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REPORTS
ON
CONSOLIDATING MUNICIPAL AND
DISTRICT COURTS
(Municipal Measure No. 51)
The Committee: Blake Byrne, Jack G. Collins, Richard L. Ferreira,
George H. Fraser, Anthony E. Gallo, M.D., Donald W. Lindstedt,
and Bernard Jolles, Chairman.

REVISING LIEN COLLECTION PROCEDURES
(Municipal Measure No. 52)

ASSESSMENT-COLLECTION BOND
INTEREST RATE
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AUDITOR’S RECORDS OF PROPERTY
OWNERSHIP
(Municipal Measure No. 55)
The Committee: Milo Ormseth, Norman Ronning, and R. W. Nahstoll, Chairman.

HOTEL, MOTEL,
OTHER TRANSIENT LODGING TAX
(Municipal Measure No. 56)
The Committee: David Crow, Leonard Girard, Fergus O’Scannlain,
and Jack Sullivan, Chairman.

Printed herein for information:
RESEARCH BOARD STATEMENT
ON
CAMPAIGN EXPENDITURES AND REPORTS
(Municipal Measure No. 54)
PORTLAND CITY CLUB BULLETIN

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REPORT
ON
CONSOLIDATING MUNICIPAL AND
DISTRICT COURTS
(Municipal Measure No. 51)

Charter amendment transferring Municipal Court and its functions to the Multnomah County District Court, transferring functions of Municipal Court Clerk, probation and parole and city jail to Multnomah County, transferring function of prosecuting ordinance violations to District Attorney, and transferring related personnel, effective January 1, 1972.

To the Board of Governors,
The City Club of Portland:

I. INTRODUCTION

The 1971 Oregon Legislature enacted Senate Bill 692, which abolishes the municipal court of cities with a population in excess of 300,000 if the voters of the affected municipality approve the abolition by amending their charter. The Charter also increases the jurisdiction of the present district court of such area to empower it to enforce municipal ordinances as well state laws, and increases the number of judges authorized to sit on the district court in Multnomah County.

The proposed Municipal Measure 51 provides for the termination of the municipal court and its functions (presently governed by the City Charter of the City of Portland), and transfers its function to the District Court for Multnomah County. Prosecutions of ordinance violations now handled by the City Attorney, will be assigned to the District Attorney, and all pertinent personnel will be transferred effective January 1, 1972. The measure will appear on the ballot on December 14, 1971, and this Committee was requested to study it and report to the membership upon the benefits and disadvantages which may be expected from its adoption. (For detailed explanation of the enabling legislation, see Appendix B.)

II. BACKGROUND

Presently the total volume of cases in Portland's municipal court exceeds that of the district court of Multnomah County. How much the volume varies depends on what figures one uses and whether all matters, including each docket entry and parking tickets, are included or only contested or potentially contested cases.

There is much overlap of function between the two courts. In many instances it is the arresting officer who determines whether an offense is tried in municipal or district court. If the officer charges under a state statute the matter is generally (though not always) heard in district court. If he elects to charge the defendant (for the very same conduct) under the corresponding municipal ordinance the matter is tried in municipal court.

The municipal court presently consists of seven full-time and two pro tem judges. The judges are appointed by the mayor and city council and may be removed by them for cause. A municipal judge presently earns $21,500 annually, plus fringe benefits.
The city attorney or his deputy prosecutes all violations of municipal ordinances.

The district court consists of five full-time judges and an occasional pro tem judge. They are elected for a six year term by popular vote on a nonpartisan ballot. This court handles civil matters up to $2,500 and a large volume of small claims (civil matters $500 or less) in addition to minor criminal matters generally involving the same conduct which is punishable by Portland Municipal Ordinance. All criminal offenses tried in the district court are prosecuted by the district attorney's office.

District judges earn $18,500 annually, plus fringe benefits.

The Portland area has been fortunate in having a district court judiciary and a municipal court judiciary which are exceptionally able. The judicial reforms undertaken by the Portland Municipal Court in the last several years have received favorable national recognition.

III. ARGUMENTS IN FAVOR OF THE MEASURE

1. A more uniform system of judicial administration and prosecution at the local level will result.

This will mean that minor offenses will be tried in the same manner under the same rules of court, and the same conduct will be prosecuted in the same manner by the same people.

2. Transfer of municipal court, now in the police station, to the Court House.

3. Administrative efficiency through centralization of judicial administration.

4. More efficient use of available judicial manpower and efficient use of jurors. While no overall reduction of staff can be anticipated, centralization will produce more efficient use of jurors, judges and courtrooms.

5. Probable elimination of use of the present city jail facility and freeing approximately 30 police officers for other police work.

6. More scrutiny of arrested persons and possible reduction of the overall jail population at any given time.

7. More efficient release without bail program.

8. The District Court Reform Act will go into effect January 1, 1973. Adoption of Measure 51 will make the administration of justice uniform: while rejection will result in a criminal defendant being entitled to two separate jury trials if he is tried in municipal court, adoption of the measure would provide that the same offense will be tried first in district court, and the defendant thus will have one jury trial and thereafter an appeal on the record to the circuit court.

9. Adoption of the measure is a logical first step in eventual city-county merger.

IV. ARGUMENTS AGAINST THE MEASURE

1. The measure is being placed before the public without sufficient planning for accomplishing the transfer in an orderly and efficient manner.

2. Transfer of functions will not result in any saving of tax dollars.

3. The measure is wasteful because it eliminates the use of five modern municipal court rooms now available and undertakes the inconvenience and expense of modernizing the present county courthouse.

4. Municipal judges, if reappointed as district judges, will suffer a salary reduction (including fringe benefits) of approximately $5,000.

