implement the City's urban renewal, affordable housing and economic development vision and goals. If authorized by state law, the Council will be the budget committee for the Commission. The Commission budget will be required to incorporate City goals and will be submitted to the Council in conjunction and conformity with the City budget process. The measure provides that the Commission shall advance social equity, involve the constituencies of the City, and promote home ownership and the creation and retention of multi-family housing.

The measure authorizes the Mayor to appoint and remove PDC Commissioners, with approval of the City Council. The measure provides that the Commission shall be subject to financial and performance audits by the City Auditor. The measure requires that the annual Commission report to Council include an evaluation of Commission activities with respect to City adopted vision and goals. The measure would be effective July 1, 2007.

(The caption, question, and summary were prepared by the city attorney.)

City Council referred Ballot Measure 26-92 to the May 2007 ballot by a vote of 3-2. If approved, Measure 26-92 would amend the city charter to restate the general powers and duties of the Portland Development Commission and increase City Hall's oversight of PDC.

PDC, the city's urban renewal agency, was established in 1958 by a narrow majority of the popular vote. It is administered, not as another city agency or directly by the City Council, but by a five-member commission appointed by the mayor with approval of Council. While the commission has more autonomy than any city agency, City Council approval is required for the creation, expansion or extension of urban renewal areas, authorization to sell bonds, and final budget adoption.

City Club convened a committee of seven Club members to analyze Measure 26-92 and issue a voting recommendation. Your committee was charged with

determining whether the measure would be consistent with positions adopted by City Club. Most members of your committee also served on the committee that published City Club's most recent body of research on PDC. Other committee members were screened to ensure that no member had an economic interest in the outcome of the study or had taken a public position on the subject of the measure.

City Club's study of Measure 26-92 was conducted between February 7 and March 19, 2007. Your committee interviewed proponents and opponents of the measure and other interested individuals and considered relevant written material.

BACKGRoUND

In March 2003, City Club undertook a study of PDC's governance structure and processes. That study, completed and adopted in January 2005, made the following four recommendations regarding the relationship between Portland's City Council and city auditor and PDC:

- a. City Council should exercise stronger legislative oversight of PDC activities;
- b. The city auditor should periodically conduct a performance audit of PDC;
- c. City Council should clearly state how the city is to be involved in regional economic development and what role PDC should play;
- d. Structures and procedures to ensure effective coordination between the Bureau of Planning and PDC must be established and thereafter continuously monitored by City Council.

The study concluded that PDC's relative independence was an essential asset of the organization and recommended that PDC's functions not be incorporated into a city bureau or department. Since publication of City Club's report in 2005, PDC's executive director was replaced, and all five seats on the commission turned over and were filled with new appointments made by Mayor Tom Potter. Additionally, in the most recent budgeting process, city commissioners and PDC commissioners worked jointly on PDC's proposed budget.¹

In November 2005, City Council established a charter review commission to review and recommend changes to Portland's city charter. Mayor Potter appointed each member of the 26-person commission. Upon completion of its work, the commission recommended changes in four areas. One set of proposals, which will appear on the ballot as Measure 26-92, addresses the Portland Development Commission. The substance of the ballot measure includes some of the recommendations of the charter review commission. Other proposed changes were inserted by City Council, one of which is critical to your committee's recommendation.

If enacted, Measure 26-92 would make the following changes:

- a. City Council would become the budget committee for PDC;
- b. The mayor, with approval of City Council, would have the authority to remove members of the Portland Development Commission;
- c. Annual financial audits and periodic performance audits of PDC would be required;
- d. PDC would be directed to implement the vision and goals of the city as adopted by City Council relating to urban renewal, economic development and affordable housing.

Other elements of Measure 26-92 are not germane to your committee's analysis.

ARGUMENTS PRO AND CON

SUMMARY ARGUMENT ADVANCED IN FAVOR OF THE MEASURE

Proponents of Measure 26-92 argue that greater oversight and budget control are necessary in order to ensure that PDC function in the best interest of all citizens of Portland. They suggest that only through direct control of the budget will PDC undertake the type of projects favored by most of the Portland's citizens, and that only through the auditing and reporting requirements can accountability be guaranteed.

SUMMARY ARGUMENT ADVANCED AGAINST THE MEASURE

Opponents of Measure 26-92 submit that the wording of the measure — "City Council shall be the budget committee for the Commission" — is tantamount to complete control, thereby undermining or eliminating PDC's independence. It is that independence that allows PDC to act in a business-like manner, to remain "nimble" and to operate without overt political pressure. Opponents of the measure believe that the current structure allows PDC to conduct sound investment-minded development rather than politically expedient development.

