

OCTOBER 26



MULTNOMAH COUNTY OREGON

MULTNOMAH COUNTY HOME RULE CHARTER REVIEW COMMITTEE

3RD FLOOR, FORD BUILDING
2505 S.E. 11TH AVENUE
PORTLAND, OREGON 97202
(503) 248-5018

MEMBERS

Florence Bancroft
Tanya Collier
Chad Debnam
Marlene Johnsen
Penny Kennedy
Carol Kirchner, Vice-Chair
Leeanne MacColl
Roger Parsons
Ann Porter
Linda Rasmussen
Rev. Frank Shields, Chair
Paul Thalhofer
John Vogl

STAFF

Robert J. Castagna,
Project Manager
Maribeth McGowan,
Secretary

October 20, 1983

PUBLIC MEETING

Wednesday, October 26, 1983

7:00 P.M.

Peninsula Senior Center
7508 N Hereford
Portland, Oregon 97203

AGENDA

7:00 - 8:00 General Public Hearing

8:00 Tom Dennehy

Dr. Lillian Pereyee, Portland League
of Women Voters

Resumption of General Public Hearing

Committee Business

Approval of the Minutes of October 17th

Receipt of Dan Wood's Letter to Project Manager

Proposed Revised Committee Budget

Additional Committee Business



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October 20, 1983

TO: COMMITTEE MEMBERS
FROM: ROBERT J. CASTAGNA
RE: ENCLOSED MATERIALS

Enclosed you will find the material for the October 26th meeting.

Please be sure to bring this material with you to this meeting.

1. Agenda for the October 26th meeting
2. Minutes of the October 17th meeting.
3. Letter from Dan Wood, District Court Clerk
4. Proposed Revised Committee Budget
5. Report from the Center for Urban Studies, PSU

We look forward to seeing you on Wednesday, October 26th at the Peninsula Senior Center, 7508 N Hereford, Portland.



MULTNOMAH COUNTY OREGON

DANIEL E. WOOD/DISTRICT COURT CLERK/1021 S.W. FOURTH AVENUE/PORTLAND, OREGON 97204

PRESORTED
FIRST-CLASS



Mr. Robert J. Castagna
Project Manager
Home Rule Charter Review Committee
2505 S.E. 11th Avenue
Portland, Oregon 97202

Received 10/20/83-RJ.C.



MULTNOMAH COUNTY OREGON

DANIEL E. WOOD
DISTRICT COURT CLERK
1021 S.W. FOURTH
PORTLAND, OREGON 97204

October 18, 1983

Mr. Robert J. Castagna
Project Manager
Home Rule Charter Review Committee
2505 S.E. 11th Avenue
Portland, Oregon 97202

Dear Bob:

I have reviewed the minutes of the October 5, 1983, Charter Review Committee hearing at which I testified. The recap of our August 15, 1983, meeting needs to be clarified.

The minutes seem to say that on August 15th, I was willing to return any salary that had been paid to me and there is the implication that I am currently willing to do so. This is inaccurate.

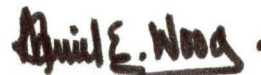
When the issue of my duties, responsibilities and salary arose in May, I indicated to the County Executive and in a press conference that I was willing to return the funds. In early June it became obvious to me that the County Executive had no intention of pursuing a legal resolution to the situation and chose instead to unilaterally attempt to delete the salary and the position.

On June 29, 1983, I therefore indicated that I intended to retain private counsel at County expense to seek a legal resolution to the question. At that point, I was no longer willing to return any funds paid to me as the voter-mandated salary.

Mr. Robert Castagna
October 18, 1983
Page Two

I would appreciate it if you would see to it that the next minutes reflect this clarification.

Very truly yours,

Handwritten signature of Daniel E. Wood in dark ink, written in a cursive style.

DANIEL E. WOOD
District Court Clerk

DEW:sf



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MINUTES

Public Meeting: October 26, 1983

Pursuant to notice by press release to newspapers of local circulation throughout Multnomah County and on the mailing list of the Committee and members of the Committee, a public meeting of the Multnomah County Home Rule Charter Review Committee was held at the Peninsula Senior Center, 7508 N Hereford, Portland, Oregon. The meeting convened at 7:00 p.m.

Present were Chair Frank Shields and Committee members Chad Debnam, Penny Kennedy, Carol Kirchner, Leeanne MacColl, Roger Parsons, Ann Porter, Linda Rasmussen, Paul Thalhofer, John Vogl, Florence Bancroft, and Tanya Collier. Absent was Marlene Johnsen. Staff present were Robert Castagna and Maribeth McGowan.

The agenda included testimony from the general public and from Tom Dennehy and Dr. Lillian Pereyea, Portland League of Women Voters.

General Public Hearing:

1. Louis Turnidge, 18144 SE Pine, Portland, OR 97233

Mr. Turnidge's testimony focused on the citizens' participation in policy and administration details. He believes that there should be a standing invitation for public comment and input. He suggested that policy makers hear the public's grievances at public hearings every two or three months.

Paul Thalhofer commented that the public's airing of grievances is a good idea.

2. Patricia Hoffert, 9022 N Mohawk, Portland, OR 97203 (See Exhibit A)

Ms. Hoffert emphasized the importance of area representation of elected officials. In response to Florence Bancroft's question about districting with at-large elections, Hoffert stated that she is not in favor of at-large elections.

3. Ken Bunker asked about the December 7th public meeting being held at Marshall High School.

Robert Castagna stated that he is awaiting confirmation from Marshall High School.

Testimony of Tom Dennehy:

Mr. Dennehy provided handout material. (See Exhibit B.)

Dennehy's summary of his recommendations included the following:

1. Generally, do not tinker with the basic structure of the Charter and tread softly around Ballot Measure #6.

Also, review closely the lines of authority between the elective offices.

2. Some specific recommendations on the 1978 Amendments and on Ballot Measure #6 were listed (refer to Exhibit B).

3. Some questions regarding the Auditor's Office were raised. Dennehy stated that Multnomah County had an Auditor because originally there was no separation of powers. The Auditor was put there as a checks & balance. Now that there is a separation of powers - it may not be necessary to have this checks and balance, but rather have a management tool.

Dennehy said that this office (Auditor's) is to function independent of financial pressures and should have sufficient financial tools to do the job.

Dennehy feels there should be a mandated response of some kind to the Auditor's Report.

