



City of Portland Charter Commission Agenda

Charter Commission Departments Committee
February 7, 2022 at 6:00 PM

1. Call to Order

a.

Due to the existence of an "emergency or urgent issue", the Charter Commission Committees will conduct this meeting by remote methods/technology at the Zoom link provided below, in accordance with the requirements of 1 M.R.S. section 403 -B and the Charter Commission Remote Participation Policy.

You are invited to a Zoom webinar.

When: Feb 7, 2022 12:00 PM Eastern Time (US and Canada)

Topic: Charter Commission Departments Committee

Please click the link below to join the webinar:

<https://us06web.zoom.us/j/89354650551?pwd=TCtoU3BONm1taGp0UCttcnozRCtNdz09>

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2. Review and Approval of Minutes

- a. a. Amendments to minutes from 12/20/2021. Approval of the draft January 3, & 31, 2022 meeting minutes.

3. 6:05pm Professor Kaitlyn Caruso- University of Maine School of Law

4. 6:30pm 30 Minute discussion on various models and experts.

5. 7:00 - 8:00 pm Ethics Board Proposal Consideration and Feedback.

- a. Ethics Commission Proposal

6. 8:00 pm Adjourn



City of Portland, Maine Charter Commission Departments Committee MINUTES

December 20, 2021

Committee Members Attending via Zoom: Commissioner Ryan Lizanecz (Chair), Commissioner Zach Barowitz , Commissioner Marques Houston. Staff member Jesse Denno taking minutes.

1. **Call Meeting to Order and Conduct Roll Call**

Chair Lizanecz called the meeting to order at 5:00pm and called the roll. Commissioners Barowitz and Houston present.

2. **Approval of Minutes**

Chair Lizanecz called for a motion to approve the minutes from the Committee's meeting December 6th. Commissioner Barowitz motioned to approve, and Commissioner Houston seconded. The motion passed unanimously.

3. **Interviews with Experts**

The members of the Departments Committee hosted four interviews with experts on subject of public sector Ombuds and Public Advocates.

Mary Hull-Caballero: Auditor, City of Portland, Oregon

- The Honorable Hull-Caballero described Portland's position of the Auditor, an elected office that promotes accountable and open government through six sub-offices: Archives and Records Management, Audit Services, the City Elections Office, the Ombudsman, Council Clerk, and Independent Police Review.
- The Ombudsman is one of the Auditors Office's multiple tools of accountability, and takes complaints with the authority to investigate any administrative act.

- She has found the inclusion of the Ombudsman into the Auditor's office effective, as the office complements Audit Services, who monitor decisions of management.
 - An ombudsman differs from a Public Advocate in that the Ombudsman does not advocate for the public, but advocates for good government.
 - Utilizes a "carrot and stick" approach to rectifying aid complaints, seeking to resolve issues at the lowest administrative level, with the authority to take matters up the hierarchy and ultimately, to the public.
 - Audit Services, in contrast, analyzes data and seeks to identify systemic problems.
 - Hull-Caballero recommends both Auditors and Ombudsmen for good municipal government.
 - The Auditor possesses sole authority, under the Charter, to select the audits the office conducts.
- On City Council and its role
 - City Council members head department/bureaus with professionals overseeing day-to-day operations.
 - Portland OR has a weak mayor-strong council form of government.
- On Portland, Oregon's Independent Police Review office
 - The system is currently undergoing revision, but as it looks now, functions as a civilian version of Internal Affairs, that receives misconduct complaints and monitors IA processes.
 - Does not investigate officer-involved shootings, but monitors every aspect of the Police Department's internal investigation, ensuring all rules and processes are correctly followed.
 - The Ombudsman also can investigate bureaucratic mismanagement of the Police Department, though not officer misconduct complaints.
 - The Independent Police Review will soon be memorialized in the charter and become a stand-alone board.
- On the Auditor's relationship with other city officials
 - As the Auditor, she maintains an "arms-length distance" from other elected officials.

