Second Interim Report on City - County Consolidation

City Club of Portland (Portland, Or.)
To the Board of Governors,
The City Club of Portland:

INTRODUCTION

The first interim report of your Committee on City-County Consolidation was presented to and accepted by the City Club on March 23, 1973. The Committee then directed its attention to the public hearings then being held on the preliminary draft charter which had previously been published by the City-County Charter Commission on November 1, 1972.

The Committee was charged to prepare a second interim report following the close of the public hearings and the substantial completion of the Charter Commission’s amendments and revisions of the Charter which were expected to take place between the close of the hearings on June 2, 1973, and some time between the end of July and early August.

In its efforts to fulfill its obligation, your Committee has held weekly meetings and has interviewed numerous persons which it felt were in a position to offer critical comment. One or more of the Committee members attended most of the public hearings and many of the business meetings of the Commission.

Contrary to your Committee’s expectations, the Charter Commission did not commence an extensive revision of the Charter until the first week in August. Work on revision carried through the month of August and into September. At this writing, your Committee is informed that some portions of the Charter have not been considered at great length and that substantial revisions may yet evolve before the November 1 deadline for publication of the final draft charter. This has made it difficult for your Committee to evaluate the worth of the public hearings or the ongoing work product of the Commission. The Commission has informed the public that after October 15 no further comment or suggestions for changes in the Charter will be received and after that date, the Commission will set about to finalize the draft charter without interruption and without outside input.

Your Committee, therefore, has been required to present this, its Second Interim Report, while the draft charter is still in a state of flux.

In order to comply with the timing demands for City Club Board of Governors’ approval, publication and presentation of this report, it was necessary to discontinue in-depth review of any Charter Commission action occurring after August 29, 1973. (The Charter incorporating all revisions up to August 29, 1973 is available upon request from the City Club staff.) Commission action subsequent to August 29, 1973 will be noted where feasible. Persons interviewed by your Committee since the First Interim Report, published March 23, 1973, are listed in Appendix A.

Your Committee’s current report does not attempt to recommend a “yes” or “no” at this time on the question of city-county consolidation. A report and presentation to the membership on the final proposal in the official ballot measure will be prepared and submitted prior to the May, 1974 primary election. The following critical review of the Charter in its present unfinished form is directed only at the major points which, in your Committee’s opinion, warrant revision. These are brought out under the present chapter headings of the draft Charter which follows:
CHAPTER I

INTRODUCTORY PROVISIONS

Section 1.10—Name

The Charter Commission charged itself with the responsibility of naming the proposed new City-County governmental unit.

On June 27, 1973, the Charter Commission took under consideration the name to be given to the proposed consolidated governmental unit. The Commission did not seriously consider any other names than Portland or Multnomah or a combination of the two. On that date a motion was before the Commission to name the new government “Portland.” The motion was amended with the following wording: “The name of the City-County shall be the Consolidated Government of Portland-Multnomah County.” It was felt by the Chairman of the Commission that the word Multnomah should be retained in any name, that the wording was a fair reflection of the nature of the government, and that it would be politically more acceptable. The motion was tabled for further consideration.

On August 29 the matter was before the Commission, at which time the choice of the single word “Portland” was again raised. This was opposed by three of the members living outside the City of Portland, one suggesting the name should be the single name, Multnomah. All other members present approved the name of “The City-County of Portland-Multnomah.” This name was voted upon and passed six to three. Commissioners Otto, Bradley and Irwin voted against the motion. Commissioner Lang moved that the council be empowered to use the name “Portland” as a general reference; this motion died for lack of a second.

Without presuming to know or suggest the motives behind the Commission’s final decision to elongate the name of Portland to that of “Portland-Multnomah,” your Committee believes that the single name of Portland should be retained for the new governmental unit. It is our belief that this name will eventually evolve by common usage by most of the residents in the consolidated governmental unit; that the name “Portland-Multnomah” may encourage a negative vote against consolidation, and that the name “Multnomah” would not be lost historically if it is deleted from the new governmental unit.

CHAPTER II

POWERS

Your Committee has no specific changes to submit.

CHAPTER III

STRUCTURE: CITY-COUNTY COUNCIL

Chapter III is the first substantive chapter of the draft Charter. It deals with the structure of the City-County Council and related topics. Your Committee is in disagreement with several major areas in this chapter.

