

12/18/88

137

NER-PAT

A
B
C
D
E

G
H
I
J
K

M
Mc
N
O
P
Q
R
S
T
U
V
W
XY
Z

SURVEYOR

A
PRELIMINARY REPORT
ON THE
SURVEYOR
OF
MULTNOMAH COUNTY

PRELIMINARY REPORT ON THE SURVEYOR OF MULTNOMAH COUNTY

This report is a preliminary report on the present organization and functions of the County Surveyor of Multnomah County. The findings are based upon a review of the 1964-65 fiscal year budget request and the Oregon Revised Statutes.

No effort has been made to evaluate the competence of the County Surveyor nor any part of his department. The scope of this preliminary report is limited to the present organization and statutory responsibilities.

A review of the office of the County Surveyor reveals an activity employing eleven personnel with a budget for 1964-65 fiscal year in excess of \$87,000. It is headed by a surveyor who is an elected official of Multnomah County drawing a salary of \$9,500 per year. To be eligible for election to the position of County Surveyor, the candidate must be registered under the laws of the state as a registered professional engineer or a registered professional land surveyor.

The County Surveyor is required to execute all orders directed to him by any court of record or county court for surveying roads or surveying tracts of land in dispute before a court and all orders of survey for the partition of real estate.

When requested by any private person, the County Surveyor is required to survey any tract of land or town lot within ten days at the expense of the person demanding, provided his legal fees are first tendered.

The staff of the County Surveyor consists of himself, a chief deputy, one engineer clerk, two instrument men, two draftsmen, and four chainmen. The statutory duties of the Surveyor are as indicated in Chart I below.

SURVEYOR
<ol style="list-style-type: none">1. Maintain records of all surveys made by himself and deputies, and the county roadmaster.2. Number his surveys and the surveys made by the county roadmaster progressively.3. Maintain each record as required by law.4. Deliver copies of any surveys to any persons or court requiring same according to law.5. Establish every survey by stakes according to law.6. Make all surveys of legal sub-divisions according to law.7. Establish all corners of government surveys where the witness trees have been cut or have fallen down and where the bearing marks or blazes can be ascertained.8. Establish upon order of the county court or board of county commissioners all corners of government surveys where all physical evidence is destroyed and cannot be found but where official government notes are available.9. Make a complete record of all surveys at the expiration of his term.

CHART I

The County Surveyor or his deputy have the authority to administer oaths or affirmations necessary to the legal establishment of roads and other surveys and to take the evidence of any person who may be produced to prove any point material to the surveys.

It is interesting to note that no county official drawing a salary fixed by the board of county commissioners is allowed to retain any other compensation, commission, or fees for services rendered except surveyors, who are allowed to retain fees for services for the performance of marriage ceremonies and surveys for private persons.

Appended hereto are copies of the statutes pertaining to the Surveyor of Multnomah County.

204.005 Election of county officers.

(1) There shall be elected at the general election, by the qualified voters of each county, the following county officers:

- (a) A sheriff.
- (b) A county clerk.
- (c) A county assessor.
- (d) A county treasurer.
- (e) A county surveyor.
- (f) A county commissioner;

204.010 Terms of office of county officers. (1) Except as provided in subsection (2) of this section, the term of office of each officer mentioned in ORS 204.005 is four years, and until his successor is elected and qualified.

204.016 Qualifications for county office.

(1) A person is not eligible to any office listed in subsection (1) of ORS 204.005 unless he is a citizen of the United States, a qualified elector under the Oregon Constitution and a resident of the county wherein he is elected for the period of one year next preceding his election, except that in counties of less than 20,000 population the requirement of residency in the county wherein he is elected shall not apply to the county surveyor.

(2) A person is not eligible to hold the office of county surveyor unless he is registered under the laws of this state as a registered professional engineer or a registered professional land surveyor.

[1957 c.555 §2 (enacted in lieu of ORS 204.015)]

204.040 Official undertaking of assessor, surveyor and commissioner. (1) The official undertaking of a county assessor and county surveyor must be given, approved and filed in the manner prescribed for the official undertaking of a county treasurer, but the amount must be \$5,000.

(2) The undertaking may be in substantially the same form as that of a county treasurer substituting the name of "county assessor" or "county surveyor" for that of "county treasurer."

(3) A commissioner of the county court is not required to give an undertaking.

COMPENSATION OF COUNTY OFFICERS, DEPUTIES AND OTHER EMPLOYES

204.101 Compensation of county officers, deputies and employees to be fixed by county court. The county court or board of county commissioners of each county shall fix the compensation of its own members and of every other county officer, deputy and employee, including justices of the peace, constables and elective district court clerks, but excluding district court judges and any court officer appointed by any judge or judges of either the circuit or district courts exercising jurisdiction in the county and compensated from county funds, where the compensation of such officers, deputies and employees is to be paid from county funds. [1953 c.306 §1]

204.105 [Repealed by 1953 c.306 §18]

204.110 [Repealed by 1953 c.306 §18]

204.111 Compensation fixed under ORS 204.101 as exclusive compensation. (1) The compensation fixed under ORS 204.101 constitutes full and exclusive compensation for official services rendered to the county, and includes compensation for any special services rendered to the county, such as those performed by the county clerk as clerk of the district court.