In answering a question posed by Chad Debnam regarding mandating specific items, Dennehy stated that the specific item that could be changed is the office of District Court Clerk. He said he has listened to the arguments of sponsors of lobbyists and Chief of Elections and the Assessor.

Responding to another Debnam question which referred to Ballot Measure #6 being readdressed at some point - taking each item independently, Dennehy said no. The Board of County Commissioners had refused to do this and he feels that the opponents of Ballot Measure #6 should invoke the initiative process. The role of this Committee (and future ones), according to Dennehy, is not to give people an easy way to amend the Charter. There is a way available at all times to amend the Charter.

Dennehy wants to think in terms of trust of government. If people are told to vote on this (Ballot Measure #6 readdressed issues) for a third time Dennehy thinks that this Committee's credibility is at stake. He feels that good proposals could be damaged if people have to vote on Ballot Measure #6 again.

In response to Leeanne MacColl's question regarding this Committee's responsibility to recommend that the County Commissioners look more to the long term instead of just the business*and to recommend that the legislature change Multnomah County boundaries, Dennehy answered no, that it is not this Committee's responsibility. He thinks that there should be an urban boundary which would also be coterminous with the boundaries of an urban county. There should be inside wall-to-wall cities (emphasis on the plural) and the county then will become the regional government. Dennehy sees this ten to twenty years down the road. * at hand

Responding to Thalhofer's comment on lease-back instead of revenue bonds, Dennehy referred to the county's \$1½ million commitment with which the county had to pay for computer and furniture. He cited that while the county was reviewing its budget in March of 1983, it (the county) then wished it had the money to spend on other things.

Frank Shields commented on the viability and continuation of the office of Sheriff - that across the county (whether within or out of the municipality) the Sheriff may offer a certain level of police protection.

Dennehy responded by stating that if the people of a municipality want a higher level of police protection, they simply pay the incremental/marginal cost for that higher level. Dennehy suggests (rather than having two police forces crossing paths) there is a second option: people tell the county it does not want to have a police force. For example: If the city of Portland says it would enforce all state statutes and the city of Portland statutes, and any applicable county ordinances, then the city of Portland may pay 100% of the cost of the Sheriff's protection inside the city limits. Dennehy summarized: There is government service available, but the choice is to go the "private" route. The problem, according to Dennehy, would be phasing this in over a number of years.

Dennehy commented that there are some areas (cities) which are too small to support an independent police force and they should be able to buy police service from Multnomah County.

Shields requested that Dennehy write a report on just how his scenario would work and how it could be written into the Charter. Dennehy agreed to do so.

Dennehy responded to Ann Porter's comment regarding an official who wins more than 50% of the vote in a non-partisan election in May having to run again in November - by citing that (as an issue in 1978) the election takes place in November when more people turn out to vote. It gives that dissatisfied person a way of expressing that dissatisfaction by voting for the opponent even though the opponent does not have a chance; it gets more people involved in the election process rather than leaving the ballot blank. Dennehy has not heard any substantive reason against it. He sees nothing wrong with having the electorate reconsider that vote (for a candidate who won 51-52% of

the vote) in November - and it may get different results. Dennehy thinks of this as trying to get to the will of the people. He cited one election in which up to 80% more people voted in November than in May.

Responding to Roger Parsons' inquiry, Dennehy explained that if a city finds that providing police protection is too expensive, then that city should be able to turn to Multnomah County. However, good government, according to Dennehy, requires that the city give adequate notification to Multnomah County. Dennehy emphasized that this offers an alternative to the current system, it does not guarantee a number of sheriff deputies. Perhaps there could be a form of reimbursement which would mean a shift in the tax rate (Portland's down, Multnomah County's up) to make that adjustment.

In answering a question from Parsons regarding the lobbyist Dennehy stated that there ought to be 19½ lobbyist from Multnomah County - 6½ Senators and 13 Representatives - in the legislature. Dennehy mentioned that Multnomah County pays a fee to the AOC (Association of Oregon Counties) who has a lobbyist looking at county as county. Multnomah County has five Commissioners and an Executive who should free themselves - according to Dennehy - when there is a big issue to go personally to the legislature to lobby the big issue(s) (along with the Department Chairpeople). While Multnomah County does have its representation, a monitor is needed. Dennehy recommends that this Committee talk and listen to the citizens and try to get to what motivated that part (prohibition of the lobbyist) of Ballot Measure #6 and address that issue - thus meeting the needs of Multnomah County. Dennehy proposes that there be compromise language regarding the lobbyist in the Charter.

Dennehy, responding to Debnam's question, stated that indeed the main functions of a lobbyist are to provide information to the legislature and to be a watchdog for the elected officials. There is no assurance that a good job was done this past year with or without a lobbyist in the legislature. Dennehy feels that a general-purpose lobbyist is not as knowledgeable as a specialist (for example, with regard to Project Health). He also feels that this Committee must look for compromise and give people the impression that the lobbyists are not working against the people.

Testimony of Dr. Lillian Pereyea:

Dr. Pereyea provided a written statement on the position of the League of Women Voters. (See Exhibit C)

Responding to John Vogl's question regarding Change #1, Pereyea stated that it refers to any elected office, not just a county office.

Clarifying a point in Change #3, Pereyea said that a candidate with less than 50% of the vote would be in a runoff election.

Referring to Change #6 regarding professional consultants to

determine the salaries of the elected officials, Robert Castagna asked: who appoints what members to any panel of professional consultants or to a blue ribbon panel?

In her response, Pereyea stated that the Portland League of Women Voters did solicit the opinions of various individuals in local government, but the type of expert was not discussed, although, one of the articles presented dealt with possibly using a union scale (officials within the union) as a guide. The League never got beyond the point of considering positions in the discussions.

Responding to Debnam's question regarding an advantage an appointed incumbent may have over a challenger in an election, Pereyea stated that an appointed incumbent would not have a disadvantage and he should not be disqualified simply because he had been appointed. According to Pereyea, there is always the assumption that voters will judge on performance, not promises.

More Public Testimony:

4. Bob Goldstein, 4119 SW Fairvale Drive, Portland, OR 97221

Mr. Goldstein commented on the single-member districts versus the at-large elections. Having been involved in state-wide reapportionment, Mr. Goldstein discovered a great deal of damage can be done if lines are drawn not to the best interest of the people. He does not like the map as it is drawn.

Goldstein recommends that this Committee look at who does the redistricting and who does the reapportioning if there is no change in the number of districts. He questions the Auditor's expertise in drawing lines for redistricting/reapportioning and feels this Committee should question this. Goldstein feels it might be more appropriately be in the hands of those at County Elections.