3:10 Districts: The Charter Commission felt it was necessary to create its own set of district boundaries for the eight council districts. Your Committee suggests that the initial council districts be coextensive with the existing eight State Senate districts. Suitable adjustments will have to be made for those areas of Portland which extend into Washington and Clackamas counties. One of the objectives of consolidation is simplification and the avoidance of duplication. It appears that using the existing Senate districts is compatible with this approach. This might also lessen the cost of elections by avoiding precinct boundary changes and the printing of different ballots.
Terms of Office: There is currently no limitation on the number of terms a councillor may serve. Your Committee recommends there be a two term or 10 year limit in any one position. The feeling is that this will allow greater participation in government. It would lessen the chance for bossism or political entrenchment and would help to perpetuate the citizen politician in Oregon.

Legislative Investigations: This section gives the council broad investigative powers. As currently drafted, a single councillor is empowered to initiate an investigation and issue subpoenas. Further, a majority of councillors present may find a person in contempt of the council. Your Committee feels that these powers would be better handled by requiring a majority of the full council to initiate an investigation, issue subpoenas, or find a person in contempt.

Record of Action: Publication of Ordinances: The current draft charter states that from "time to time" the council shall publish a codification of ordinances in effect. Your Committee suggests this should be strengthened by stating that a codification of ordinances in effect shall be available to the public "at all times."

CHAPTER IV
STRUCTURE: EXECUTIVE & ADMINISTRATIVE

Mayor—Term of Office: The original proposed charter limited the mayor to two consecutive four year terms. The limitation was removed by the Commission on August 8, 1973, presumably to encourage a broader interest in the office. The Committee, in keeping with its position on limited terms for councillors, recommends that the office of mayor be limited to two consecutive terms, or ten years.

Mayor Disability: This section allows the mayor to select a person to act as mayor in the event of the mayor's disability and creates a panel of five persons selected by the council to determine whether the mayor is unable to perform the duties of the office. This section has received a considerable amount of unfavorable comment and appears unduly complicated and subject to misunderstanding. Your Committee feels the machinery for the selection of an acting mayor and the determination of the mayor's disability is better left to the council. Preferably both the selection of the acting mayor and the determination of disability should be within the council proper.¹

CHAPTER V
JUDICIARY POWER

Your Committee has no specific changes to submit.

CHAPTER VI
LEGISLATION

Ordinances—Publications: Your Committee feels that the Charter's present wording possibly would not assure publication of proposed ordinances in either the Oregonian or the Journal, the newspapers with the largest circulations, because of the imprecise term "general circulation." The

¹Your Committee is pleased to report that on September 12, 1973, the Charter Commission amended this section to allow the Council to select the acting mayor and to provide the means for determining the disability of the mayor.
Committee suggests inserting the phrase "paid circulation in excess of 50,000" and adding a clause allowing the council also to employ any other means of publication that may be available, in order to inform the most voters possible.

Your Committee is also concerned that the citizenry be informed far enough in advance to marshal comment on the issues. Therefore, the Committee recommends that the Charter specify that a proposed ordinance be published three days prior to final consideration.

6:60 Ordinances—Time of Effect: This section states that a tax ordinance would take effect on the date specified in the ordinance when adopted by two-thirds of the council. Such a provision to accelerate the effective date of a new tax is commonly called an "emergency clause."

Your Committee was unable to find any compelling reason to make a tax ordinance effective before the voters have had an opportunity to initiate their right of referendum. A full-time conscientious government should be expected to plan at least two or three months in advance to preclude the need for an "instant" tax, even foreseeing a rare instance of impoundment or possible loss of federal funds. Consequently, the Committee feels an "emergency clause" is not desirable, regardless of the number of councillors voting affirmatively, and proposes that:

(1) A non-tax ordinance shall take effect on the date specified by the ordinance, and

(2) A tax ordinance shall take effect not less than sixty calendar days after approval of the mayor, or after an override of his veto.