- A certain tension is inherent, but generally, everything is professional.
- Relationships with bureau heads can be tense, but she seeks to avoid embarrassing anybody.
- Thoughts and advice for the Departments Committee
 - If it is decided to create an Auditor or Ombudsman position, thought she be given to where the government's structure the office is located. Ideally, an Ombuds-type office should be situated in the "highest ranks of the organization that you can."
 - The office's credibility stems from its real and perceived independence.
 - The Charter must also define what an Ombudsman can and can't investigate. In her city, the Ombudsman cannot investigate elected officials, which makes the office's duties "cleaner;" for example, they are never in the position of holding off on an investigation because a budget vote is imminent.
 - Commissioners should consider whether an Ombudsman can or can not investigate matters under litigation. In Portland, OR, the Ombudsman does not, which she finds beneficial, because when questions are taken up by another body or venue, it serves to conserve her office's resources.
 - Ombudsmen need to have legally enshrined "unfettered access" to documents and city employees.
 - While Portland OR has long had an elected Auditor, it was not until 2017 that the Ombudsman was enshrined in the charter, with language guaranteeing the Auditor's independent administrative authority.
 - The Auditor is guaranteed by Charter the authority to hire its own staff, make administrative classifications, and make its own procurement decisions.
 - The Council can control the Auditor's office to some extent through the budget. Though the Council theoretically should base funding on a definition the Auditor's goal and responsibilities, funding is largely allocated according to the interests of the Council. Currently, there is consideration of how to refine charter language to prevent Council from making decisions at the line-item level.

- The language of a charter should seek to prevent the necessity of an Auditor from asking permission from the people she investigates to do things in the public's best interest.

Kim Cook, Former Member of City Council

- On the potential creation of an ombudsman-type office in Portland.
 - From a “functionality standpoint,” not a budgetary one, an ombudsman-type office would be extremely helpful to Portland.
 - Encountered many situations as Council member where an independent body that could investigate issues would have been valuable. She gave the example of “Brickgate;” a dispute between City Manager Jennings and the firefighters’ union, involving the removal of a brick with Jennings’s name from a firefighters memorial. She further gave the example of her experiences with a glacial residential building-work permitting process.
 - An Auditor with charter-mandated unrestricted access to City staff would be valuable to the City, as Council’s access is currently limited, restraining the Council’s ability to investigate certain issues.
- On constituent services, and how they’re currently handled in Portland
 - In her tenure in Council, Council Members referred all constituent service matters to the City Manager, which could be a “black hole.”
 - Jennings had an assistant that handled constituent services, who was accountable only to Jennings.
 - As a Council Member, she was unable to access any documentation from the Manager’s office regarding requests received and actions taken.
 - An assistant in the Manager’s office who later took over constituent services was more responsive and better organized.
 - Portland has an adequate budget and staff to effectively resolve these issues, but there is a lack of accountability in the current government structure.
 - Was impressed by the Portland, Oregon, Auditor’s direct accountability to the public, and the office’s clearly defined qualifications.
- Cook’s thoughts on an elected Public Advocate-type position versus an Ombudsman-type position appointed by the Council.

- Encouraged Commissioners to look at other municipalities and see what has worked.
- If appointed by Council, may become part of the Council “team.”
- An elected position would more likely have the independence necessary for the job.
- At the State level, the Auditor is appointed by the Legislature, and is a “quiet position” that does not actively investigate legislative or executive actions.
- There currently exists an imbalance between elected officials and city staff, an imbalance that would be perpetuated by an appointed position.
- Encourages the Committee to speak with representatives of these types of positions from cities similar to Portland.

Anna Kellar, Chairperson of Fair Elections Portland

- On Fair Elections Portland and its work
 - It is an advocacy group since 2017 that works on improving the accessibility, accountability, and transparency of Portland’s election system.
 - It advocated for the creation of a municipal elections funding system, and the expansion of ranked-choice voting.
 - In pursuing its work, it has run into situations where Fair Elections found city staff to not be working in accordance with the law, or disagreed with city staff’s interpretation of the law, and found they had little recourse outside the court system, and little opportunity to present their theories to the Council.
 - Ultimately sued the city, and learned the additional hardship seeking redress in the court system puts on the public.
 - Fair Elections came up with the idea of the creation of a position that would serve as a check on city staff, and that would be able to provide a second opinion, and started looking at ombudsman and public advocate models.
 - Fair Elections does not wish to impugn city staff, but any group of people will make mistakes and have set or legal interpretations that may not be reflective of changing external circumstances.
- On Fair Election Portland’s perception of the chokepoints where Portland is failing to maximize accessibility, accountability, and transparency.