5. Fiscal effects of the transfer are presently not known.

6. The county cannot and will not provide the necessary money to accomplish the transfer.

7. If this consolidation is to be put into effect it should be a system administered by the state rather than the county.
V. ANALYSIS AND DISCUSSION

1. Fiscal effect on consolidation.

Your Committee finds there are different opinions expressed as to whether the consolidation will effect an immediate economic savings. The optimistics forecast an immediate substantial saving for Multnomah County. Reports have been made to the county commissioners and the city council indicating that the consolidation will cost an additional $116,000 to $144,230 annually; however, this is based on the assumption that the yearly expense of the city jail and the salaries of the municipal court judges would continue. The consolidation, however, will eliminate the expense of operating the city jail, which is in excess of $500,000, and will eliminate the expense of the salaries of the judges on the municipal court. If the merger becomes effective, the salaries of the judges will be paid by state funds and not those of Multnomah County. It is anticipated the consolidation of the court systems can be accomplished and operated within the limits of existing budgeted funds. The bulk of the expense of constructing new court room facilities will be defrayed by grants. The Federal Law Enforcement Assistance Agency has already advanced $104,000 for the construction of two new district court rooms in the county courthouse. It has approved an additional grant of $495,000 which is to be used for improving the criminal corrections system in Multnomah County, which includes jail facilities and correction programs. Another two new district court rooms have been financed by a grant from the Federal Department of Transportation. These are presently being used in administering a program dealing with persons charged with driving under the influence of intoxicating liquor (DUIl program). An application is pending before the State Law Enforcement Council which will provide an additional $290,000 for the completion of the additional three court rooms and expanded office facilities necessary for the district attorney's office.

It is the opinion of the Committee that the consolidation may not reflect an immediate dollar saving. The same number of judges and court rooms will be necessary. The consolidation, however, will effect administrative economies in that more services and greater efficiency will be realized from the same number of administrative employees. It will not impose an additional tax burden upon the taxpayers of Multnomah County, and in the long run the county and the city will experience economic benefits in the form of a more economic administration of the city-county judicial and jail system.

2. Non fiscal factors

The basic issue posed by this measure is: Should the City of Portland and Multnomah County continue to operate two sets of judicial machinery to handle essentially the same problems?

Many opponents of the measure whom your Committee interviewed felt the idea of court consolidation was good, but to put it into effect now was premature because of insufficient planning.

Your Committee feels that this argument is not persuasive for several reasons.

(a) There has been extensive planning. The Presiding District Judge, James R. Ellis, has indicated that the plans are to move the municipal court functions up to the district court in stages. The various stages and timing have been essentially agreed upon by the judges affected.

(b) The additional courtrooms in the courthouse have already been planned, designed and are in the process of being built. In addition, for several months there have been two functioning court rooms under a DUIl Program in which municipal court judges have been trying DUIl cases in the county courthouse. The county is presently building additional court rooms for use in handling the additional volume anticipated as a result of consolidation.

(c) It is apparent that until a decision for consolidation is reached, full planning cannot result. If this measure is defeated now, many of the problems which the opponents point to in this regard will exist in two years or five years or at any other time that the measure comes up.
In short, your Committee feels that this measure is not merely a change for change's sake as some opponents have argued. On the contrary, the elimination of dual prosecution and dual judicial functions, together with more efficient use of the total judicial and clerical manpower, are solid benefits which the public can derive from the adoption of this measure.

In addition, the enabling statute by its terms requires the municipality to act before January 1, 1972. In the event the measure is defeated, there is grave danger that the political elements necessary to pass such a statute will no longer be available. Many witnesses have expressed the opinion that another enabling act cannot be pushed through the legislature in the foreseeable future.

Moreover, on January 1, 1973, the District Court Reform Act will become law. Thereafter all district courts in Oregon become courts of record. The purpose of this legislation is to eliminate the wasteful practice of two jury trials in minor civil and criminal cases. If Measure 51 is not passed Portland will be in the anomalous position of offering a defendant two jury trials if he is charged under a municipal ordinance and only one if he is charged under a state statute and prosecuted in district court.

Aside from efficiency, there are other probable benefits which may flow from adoption of the measure. We have been assured that the city and county jails will be consolidated within one year from the date of the adoption of the measure. This will not only result in more efficient administration of jail facilities, but will encourage officials to carefully scrutinize arrested persons and jail only those who should be jailed because they are a potential danger to the public. Minor offenders such as traffic and drunk driving defendants will more likely be released on their own recognizance.

In the long run, this measure cannot help but lead to a more efficient and humane administration of justice and pave the way for eventual elimination of the present wasteful dual system of city-county government.

VI. CONCLUSION

The Committee, after considering arguments pro and con, testimony of judges, lawyers and administrative personnel, concluded that the arguments in favor of the measure are valid, and that they outweigh any disadvantages that have been brought to the attention of the Committee. The most significant fact in support of this measure is that there is a need to eliminate the dual system of lower court justice.

VII. RECOMMENDATION

This Committee, therefore, recommends that the City Club of Portland go on record in favor of a "Yes" vote on Municipal Measure No. 51.

Respectfully submitted,

Blake Byrne
Jack G. Collins
Richard L. Ferreira
George H. Fraser
Anthony E. Gallo, M.D.
Donald W. Lindstedt, and
Bernard Jolles, Chairman

Approved jointly by the Research Board and the Board of Governors on December 1, 1971 and ordered printed and submitted to the membership for consideration and action.
APPENDIX A

LIST OF PERSONS INTERVIEWED

The Hon. James R. Ellis, Multnomah County District Judge
Kurt Engelstadt, Criminal Justice Coordinator, Board of County Commissioners
The Hon. Neil E. Goldschmidt, City Commissioner
The Hon. Edmund A. Jordan, Municipal Judge
Loren Kramer, Director, Department of Administrative Services, Multnomah County
Walter Martin, Attorney
Betsy Preston, Aide to the Hon. Neil Goldschmidt
Marian C. rushing, Portland City Attorney
The Hon. Richard L. Uni, Municipal Judge
Sam H. Wilderman, Attorney and former State Representative

APPENDIX B

(From Analysis of 1971 Oregon Legislative Assembly contained in
Continuing Legal Education book, Oregon State Bar Association)

CHAPTER 633 MERGER OF PORTLAND MUNICIPAL COURT WITH
DISTRICT COURT FOR MULTNOMAH COUNTY

The Act is applicable to cities with populations over 300,000 (Portland).