(2) No other compensation, commission or fees for services rendered to the county shall be allowed to, received or retained by any county officer, deputy or employee whose compensation is fixed under ORS 204.101, except for the performance of marriage ceremonies and surveys for private persons by county surveyors. [1953 c.306 §5]

**DEPUTIES AND OTHER EMPLOYES
(NUMBER, APPOINTMENT AND
AUTHORITY)**

204.601 Number and appointment of deputies and other employees. (1) The county court or board of county commissioners of each county shall fix the number of deputies and employees of county officers whose compensation is to be paid from county funds.

(2) All such deputies and employees shall be appointed by such county officer, and shall hold office during the pleasure of the appointing officer.

204.650 Deputies of surveyor. Deputies may be appointed by any surveyor, who, before they proceed to discharge their duties, shall take an oath, well, truly and faithfully to discharge the duties of deputy surveyors.

**DISPOSITION OF AND ACCOUNTING
FOR FEES BY COUNTY OFFICERS
AND EMPLOYEES**

204.801 Disposition of fees received by county officers and employees. All fees or commissions received by any county officer, deputy or employe whose compensation is fixed under ORS 204.101, by virtue of his office or employment, except for the performance of marriage ceremonies and surveys for private persons by county surveyors, shall promptly be paid into the county treasury.

[1953 c.306 §6]

COUNTY OFFICE HOURS

204.905 Office hours in Multnomah County. In all counties having a population of 400,000, or more, according to the latest federal decennial census, the offices of all county officials shall be kept open for business on every day from 9 a.m. until 5 p.m. except Saturdays and nonjudicial days enumerated in ORS 1.060. Such offices may remain open on Saturday, in which case the officers in the various departments shall provide a rotation system among employees so that attendance upon the public business on Saturdays will be fairly divided among the employees of the department concerned, and the employees not required to be present may be relieved from their duties on such day.

[Amended by 1963 c.519 §29]

204.685 Multnomah County deputies.

(1) Each deputy, assistant and clerk in the offices of the elective officers of Multnomah County and of the constable of the Portland District shall be appointed in writing by the officer in whose office the service is to be performed, which writing shall be filed in the office of the county clerk.

(2) Each such deputy, assistant and clerk shall, before entering upon the duties of his office, take the same oath of office required to be taken by the officer making the appointment, and such oath shall be indorsed on or attached to the writing by which he shall be appointed, and shall be filed with the county clerk and be a public record.

(3) Each such deputy, assistant and clerk shall have the power to perform any act or duty that the officer making the appointment may perform, and for the acts of such deputy, assistant and clerk the officer making the appointment shall be responsible.

(4) Each such deputy, assistant and clerk shall be continuously employed in the discharge of the duties of his office for at least eight hours of each judicial day, and may be directed and required to do and perform any work or duty pertaining to the office of the officer making the appointment. Such officer shall dispose, direct and employ all deputies, assistants and clerks in his office in such manner as to discharge the duties and responsibilities thereof at the least possible expense to the county.

(5) Salaries of each such deputy, assistant and clerk shall be paid out of the county treasury of Multnomah County in the same manner as salaries of county officers are paid.

(6) None of the provisions of the 1961 amendment to this section shall affect the provisions of ORS 204.905.

[Amended by 1961 c.559 §1]

209.010 [Repealed by 1953 c.306 §18]

209.020 Surveys on court order. The county surveyor shall execute all orders directed to him by any court of record or county court for surveying roads, or surveying or resurveying any tract of land the title to which is in dispute before such court, and all orders of survey for the partition of real estate.

209.030 Surveys on court order of land divided by county line. When lands the title to which is in dispute before any court are divided by a county line, the court making an order of survey may direct such order to the surveyor of any county in which any part of such land is situated.

209.040 Substitution when surveyor interested in land. When it appears that the county surveyor is interested in any tract of land, the title to which is in dispute before the court, the court shall direct the survey or resurvey to be made by some capable person, who is in nowise interested. The substitute surveyor shall be authorized to administer oaths in the same manner as the county surveyor, return the survey or resurvey on oath or affirmation and receive for his services the same fees that the county surveyor would receive for similar services.

209.050 Surveys for private persons. The county surveyor shall within 10 days, when called upon, survey any tract of land or town lot lying in his county, at the expense of the person demanding the same, if his legal fees are first tendered.

209.060 Surveys for private persons of land divided by county line. Any person owning or claiming lands divided by a county line, and wishing to have the same surveyed, may apply to the surveyor of any county in which any part of such land is situated. On such application being made, the surveyor shall make the survey, which shall be as valid as though the lands were situated entirely in one county.