- Corporation Counsel has a vested interest in protecting the interests of the city government over the public.
 - Corporation Counsel has significant authority in that it is generally the sole advisor to the City Council on legal matters.
 - Fair Elections is only able to present complex legal arguments to City Council in the form of three-minute public testimony.
 - Suing the city was only feasible through attorneys willing to work pro bono, and funding from national clean-election organizations.
 - When the League of Women Voters sought to clarify language on the city's web site regarding absentee ballots, there was nobody with any authority to compel the City Clerk to take action even after the State Secretary of State and several council members had requested the action, until influence was exerted on the City Manager.
 - The public in Portland may often not know where to turn for help with a situation, and a Public Advocate could help rectify this.
 - Public trust in Portland's government is severely eroded.
- On the type of position Fair Elections believes could help Portland address its deficiencies
 - Strongly encourages the creation of an Ombudsman, Auditor, or, ideally, Public Advocate office.
 - The position should have the ability to seek redress through multiple, escalating avenues, from an informal conversation with a staff member to filing a lawsuit if necessary.
 - Independence of such a position is "absolutely key," including independence of the budget.
 - An elected position would have more independence and increase public awareness of the position.
 - In New York City, the Public Advocate's budget is defined as a percentage of the Mayor's budget, in a system that seems to work well.
 - Collecting multiple offices under one roof would serve to maximize efficiency of resources and staff.
 - The School Board's ability to bring in outside counsel for a second opinion has proven valuable.
 - In New York City, the Public Advocate's position is a "public muckraking job," that is effective in raising awareness and effecting change.

- On how Portland compares to other municipalities Fair Elections has studied in how adversarial or conflict-adverse its government is
 - Portland is in an awkward space between cities that have aggressive competitive politics and the ideal a small-town public meeting system.
 - The small-town ideal can exclude voices with valid complaints or minority points of view.
 - After attending a Council meeting in South Portland recently, Kellar observed a very different tenor of public comment than the hostile one found in Portland Council meetings, and concluded that something fundamental has broken down in Portland in the relationship between the government and the public.

Patrick Dowd, Vice President of the Board of Directors of the U.S. Ombudsman's Association

- On his experience and the USOA's work
 - Dowd also serves as Director for the Washington State Office of the Family and Children's Ombuds.
 - In his State position, he is appointed by the Governor to a three-year term, and can only be removed for cause.
 - An attorney, Dowd has also worked in the State Office of Public Defense.
 - The USOA works to promote the establishment of public-sector ombudsmen, and provides technical service and advice to municipalities and ombudsmen nationwide.
- On what an ombudsman does and how the office functions.
 - The core function of an ombuds is to respond to individual complaints surrounding governmental misconduct, to provide information, and to independently investigate those complaints in an impartial manner.
 - An ombuds does not act as an advocate for an individual with a complaint, but investigates, gathers facts, and issues a determination on whether an agency's actions were consistent with law and policy.
 - If an ombuds makes a determination of misconduct, the ombuds then seeks to resolve the complaint with the agency.

- On ombudsmen in cities nationwide that are similar in size and economic importance to Portland
 - Dowd has seen the creation of multiple ombuds offices in Washington State in the last 30 years, and also the expansion of ombuds offices nationwide.
- On the benefits and deficiencies of an appointed Ombudsman-type office versus an elected Public Advocate
 - An elected position faces the risk of becoming a partisan office, whereas non-partisanship is integral to the office of an ombudsman.
 - The traditional model for an ombudsman is that the office is appointed by the legislative branch of government, on the theory that the executive branch generally appoints the agency heads, to make for an effective separation of powers.
- On the utility of an ombudsman for Portland, and whether there would be sufficient complaints to investigate that would justify the office.
 - Dowd has never known of an ombudsman that did not have enough to do.
 - In his State position, he has always had more complaints than he could handle.
 - As ombudsman offices are created, both the public and the government see their value, and often their duties are expanded.
- On his relationship as an ombudsman to elected government officials
 - Elected officials are treated as stakeholders with whom an ombudsman can partner to address systemic issues.
 - An ombudsman may testify at legislative hearings, and provide information on proposed bills.
 - It is an important that an ombudsman remain neutral, and must be cautious in his or her relationships with elected officials to maintain impartiality.
 - If a legislator approaches an ombuds with a constituent complaint, the best practice is to have the constituent contact the ombuds directly, rather than to continue to go through the legislator, so the ombuds is not perceived as working on behalf of a legislator.
- On the qualifications and certification process for an ombudsman, and the availability of certified professional.