It is effective on January 1, 1972, but only provided the voters of the city of Portland
prior to then approve a city charter amendment approving the merger. At this writing the
Portland City Commissioners have unanimously approved placing such a measure on the
ballot at a special election. The date proposed for the election, but not yet fixed, is December
19, 1971.

The Act provides that on its effective date the Municipal Court ceases to exist, and the
District Court is increased by seven additional judges (the number of present municipal
judges). All cases pending in the Municipal Court on the effective date are transferred to the
District Court.

The District Court is given jurisdiction of alleged violations of the charter and ordinances
of Portland.

The District Attorney of Multnomah County shall prosecute all violations of Portland's
ordinances. If the District Court has jurisdiction over any other city's ordinance violations,
then the District Attorney may prosecute such violations.

Multnomah County is made responsible for any increase in cost of the District Court
resulting from the merger. All additional fines and bail forfeitures will be disposed of by the
clerk according to present law — ½ of all traffic citation revenue from city police officers
goes to the city, the other ½ to the county.

The Governor will appoint the seven additional judges. He may appoint the incumbent
municipal judges, but constitutionally could not be required to do so. The new judges' initial
terms will expire January 1, 1973, and will be filled in the May, 1972 primary election.

Municipal judges appointed may transfer to the State Judicial Retirement Act.

The Act includes a general amendment to the District Court Act regarding the qualifications
for District Judge.

Portland's Office of Parole and Probation is transferred to Multnomah County and the
county becomes responsible for operating the former city jail.
REPORTS
ON
REVISIGN LIEN COLLECTION PROCEDURES
(Municipal Measure No. 52)

Charter Amendment revising assessment lien collection procedures by: permitting sales to City for City lien amounts, without auctions open to bids by private persons, of assessed properties having valuations materially exceeding assessment and tax liens; including related costs in liens; and making additional notice requirements.

ASSESSMENT-COLLECTION BOND INTEREST RATE
(Municipal Measure No. 53)

Charter Amendment removing specification of maximum interest rate on Assessment-Collection bonds to conform to statutory limit on bond interest rate.

AUDITOR'S RECORDS OF PROPERTY OWNERSHIP
(Municipal Measure No. 55)

Charter Amendment removing requirement that Auditor keep records of ownership of private property to avoid duplication of existing county records.

To the Board of Governors,
The City Club of Portland:

I. INTRODUCTION

By action of the Board of Governors on October 26, 1971, this Committee was charged to study and report on three separate but correlated ballot measures to be before the voters of the City of Portland at its special municipal election scheduled December 14, 1971. The measures, whose ballot descriptions appear above, are concerned with private properties within the city and procedures to be followed when liens against such properties are not paid and official action must be taken to dispose of such properties in settlement of such liens.

Recent treatment in the news media has focused public concern upon the deficiencies of present charter provisions for assessments lien collection procedures. In addition to developing an amendment to the charter to improve such procedures, city officials determined that certain other related provisions could be improved by amendment. These would (1) change the maximum interest rate on Assessment-Collection bonds to correspond to the rate cited in the state statutes, and (2) eliminate the need for keeping of records of city properties by the City Auditor when such records are already kept by the county clerk.

II. DISCUSSION OF BACKGROUND AND PURPOSES OF THE MEASURES

A. Ballot Measure 52—Revising Lien Collection Procedures is proposed by the City Council to amend the City Charter. The proposed amendment is a part of the Council's action undertaken to correct deficiencies in the Charter's assessment lien foreclosure procedures.

Charges for which City assessments are levied are generally limited to those for sidewalk repairs, weed cutting or other nuisance abatement, street improvement, or sewer construction or improvement. Usually, though not invariably, street im-
provement and sewer assessments are bonded and the property owner is billed as
payments become due over the bond period, ordinarily ten years. Charges for side-
walk repair or nuisance abatement are not bonded and are immediately due and
payable. Under past City policy and practice, the affected landowner generally is
accorded several separate notifications of his responsibility to make payment of the
charge.

The deficiencies recently publicized in the news media appear to be mainly
concerned with two matters:

(1) As presently written, the City Charter requires that the city, in its fore-
closure of a lien arising on account of a delinquency in payment of an assess-
ment against real property, auction the land and its improvement to the public
"for a sum payable to the City equal to but not exceeding the unpaid assessment,
interest, and cost of advertising."* (Section 9-804, Article 8, Chapter IX of the
Charter of the City of Portland.) It is reported by representatives of the City
that, under this provision, homes worth $10,000 to $20,000 have been
auctioned off for amounts ranging from $200.00 to $1,000.00.

(2) Notice to the property owner that an unpaid assessment is about to be
foreclosed, with resulting jeopardy to his property, is not now specifically re-
quired by the City Charter, except by reference, in Section 9-804, to satisfac-
tion of "advertising and selling the assessed land in the manner provided by law
for sale of real property on execution." (This reference is to ORS 23.45 (b).

Accordingly, once the landowner is delinquent in payment of his assessment,
his land can be sold within thirty (30) days (Section 9-804) without specific notice
to him (except by newspaper advertisement) advising him of that peril. This is not
to say that he has not received notice, often several notices, of the fact that he is
liable for payment of the assessment.

Under long-standing policy of the City, notice of sidewalk repair or nuisance
liability has been posted on the property by the Deputy City Engineer or the
Nuisance Bureau, the property owner has been notified of the posting by mail
forwarded by the City Auditor, the work has been done in an open and observable
manner, a bill has been forwarded by the City Auditor and a period of ninety days
has expired, notice of the proposed assessment has been forwarded by mail and an
additional period of forty-five days has elapsed before the property has been assessed.