Committee Business:

Florence Bancroft made the motion and Tanya Collier seconded the motion to approve the minutes of the October 17th meeting as written.

The motion passed unanimously.

Castagna noted the three points made in his August 1983 conversation with District Court Clerk Dan Wood:

1. Dan Wood wanted his office of District Court Clerk abolished.
2. Wood wanted to reimburse the county funds for his position.
3. Wood's major concern was the process by which his position would be abolished.

Thalhofer made the motion and Debnam seconded that Dan Wood's letter to the Project Manager be added to the exhibits of the October

26th minutes. The Committee will not amend the minutes of the October 5th meeting. (See Exhibit D)

This motion passed unanimously.

Linda Rasmussen moved to accept this Committee's Revised Proposed Budget. Ann Porter seconded the motion.

(Castagna had noted that he anticipates the need for extra secretarial help.)

The motion passed unanimously.

Additional Committee Business:

Carol Kirchner announced that the Auditor's Office Subcommittee will meet on November 22, 1983, at the Ford Building (SE 11th at SE Division, Portland, OR) at 4:00 to 6:00 p.m.

Parsons suggested having the Police Chief of the Portland Police Bureau testify before this Committee.

Parsons proposed for thought the idea of starting this Committee's business meetings at around 5:30 p.m. and having the regular public meeting begin at the usual time of 7:00 p.m.

Discussion ensued. The Committee members agreed to give this idea some thought.

Castagna stated that at the November 2nd meeting the County Commissioners will testify in numerical order of their district numbers starting at 7:00 p.m.. Each Commissioner will have a half-hour - 15 minutes presentation and 15 minutes for questions.

This meeting adjourned at 9:20 p.m.

Respectly submitted,

Maribeth McGowan

Maribeth McGowan
Secretary

Patricia J. Staffert

Chairperson of the C.W. Com. Boosters of St Johns.
D.L. Roosevelt Section Vice Pres.

Leauge nice people - Exps -
North Portland unit ^{1 term} leader 2 yrs
Vote Area Chairperson 2 election
Area fund raising committee -
members -

I Elected representation by area is truly
more important to working class and minority
neighborhoods and districts.

a) Leauge is concensus organization
often related by marriage to a
secure power base - University -
lawyers - City Club types.

b) Leauge used often by
incumbent politicians to dilute
opposition. By developers and
others able to pay for audience
evaluation to neutralize political,
particularly partisan political,
opposition.

1 Subsidized housing (H. Port.)
2 Zoning (Comp Plan)

II Structure - power - tax money

a) The new Co. charter was
bought for - and passed.

1 - apprenticeship positions

2 - tax money to expand
on Cathedral Park - 1st time!

3 Paid lobbyist - keep politicians
& their organizations down.

Exhibit B

Tom Dennehy
16421 NE Holladay Street
Portland, Oregon 97230
252-5952

26 October 1983

TWO GENERAL "DON'Ts":

Don't tinker with the basic structure.
Tread very softly around Measure 6.

TWO GENERAL "DOs":

Review closely the proper role for the Auditor.
Clarify the lines of authority between elective offices.

AND NOW FOR SOME SPECIFICS:

On the 1978 Amendments --

1. Don't change the districting.
2. Fill vacancies under the current system or with a "winner take all" election -- do not return to the old system.
3. Keep the mandatory run-off.
4. Do not resubmit the question of revenue bonds without a vote of the people; rather tighten the language to prohibit "creative" debt instruments.

On the Measure 6 Amendments --

1. Everyone agrees the office of District Court Clerk should be abolished.
2. Seek compromise language on the lobbyist.
3. Compensation for elected officials should continue to be approved by the voters, at least until they show they are too irresponsible to handle this delicate chore!
4. The assessor and the chief elections officer should be elected if the people feel better having it so.
5. The sheriff should MOST DEFINITELY be elected.
6. The language on limitation of terms (Sec. 6.50(4)) may need clarification.
7. Should an elected official be permitted to run for another county office?

On the Auditor's Office --

1. What are the duties of that office (especially in light of the 1978 amendments)?
2. What should be the qualifications for serving in that office?
3. How can we assure independence for that office?
4. Should the Charter mandate some kind of response after an auditor's report?

And finally some random thoughts --

1. Actions of the Board should require three affirmative votes (Sec. 3.40).
2. The language on emergency ordinances (Sec. 5.30(3)) allows for at least two interpretations. The nature of an "emergency" should be clearly stated rather than the standard "for the preservation of the health and peace of the community" kind of gibberish.
3. County counsel should be the "Civil Division" of the District Attorney's Office.
4. Sec. 6.10(3) should be amended to reflect the new elective offices under Measure 6.
5. The duties of the Clerk and Assessor should be spelled out in the Charter (if only by reference to state law).
6. The duties of the sheriff should be explicitly stated in the Charter (not by reference to state law) and this job description should make clear that the sheriff:
 - a) is responsible for the jail(s);
 - b) is responsible for the public safety in the entire county, including territory inside incorporated cities;
 - c) must offer to provide a level of service throughout the entire county sufficient to ensure the enforcement of state statutes and county ordinances;
 - d) will also assume responsibility for a higher level of service inside cities (including enforcement of city ordinances) if the cities are willing to pay the increased costs;
 - e) may delegate even the base level of service to other authorized police agencies within the county (e.g., city police or transit police) on a mutually agreed basis, but the responsibility for public safety cannot be delegated.
7. An adequate level of library service should be assured.
8. The county's role as provider of "human services" should be made explicit.

STATEMENT TO THE MULTNOMAH COUNTY CHARTER COMMITTEE BY
THE LEAGUE OF WOMEN VOTERS, PORTLAND CHAPTER

The League of Women Voters, Portland Chapter, has taken a position, which it revised slightly by consensus last spring and confirmed at its chapter convention in May, on the following points in the present Multnomah County Charter:

1. The League continues to support separation of administrative and legislative functions in county government.
2. It also agrees that county commissioners continue to be elected from single-member districts, and that vacancies on the Board of County Commissioners continued to be filled by appointment.