- Ombudsmen must have the ability to organize and conduct investigations, and good writing and communications skills.
- Ombudsmen can come from diverse backgrounds, but often have experience as attorneys, journalists, or in law enforcement.
- The USOA has a training curriculum, that takes about a week to complete.
- On the determinations of an ombudsman and their enforceability, or lack thereof.
 - An omsbud does not issue binding determinations, but makes recommendations and reports.
 - Once an ombudsman has the power to mandate that an agency implement a decision, it is no longer independent, but part of that system.
 - It can be a source of frustration for the public when an ombudsman can not compel an agency to take corrective action the ombudsman says it should do.
 - In his experience, in 90 percent of complaints regarding the child welfare office on which his office has made a finding, the recommendation has been adopted by the agency.
- On who might be responsible for appointing an Ombudsman in Portland's form of government.
 - For the City Council to be responsible for the appointment would be consistent with general best practices, as the legislative body.

4. **Chair Lizanecz asked for any additional business. Hearing none, he called for adjournment. The motion was approved unanimously and the meeting was adjourned at 7:00pm.**



City of Portland, Maine Charter Commission

Departments Committee

MINUTES

January 3, 2022

Committee Members Attending via Zoom: Commissioner [Ryan Lizanecz](#) (Chair), Commissioner Zach Barowitz, Commissioner Marcques Houston. Staff member Jesse Denno taking minutes.

1. **Call Meeting to Order and Conduct Roll Call**

Chair Lizanecz called the meeting to order at 6:00 pm and called the roll. Commissioners Houston, Barowitz, and Lizanecz were present.

2. **Review and Approval of Minutes**

Chair Lizanecz called for a motion to approve the minutes of the Committee's December 20th meeting. Commissioner Houston motioned to approve and Commissioner Barowitz seconded the motion. The motion passed unanimously.

3. **Introduction of the Idea of Community Chairs**

Commissioners briefly discussed the Committee's next meeting, scheduled for the 24th. Chair Lizanecz stated that Jessica Grondin, Portland's Communications Director, and Jennifer Prado, Director of Constituent Services for Wilmington Delaware, were scheduled to speak at the meeting. Commissioner Barowitz suggested inviting Portland's Director of Public Works to speak to the Committee. Chair Lizanecz suggested inviting a speaker from the Peaks Island Council.

Chair Lizanecz noted that the Committee was scheduled to present their ideas for a Police Oversight Board to the full Commission soon, and that commissioners should prepare for that discussion.

Commissioner Barowitz commenced the discussion, stating that Portland currently had Neighborhood Associations, which exist outside of the Charter or code. The Associations, which have no official role in city governance, operate independently and govern themselves in different ways, and have proved a valuable tool for community engagement. City Councilors have defined districts, but they are geographically large and encompass disparate neighborhoods.

Community Chairs would serve as an intermediary position between residents and Council Members, with two or three Community Chairs per council district. They would have geographically specific districts and serve as liaisons between residents and the Council. The neighborhoods could receive an allotment for participatory budgeting, with the process overseen by the Chairs. Chairs could play a role in the appointments to boards and committees, and possibly sit on committees. The Chairs would serve as a means for communities to engage with development process, and provide input early in the process, as well as make their land use needs known to the city. The Chairs could potentially review and make recommendations on development projects, and serve as platforms for leadership development.

Commissioner Barowitz and staff member Denno briefly discussed their knowledge of the role Community Boards play in New York City. Denno agreed to provide commissioners with information regarding New York's Community Boards, and to find examples of other municipalities that had instituted similar structures.