Assessments for street and sewer improvements have been preceded by even
more steps to afford property owners notice. All street improvements are initiated
by petition of more than 50 percent of the property owners in the affected area, and
most sewer improvements are commenced by petition, except in those cases where
a health hazard has been found to exist. The property owner then receives a
proposed construction notice, including advice with respect to the estimated costs
of the project and an indication of the scheduled hearing date. After construction
is completed the hearing is advertised in the paper and notice of the proposed
assessment is mailed to the owners of record, a hearing is thereupon held and an
assessment ordinance passed, with notice of assessment thereafter mailed to the
affected owners of record with advice that payment, without interest, or a bonding
of the assessment is required within ten (10) days.

Following the above-described preliminary notices, the procedures relative to
unpaid sidewalk repair, nuisance abatement and street and sewer improvement
assessments are the same. If nothing is done by the owner within approximately
sixty (60) days after the assessment has been made, a letter is thereupon forwarded
informing the property owner that his property will be certified to the City Treasurer
for placement on the sale sheet to enforce collection as provided by the City Charter.
When the sale sheet is transmitted to the City Treasurer, a yellow "notice of sale"
card is forwarded to the property owner of record. If no response is received, a
white card of "final notice" is mailed to the property owner and the property is
thereafter sold at auction, subject to redemption. If payment is not made, a fifth
letter is mailed (under current procedure, by certified mail) to the property owner,
informing him that the property has been sold and that the period for redemption
has begun to run.

It thus seems apparent that the City has exercised all practicable efforts to

*Emphasis added.
assure delivery of notice of the charge, but this satisfies only part of the need. It also
seems apparent that all reasonable effort should be made to give actual notice to
landowners that their properties will be placed in jeopardy of sale by reason of
delinquency in payment of the assessments. If this notice of possible sale is not
actually received and understood, hardship can readily occur to many affected
landowners, especially those who may be unsophisticated or infirm.

Since deficiencies of the current Charter provisions have been widely publicized,
the City has undertaken commendable efforts to correct the situation. One major
change is that the Council on July 29, 1971 adopted Ordinance 133083 to amend
Code Section 5.28.250 to extend the period of redemption from one to three years.
The Council also requested that Arthur Young & Co., Certified Public Accountants,
investigate and report its findings. That firm found no indication that any City
official or employee had personally benefitted from the situation, but it made
several recommendations regarding appropriate procedures, some of which the
Council has undertaken to implement. Specifically, the forms of notice of assessment
forwarded to property owners have been modified. Formerly those notices were in
rather legalistic form. As modified they are more likely to be accurately understood
by an unsophisticated reader. After property has been sold, there is an additional
letter being mailed by certified mail forty-five (45) days prior to the expiration of
the redemption period, in an effort to afford the owner time to make appropriate
financial arrangements. Perhaps most important, your Committee has been advised
by City officials that the City is now making individualized efforts to be sure that
the property owner understands the peril to his property in cases in which the City
has any reason to suspect that its formal notices are not being received and under-
stood by the owner. These procedural improvements the Council has been able to
implement without Charter amendment. The Council's recognition that additional
changes, requiring Charter amendment, are also appropriate, has led to its recom-
mandation for the passage of Ballot Measure 52.

The primary function of Ballot Measure 52 is to enable the City to purchase
at private sale, and without public auction, land against which City liens are being
foreclosed, when the market valuation for tax purposes of the land exceeds by 25
percent the amount of the City liens, plus any tax liens against the property. Thus
the City will become the purchaser at the foreclosure sale and will hold the property
during the redemption period. One purpose of this provision is to place the City,
after its purchase, in a position during such period of redemption (now three years
under Charter Section 9-804 and City Ordinance 5.28.250) to make appropriate
efforts to alleviate the hardship which might otherwise inure to unsuspecting owners
under the present system. Nothing in the former procedure obliged the City or the
purchaser to notify the owner whose land had been sold of the fact that the sale had
taken place and the redemption period, then only one year but currently a period
of three years, had commenced to run. The measure would impose upon the City,
through its Treasurer, the duty to "notify by registered mail or its equivalent, the
owner of the land prior to the sale, if known, that the property had been sold and
the name of the purchaser thereof".

Another purpose of the change is to prevent private profiteering in these
situations. If the primary notice procedure is successful, there should not be any
excessive profit available to anyone. If the notice fails for any reason, however,
the secondary result of the change would be that any property which is finally taken to
satisfy the lien will be sold, after the redemption period has expired, to bidders at
public sale for a price equal to its real value. If any profit is realized it will be
realized by the City as the general representative of the public, rather than by a
party who has taken advantage of the ignorance or hardship of others.

It is the City's express intent, hopefully in conjunction with associations of
cities and counties, to present legislation to the next session of the State Legislature
which will establish procedures whereby assessments (or, at least, delinquent liens)
will be added to property tax bills. The full meaning and importance of property tax
statements is understood by practically all persons and, consequently, the statements
would be more certain to reach the intended party with a clear understanding of
their importance.

This Committee has encountered no organized or expressed opposition to adop-
tion of this measure. Helpful assistance has been supplied through the cooperation
of the City's personnel and specifically, by Mr. David Dockham, Administrative Assistant to the Mayor, and Miss Marian Rushing, City Attorney.

Some questions will remain after adoption of this Ballot Measure:

(a) There is in the first paragraph of Section 9-804, as the same would be amended by this proposal, an ambiguity arising from a new use of the term "penalty". This problem is not deemed critical nor of sufficient seriousness to defeat the Measure;

(b) Section 9-804 contemplates that at the time of foreclosure sale, there shall be issued a Certificate of Sale conveying to the purchaser, subject to redemption, "all of the estate, interest, liens or claims of all persons". It would seem questionable whether as a matter of constitutional law, this provision could operate to foreclose the interests of mortgages, governmental tax liensors, or other interested parties to whom reasonable notice of the foreclosure sale had not been given. Nothing in Ballot Measure 52 compounds or increases the questions which already exist in this regard, and the fact that present doubt persists does not appeal to the Committee as a sufficient reason to defeat the measure. A comprehensive analysis of this question has not been within the major assignment of the Committee, nor been possible within the limited time available.