However, it would like to recommend that you consider the following changes:

1. That County Commissioners not have to resign in order to run for another office, and that a Commissioner who has been appointed to fill a vacancy on the Board be permitted to run for election to that position.
2. That the positions of sheriff, assessor, and county clerk be appointive rather than elective, and that the office of District Clerk be abolished.
3. That a candidate for an elective position who receives more than 50% of the vote in a primary election be declared the winner.
4. That sponsors of initiative petitions be required to clear their petitions with an officer similar to the legislative counsel to ensure correct wording and constitutional application.
5. That the County have a paid lobbyist to represent its interests.
6. That outside professional consultants be used to determine the salaries of elected officials, with final approval by the Board of County Commissioners.



MULTNOMAH COUNTY OREGON

DANIEL E. WOOD
DISTRICT COURT CLERK
1021 S.W. FOURTH
PORTLAND, OREGON 97204

October 18, 1983

Mr. Robert J. Castagna
Project Manager
Home Rule Charter Review Committee
2505 S.E. 11th Avenue
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Dear Bob:

I have reviewed the minutes of the October 5, 1983, Charter Review Committee hearing at which I testified. The recap of our August 15, 1983, meeting needs to be clarified.

The minutes seem to say that on August 15th, I was willing to return any salary that had been paid to me and there is the implication that I am currently willing to do so. This is inaccurate.

When the issue of my duties, responsibilities and salary arose in May, I indicated to the County Executive and in a press conference that I was willing to return the funds. In early June it became obvious to me that the County Executive had no intention of pursuing a legal resolution to the situation and chose instead to unilaterally attempt to delete the salary and the position.

On June 29, 1983, I therefore indicated that I intended to retain private counsel at County expense to seek a legal resolution to the question. At that point, I was no longer willing to return any funds paid to me as the voter-mandated salary.

Mr. Robert Castagna
October 18, 1983
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Very truly yours,

Daniel E. Wood

DANIEL E. WOOD
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DEW:sf



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The agenda included testimony from the general public and from Tom Dennehy and Dr. Lillian Pereyee, Portland League of Women Voters.

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In response to LEEANNE MacColl's question regarding this Committee's responsibility to recommend that the County Commissioners look more to the long term instead of just the business*and to recommend that the legislature change Multnomah County boundaries, Dennehy answered no, that it is not this Committee's responsibility. He thinks that there should be an urban boundary which would also be coterminous with the boundaries of an urban county. There should be inside wall-to-wall cities (emphasis on the plural) and the county then will become the regional government. Dennehy sees this ten to twenty years down the road. * at hand

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Dennehy responded to Ann Porter's comment regarding an official who wins more than 50% of the vote in a non-partisan election in May having to run again in November - by citing that (as an issue in 1978) the election takes place in November when more people turn out to vote. It gives that dissatisfied person a way of expressing that dissatisfaction by voting for the opponent even though the opponent does not have a chance; it gets more people involved in the election process rather than leaving the ballot blank. Dennehy has not heard any substantive reason against it. He sees nothing wrong with having the electorate reconsider that vote (for a candidate who won 51-52% of

the vote) in November - and it may get different results. Dennehy thinks of this as trying to get to the will of the people. He cited one election in which up to 80% more people voted in November than in May.

Responding to Roger Parsons' inquiry, Dennehy explained that if a city finds that providing police protection is too expensive, then that city should be able to turn to Multnomah County. However, good government, according to Dennehy, requires that the city give adequate notification to Multnomah County. Dennehy emphasized that this offers an alternative to the current system, it does not guarantee a number of sheriff deputies. Perhaps there could be a form of reimbursement which would mean a shift in the tax rate (Portland's down, Multnomah County's up) to make that adjustment.

In answering a question from Parsons regarding the lobbyist Dennehy stated that there ought to be 19½ lobbyist from Multnomah County - 6½ Senators and 13 Representatives - in the legislature. Dennehy mentioned that Multnomah County pays a fee to the AOC (Association of Oregon Counties) who has a lobbyist looking at county as county. Multnomah County has five Commissioners and an Executive who should free themselves - according to Dennehy - when there is a big issue to go personally to the legislature to lobby the big issue(s) (along with the Department Chairpeople). While Multnomah County does have its representation, a monitor is needed. Dennehy recommends that this Committee talk and listen to the citizens and try to get to what motivated that part (prohibition of the lobbyist) of Ballot Measure #6 and address that issue - thus meeting the needs of Multnomah County. Dennehy proposes that there be compromise language regarding the lobbyist in the Charter.

Dennehy, responding to Debnam's question, stated that indeed the main functions of a lobbyist are to provide information to the legislature and to be a watchdog for the elected officials. There is no assurance that a good job was done this past year with or without a lobbyist in the legislature. Dennehy feels that a general-purpose lobbyist is not as knowledgeable as a specialist (for example, with regard to Project Health). He also feels that this Committee must look for compromise and give people the impression that the lobbyists are not working against the people.

Testimony of Dr. Lillian Pereyea:

Dr. Pereyea provided a written statement on the position of the League of Women Voters. (See Exhibit C)

Responding to John Vogl's question regarding Change #1, Pereyea stated that it refers to any elected office, not just a county office.

Clarifying a point in Change #3, Pereyea said that a candidate with less than 50% of the vote would be in a runoff election.

Referring to Change #6 regarding professional consultants to

determine the salaries of the elected officials, Robert Castagna asked: who appoints what members to any panel of professional consultants or to a blue ribbon panel?

In her response, Pereyea stated that the Portland League of Women Voters did solicit the opinions of various individuals in local government, but the type of expert was not discussed, although, one of the articles presented dealt with possibly using a union scale (officials within the union) as a guide. The League never got beyond the point of considering positions in the discussions.

Responding to Debnam's question regarding an advantage an appointed incumbent may have over a challenger in an election, Pereyea stated that an appointed incumbent would not have a disadvantage and he should not be disqualified simply because he had been appointed. According to Pereyea, there is always the assumption that voters will judge on performance, not promises.

More Public Testimony:

4. Bob Goldstein, 4119 SW Fairvale Drive, Portland, OR 97221

Mr. Goldstein commented on the single-member districts versus the at-large elections. Having been involved in state-wide reapportionment, Mr. Goldstein discovered a great deal of damage can be done if lines are drawn not to the best interest of the people. He does not like the map as it is drawn.

Goldstein recommends that this Committee look at who does the redistricting and who does the reapportioning if there is no change in the number of districts. He questions the Auditor's expertise in drawing lines for redistricting/reapportioning and feels this Committee should question this. Goldstein feels it might be more appropriately be in the hands of those at County Elections.