209.070 Duties in respect to surveys. The surveyor of each county shall:

(1) Keep a fair and correct record of all surveys made by himself and deputies and the county roadmaster, as provided in ORS 368.530, in a good and substantial book, to be procured by him for that purpose.

(2) Number his surveys and the surveys made by the county roadmaster progressively and state by whom and for whom made.

(3) Have each record consist of:

(a) A written narrative of the survey as it was done, commencing with the description of the beginning corner, particularly as to the mode of its establishment, whether it is of rock, wood, iron, etc., the kind, size, bearing and distance of the bearing-trees from the corner, or if the corner is a mound, stating of what material it is made, what size, what deposit was made beneath the surface, whether of charred stake, charcoal, glass, etc., and whether it is common with a corner of a survey made by authority of the United States or of this state. Then follow the survey in order, giving the length and bearing of the lines, with the variation of the magnetic needle at which they were run and particularly describing each corner in the order of succession, affixing in all cases the date of the survey.

(b) A plain and correct plat of the survey, of convenient size, with the bearing and length of the line, or else numbered so as to be readily referred to the description. If the survey is a division of the land a plat shall exhibit the whole as divided; and in all cases such other lines, as of section, township or claim, as may be for the correct representation of the survey.

(4) Deliver a copy of any survey to any person or court requiring the same, on payment of the fee allowed by law.

(5) Establish every survey by a stake of durable wood not less than three inches in diameter nor less than three and one-half feet long, firmly planted not less than two feet in the ground, or by a stone containing not less than 1,000 cubic inches, stating the size, or by a bar of iron, from either of which the bearing distance shall be accurately taken to two or more living trees of more than three inches in diameter within five chains of the corner, which trees shall each be blazed in two places, one near the ground, the other two or four feet above. Upon the former blaze shall be legibly cut in the wood the letters "B.T." (for bearing-tree); upon the latter blaze in like manner, the letters "C.S." (for county surveyor). If there are no bearing-trees, then the corners shall be established by depositing stone, glass, iron, charcoal, charred stake, or some very durable mineral beneath the stake, stone or iron corner, and a mound of earth not less than four feet square at the base and 18 inches in height shall be compactly formed around

it. Two pits 18 inches square and one foot deep shall be dug on opposite sides of the mound at a distance of five feet from the corner. Where a stone of not less than 2,000 cubic inches, or a mound of rock not less than three feet square and 18 inches in height, or a bar of iron two feet long and not less than two inches broad and one-half inch thick is used, then the earth mound and pits may be omitted. In surveying town lots such corners may be used as are deemed proper, but in every town there shall be at least two permanent corners established with rock or iron.

(6) Make all surveys of legal subdivisions in conformity with the laws and regulations of the General Land Office of the United States.

(7) Establish all corners of government surveys, where the witness trees have been cut or have fallen down, and where there remains the stump or body on which the bearing marks, or blazes can still be seen, or where other evidences of the government corners may or can be found, whereby the corners established by government survey can be positively located by any of such or other decaying evidences, the corners to be reestablished in the manner provided in this section for establishing corners, and keep a separate record of the same in a book called "Bearing-Trees of United States Surveys," giving the date and names of persons present, and turn such record over to his successor. When so reestablished such corners shall be recognized as the legal and permanent corners.

(8) In counties lying west of the summit of the Cascade Mountains, establish, upon order of the county court or board of county commissioners, all corners of government surveys where all physical evidence is destroyed or cannot be found but where the official government notes are available, the corners to be reestablished in the manner provided in this section for establishing corners, and keep a separate record of the same in a book called "Bearing-Trees of United States Surveys," giving the date and names of persons present, and turn such record over to his successor. When so reestablished such corners shall be recognized as the legal and permanent corners.

(9) At the expiration of his term of office make out a complete record of all surveys, together with plats of all surveys made by him or his authorized deputies, or by the county roadmaster and filed in the

office of the county surveyor, during his term of office, and turn over such records, together with the plats thereof, and all records and plats formerly received by him to his successor in office.

Note: The General Land Office of the United States was abolished and its functions transferred to the Director of The Bureau of Land Management in 1946.

209.080 Fees for certain duties of surveyor. The compensation to the surveyor for the performance of the duties defined in subsections (6) and (7) of ORS 209.070 shall be as determined by the county court or board of county commissioners, and paid out of the county treasury upon order of the county court.

209.090 Procuring and filing copies of plats and field notes of United States surveys; copies of notes as evidence. (1) The county court may procure from the Regional Chief of the Division of Cadastral Engineering or from any office in the United States Bureau of Land Management a certified copy of the field notes and plats of surveys lying within its county, relating to descriptions of the townships and legal subdivisions, corners, the variations at which the lines were run, the length of the several lines of the several sections, and file the same in the office of the county surveyor.