Commissioner Barowitz noted that the Education Committee was also discussing the idea of introducing participatory budgeting, and Chair Lizanecz suggested scheduling a joint meeting in February. Commissioners agreed to further discuss the idea, conduct research and interviews, and workshop language for eventual presentation to the Commission.

4. Introduction of the idea of a Communications/Constituent Services Office

Commissioner Barowitz again began the discussion. Barowitz said the most common complaint he heard from residents was "why am I only hearing about this now?" The idea behind the Communications or Constituent Services Offices was to better communicate with the public and keep the public better informed of the city's activities and mechanisms. He stated that Portland currently had Jessica Grondin serving as Communications Director, leading an office of two, previously one. Such offices generally have two broad duties: serving as a press office, primarily for the executive branch; and serving as community affairs office, working with the public and constituent groups.

Chair Lizanecz said the Governance Committee was also discussing similar issues, under the umbrella of a Chief of Staff position. Lizanecz said the position, as currently being imagined, would report to the Council and Mayor, perform community affairs work, process FOIA requests, and serve as liaison between the Council and Administration.

Chair Lizanecz noted that cities of Portland's size often group multiple duties into one office, and suggested that this office might fit under the umbrella of the Chief of Staff position under discussion. Commissioner Barowitz was not averse to the idea, but cautioned that it was confusing for the public when an official's title did not clearly match his or her duties. Lizanecz agreed, and said it was a matter to raise with the full Commission.

Commissioners agreed to discuss the matter with the Governance Committee before drafting any language.

Chair Lizanecz suggested that a revision could be made to the charter mandating that roll call vote archives be recorded and made publicly available. Commissioner Barowitz agreed with this idea, saying that current necessity of searching through past minutes to find such information was untenable. Commissioner Houston said that it was his understanding that this was a service provided by Wilmington's Communications Office, and hopefully the Communications Director would discuss it as a guest at the Committee's next meeting. Commissioner Barowitz suggested broadening to the language, to ensure the recording and accessibility of public information.

5. New Business

Chair Lizanecz said the Committee's preliminary reports were due in March, and recommended scheduling joint meeting with committees studying overlapping issues. Lizanecz suggested the Governance Committee and Elections Committee might wish to collaborate on the issues of Community Chairs. Commissioners agreed that Lizanecz should inquire of the other Boards' chairs if they wished to mutually discuss these issues before they went to the full Commission.

Chair Lizanecz asked Commissioners if they had initial thought on the Ombudsman/Public Advocate-type position following the interviews and expert testimony on the Committee's January 3rd meeting. Lizanecz determined that Commissioners wished to proceed on the issue, and scheduled a workshop for drafting language at the February 7 meeting. He asked Commissioners to come to the meeting with proposals.

Commissioner Barowitz suggested the Committee should focus on the description of the position, and leave questions of how the position should be filled to the full Commission. Chair Lizanecz concurred with Barowitz, and said the position's duties may depend on the structure of government settled on by the Commission.

Commissioners identified preliminary proactive and reactive duties for the position, and agreed to independently draft proposals for the February 7th meeting, where they would workshop the language to present to the Commission.

6. Adjournment

Chair Lizanecz called for adjournment. The motion was made by Commissioner Houston and seconded by Commissioner Barowitz. The motion was approved unanimously and the meeting was adjourned at 7:30pm.



City of Portland, Maine Charter Commission

Departments Committee

MINUTES

January 31, 2022

Committee Members Attending via Zoom: Commissioner [Ryan Lizanecz](#) (Chair), Commissioner Zachary Barowitz, Commissioner Marcques Houston. Governance Committee members Commissioner Robert O'Brien and Commissioner Nasreen Sheik-Yousef also in attendance. Staff member Jesse Denno taking minutes.

1. **Call Meeting to Order and Conduct Roll Call**

Chair Lizanecz called the meeting to order at 6:00 pm and called the roll. Commissioners Barowitz, and Lizanecz were present. Commissioner Houston joined the meeting at 6:30. Commissioner O'Brien and Commissioner Sheik-Yousef from the Governance Committee also in attendance.

2. **Review and Approval of Minutes**

Chair Lizanecz called for a motion to approve the minutes of the Committee's December 20th and January 3rd meetings. Commissioner Barowitz motioned to approve the January 3rd minutes, and Chair Lizanecz seconded. The motion passed unanimously.