B. Ballot Measure 53—Assessment-Collection Bond Interest Rate relates to the interest rate permissible on City Bonds, the sale of which is now authorized by Section 9-907, Article 9, Chapter IX of the City Charter, in order to supply funds which the City may use to purchase on foreclosure sales properties against which City assessment liens have remained unpaid. The Charter provisions currently in effect authorize issuance of bonds of this type in an amount not exceeding $1,500,000 outstanding at any one time. The current fund now approximates $250,000. The City estimates that implementation of Ballot Measure 52 and the anticipated additional City activity in the purchase of properties in lien for foreclosure sales contemplated by the Charter amendment would require additional funds in an amount between $500,000 and $1,000,000. Accordingly, it is not anticipated that presently authorized bond limitations would be exceeded and thus no additional authority for the issuance is currently requested.

Ballot Measure 53 would merely increase the maximum rate which the City is authorized to pay on these bonds from the 6 percent per annum currently authorized, to 8 percent per annum, which is the maximum rate now fixed by State Statute as a result of the enactment by the 1971 Legislature of Chapter 355, Oregon Laws 1971, amending ORS 288.510.

The ballot measure would not affect the present authorized utilization of the assessment-collection fund for the additional and useful authorized purposes "to purchase and hold warrants issued upon any special local improvement fund formed or to be formed".

Any surplus which might at a future time be found in this fund can be by the Council appropriated to the City's General Fund under Charter Section 9-907.

C. Ballot Measure 55—Auditor's Records of Property Ownership is directed toward elimination of the present requirement in Section 2-511, Article 5, Chapter II, of the City Charter, that the City Auditor maintain property ownership records which are mere duplicates of records also maintained by the office of the county clerk. Under this Section 2-511, the City Auditor is now required to "keep a record of ownership of real property within the limits of the City of Portland, and correct said record as changes of ownership shall be recorded in the office of the county clerk for the county of Multnomah". The Auditor is also required by the same Section to "keep a record of all property owned by the City and the income derived therefrom".

The work of the City Auditor in maintaining a record of ownership of all real property within the limits of the City of Portland is a wasteful duplication. Your Committee has not found any purpose for the City records which could not be met
as well by the County records. The amendment to Section 2-511 proposed by the ballot measure would eliminate that requirement and would limit the Auditor's responsibility to maintenance of a record of property owned by the City and a record of the income derived from that City property.

While the City Auditor has maintained records of all property in the city, he has kept a separate record, by property description, of parcels against which the City has liens. This record is required by ORS Chapter 223 and Charter Section 9-902. It is those records which are searched by title insurance companies, for example, to determine the existence of City liens. This record would be continued after passage of Measure 55.

III. CONCLUSION AND RECOMMENDATION

The Committee is unanimous in its opinion that passage of Municipal Measures 52, 53 and 55 is in the best interest of the City and the public. The Committee therefore recommends that the City Club go on record encouraging the voters to vote "Yes" in favor of adoption of Measures 52, 53 and 55 at the Municipal Election to be held on December 14, 1971.

Respectfully submitted,
Milo Ormseth
Norman A. Ronning and
R. W. Nahstoll, Chairman

Approved jointly by the Research Board and the Board of Governors on December 1, 1971 and ordered printed and distributed to the membership.
REPORT
ON
HOTEL, MOTEL,
OTHER TRANSIENT LODGING TAX
(Municipal Measure No. 56)

Charter Amendment permitting city tax on transient lodging, not exceeding five percent
of rentals; authorizing definitions by ordinance and minimum rentals for applicability of tax;
establishing exemption; and prescribing revenue use, as Council determines, for general city
expenses which may include recreational, cultural, convention or tourist-related functions.

To the Board of Governors,
The City Club of Portland:

I. ASSIGNMENT

Your Committee was appointed to study and report on a proposed Charter
Amendment, placed on a special municipal election ballot for Tuesday, December
14, 1971.
Ballot Measure No. 56—Hotel, Motel, Other Transient Lodging Tax—simply
stated, would enable the City Council, by ordinance, to impose and levy a tax of
up to five percent upon certain transient accommodation rentals within the City
of Portland.

Specifically, proposed Section 7-110 to the Charter would provide, in part:
The Council may by ordinance impose and levy a tax not exceeding
five percent on gross amounts of money, credit or other thing of value paid
to or received for lodging by the owner or operator of any hotel, motel,
apartment or lodging house, mobile home or trailer park or court, or any
other place in the city where space designed or intended for lodging occu-
pancy is rented by any person or persons, for any period less than monthly.
This tax shall not apply to hospitals, convalescent or nursing homes, or
public institutions, or permanent occupancy, as defined by ordinance.

II. SCOPE OF RESEARCH

The Committee interviewed the people and reviewed the documents listed
below:
Lloyd Anderson, Portland City Commissioner
Donald Clark, Multnomah County Commissioner
Glenn Cougill, Chairman of Mayor’s Room Tax Committee, Eugene
Bob Davis, Owner, Country Squire Motel, Eugene
David Dockham, Executive Assistant to the Mayor
Richard P. Fettig, Manager, The Roosevelt Hotel
A. W. Gentner, Secretary, Portland Hotel Association and Manager,
The Imperial Hotel
M. James Gleason, Multnomah County Commissioner
Neil Goldschmidt, Portland City Commissioner
Mel Gordon, Multnomah County Commissioner
Connie McCready, Portland City Commissioner
H. McKinley, City Manager, Eugene
Buck Miller, Collection and Auditing Dept., City of Eugene
Ford Montgomery, Manager, The Portland Hilton Hotel
Ben Padrow, Multnomah County Commissioner
Rick Steber, Research Assistant, City of Portland
Fred Van Natta, Public Affairs Consultant
A Cost-Benefit Analysis of Federal Government Installations in
Montgomery County, Maryland
III. BACKGROUND

The City of Portland has frequently expressed a need for additional revenue. The City has examined many potential sources for obtaining additional revenues. Revenue sources previously considered have included a city income tax, sales taxes, increased franchise fees for utilities and additional business license fees. All recent efforts to impose new taxes have failed. Other taxes are currently at levels which the City is reluctant to raise. For example, the utility franchise fee is now at the maximum level which can be assessed directly and absorbed by the utility. Any increase from the current level may be passed on by the utility to the consumer.