(2) Copies, certified by the county surveyor, of copies of such field notes, certified by the Regional Chief of the Division of Cadastral Engineering, filed in the office of the county surveyor by the county court or belonging to the deputy surveyor, shall be evidence.

(3) No county surveyor thus furnished with field notes, when called upon to execute any survey, shall make any charge for furnishing field notes.

209.100 Administering oaths; taking evidence. The county surveyor or his deputy may administer the oaths or affirmations necessary to the legal establishment of roads and other surveys, and to take the evidence of any person who may be produced to prove any point material to such survey.

209.110 Method of determining irregular land areas. All calculations to ascertain the contents of an irregular tract of land by the county surveyor or his deputy, or other persons who may at any time be called by the court to execute a survey, shall be made

by latitude and departure. On each plat the county surveyor or his deputies shall lay down the variations of the magnetic needle from the true meridian.

209.120 Determination of courses and angles; matters recorded. The county surveyors, or any authorized persons, shall give the course of all lines, traced or established, from the true meridian as found by an observation of the sun, the magnetic variation of the needle, and all angles shall be read from the vernier. They shall record for each observation the date and the standard and local time of day, declination of the sun, allowance for refraction, latitude used, latitude and altitude angles employed and the distance and course of the place of observation from the nearest section corner in township and range. No survey or report shall be complete and final until such data is recorded.

209.130 Establishment of corners; references. (1) In the establishment of a section, quarter-section or center corners, the county surveyor shall set a stone of durable quality, with a deposit of charcoal or anthracite coal not less than two inches in diameter and extending not less than 30 inches below the surface of the ground, under such stone or monument, or set an iron pin not less than one and one-half inches in diameter and at least two and one-half feet long, if the sub-stratum will permit the sinking of it without unreasonable expense. No monument shall extend more than two inches above the ground. Wherever the nature of the ground will not admit of the setting of a monument at the exact corner as described, then the monument may be omitted, or a different monument be set other than those described.

(2) Section and center corners shall be witnessed by at least four references, and quarter-section corners by at least two references. References shall be iron rods not less than one inch in diameter nor less than two feet long, or a deposit of charcoal or anthracite coal not less than two inches in diameter and extending not less than two feet, or a growing tree, hedge, or stone fence, or some other permanent object. All references shall be carefully described, and their bearings and distances noted in the report.

209.140 Necessary interference with corners. Any roadmaster, road supervisor

or other authorized person who finds it necessary to interfere with any established corner in the improvement of a road, or for any other cause, shall notify the county surveyor, who shall lower and witness the corner, or place another monument and witness over the existing monument, as the case may demand, and record the proceedings in the record of permanent surveys.

209.150 Unauthorized interference with corners. No roadmaster, road supervisor or other person shall willfully or negligently remove, destroy or deface any government corner or witness, or any corner or witness permanently established by the county surveyor.

209.160 Establishment of private corners and boundaries; notice. Whenever the owner of one or more tracts of land desires to permanently establish the corners and boundaries thereof, he shall notify the county surveyor to make a survey thereof and establish such corners and boundaries, and shall furnish him the names and addresses of all persons residing in the county or elsewhere, so far as known, who may be affected by such survey. The county surveyor shall cause a notice in writing to be served on each person who may be affected by the survey, or his agent residing in the county, stating the time when he will begin the survey, and the lines or corners to be established. The notice shall be delivered to the person or left at his usual place of residence at least six days prior to the day set for survey. Whenever the landowners interested consent in writing the county surveyor may, at such time as agreed upon, proceed to establish the corners and boundaries without serving notice.

209.170 Conduct of private corner and boundary survey. On the day mentioned in the notice, or on the next thereafter, the surveyor shall proceed to make the survey, but may for good cause adjourn from time to time. The surveyor may, upon application of any person interested in such survey, take the evidence of any witness produced to prove any point material to such survey. The testimony shall be reduced to writing and subscribed and sworn to by the witness, and, together with an accurate plat and field notes of such survey, filed in the office of the county surveyor within 30 days after the completion of the survey.

209.180 Apportioning costs of survey among land owners. The county surveyor shall apportion the costs of the original survey among the landowners requesting the same, who shall be liable to the county surveyor therefor, according to their respective interests.

209.190 County line surveys. In any survey affecting a county line, the surveyor who may be called on to make the survey shall serve notice upon the county surveyor of the adjoining county, and they shall agree upon a time. They shall each serve notice upon the landowners of their respective counties who are interested in such survey, in the same manner as provided in ORS 209.160 and 209.170. They shall make such survey in the same manner as other surveys, and each surveyor shall file a copy of the plat and field notes of the survey in the county surveyor's office.

209.200 Resurvey of government-surveyed lands. In the resurvey of lands surveyed under the authority of the United States, the county surveyor shall observe the following rules:

(1) Section and quarter-section corners, and all other corners established by the government survey, must stand as the true corners.

(2) They must be re-established at the identical spot where the original corner was located by the government survey, when this can be determined.