DISCUSSION & ANALYSIS

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Your committee focused most of its attention on the three functional elements of the ballot measure examined below. In addition, your committee discusses its concerns about the official caption, question and summary of the ballot measure.

ESTABLISHING PDC'S BUDGET

Section 15-105 of the proposed charter revision says "City Council shall be the budget committee for the [PDC]." As explained below, that phrase and its implications drive your committee's unanimous recommendation to oppose this ballot measure.

The charter review commission correctly concluded that state law prohibits City Council from being the "budget committee" for PDC. Commissioner Randy Leonard told your committee that should a change in state law be necessary, the city would seek that change in the Legislature. Since your committee met with Commissioner Leonard, City Council decided to pursue changing state law to allow City Council to be the "governing body of [PDC]... irrespective of whether the city has appointed a board or commission...."²

The charter review commission did not recommend this change in the budgeting process. City commissioners added the provision after the charter review commission submitted its report. According to David Wang, chair of the charter review commission, there was virtually no support among the members of the commission for such

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a sweeping change. In fact, the charter review commission's report specifically recommended that PDC remain a quasi-independent agency — a status that your committee believes would cease to exist if City Council were to assume complete control over PDC's budget.

Your committee has observed improvements in PDC's budgeting process. PDC has altered its budget cycle to correspond with the city's schedule, and in the most recent budget cycle, two city commissioners and two PDC commissioners worked jointly to review and adjust PDC's proposed budget. The changes made to the budget totaled about \$500,000 out of a \$200 million budget — a mere one quarter of one percent — as close to complete agreement as arithmetic and politics will ever produce.

After 22 months of study and deliberation, a City Club committee concluded in 2005 that PDC best

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serves the city and its citizens as a semi-autonomous agency. While that report found areas within PDC to criticize, the report stopped well short of recommending that the agency operate under a budget written and controlled by City Council.

Voters should be mindful that in 1958, PDC was created with a board of commissioners purposely distinct from City Council. This degree of political insulation was considered critical. Many witnesses interviewed by City Club's 2005 study committee agreed. According to the 2005 report, both developers and elected officials insisted that "PDC's separation from City Hall allows it to make good judgments based on the financial merits of the proposals rather than on the political calculus of the moment."³ Similar sentiments were also heard during the study of this ballot measure.

It also bears repeating that City Council already has substantial power over PDC and its decisions. Council approves the appointment of PDC commissioners; it approves the establishment of urban

renewal areas, their expansion and extension; and it must authorize the sale of bonds — the lifeblood of PDC's activities. Measure 26-92 would invert the budgeting process that is now in place. The starting point would become City Council rather than PDC. City Council would write the budget, and in doing so, Council would decide which projects would be funded. PDC would then be left to implement the budget written by City Council.

By contrast, the process now begins with PDC staff, urban renewal advisory committees and PDC commissioners preparing a budget based on their assessment of the city's development priorities and the resources available. As the final step under the current system, City Council must review and approve the budget submitted by PDC before it can be adopted. Your committee believes the proposed new budgetary power would serve only to compel PDC to do those individual projects that can muster at least three votes on City Council. Likewise, projects thought to be important by PDC, but opposed by at least three members of City Council, would not go forward. This change would undermine the current system of checks and balances that makes it more difficult for Council members to force or block projects for political reasons.

REMOVAL OF PDC COMMISSIONERS

Another change proposed by City Council, and not supported by the charter review commission, would give the mayor additional power to remove PDC commissioners from office. According to the current

charter, “[a] vacancy shall occur from the death, resignation or inability to serve of any member, or failure without cause to attend three (3) successive regular meetings.” The charter review commission recommended that City Council be vested with the power to remove PDC commissioners “for cause.” City Council thought otherwise and proposed an “at will” standard. If Measure 26-92 passes, “[PDC commissioners]... may be removed by the mayor, subject to approval by City Council.”

“At will” means that no reason need be given for dismissal. Removal “for cause,” at the least, would require the mayor or Council to articulate a reason for removing a PDC commissioner from office. Measure 26-92 does not specify the scope of acceptable reasons for removing a commissioner or options for recourse. When coupled with other provisions of the measure, your committee believes this change would give the mayor too much control over decision-making at PDC, increase the influence of politics in PDC’s operations and deter PDC commissioners from taking positions contrary to the mayor.

ELEMENTS OF MEASURE 26-92 CONSISTENT WITH CITY CLUB’S 2005 STUDY OF PDC

Assuming City Council articulates a vision and a set of goals for urban renewal, economic development and affordable housing, requiring PDC to implement them would be consistent with City Club’s 2005 recommendation for increased coordination between PDC and City Hall. Measure 26-92 calls for the city auditor to conduct performance audits

of PDC. This, too, would be consistent with a recommendation made by City Club in 2005. The measure would further require an annual report to City Council that evaluates the activities of PDC. While such a report would risk duplicating information already provided in a performance audit and would require additional resources, your committee believes this requirement may also have the benefit of improved communication and coordination between PDC and City Hall.