A majority of the City Council has concluded that a tax on transient accommodation rentals (currently referring to hotels and motels) is the most appropriate option left open to them.

In early planning stages, Multnomah County Commissioners expressed an interest in adopting a similar tax on a countywide basis. At the present time, the County Commissioners have chosen to defer imposing a hotel-motel tax because it would generate a relatively small amount of revenue for the County. Some of the Commissioners as individuals expressed the opinion that the Board of County Commissioners as a whole would be significantly influenced by the outcome of the city election. If the City measure passes by a substantial majority, it seems probable that the County will again consider the tax. This Committee understands that the County Commissioners have received a legal opinion to the effect that they can enact the tax by ordinance.

There is some difference of opinion as to the amount of revenue which this tax could be expected to generate. Industry studies indicate that the City would receive approximately $700,000 to $750,000 annually. City studies indicate projected revenues in excess of $1,000,000 annually. We expect actual receipts somewhere between these amounts.

The Committee examined the argument that the tax would discourage convention business in Portland and would impose a burden upon operators of transient lodging facilities in the City. The statement by Mr. Antone Larsen enunciating Portland Chamber of Commerce tax policy before the City-County Coordinating Committee on August 23, 1971 referred to four conventions which “selected Portland on the basis of no transient lodging tax, when other considerations between Portland and other competition were equal.”

In the City of Eugene, which has a 3 percent tax on transient lodgings, there are currently two large motels under construction. The operator of one large motel just outside Eugene advised the Committee that he did not believe his motel had any competitive advantage because of the fact he was not subject to the room tax.

IV. ARGUMENTS FOR AND OPPOSED

The following arguments are offered in favor of the tax:

1. The City needs additional revenues. This tax has a fair chance to pass at this time. Other taxes cannot be raised or enacted because of substantial and effective voter opposition.

2. The tax is fair because it “charges” visitors for City services that they use.

3. There is little objective evidence that the tax would discourage travelers and conventions from coming to Portland.

4. Travelers would find that transportation expenses for other motels and hotels outside the city probably would exceed the tax they would pay within the city.
5. Travelers are accustomed to paying the tax because they do so in the major cities of 46 states, including all which compete with Portland for convention business.

The following arguments have been offered in opposition to the tax:

1. The City may lose business because of individuals and conventions going elsewhere to escape the tax.
2. This is a selective sales tax. Voters have repeatedly and vigorously rejected general sales taxes. They should not be subjected to a discriminatory and selective sales tax.
3. A room tax is not an add-on which can be passed on to the customer. Rather, the customers will select a less expensive room so that their out-of-pocket expense is unchanged while the operation suffers a net decline in receipts.
4. This tax will not raise sufficient funds to resolve the financing needs of the City. It is only a patchwork response and should be avoided in favor of a comprehensive well-conceived tax structure which will generate adequate revenues.
5. If voters approve this ballot measure, they will vote against future tax measures designed to raise substantially larger revenues.
6. A cost-benefit study indicates the hotel-motel industry already pays its way by attracting non-polluting business to the City.

V. DISCUSSION AND CONCLUSION

Your Committee accepts the City's position that additional revenue must be obtained. Your Committee further accepts the City's position that the proposed room tax has a substantial chance of passage, as it will not impose a significant burden on citizens of the City of Portland but rather will come from out-of-state and out-of-city residents.

Your Committee accepts, generally, the contention that the proposed tax is fair and equitable because it charges visitors for services. To some extent, the services utilized by visitors, such as the Auditorium, the city parks and the Civic Stadium, would be provided for the convenience of City residents even if visitors did not stay in Portland. However, it does not seem unfair to require visitors to the City to contribute toward maintenance of services from which they benefit, such as recreational facilities, as well as fire, police and other services. Further, extreme examples, such as the American Legion Convention, which your Committee is informed cost the City substantial sums for additional police protection, would seem to justify the imposition of such a tax.

It is contended that imposition of the tax would discourage travelers and would deprive Portland of a competitive advantage, the lack of a room tax, in attracting conventions and other visitors.

Your Committee has not been presented with sufficient evidence that such loss of patronage would occur. Also, Portland will still have the advantage that a sales tax is not imposed on the other expenditures made by visitors. This differs from most other cities. In addition, literature supplied your Committee by the hotel-motel association implies that they would not oppose a room tax if it were part of a general sales tax.

The opponents of the room tax claim that the City seeks to impose a so-called selective sales tax. Regardless of the label, almost all taxes would seem to be selective. An income tax applies only to those who have income, a property tax applies only to those who have property. Perhaps the only "non-selective" tax would be a head tax. In any event, taxes are presently imposed on liquor, cigarettes, utility services, gasoline and real estate transfers. In addition, enabling legislation to permit counties to impose a motor vehicle tax was enacted by the last legislative session, although such tax has been referred to the electorate. Therefore, the people of the City of Portland, as well as the State of Oregon, have apparently accepted the concept of imposing taxes on certain commodities and the proposed room tax does not represent a departure.

Your Committee has not been presented with substantiating evidence that imposition of a room tax will cause visitors to choose a less expensive room.