(3) When this cannot be done, then such corners must be re-established according to the government field notes, adopting proportionate measurements where the present measurements differ from those given in the field notes.

209.210 Employment of chainmen and other help; compensation. (1) Each county surveyor shall employ disinterested persons to act as chainmen. The county surveyor also may appoint markers, flagmen and rodmen.

(2) The expenses of the chainmen, markers, flagmen and rodmen shall be paid in advance, if required by the county surveyor or his deputy, by the party on whose application the survey may be made, and the money so advanced shall be accounted for by the surveyor, and the amount expended to be taxed on the bill of costs.

(3) Necessary chainmen shall receive \$5 per day for the time actually employed, but when common labor rates in a locality are

such as to make it necessary, in the judgment of the county surveyor, such chainmen may be paid the customary wages for common labor plus \$1 per day. Other assistants necessary in making any survey shall receive the wages customarily paid to common labor at the time in the locality, to be determined by the county surveyor. However, the party ordering the survey may supply such common labor, at his own expense.

209.220 Oath taken by chainmen and markers. Each chainman and marker employed by the county surveyor or his deputy shall, before commencing the duty assigned him, take an oath or affirmation faithfully and impartially to execute the duties of his employment. The county surveyor or his deputy shall administer the oath or affirmation of each chainman and marker.

209.230 Materials and equipment for certain purposes. The county surveyor shall procure at the expense of the county the materials and requisites for carrying into effect ORS 209.100 to 209.240. The county court shall pay for the same and all expenses incurred therein out of the general fund of the county.

209.240 Fees of surveyor. For taking the variation of the magnetic needle, and recording and making report of the same, for making and recording all calculations of areas of land required by law, for the necessary attendance at the regular meetings of the county court, when required by the court, for making plans, specifications, superintending or inspecting public work under ORS 209.100 to 209.240, the county surveyor shall receive the same fees as allowed for making surveys, which fees shall be paid out of the county treasury bimonthly upon order of the county court.

209.250 Registered engineers and land surveyors to file field notes and map with surveyor; map specifications. (1) Any registered engineer or any registered land surveyor making a survey of lands within this state wherein he establishes or re-establishes a corner or corners shall, within 30 days thereafter, file complete field notes and a map of such survey with the county surveyor, who promptly shall file and index them. Such notes shall thereafter be a public record in the office of the county surveyor. However, it is not necessary to file field notes and maps for surveys re-establishing lot corners in previously platted subdivisions, the maps

and field notes for which are on file and the lot and block corners for which were established and marked after July 1, 1947, in conformity with ORS 92.010 to 92.150.

(2) Such field notes shall be in a written narrative form as provided for the county surveyor in ORS 209.070. Such map shall be made in sizes of 8½ inches by 13 inches or multiples thereof, and be of a permanent type of reproducible tracing. Maps shall show the following:

(a) Location of survey by one-fourth section and Donation Land Claim, Township and Range.

(b) The date of survey.

(c) Scale of drawing and North Point.

(d) Basis of bearings, if available.

(e) Initial point of survey, giving ties to corner or corners of record.

(f) All bearings or measured angles and distances separately indicated from those of record.

(g) All monuments set and their relation to older monuments found. A detailed description of monuments found and set shall be included and all monuments set shall be separately indicated from those found.

Any additional information shall be typed or printed in narrative form upon similar quality tracing paper as that of the map and shall be 8½ inches by 13 inches in size. If typed, the tracing shall be backed with smudge-proof carbon.

(3) The license of any registered engineer or registered land surveyor failing to comply with the provisions of subsections (1) and (2) of this section shall be subject to revocation.

[Amended by 1963 c.555 §1]

209.260 to 209.980 [Reserved for expansion]

209.990 Penalties. (1) Violation of ORS 209.150 is punishable, upon conviction, by a fine of not less than \$25 and not more than \$50, and the costs of suit and re-establishment of the corner or witness.

(2) Any county surveyor failing to perform the duties required of him by ORS 209.020 to 209.090 shall be fined not exceeding \$100, to be recovered by action of debt at the suit of the injured party.

271.230 Records of vacations; fees. (1) If any town or plat of any city or town is vacated by a county court or municipal authority of any city or town, the vacation order or ordinance shall be recorded in the deed records of the county and shall be indexed under the letter "V," title "Vacations." Whenever a vacation order or ordinance is so recorded, the county surveyor of such county shall trace upon the original plat with red ink, the portion so vacated and write therein the word "Vacated" with appropriate reference by number to notation, and shall make a notation on the original plat, in red ink, giving the book and page of the deed record in which the order or ordinance is recorded.

(2) For recording in the county deed records, the county clerk or county recorder shall collect the same fee as for recording a deed. For the services of the county surveyor for marking the record upon the original plat, the county clerk or county recorder shall collect \$2.50 to be paid by him to the county surveyor.