CHAPTER VII
ELECTIONS

7:00 Election Officer: In the draft charter, an officer in charge of elections determines whether candidates or incumbents meet the required qualifications for office at any given time. A finding by the officer that an incumbent is not qualified has the effect of vacating the office. This finding is subject to judicial appeal. Your Committee is of the opinion that the present provision, paraphrased above, puts too much power in the hands of the officer in charge of elections. It would be desirable, particularly with regard to incumbents, not to require that such office be immediately vacated, but that the office be vacated only after the judicial appeal process has been completed. Your Committee thinks that this would provide a more orderly government.

7:40 Designation of Candidates: The draft charter currently provides for partisan elections, i.e. candidates running for office as members of a political party. At the present time, candidates for County Commissioner run on this basis while candidates for City offices run on a non-partisan basis.

The following reasons are those that surfaced most frequently and which the Committee assumed influenced the Commission in choosing the partisan approach:

1. Encouragement of greater voter turn-out and participation.
2. Political parties would be a source of funds for candidates who could not otherwise afford to run for office.
3. Development of candidates for state and national elections which are partisan in nature.
4. Decreasing of name familiarity as a tool for automatic succession in the case of an incumbent.

Arguments in favor of the non-partisan approach to election of the mayor and council are as follows:
1. Non-partisan elections place the emphasis on issues and candidates rather than political parties.
2. Non-partisan elections would encourage more people to run for office, including persons who do not now run for office because of the partisan nature of elections.
3. In the past, the party system in Multnomah County has not been an effective tool for campaign funds and candidate support.
4. One party holds a clear majority in Multnomah County which could present problems for candidates of the minority party.
5. Historically, support for political parties in this area has not been widespread.
6. Two good candidates of one political party would not be able to run for the same office in one election, thus discouraging participation in local government.
7. Federal employees are prohibited from participation in partisan election campaigns. Non-partisan elections could therefore involve federal employees, which would increase voter participation in elections.
8. It is more in keeping with the city political approach to local government to have non-partisan elections.
9. Development of state and national candidates, as an argument for the partisan approach, does not necessarily complement the requirements and needs for development of officials for local government.

Your Committee is persuaded to favor non-partisan elections for the basic reasons which are stated in the arguments indicated above. This recommendation would require a major change in the draft charter as it now stands.

7:50 Electioneering: Your Committee is of the opinion that the provision requiring the council to limit campaign expenditures by ordinance should be eliminated from the final charter. The reasoning behind this is the built-in advantage that an incumbent has, through the reporting of his actions in the press. The person seeking office against an incumbent has to overcome this advantage, and to limit his expenditures to those of the incumbent would, in our opinion, give an unfair advantage to the incumbent.

CHAPTER VIII
ELECTIVE OFFICERS

Your Committee has no substantive objections to Chapter VIII. However, it is suggested that Section 8:40, Filling Vacancies, be changed to conform with the Committee's previous recommendation of non-partisan elections. Your Committee recommends that the Council appoint a qualified person, without regard to party affiliation, to fill a vacancy in an elective city-county office.

CHAPTER IX
PERSONNEL

The general purpose of Chapter IX is to establish and maintain a consolidated personnel system that meets the current social, economic and program needs of the people and of the employees of a consolidated government. This system will provide means to recruit, select, develop and maintain an effective and responsive work force, and will include policies and procedures for efficient and equitable hiring, advancement, training and career development, job classification, salary administration, retirement, fringe benefits, employee evaluation, discipline, discharge, and other personnel activities.

Your Committee's initial report pointed out that the enabling act dictates the greater portion of this section. In fact, Section 9:20, The Continuation of Rights,
is taken verbatim from that law. Therefore, your Committee's only recommendation is as follows:

9:10 **Retirement:** Your Committee's prior recommendation to limit the term of elected officials to two terms, or ten years, carries with it the belief that such short-term officials should not participate in the retirement system. Therefore, your Committee suggests deleting from Section 9:10 "and persons holding elective office."

Although your Committee recommends no changes in Section 9:50, **Classified Personnel System**, it should be noted that substantive revisions are currently being offered the Commission.