Almost all persons who were interviewed by your Committee agreed that the revenues from the room tax will not satisfy the City's claimed revenue needs. However, your Committee was further presented with the argument that if a room tax
is imposed, voters will refuse to approve another tax, such as an income tax, on the basis that the City should have enough money from the room tax. Your Committee was also presented with the argument that voters will not approve another tax, until the City first demonstrates that it has exhausted other sources, including a room tax. Your Committee does not believe either argument provides a compelling reason to support the tax or to oppose it.

VI. RECOMMENDATION

This Committee recommends that the City Club of Portland support a “YES” vote on Ballot Measure 56.

Respectfully submitted,*
David Crow
Leonard Girard
Fergus O’Scannlain, and
Jack Sullivan, Chairman

*The Committee also wishes to acknowledge the special assistance of City Club member Larry Moyer who was unable to participate in the deliberations but did obtain important data for our study.

Approved by the Research Board December 3 1971, for transmittal to the Board of Governors.

Received by the Board of Governors December 6, 1971 and ordered printed and distributed to the membership for presentation and action.
STATEMENT
ON
CAMPAIGN EXPENDITURES AND REPORTS
(Municipal Measure No. 54)

Removing Charter regulations concerning candidates' campaign expenditures, accounts and reports, and campaign accounts and reports for candidacies and for or against measures, in order to avoid duplication, prevent conflict, and ensure conformity of requirements with state law.

Measure No. 54 is on a special municipal election ballot for Tuesday, December 14, 1971. Your Research Board decided to prepare and submit the following statement, in lieu of the usual committee report. It was felt that a committee could not adequately probe the merits of Measure No. 54 without having the report of Mayor Schrunk's special committee to study campaign costs(1), not available at present, and without sufficient time to evaluate the report of the grand jury investigation of campaign expenses of Commissioner Francis Ivancie.(2) But the City Club tradition of informing members on each ballot measure with local impact requires that some explanation of the measure be made to enable members to make up their own minds on the merits.

If adopted, Measure No. 54 will repeal Portland City Charter provisions(3) relating to campaign contributions and expenses for city candidates and measures, and would leave the state Corrupt Practices Act(4) as the only law covering city election expenditures.

Set forth below are brief summaries of provisions in the Charter which would be repealed by adoption of Measure No. 54 and of corresponding provisions of the state law which would remain applicable to elections involving city candidates and measures. No mention is made of the many definitions and other provisions in the state law which have no counterpart in the Charter.

1. Limitation on election expenses payable by candidate.

Under the Charter the amount a candidate can himself pay or incur as expenses for the primary is limited to 15 percent of the annual salary of the office he seeks and for the general election is limited to 10 percent of such salary. No sanction is provided if the candidate exceeds either limit.

The state law limits contributions by the candidate himself to a total of 25 percent of such salary, divided as he wishes between primary and general election. Contributions for which the candidate personally is liable and contributions by the candidate's spouse, partner, employer or employee are deemed made by the candidate. Violation is a misdemeanor.

Neither the Charter nor the state law imposes any limit on the total spent on a campaign.

(2)On Nov. 15, 1971, the grand jury issued its report criticizing expense reports filed on behalf of Commissioner Francis Ivancie but finding no basis for criminal prosecution under the Corrupt Practices Act. See Oregonian, Nov. 16, 1971.
(3)Section 3-121, Article I, Chapter III, Portland City Charter.
(4)ORS Chapter 260, as amended by Chapter 749, 1971 Oregon Laws.
2. Records of contributions and expenses.

The Charter requires (a) the treasurer of a committee for a candidate or measure, and (b) any person or corporation that receives or spends more than $50 for a candidate or measure, to keep detailed accounts of all receipts, payments and liabilities. Although the candidate is not specifically required to keep such accounts, the accounts of (b) are deemed a part of the records of the candidate and both (a) and (b) are required to deliver a statement of account to the candidate (or, in the case of (b), to his treasurer) prior to the election. These records are open to inspection by candidates for the office and opposing organizations.

The state law requires each candidate and political committee for any candidate, measure or political party or principle to appoint a treasurer and certify the treasurer’s name and address to the appropriate city filing officer (clerk, auditor or recorder). The treasurer must keep detailed accounts, current within not more than seven days after the date of receiving a contribution or making an expenditure. Such accounts may be inspected any time by an opposing treasurer. They must be preserved for at least six months after the election or date the last supplemental filing is made. Violation of the record-keeping or retention provisions is a misdemeanor.

3. Filing statements of contributions and expenses.

The Charter requires the following filings with the auditor from one to five days prior to the election:

(a) A candidate must file an itemized sworn statement setting forth in detail (1) all monies contributed, expended or to be expended or promised by him and (2) all existing unfulfilled promises and liabilities in force at the time the statement is made. Noncompliance disqualifies the candidate for nomination or office, unless excused by order of court.

(b) The treasurer for an organization promoting a candidate or measure, and every person or corporation that spends more than $50 for a candidate or measure, must file an itemized statement of receipts, expenditures and liabilities.

The state law requires the treasurer for each candidate, measure, party or principle to file with the appropriate city filing officer a statement of all contributions received and expenditures made at the following times:

(a) From seven to ten days prior to the election, a statement covering a period 10 to 250 days prior to the election.

(b) Within 30 days after the election, a statement covering the period from the date of the election to a date 250 days prior to the election.

(c) Periodic supplemental statements so long as there is any unexpended balance of contributions or expenditure deficit.

Also, under state law, not more than 30 days after an election each individual who spends more than $50 for or against a candidate or measure must file a signed and verified statement thereof with the appropriate city filing officer.

Each statement filed under state law must be signed and certified as true and correct by the person filing. Failure of the statement to conform to the law and the truth is a misdemeanor.
TRADITIONAL CHRISTMAS PROGRAM CANCELLED
Since the Friday luncheon meeting preceding Christmas Day falls on December 24th this year, the Board of Governors cancelled the usual holiday program.