Committee Business:

Florence Bancroft made the motion and Tanya Collier seconded the motion to approve the minutes of the October 17th meeting as written.

The motion passed unanimously.

Castagna noted the three points made in his August 1983 conversation with District Court Clerk Dan Wood:

1. Dan Wood wanted his office of District Court Clerk abolished.
2. Wood wanted to reimburse the county funds for his position.
3. Wood's major concern was the process by which his position would be abolished.

Thalhofer made the motion and Debnam seconded that Dan Wood's letter to the Project Manager be added to the exhibits of the October

26th minutes. The Committee will not amend the minutes of the October 5th meeting. (See Exhibit D)

This motion passed unanimously.

Linda Rasmussen moved to accept this Committee's Revised Proposed Budget. Ann Porter seconded the motion.

(Castagna had noted that he anticipates the need for extra secretarial help.)

The motion passed unanimously.

Additional Committee Business:

Carol Kirchner announced that the Auditor's Office Subcommittee will meet on November 22, 1983, at the Ford Building (SE 11th at SE Division, Portland, OR) at 4:00 to 6:00 p.m.

Parsons suggested having the Police Chief of the Portland Police Bureau testify before this Committee.

Parsons proposed for thought the idea of starting this Committee's business meetings at around 5:30 p.m. and having the regular public meeting begin at the usual time of 7:00 p.m.

Discussion ensued. The Committee members agreed to give this idea some thought.

Castagna stated that at the November 2nd meeting the County Commissioners will testify in numerical order of their district numbers starting at 7:00 p.m.. Each Commissioner will have a half-hour - 15 minutes presentation and 15 minutes for questions.

This meeting adjourned at 9:20 p.m.

Respectly submitted,



Maribeth McGowan
Secretary

Patricia J. Hoffer

Chairperson of the Aur. Com. Boosters of St Johns.
P.L.C. Roosevelt Section Vice Pres.

League nice people - 8 yrs -
North Portland unit ^{1 term} leader 2 yrs
Vote Area Chairperson 2 elections
Area fund raiser committee -
members -

I Elected representation by area is truly
more important to working class and minority
neighborhoods and districts.

a) League is concenous organization
often related by marriage to a
secure power base - University -
lawyers - City Club types.

b) League used often by
incumbent politicians to delute
opposition. By developers and
others able to pay for audience
evaduation to neutralize political,
particularly partisan political,
opposition.

city 1 Subsidized housing (No. Port.)
2 Zoning (Comp. Plan)

II Structure - power - tax money

a) The new Co. charter - was
fought for - and passed.

1 - apprenticeship positions

2 - tax money Co. was spent
on Cathedral Park - 1st time!

^{School district} 3 Paid lobbyist keep volunteers
& their organizations down.

Exhibit B

Tom Dennehy
16421 NE Holladay Street
Portland, Oregon 97230
252-5952

26 October 1983

TWO GENERAL "DON'Ts":

- Don't tinker with the basic structure.
- Tread very softly around Measure 6.

TWO GENERAL "DOs":

- Review closely the proper role for the Auditor.
- Clarify the lines of authority between elective offices.

AND NOW FOR SOME SPECIFICS:

On the 1978 Amendments --

1. Don't change the districting.
2. Fill vacancies under the current system or with a "winner take all" election -- do not return to the old system.
3. Keep the mandatory run-off.
4. Do not resubmit the question of revenue bonds without a vote of the people; rather tighten the language to prohibit "creative" debt instruments.

On the Measure 6 Amendments --

1. Everyone agrees the office of District Court Clerk should be abolished.
2. Seek compromise language on the lobbyist.
3. Compensation for elected officials should continue to be approved by the voters, at least until they show they are too irresponsible to handle this delicate chore!
4. The assessor and the chief elections officer should be elected if the people feel better having it so.
5. The sheriff should MOST DEFINITELY be elected.
6. The language on limitation of terms (Sec. 6.50(4)) may need clarification.
7. Should an elected official be permitted to run for another county office?

On the Auditor's Office --

1. What are the duties of that office (especially in light of the 1978 amendments)?
2. What should be the qualifications for serving in that office?
3. How can we assure independence for that office?
4. Should the Charter mandate some kind of response after an auditor's report?

And finally some random thoughts --

1. Actions of the Board should require three affirmative votes (Sec. 3.40).
2. The language on emergency ordinances (Sec. 5.30(3)) allows for at least two interpretations. The nature of an "emergency" should be clearly stated rather than the standard "for the preservation of the health and peace of the community" kind of gibberish.
3. County counsel should be the "Civil Division" of the District Attorney's Office.
4. Sec. 6.10(3) should be amended to reflect the new elective offices under Measure 6.
5. The duties of the Clerk and Assessor should be spelled out in the Charter (if only by reference to state law).
6. The duties of the sheriff should be explicitly stated in the Charter (not by reference to state law) and this job description should make clear that the sheriff:
 - a) is responsible for the jail(s);
 - b) is responsible for the public safety in the entire county, including territory inside incorporated cities;
 - c) must offer to provide a level of service throughout the entire county sufficient to ensure the enforcement of state statutes and county ordinances;
 - d) will also assume responsibility for a higher level of service inside cities (including enforcement of city ordinances) if the cities are willing to pay the increased costs;
 - e) may delegate even the base level of service to other authorized police agencies within the county (e.g., city police or transit police) on a mutually agreed basis, but the responsibility for public safety cannot be delegated.
7. An adequate level of library service should be assured.
8. The county's role as provider of "human services" should be made explicit.

Exhibit C

STATEMENT TO THE MULTNOMAH COUNTY CHARTER COMMITTEE BY
THE LEAGUE OF WOMEN VOTERS, PORTLAND CHAPTER

The League of Women Voters, Portland Chapter, has taken a position, which it revised slightly by consensus last spring and confirmed at its chapter convention in May, on the following points in the present Multnomah County Charter:

1. The League continues to support separation of administrative and legislative functions in county government.
2. It also agrees that county commissioners continue to be elected from single-member districts, and that vacancies on the Board of County Commissioners continued to be filled by appointment.

However, it would like to recommend that you consider the following changes:

1. That County Commissioners not have to resign in order to run for another office, and that a Commissioner who has been appointed to fill a vacancy on the Board be permitted to run for election to that position.
2. That the positions of sheriff, assessor, and county clerk be appointive rather than elective, and that the office of District Clerk be abolished.
3. That a candidate for an elective position who receives more than 50% of the vote in a primary election be declared the winner.
4. That sponsors of initiative petitions be required to clear their petitions with an officer similar to the legislative counsel to ensure correct wording and constitutional application.
5. That the County have a paid lobbyist to represent its interests.
6. That outside professional consultants be used to determine the salaries of elected officials, with final approval by the Board of County Commissioners.