**CHAPTER X**

**FINANCE**

The areas covered in this chapter have several major considerations remaining to be resolved. Some of the considerations relate to provisions of the initial draft that the Committee understands will almost certainly be changed. Others relate to items, such as a specific tax base amount, which were not included in the initial charter and have not been resolved at the date of this writing. The following are comments on items which were stated specifically enough in the initial draft to raise issues. Those which your Committee would like amended are listed below:

10:20 **Indebtedness—Revenue Bonds:** This section limits the revenue available for retiring bonds to that of the particular facility being financed. Usually the City has pledged the funds of existing facilities to support the bonds necessary for financing an additional similar facility. For example, the revenues of existing golf courses have been pledged by the City to support a new golf course. This method allows easier financing and lower interest costs by providing a broader revenue base. Your Committee suggests that the wording in the initial charter draft could be interpreted as being too restrictive. Thus, the Committee recommends broader wording to allow revenues from similar facilities to be pledged to retire the new issue.

10:50 **Tax Differentials:** Although tax differentials were not required, the enabling act specifically allowed the creation of taxing districts on the basis of services rendered. The Commission apparently saw an implied mandate in this and attempted to comply. There seems to be general agreement that there is a differential in both the quantity and quality of services provided in different geographic areas. However, considerable study brought the Commission to the conclusion that available cost accounting information was not adequate to develop a differential tax base upon the costs of specific services. Also, the tax differential applies to property taxes, and the mingling of property tax funds with funds from other sources in the general fund further inhibits developing tax differentials on a cost basis.

The percentage differential included in the initial Charter is an attempt to come up with differential taxation based on a general evaluation of the quality and quantity of the service in specific areas. While this made sense as a general theory, it tends to fail in specific application. Drawing arbitrary lines apparently results in inequities. This will probably result in the Commission coming up with an entirely different approach, which your Committee would encourage.

**CHAPTER XI**

**MISCELLANEOUS PROVISIONS**

11:60 An August 22, 1973, the Commission added a new section (11:60) providing for "rules for the establishment and operation by the people of
community forums representing communities or geographical areas." Your Committee is only concerned that this section not contemplate the mandatory formation of such forums.

CHAPTER XII
TRANSITIONAL PROVISIONS

12:00 First Election Under Charter: Should the Charter Commission change its philosophy regarding partisan elections and provide for non-partisan nomination and election of candidates, as our Committee recommends, (see Section 7:40) this section will have to be substantially rewritten. This section presently provides that candidates shall have their names placed on the ballot for the primary election in the manner authorized by the laws of the state governing primary elections. The general primary election laws of the state, Oregon Revised Statutes, Chapter 249, are designed for partisan nominations and elections. The only state provisions for non-partisan nominations and elections pertain to (1) Judges, (2) Superintendent of Public Instruction, (3) Justices of the Peace and (4) District Attorneys.

Thus, should the Charter Commission change the draft to provide for non-partisan nominations and elections, the charter should provide the manner in which such nominations shall be made and the elections carried out. In this respect, your Committee recommends a procedure similar to that presently provided in the City of Portland Charter, Chapter III.

RECOMMENDATION

Your Committee respectfully urges that, before final decisions are made by the City-County Charter Commission on the content of its proposed charter to be submitted to the voters in May, 1974, the above recommendations be given serious and thorough consideration, and that appropriate revisions be made accordingly.

Respectfully submitted,

James A. Nelson, Chairman
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Approved by the Research Board September 20, 1973 for transmittal to the Board of Governors.

Accepted by the Board of Governors on September 24, 1973 and ordered published for presentation to the membership on October 5, 1973.
APPENDIX A

Persons interviewed individually or by the entire committee:
Lloyd Anderson, Commissioner, City of Portland
Polly Casterline, City-County Charter Commission
Donald E. Clark, Commissioner, Multnomah County
Douglas Eadie, Budget Officer, City of Portland
Nell Goldschmidt, Mayor, City of Portland
Ruth Hagenstein, City-County Charter Commission
Kenneth Hampton, Staff Director, City-County Charter Commission
Lee Irwin, Chairman, Charter Commission's Committee on Finance and Taxation;
   Vice-Chairman, City-County Charter Commission
Harold Johnson, Director of Management Services, City of Portland
George Joseph, Chairman, City-County Charter Commission
Loyal Lang, City-County Charter Commission
Ben Padrow, Commissioner, Multnomah County
Morton Paglin, Ph.D., Professor of Economics, Portland State University
Terry Schrunk, Former Mayor, City of Portland
Anthony White, Research Associate, Charter Commission