It was felt members and their families would be far too occupied with their last-minute preparations for the holiday to attend such a luncheon.

M. LENSKÉ JOINS ELECTIONS STUDY
Charles Robinowitz, chairman of the long range research study on Election Procedures, has appointed Moshe D. Lenske to his committee, replacing John Lansing, resigned from the committee due to pressure of other commitments.

Mr. Lenske is manager of Western Toy Manufacturing Co., Inc.

Other members of the Election study team include Robert F. Bettendorf, Earl Blumenaurray, George W. Friede, Harold I. Huggins, Stephen B. Hill, Patrick H. Maney and George R. Sanders, Jr.

Two student interns, Dona Singmaster and Stephen Loveless, are assigned to the committee for special research. They are both Lewis and Clark College seniors majoring in Political Science. Ron Lansing is research advisor to the committee.

HOW DO YOU PROPOSE SOMEONE FOR CITY CLUB MEMBERSHIP?
It's a simple process to propose a friend or colleague for City Club membership; ask for an application blank from the staff.

Any member in good standing may serve as sponsor for an applicant; the applicant must fill out, sign and submit the form, accompanied by a check for at least half a year's dues, to the Board of Governors which acts on weekly membership reports each Monday noon. Names of applicants are posted in that week's Bulletin for information to the membership, and they become members in two weeks if no objections are voiced to the Board.

BE KIND TO PEOPLE; TAKE A FRIEND TO LUNCH
Members are reminded that they may bring guests (either male or female) to any program meeting unless the Bulletin indicates "Members Only".

GAVIN ACCEPTS BID TO SPEAK AT CITY CLUB ANNUAL DINNER
James M. Gavin, chairman of the Board of Arthur D. Little, Inc., has accepted the invitation of the City Club of Portland to be its guest of honor at the annual dinner, set for Tuesday evening, March 7, 1972.

Dr. Herbert Goodman, immediate past president and chairman of the Annual Dinner, received confirmation from General Gavin last week. Title for his talk is yet to be announced, but it will cover international events and bring to bear both his military and business background. Gavin wrote that he "was looking forward very much to being in Portland once again".

The Annual Dinner meeting is to be held in the ballroom of the Portland Hotel, and members are welcome to bring guests to the evening event. Details of the evening will be worked out and announced to the membership shortly, so that ticket sales can begin soon after the holidays.

A major item on the program at each Annual Dinner is the announcement and presentation of the coveted City Club Award, given to a member who has made exceptional contribution through his activities both in the City Club and out.

Previous City Club Award winners have been: Charles McKinley, Verne D. Dusenbery, Thornton T. Munger, Clifford E. Zollinger, Thaddeus W. Veness, Roy F. Bessey, McDannell Brown, John C. Beatty, Jr. and Francis A. Staten.

The last Annual Dinner was held during 1970-71 fiscal year on December 1. Speaker was Dr. Joseph L. Fisher, President of Resources for the Future, Inc.

CITY CLUB PROGRAMS BROADCAST BY KOIN, KBPS
If you can't get to the Friday luncheon meetings, you can always catch the City Club program on KOIN Radio (970 KC). If you're out of town and can't even catch the Friday night broadcast, much less the meeting, KBPS, Portland Public School's educational radio channel (1450 KC) rebroadcasts the Friday meetings during the following week. Watch the radio schedule for day and time each week.

The programs are always taped for broadcast by KOIN Radio as a public service.
IRS RECLASSIFIES CITY CLUB FOUNDATION

When does a "have" seek to be a "have not"?

When it's the Portland City Club Foundation, Inc., which was ruled a "private foundation" originally by the Internal Revenue Service, when the directors were convinced it should have been ruled "not a private foundation".

Perseverance paid off and in a November 24, 1971 letter the Chief of the Rulings Section for Exempt Organizations informed the Foundation that it was found to be "not a private foundation" under Sec. 509 (a) (2) of the Internal Revenue Code.

The reason for seeking a "not" classification is that restrictions on private foundations are very tight, indeed, since the passage of the 1969 Tax Reform Act. Outside contributors think twice before donating to a private foundation because of the necessary "birddogging" required of donors to supervise use of such donated funds. In addition, the allowable percentage of income deductible for contributions to public charities is far greater than the percentage allowed for contributions to private ones.

City Club members are reminded that their contributions to the Portland City Club Foundation, Inc., are a tax deductible item. Members are urged to become Sustaining members by contributing a minimum of $10.00 a year to their dues, or, if already Sustaining, to earn a lovely coat of gilt on their halos by increasing the amount of contributions to the Foundation they might now be giving annually.

Elected to Membership

Robert H. Hulme, President, Surgical Sales, Inc. Sponsored by Lawrence A. Pierce, Jr.
The Rev. Raymond A. Thompson, Pastor, Montavilla United Methodist Church. Sponsored by The Rev. Edward Terry.

PROPOSED FOR MEMBERSHIP AND APPROVED BY THE BOARD OF GOVERNORS

If no objections are received by the Executive Secretary prior to December 24, 1971, the following applicant will be accepted for membership:

Harold Tascher, Ph.D., Professor Emeritus, University of Montana. Proposed by Paul Stark Seeley.

CHANCELLOR TO AIR HIGHER ED WOES

Chancellor Roy Lieuallen, Oregon State Board of Higher Education, will speak on the crises in higher education in the state when he appears on the Friday, December 17th platform of the City Club.

Finance Committeemen include Relph Alberger, chairman, Samuel L. Diack, M.D., Barnes H. Ellis, Milton A. Foland, R. Burke Morden, Thaddeus W. Veness and Ralph E. Williams.

Directors and officers of the Foundation in addition to President Bessey are Leo Samuel, vice president, Frank H. Elseman, Secretary-Treasurer, and Burdette W. Erickson and Walter Pendergrass, directors.