Commissioner Barowitz stated that he had noticed errors in the December 20th minutes. Chair Lizanecz motioned to amend the minutes and Commissioner Barowitz seconded. The motion passed unanimously.

3. **Interviews: Monique Y. Glaude', Director of Community Engagement & Ombudsman, City of Topeka, Kansas**

Chair Lizanecz prefaced interviews by stating that Jennifer Prado, Director of the Mayor's Office of Constituent Services for Wilmington, Delaware, had needed to cancel. Michael Pastor, Professor of Law at New York Law School, had been added to the agenda in her stead.

On her work, experience, and path to the Ombudsman's office.

Glaude' has spent over 15 years as a public servant in Topeka. She began serving as a Community Liaison in 2012, her first position directly related to that of Ombudsman. She was appointed the city's Director of Community Engagement, her first citywide office. Topeka's Ombudsman position was created in 2020 to address distrust between the city government and the public, and she is the first to serve in the position. Since assuming she has distributed over 18,000 infographics informing citizens of the office, and raised awareness through social media, television interviews, and community meetings.

Glaude' sees the Ombudsman office as a conduit between citizens and the government. She describes the work as 30% providing resource information, 25% as serving for the initial contact for complaints, 20% is devoted to following up on complaints and service requests, and 25% is educating the public on how the government works and government processes.

Topeka has a "See-Click-Fix" system where residents can file complaints via an app or website, that has transformed the dynamics of how complaints are addressed, as citizens are often able to resolve issues themselves.

The position requires exemplary customer service skills, tough skin, and assertiveness. She strives create positive interactions between residents and their government. The creation of the office has cut down on complaints to the governing body and the City Manager's office.

Thoughts on the term "Ombudsman."

She has found the title to be confusing for people, and she often describes herself as a liaison between the public and city government, and prefers the term "Resident Liaison."

On her the structure of Topeka's government and her office's role in Topeka.

Glaude' reports to the City Manager. She maintains direct contact to the Manager, and keeps him informally apprised of her office's work. The manager has declined her offer of monthly reports. All complaint forms are logged in a shared file accessible to the Manager and his assistant. She is also accessible to Council members and department heads, and who often direct members of the public to her office.

Government officials and staff must acknowledge and respond to any formal request from the Ombudsman's office within 24 hours. This system was instituted by the City Manager after being proposed by Glaude'.

Glaude' does not handle the entirety of the city's constituent service needs, but she is often the point of contact for people following up on an initial complaint.

To avoid the perception of being seen as a "tattletale" by city officials and employees, she works hard build strong relationships with the people in city government, and seeks to convince them that she is their "quarterback," that can solve complaints on their behalf if she has the necessary information.

Topeka has a population of about 127,000, that swells to 167,000 during the day. Topeka has a Mayor-City Manager-Council form of government.

On the Ombudsman's role in larger issues like human rights violations, government corruption and malfeasance, and complaints by city employees against their superiors.

Employee complaints would be directed to the city's Human Resources department. If she was contacted by an employee dissatisfied with HR's resolution, she would take the matter directly to the City Manager.

Discrimination complaints are directed to the city's Human Rights Commission.

Allegations of misadministration or corruption in city government are outside of the Ombudsman's purview, and she would refer the matter to the City Attorney.

On the appointment process.

The idea for an Ombudsman generated within the Council, initially to provide some oversight for the Police Department. The City Manager made the Ombudsman a position with a citywide brief, and appointed Glaude' to the position.

On access to files and city staff.

If she can pull necessary information from a department's website, that is her preferred method, and she only contacts department heads when necessary. There are no restrictions on her access to staff

Chair Lizanecz and commissioners thanked Glaude' for her time and attention.

4. **Interviews: Jessica Grondin, Director of Communications and Digital Services, City of Portland**

On her path to the office, and her work for Portland.

Grondin has worked for Portland since 2014, having previously worked for the city of Boston. In the position, she seeks to provide municipal services effectively and efficiently, and use digital tools to foster civic engagement, and to facilitate public interaction with their government.