MULTNOMAH COUNTY OREGON

DANIEL E. WOOD
DISTRICT COURT CLERK
1021 S.W. FOURTH
PORTLAND, OREGON 97204

October 18, 1983

Mr. Robert J. Castagna
Project Manager
Home Rule Charter Review Committee
2505 S.E. 11th Avenue
Portland, Oregon 97202

Dear Bob:

I have reviewed the minutes of the October 5, 1983, Charter Review Committee hearing at which I testified. The recap of our August 15, 1983, meeting needs to be clarified.

The minutes seem to say that on August 15th, I was willing to return any salary that had been paid to me and there is the implication that I am currently willing to do so. This is inaccurate.

When the issue of my duties, responsibilities and salary arose in May, I indicated to the County Executive and in a press conference that I was willing to return the funds. In early June it became obvious to me that the County Executive had no intention of pursuing a legal resolution to the situation and chose instead to unilaterally attempt to delete the salary and the position.

On June 29, 1983, I therefore indicated that I intended to retain private counsel at County expense to seek a legal resolution to the question. At that point, I was no longer willing to return any funds paid to me as the voter-mandated salary.

Mr. Robert Castagna
October 18, 1983
Page Two

I would appreciate it if you would see to it that the next minutes reflect this clarification.

Very truly yours,

Daniel E. Wood

DANIEL E. WOOD
District Court Clerk

DEW:sf



MULTNOMAH COUNTY OREGON

DANIEL E. WOOD/DISTRICT COURT CLERK/1021 S.W. FOURTH AVENUE/PORTLAND, OREGON 97204

Mr. Robert J. Castagna
Project Manager
Home Rule Charter Review Committee
2505 S.E. 11th Avenue
Portland, Oregon 97202

Received 10/20/83-RJC.



MULTNOMAH COUNTY OREGON

OFFICE OF COUNTY MANAGEMENT
COUNTY COUNSEL SECTION
ROOM 710 COUNTY COURTHOUSE
PORTLAND, OREGON 97204
(503) 248-3139

MEMORANDUM

TO: SHERIFF EDGAR MARTIN

FROM: PAUL G. MACKEY, Deputy County Counsel

DATE: May 3, 1977

SUBJECT: County Police Services Within Incorporated Cities and Special Districts

Some months ago you asked this office to advise you concerning the county's responsibility to furnish police services to incorporated cities and special districts within the county. The request, then, was based on two fact situations involving Maywood Park and the Port of Portland,

The City of Maywood Park, since 1970, has been paying to Multnomah County an annual fee for police services to the city based upon a purported agreement between Sheriff Purcell and the city's council. In 1976, the city questioned whether it is entitled, of right, to the same level of service furnished residents in the unincorporated areas of the county at no additional cost, asserting that, if so, then the annual fee paid to the county would entitle it to extra services.

The Port of Portland indicated it would expect the county to furnish full police services to its property, which includes hotel and other tourist facilities adjacent to the airport. We note that since your request, the City of Portland has annexed the Portland International Airport area. We believe, however, that the question of entitlement is no less present simply because the special district lies within an incorporated city if the city within which it lies does not furnish police services.

Our initial review of the matter caused us to conclude that no formal agreement resulted from correspondence between Sheriff Purcell and the City of Maywood Park in 1970. Any such agreement would have required Board of County Commissioners' approval. Nonetheless, we understand that both parties have performed in keeping with the informal understanding reflected in the correspondence. The City has received services and has paid the County as agreed.

Although we believe there was consideration for the agreement at the time made, we are uncertain of the terms and the extent to which the parties fully understood what was to be performed. In light of the discussion to follow, and its conclusions, it would be appropriate that you direct the City of Maywood Park to communicate directly with the Board of County Commissioners should it believe there is some adjustment to be made concerning past payment for services which may not have been required in the first instance.

The paramount question, however, is whether any agreement was required for City to receive police services from the County. Our own research, supplemented by that of the Bureau of Governmental Research and Service at the University of Oregon, has not produced an unequivocal answer. There is authority to suggest that to the extent an incorporated city provides its own police service, the sheriff is relieved from performing such service within the incorporated city. The sheriff is the chief law enforcement officer for all of the county. ORS 206.010. All cities in Oregon have authority to provide themselves general police protection. The larger the city, the more extensively it usually provides its own police protection. As this city protection increases, usually county police protection in the city decreases. The decreasing of policing by the sheriff in the face of increasing city policing does not, however, abrogate the sheriff's powers and duties of law enforcement inside cities.

A 1940 Missouri appeals decision refused to relieve a sheriff of responsibility for enforcement of laws within a city where the city's police force failed properly to enforce the law. State on Inf. of McKittrick v. Williams, 346 Mo. 1003, 144 SW 2d 98. No Oregon decision addresses the question.

The Missouri opinion is somewhat persuasive for a conclusion that an Oregon sheriff has a basic duty to see that police protection is provided inside cities in his county. Expansion of that conclusion is required. Researcher Orval Etter, of the Bureau of Governmental Research, comments further that:

"The opinion is...authority for the conclusion that the level of his policing at a particular time in a particular city may be inverse to the level of the police protection that the city is providing itself at that time. To the extent, therefore, that the governing authorities of a city do not provide the city the police protection that the sheriff has a duty to provide, that duty becomes operative for him, and he is obliged to discharge it.

"The law that is the basis for that protection is, however, state law. The sheriff is a county officer. Partly because a county is traditionally an agency of the state, the sheriff is also a state officer. Except by special arrangement with a city, he is not a city officer. The law that he is charged with enforcing

is accordingly state law. To the extent that his county enacts county police regulations, he commonly has a duty to enforce county law. Except by special arrangement with a city, he has no duty to enforce city law." Etter, Discussion of Sheriff's Duties Within Cities, 1977, U of O Bur. Govmtl. Res. & Serv., p. 4

The question of a sheriff's duties cannot be considered without assessing the mechanisms for inducing the sheriff to perform those duties and any sanctions available for nonfeasance in the sheriff to respond thereto. The Etter discussion, with which we find no basis to disagree, concludes that, in Oregon, there are no criminal or judicial sanctions available to that end. Where no discretion is involved, a sheriff may be subject to mandamus to perform a ministerial function. However, it is the judgment of sheriff, requiring exercise of discretion, to determine the distribution of services and the level at which they will be maintained within the county. In counties where the sheriff is an elected official, there is some recourse for dissatisfied citizens at the polls. Tort liability will usually not result from failure of a sheriff to provide services inasmuch as the duty owed is to the public in general and is not such a duty, the breach of which will create liability to an individual.