92.100 Approval of plat by city engineer or surveyor or by county surveyor; approval by county assessor and county governing body. (1) Before any plat can be recorded, covering land within the corporate limits of any city, it must be approved by the city engineer or city surveyor, if any; otherwise by a county surveyor. However, the governing body of the city may designate any county surveyor to serve in lieu of the city engineer. Except as provided in subsection (3) of this section, if the land is outside the corporate limits of any city, the plat shall be approved by the county surveyor before it is recorded. All plats must also be approved by the county assessor and the governing body of the county in which the property is located before recording.

105.405 Costs and expenses of partition. (1) The expenses of the referees, including those of a surveyor and his assistants when employed, shall be ascertained and allowed by the court, and the amount thereof, together with the fees allowed by law to the referees, shall be paid by the plaintiff, and may be allowed as part of the charges.

368.060 County surveyor as county engineer. The county surveyor of any county may be appointed as the county engineer if he has the qualifications for the office of county engineer.

451.590 Entry upon privately owned lands by county to survey or lay out service facilities. Officers and employees of a county may enter upon privately owned lands to survey or lay out service facilities by direction of the county court or board of county commissioners. However, the county court or board of county commissioners shall cause notification to be given to each occupant of the lands, either by registered or certified mail or by other lawful means. This notice shall be given at least five days before the county officers or employees enter upon the lands. No officer or employee of a county entering privately owned lands pursuant to

that they will not be disturbed by the construction of the road. Where lettered, all monuments shall be marked by the letter "R." Any monuments of iron shall be a rod or pipe at least 30 inches in length and five-eighths inch in diameter. Any monument of stone shall contain at least 1,000 cubic inches and shall be at least 12 inches in one dimension. All monuments shall be fully described in the field notes of the survey and their courses and distances given from the points to which they refer.

(4) The county surveyor or the county roadmaster, in case the survey is made by him, shall make and file with the county clerk a complete set of field notes, together with a plat and a profile. The plat shall show the alignment of the road, the courses and distances, ties to government corners, natural watercourses and any other available and necessary data. The profile shall indicate the grades obtainable and natural topography. The grades shown on the profile shall not be deemed established, but shall be subject to change as circumstances require.

368.530 Survey, monuments, records, field notes, plat and profile of proposed road. (1) When a proposed road is established, upon the final hearing, the county court shall notify the county surveyor, or the county roadmaster, provided the county roadmaster at such time is a registered engineer under the laws of the state. The officer notified shall proceed to survey and monument the road along the alignment established by the final order of the county court, and prepare and file in the office of the county surveyor the final records thereof.

(2) If the survey is made by the county roadmaster instead of by the county surveyor, the county surveyor shall receive from the county roadmaster and file and keep a record of all such surveys made by the county roadmaster, as provided in ORS 209.070, in all respects the same as if the survey had been made by the county surveyor himself.

(3) In the final survey the termini of the road, and, where practicable, the beginning and ending of each curve or each angle point thereon, shall be designated by permanent monuments or posts, bearing trees or compact earth mounds in such positions

COUNTY CHARTER GOVERNMENT EVALUATION

By

CLAIR E. PENSE

MULTNOMAH COUNTY SURVEYOR

ABSTRACT

A comparison of Article VI, Sec. 10, Oregon Constitution with the Declaration of Independence and related remarks.

Presented to the Multnomah County Charter Government Committee, February 3, 1965.

CHARTER GOVERNMENT COMMITTEE

Greetings: I am Clair E. Pense, Multnomah County Surveyor. I am happy to have 20 minutes to explain my ideas to your group. I expect to move along rapidly and uninterrupted.

First of all I would like to inquire of the committee members if they know the difference between a schilling and a pence. You can walk down the street without

And now as General Lee of the Confederate States Army said to General Grant of the United States Army as they sat in the parlor of the McLean House at Appomattox Court House, Va. "Let us get to the business at hand."

'When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another ... a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation. We hold these truths to be self evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. That whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it and to institute new government, laying its foundation of such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.

Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind is more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed.' So far as I know, the decent respect to the opinions of mankind that requires that those who would change a government should declare the causes which impel them to the separation, has never been in fact declared! And I view this move as a bold bid for power under the guise of an economy move.

Let us analyse this in terms of pure economics;; from the record of the Assessors office there are 200,000 real property accounts in Multnomah County. The budget of the Surveyors office is less than \$100,000. If we use these round figures you can see very quickly that the assessment per real property account is \$0.50. Later on I will tell you the services you are getting for that \$0.50; but first, let me make a remark about economy. Again pure economics in mind, democracy is a very bad system of government and unquestionably, dictatorship is the most efficient and economical. Now, let me see if I can make clear for you the real reason David stands before Goliath here today.

Throughout the United States a vigorous campaign is being waged by such organizations as National Association of Counties, National Association of City Managers and others to bring about the so-called Home Rule.