BALLOT CAPTION, QUESTION AND SUMMARY

In addition to the substantive concerns identified above, your committee is also concerned about how this measure is being presented to voters. The measure’s caption, question and summary are misleading. The caption simply claims that the measure “defines mission, [and] increases oversight of the [PDC].” Your committee believes strongly that “increases oversight” significantly understates the potential — and probably intended — outcome of the measure. That is, your committee believes Measure 26-92 would impose City Council’s direct control over PDC.

In addition, “Should City Council set the budget for PDC?” would have been a more accurate question than to suggest a simple increase in oversight. Your committee further objects to the measure’s summary, which is where the phrase “City Council shall be the budget committee for Commission” can be found. Such obscure wording may have clear meaning to those with knowledge of government finance, but certainly not to the general voting public.

CoNCLUSIoNS

In 2005, City Club recommended greater oversight and involvement by City Council in the agency's operation and greater access by the public into PDC's decision-making processes. In producing this report, your committee relied heavily on City Club's 2005 study of PDC — its 22 months of work, over 70 interviews, thousands of pages of background material and documents, and countless hours of analysis and deliberation. A key conclusion of that report was that PDC should remain a quasi-independent agency. Your committee believes that Measure 26-92 would effectively end that independence. Simply stated, budget control is complete control. We continue to believe as we did in 2005, that PDC's greatest asset is the structural insulation from day-to-day politics that was purposely designed when the agency was established. We find no justification for the result of this ballot measure should it pass — to tie the hands of the five PDC commissioners and effectively end the agency's quasi-independent status.

Your committee further concludes that removal "for cause" is the appropriate standard for prematurely ending the service of an appointed commissioner. Lastly, your committee believes that the ballot caption, question and summary are extraordinarily misleading.

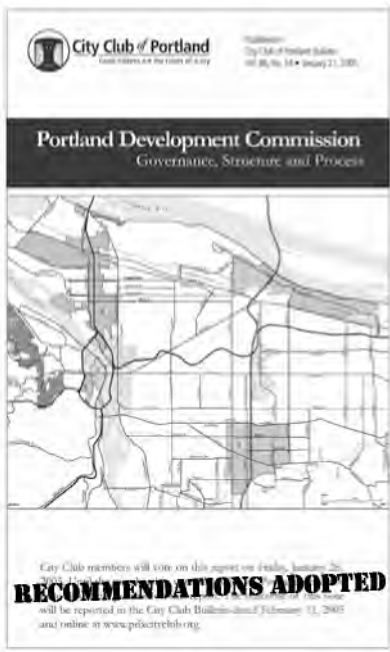
RECoMMENDATiON

Your committee unanimously recommends a "No" vote on Measure 26-92.

Respectfully submitted,

Lynne Coward
Vern Faatz
Paul Fellner
Kurt Krause
Paul Manson
Linda Nettekoven

Chuck Stuckey, chair
Wade Fickler, policy director



Readers are encouraged to read and consider City Club's 2005 research report titled *"Portland Development Commission: Governance, Structure and Process."*

Available online at:
www.pdxcityclub.org/pdf/pdc_2005.pdf
and by calling 503 228-7231 ext. 101.

WITNESSES

In addition to the persons listed below, your committee sought interviews with two other city commissioners and another representative of PDC. For various reasons they were unavailable or declined to respond.

Douglas Blomgren, former PDC Commissioner

Chip Lazenby, former legal counsel, Portland Development Commission

Randy Leonard, City Commissioner, City of Portland

Mark Rosenbaum, Chair, Portland Development Commission

David Wang, Chair, Charter Review Commission

Your committee also considered the remarks of City Commissioner Erik Sten and PDC Chair Mark Rosenbaum at the City Club Friday Forum on March 2, 2007 where the merits of the proposed ballot measure were debated.

RESOOURCE MATERIALS

Charter Review Commission Report to City Council, "A City Government for Portland's Future," January 18, 2007.

City Club of Portland, "Portland Development Commission: Governance, Structure and Process," January 21, 2005.

CiTATiONS

- ¹ February 23, 2007, *The Oregonian*, "In Portland", page 3 and remarks by Mark Rosenbaum at City Club's Friday Forum on March 2, 2007.
- ² 2007 legislative agenda approved by City Council.
- ³ 2005 City Club report on the Portland Development Commission, page 28.