Some discussion of constitutional equal rights protection of residents within cities bears on the subject. This arises when considering whether cities have any right to compel service by the sheriff within their boundaries. Generally, the rule is that 14th Amendment rights do not extend to public corporations, which would include cities and special districts. Thus, cities may have no constitutional basis to claim denial of equal protection when the sheriff fails to perform services; however, individual residents of the city may be so entitled. This discussion must be qualified by the observation that many complex factors must exist and be proved to establish such a claim, not the least of which includes racial or economic distinctions forming the basis for denial of services.

We recognize the principle that generally two municipal corporations cannot carry on the same functions in the same territory at the same time. The principle does not, however, exclude the sheriff from enforcing state law within a city while the city provides police services to enforce city law. Duality of authority in this instance does not breach the principle.

We are not able to find authority which requires a city to provide police services. There is permissive authority which empowers any city to so do. Discretion exists for a city to exercise that authority through various means, including contracting for services with another city or the county. Given that authority, it strikes us as peculiar that the legislature has failed to recognize the incongruity of authorizing a city to contract with the county for police services when there exists a duty for the sheriff to provide such services without necessity of contract. We do recognize that if the city wishes its ordinances

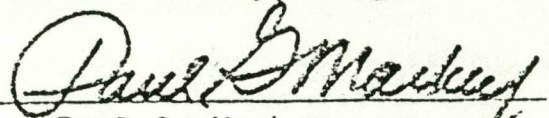
enforced by the sheriff, special provision must be made therefor.

Special districts, i.e., the Port Authority, are empowered under ORS 778.260 to police their facilities. The status of such districts is not unlike that of cities, and we believe the foregoing discussion applies. Annexation of the PIA into the City of Portland would not extinguish the duty of the sheriff to furnish services to the extent that the Port or the City fails so to do.

Our conclusion, concerning the basic issue as related to both factual matters presented, is that the sheriff is obliged to furnish services within cities in the county as may be necessary to supplement or supplant services provided by the city to itself. We are aware that the City of Maywood Park has been awaiting a response to its concerns for many months and believe a letter from the Sheriff of Multnomah County to be appropriate, informing the City of the County's intent to furnish such services, exclusive of enforcement of city laws, as may not be provided by the city itself.

GEORGE M. JOSEPH
County Counsel for
Multnomah County, Oregon

By


Paul G. Mackey
Deputy County Counsel

PGM:AL

DAVE FROHNMAYER
ATTORNEY GENERAL



84-115,000
William F. Gary
~~ATTORNEY GENERAL~~
DEPUTY ATTORNEY GENERAL ✓
X 10-1-1983
83-120031

DEPARTMENT OF JUSTICE

GENERAL COUNSEL DIVISION

Justice Building

Salem, Oregon 97310

Telephone: (503) 378-4620

July 7, 1983

The Honorable Lonnie Roberts
State Representative
H471 State Capitol
Salem, Oregon 97310

Re: Opinion Request OP-5509

Dear Representative Roberts:

You ask whether Multnomah County can reduce or phase out police protection services in unincorporated areas of that county. It appears that the Board of County Commissioners of Multnomah County by resolution has resolved to reduce the level of municipal services from an urban level to a rural level for those areas of Multnomah County which are outside any incorporated city. Police services, along with neighborhood parks, land use planning and permits, are identified as those services to be reduced to a rural level of service. No definition is given in this resolution of "rural level of service."

We conclude that Multnomah County, as a home rule county, must fulfill certain obligations imposed upon it by state law as well as the functions assumed by it under its own home rule charter. An examination of these two basic sources of the county's duties and powers indicates that terminating all police services or protection would be contrary to the county's duties under both state law and its own charter. However, it is not possible to determine in the abstract what level of service would be sufficient to meet these duties. It should also be noted that failure of a county to perform its legally required duties might be challenged either by the state or by citizens of the county based upon the duties assumed under the home rule charter.

DISCUSSION

A county is considered an agency of the state for the provision of certain services and administrative functions and is

The Honorable Lonnie Roberts
July 7, 1983
Page Two

similar to a municipal corporation or city for the provision of other services. The Oregon Supreme Court stated the role of the county in Powell Grove Cemetery Assn. v. Multnomah County, 228 Or 597, 600, 365 P2d 1058 (1961), as follows:

"It is well established law that counties are subdivisions or agencies of state government, created by legislative fiat for political and civil purposes, except as provided in the constitution, through acts of the legislature. State ex rel v. Malheur County Court, 185 Or 392, 203 P2d 305; City of Pendleton v. Umatilla County, 117 Or 140, 241 P 979."

Counties have had the option since a 1958 amendment to the Oregon Constitution, now Article VI, section 10, to reorganize themselves as home rule counties by adopting a county charter. Multnomah County has exercised this option, and is a home rule county. This amendment is intended to allow counties greater flexibility in responding to the need for urban services. See "County Home Rule in Oregon," 46 Or Law Rev 251 (1967). However, this greater flexibility in organization and enlarged authority to deal with problems of county concern does not allow a county to avoid duties imposed on it by state law. Article VI, section 10 of the Oregon Constitution states:

"A county charter shall prescribe the organization of the county government and shall provide directly, or by its authority, for the number, election or appointment, qualifications, tenure, compensation, powers, and duties of such officers as the county deems necessary. Such officers shall among them exercise all the powers and perform all the duties, as distributed by the county charter or its authority, now or hereafter, by the Constitution or laws of this state, granted to or imposed upon any county officer." (Emphasis added.)

To apply this general rule that the county must continue to provide the functions imposed upon it by the state Constitution and statutes to the issue at hand requires an examination of the relevant statutes. This examination shows that the county must provide for the functions of the office of sheriff and district attorney. These obligations clearly involve the provision of police protection. Note particularly the requirements of the office of sheriff as set out in ORS 206.010, as well as the obligations of the district attorney, set out in ORS chapter 8:

"The sheriff is the chief executive officer and conservator of the peace of the county. In the execution of his office, it is his duty to:

"(1) Arrest and commit to prison all persons who break the peace, or attempt to break it, and all persons guilty of public offenses.