They would have the public believe that the local Charter will bring about greater efficiency and progress. Here in our community, The League of Women Voters, here in after referred to as L.W.V., has been used to further the proposal of charter government. This group, small although their title implies that they represent all women has avidly fallen into the pattern. Now, I do not mean to impugn the entire L.W.V. for they have members who do not share the views of their leaders; as do I disagree with my own organization, the National Association of Counties. Be that as it may, the old Biblical story of Isaac being bamboozled by Rebekah and Jacob, out of the blessing that belonged to Esau, has been repeated and the people of the State of Oregon have been deceived into voting for Article VI, Section 10. (I commend the reading of Chapter 27 of Genesis to the members of this Charter Committee).

When we hold a negative up against a positive, the image is brought into bold relief. This is what I will attempt to do, by holding up the negative, Article VI, Sec. 10 against the positive Declaration of Independence, which I already read to you. From here on it is plainly a matter of competition for the minds of the governed both men and women.

In 1943, Article VI, Sec. 9a, Oregon Constitution was adopted. This provided for a managerial form of government. In 1958, Sec. 9a, was repealed, and substituted in its place was Article VI,

Sec. 10. The third sentence therein reads "Local improvements or bonds thereafter authorized under a County Charter shall be financed only by Taxes, Assessments or charges imposed on benefitted property."

In 1960 an amendment was added to the third sentence which reads "Unless otherwise provided by law or Charter." This 1960 amendment removed any safeguard against allowing a County Sales Tax or any other additional County Tax. Either the charter itself or a state law may provide for financing of local improvements by methods other than taxes, assessments or charges imposed on the benefitted property only. How about a County Automobile License?

The fourth sentence reads "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." This in my judgement is conflicting with the ideals of constitutional government. I see the return of the spoils system.

The fifth sentence reads "Such officers shall among them exercise all the powers and perform all the duties, as distributed by the County Charter or by its authority, now or hereafter, by the constitution or laws of this State, granted to or imposed upon any County Officer." This is the one that comes the closest to seceding right out of the State of Oregon and starts us into the decline of the Greek City States. The Constitution is deposed.

The sixth sentence says in part "a county charter shall not effect the selection, tenure, compensation, powers or duties prescribed by law for judges in their judicial capacity, for justices of the peace or for district attorneys." It is noted with interest, the legal fraternities desire to provide for their own, in a 'Public be damned' attitude on the rest of the issue.

The most charitable thing I can say for Article VI, Section 10, is that it reserves to the people the power of initiative and referendum.

O.R.S. 203.740, in, part, says 'members of the Charter Committee shall not have any conflicting interests inconsistent with the performance of their duties as members.' I find it a bit peculiar that your chairman is president of a big title company. Title insuring

companies are private institutions yet they occupy space in the courthouse. In the case of my own office, a constitutional office, it had to be moved from the Courthouse for lack of space. I believe the money changers should be driven from the temple!

While we are on the subject of money, the major portion of the cost of this promotion to subvert (I mean change) our system of government, is borne by the taxpayer. For example, in my case, I became a member of the National Association of Counties by no action on my part. The first I knew about being a member is when my membership card came in the mail. Now my dues were paid by Multnomah County Tax Dollars and the same source pays professional people to carry on this activity in Salem and Washington, D.C.

O.R.S. 203.750 requires the Counties to make available for the Charter Committee an appropriation for its operation. The Committee is authorized to employ persons or to contract for services. Last week the Board of County Commissioners issued a directive, B.C.C. 1000.1; which informed everyone of the departments and elected officials that they could not spend any funds. That's what I call a stacked deck!

I shall now answer the questions that were asked in the committee's letter of January 19th.

1. What do I consider my major statutory responsibility?

Without question the most important statutory duty is the restoration and maintainance of all the government survey markers in the county, Section Corners, Quarter Section Corners and Donation Land Claim Corners. All-includes those inside and outside of City boundaries and from this point of view no city boundaries exist. As long as the people in our society continue to enjoy property rights they will have to have a system of reference.

2. What kind of policy making decision do you render?

I have to pass judgement on the compliance of laws that pertain to the division of property. A recent example that comes to mind is the big Commonwealth Company and Parkrose Water District asking that they be given an easement in the dedicated

streets. In the best interest of the public and in compliance with the State Law I refused their request. Whereupon Commonwealth Inc. and Parkrose Water District filed suit in the Circuit Court against Multnomah County and Clair E. Pense.

3. What are your relationship with the Board of County Commissioners?

Our relationship is cordial. We execute all their requests for service with dispatch. All three Commissioners however have publically declared that they support consolidation.

4. Could the functions of your department be combined with the function of any other department for more economy or smoother functioning of county government?

No, because control surveying is a speciality that must put accuracy first and economy second, as is the case of the United States Coast and Geodetic Survey in the Federal System. You can't get the cost much lower than \$0.50 a tax account. We can't get much smoother functioning than to give our best to every other department as quickly as possible.

5. Should my position be elective or appointive?

I'm glad you asked that question; I should like to call your attention to an experiment that I feel answers that question. In my campaign for election I used the following slogans:

"Let us continue...our system of checks and balances in the County Government under our present State Constitution.

Let us Discontinue...wasting money on committee studies that seek solutions only by concentrating more power in fewer hands.

If you agree...Vote for me."

The result of this was, I received 178,579 votes, about 17,000 more than President Johnson. The conclusion I draw from this is...everybody wants this new order EXCEPT THE PEOPLE. I believe the people in Multnomah County agree with me.

I hope these remarks points up to you the intensity of the drive to force Charter government upon us. When the amendment called 9a and County Manager could not be sold, it had its name changed to Charter. And in Washington County, they have a County Charter and a County Manager.

The United States Constitution Article 4, Sec. 4, guarantees to the states a republic form of government the kind of Government represented by county managers, violates this section of the federal constitution because the people can't vote on the Chief Administrator. I have yet to hear any objection from Washington County about multnomah County spending our tax money in Washington County for their benefit.

I wish to make the following recommendations to your committees:

1. That you dismiss any salaried personnel.
2. That you return the major portion of the \$89,000 budget to the general fund.
3. That you make your own valued judgements and not rely on paid studies.
4. That you evaluate critically all furnished information.
5. That Article VI, Section 10, of the Oregon Constitution be repealed.

Now in conclusion, President Eisenhower said "In the councils of government, we must guard against the acquisition of un-warranted influence, whether sought or un-sought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist. We must never let the weight of this combination endanger our liberties or democratic processes."

Thomas Jefferson said that "Each generation must make its' own fight for freedom."

I shall probably be called far right by some and far left by others. One thing I can't be called, and that's Far Wrong.

QUESTIONS ASKED OF CLAIR E. PENSE, SURVEYOR, BY HOME RULE
CHARTER COMMITTEE, FEBRUARY 3, 1965

Mr. McCallum: You got quite a vote when you ran for office. How many guys ran against you?

A. No one.

Mr. Stephenson: I believe that in your analogy you stated you got quite a few votes. By the same token the voters did approve in this county the constitutional amendment. Do you think they were misled?

A. Yes. By the literature in the voter's pamphlet and the folder put out by LWV. They had a picture of a covered wagon and a picture of a jet airplane. I don't know how they related this to government. We were a hundred years old in 1954. You will agree with me, I am sure, that a hundred years is no time in government.

Mr. Stephenson: We had an officer of the county say to us in a previous hearing that he believed the voters were right 99% of the time. You don't agree with that do you?

A. I do agree with it.

Mr. Stephenson: You do believe they are right 99% of the time, but still they were wrong when they voted the constitutional amendment?

A. You have to remember that my vote was since then. The most recent one holds precedent.

Mr. Swan: You have very strong feelings about this, I know, from your presentation as well as other remarks you have made in conversation. We have been appointed, as you know, and empowered to present this charter. Certainly, there are areas in county government which you feel strongly about that could stand improvement. So you must realize the problems we face. Do you mean to say that you feel that county government as it is should not be taken on by this committee in study with possible recommendations? We don't know at this time, honestly, what our charter will state.

A. Well, I say go ahead.

Mr. Stephenson: But you still recommend that we be abolished?

A. No.

Mrs. Damskov: What are the services that the surveyor's office provide for other departments in the county?

A. All the property that is required for parks and memorials. We survey the county fairgrounds, we prepare court exhibits for the district attorney, we work for the Road Department in problems other than construction, we assist the title companies.

Mr. Swan: How big a staff do you have?

A. Ten people.

Mr. Swan: How many of these are surveyors?

A. One other licensed. That is the Chief Deputy.

Mr. Stephenson: You are a surveyor yourself?

A. Yes.

Mr. Swan: Would you recommend that the charter we come up with recommend that there be qualifications for your office?

A. Definitely. There is such a qualification now.

Mr. Swan: Do you have to be a registered surveyor?

A. Yes.

Mr. Sonderen: Do you know if the Road Department has any licensed surveyors?

A. Yes, they do.

Mr. Sonderen: Do you know of any reason the surveyors in the Road Department could not handle the functions of your department?

A. Well, right now they would have to change a lot of statutes.

Mr. Stephenson: Would that be in the public interest?

A. That is a matter of opinion. In mine, no. I would like to qualify my remarks. If I thought that by my resigning my job, it would do anything one way or the other, I would do it. I am not protecting my interests.

Miss Elliott: Could your department do the surveying jobs that are presently being done by the other departments than the surveyor?

A. We do the majority of them, except for construction work.

Miss Elliott: Why is there an exception?

A. Because of the volume. Ten people could never begin to do all that work.

Miss Elliott: Well, if your staff were increased so that it could handle the work. Is there any reason why the other departments should maintain licensed surveyors?

A. Well, that is the way it was for 75 years.

Miss Elliott: Then what happened?

A. I don't know.