"(2) Defend his county against those who, by riot or otherwise, endanger the public peace or safety.

"(3) Execute the process and orders of the courts of justice or of judicial officers, when delivered to him for that purpose, according to law.

"(4) Execute all warrants delivered to him for that purpose by other public officers, according to law.

"(5) Attend the terms of the Supreme, circuit, or county court held within his county, and to obey its lawful orders or direction." ORS 206.010.
(Emphasis added.)

Counties, like cities, have been held to be unable to divest themselves of duties conferred by state constitution or statute which involve a social interest of statewide concern. Grayson v. State, 249 Or 92, 436 P2d 261 (1968); In Re Application of Boalt, 123 Or 1, 260 P2d 1004 (1927); Yamhill County v. Dauenhauer, 6 Or App 422, 487 P2d 1167, aff'd 261 Or 154, 492 P2d 766 (1971).

While the cases cited above analyzed whether a particular function was of statewide concern or a local matter in order to determine whether state law would prevail, that analysis is not necessary in this instance. The voters of Multnomah County amended their charter in May, 1983, to specifically require establishment of the office of sheriff with all the functions and duties provided in Oregon law. The sheriff must perform the duties set out in ORS 206.010 both by the obligations imposed by state law and by the obligations assumed by the home rule charter.

Counties have been compelled by the state through mandamus to perform functions assigned to them by the constitution or statute. Note particularly State ex rel v. Malheur County, 185 Or 392, 203 P2d 305 (1949), where Malheur County was compelled to participate in a welfare system which required the county to levy and collect a tax sufficient to support the program. Thus, the

The Honorable Lonnie Roberts
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state not only can compel the performance of certain functions but can also compel the funding of those functions by a tax levied and collected by the county. See also Cities of La Grande and Astoria v. PERB, 281 Or 137, 155, 576 P2d 1204 (1978), aff'd 284 Or 173, 586 P2d 765 (1978).

Another aspect of this resolution which may raise legal questions is its different treatment of areas of the county depending upon whether they are within an incorporated city or in a unincorporated area. Such classifications have been challenged as violating the prohibition in Oregon Constitution's Article I, Section 20, against granting privileges or immunities to one group of citizens and not to another. In Warren v. Marion County, 222 Or 307, 353 P2d 257 (1960), a challenge was brought against Marion county's building permit system, which differentiated between certain geographical areas of Marion County. The court held that the test of a classification is its reasonableness, and that if some reasonable basis for the classification is found, then

"we have no right to inquire as to the wisdom of the governing body of Marion County in making a territorial classification. There is a reasonable basis for that classification and it is, therefore, free from constitutional objection." 222 Or at 327.

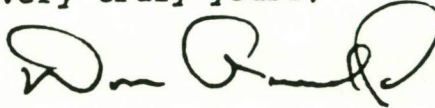
Population density was the reasonable basis found for the classification in that particular instance. See also Jarvill v. City of Eugene, 289 Or 157, 613 P2d 1, cert den 449 US 1013 (1980), upholding classification of subjects for taxation based upon or defined by geographical location within the taxing unit, if the classification is based upon qualitative differences distinguishing the geographical areas from one another.

While we can conclude with some certainty that termination of all police protection and services in an area of the county would violate the county charter as well as state law, it is much more difficult to determine what level of service is required. Similarly, it is difficult to conclude in the abstract whether classification of the county as incorporated and unincorporated areas for determining levels of law enforcement activity would be upheld by the court as a reasonable classification. Such a determination would depend in large part upon differences which

The Honorable Lonnie Roberts
July 7, 1983
Page Five

the county might point to as justifying differing treatment of
the areas for law enforcement purposes.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Don Arnold", with a large, stylized loop at the end.

Donald C. Arnold
Chief Counsel
General Counsel Division

DCA:JT:mlm

STATEMENT TO THE MULTNOMAH COUNTY CHARTER COMMITTEE BY
THE LEAGUE OF WOMEN VOTERS, PORTLAND CHAPTER

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Tom Dennehy
16421 NE Holladay Street
Portland, Oregon 97230
252-5952

26 October 1983

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3. Compensation for elected officials should continue to be approved by the voters, at least until they show they are too irresponsible to handle this delicate chore!
4. The assessor and the chief elections officer should be elected if the people feel better having it so.
5. The sheriff should MOST DEFINITELY be elected.
6. The language on limitation of terms (Sec. 6.50(4)) may need clarification.
7. Should an elected official be permitted to run for another county office?

On the Auditor's Office --

1. What are the duties of that office (especially in light of the 1978 amendments)?
2. What should be the qualifications for serving in that office?
3. How can we assure independence for that office?
4. Should the Charter mandate some kind of response after an auditor's report?

And finally some random thoughts --

1. Actions of the Board should require three affirmative votes (Sec. 3.40).
2. The language on emergency ordinances (Sec. 5.30(3)) allows for at least two interpretations. The nature of an "emergency" should be clearly stated rather than the standard "for the preservation of the health and peace of the community" kind of gibberish.
3. County counsel should be the "Civil Division" of the District Attorney's Office.
4. Sec. 6.10(3) should be amended to reflect the new elective offices under Measure 6.
5. The duties of the Clerk and Assessor should be spelled out in the Charter (if only by reference to state law).
6. The duties of the sheriff should be explicitly stated in the Charter (not by reference to state law) and this job description should make clear that the sheriff:
 - a) is responsible for the jail(s);
 - b) is responsible for the public safety in the entire county, including territory inside incorporated cities;
 - c) must offer to provide a level of service throughout the entire county sufficient to ensure the enforcement of state statutes and county ordinances;
 - d) will also assume responsibility for a higher level of service inside cities (including enforcement of city ordinances) if the cities are willing to pay the increased costs;
 - e) may delegate even the base level of service to other authorized police agencies within the county (e.g., city police or transit police) on a mutually agreed basis, but the responsibility for public safety cannot be delegated.
7. An adequate level of library service should be assured.
8. The county's role as provider of "human services" should be made explicit.

Sign-up Sheet for the
Multnomah County Home Rule Charter Review
Committee, October 26, 1983

Name	Address	Organization if any
1. Louis Turnidge	18144 SE Pine 97233	Rockwood Planning
2. Patricia J. Hoppers	9022 N. Mohawk 97203	
3. Bob Golden		
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