The position has evolved somewhat over time, and has come to encompass digital communications, civic engagement, and digital tools like the city's website, social media, and mass alert system. She handles media and public relations, and oversees the city's 311 system. She also oversees agenda management software, live streaming and public participation tools, serves as the city's FOIA officer, and handles internal city communications. She manages a staff of two.

Grondin reports directly to the City Manager.

Given her broad range of duties, on whether the office is appropriately balanced for its title, and whether some duties would ideally be shifted elsewhere.

She finds the balance and structure appropriate, but wishes the department had more resources. She was only recently able to add a second staff member to the department.

Grondin works closely City Manager's chief of staff, who also handles constituent services, to ensure messaging is consistent and issues are getting resolved. She also works closely with the City Clerk on digital services to ensure agendas are posted, that live-streaming is working, and videos of meetings are accessible. She is currently working with Clerk on the implementation of a new Boards & Commissions Portal.

On, as an employee reporting directly to the City Manager, how she works with the Mayor and Council.

Of all department heads, she probably works most frequently with the Mayor and Council. She routinely assists them with public information, media requests and press releases. The City Manager is made aware of their requests, but has never asked her department to deny their requests.

On whether, and if so, how, her office handles larger questions of maladministration, malfeasance, corruption and employee misconduct.

Grondin sometimes receives complaints about staff interaction, or staff not following policy, which she refers to Human Resources or the department head, and then follows up with the complainant. FOIA requests regarding city employees are handled in conjunction with Corporation Counsel and Human Resources. Grondin did not remember receiving any complaints that rose to the level of corruption.

After Human Resources and/or department takes action, there is no further means of appeal or recourse to a complainant within the municipal structure.

On whether it makes sense for constituent services and communications to be combined under one roof, or if it makes more sense for constituent services to fall under the umbrella of decisions maker, i.e. the City Manager.

As communications staff currently report to the City Manager, it doesn't greatly matter if the duties are formally grouped in the same department or not. Grondin believes people like to interact with the city in different way, and their means of access should not be strictly limited to one employee or department, or in method of accessing the city.

It is the City Manager's office that currently compiles and tracks requests and complaints.

On FOIA requests, and the office's access to files and information.

The City Clerk often handles FOIA requests for easily accessible public records, otherwise they go through Grondin's office, in cooperation with Corporation Counsel. The bulk of FOIA requests received come from reporters and other media sources.

FOIA requests involving the Police are referred by Grondin to the Police Department's attorney.

Grondin has access to the city's financial and human resources records.

Grondin also works with Corporation Counsel on requests that involve legislation, ordinances and policy matters.

On who in the city handles calls from members of the public who are upset or aggrieved, and need to vent or talk through their issues.

One of Grondin's staff members handles phone calls, listens to people, and ensures they have access to services.

Her office also often hears from people who require State or County services, or the services of a non-profit institution, and her office does its best to connect callers to the appropriate body.

On finding the balance between limiting conduits of information, and ensuring the public has access to the city, and can contact the government via their preferred means.

There is value in adhering to procedures, to prevent communication breakdowns, but information should be shared for best communication and to ensure broad access.

On redundancy in city e-mail communications.

It's a largely a matter of capacity and resources. One media distribution list is shared by multiple offices, making it difficult for a constituent to pick and choose the communications they receive. She is cautious about limiting channels, because people want to find their information through different means.

Chair Lizanecz thanked Grondin for her time and service.

5. Interviews: Michael J. Pastor, Adjunct Professor of Law and Senior Fellow, New York Law School

Pastor directs an institute at the law school that focuses on the business of law and in-house counsel. He also teaches State and Local Government, and has taught similar classes at other area law schools. He has also served as an attorney in several capacities for the City of New York, most recently as General Counsel for two of the city's technology agencies.

On the mechanisms for providing "enhanced constituent services," and where in structure of a municipal government such an office is best placed.

In New York, the Public Advocate is a citywide elected position, that is by law an ombudsman, created to be a "watchdog" over city agencies, and an office specifically created as means by which members of the public can seek redress for failures of the city government. As it serves a city of 8.5 million, the office necessarily focus on issues on which it receives complaints more frequently than others. The office then sheds light on an issue through its platform, e.g. landlord not providing sufficient heat in the winter.

The Public Advocate does not have the power to mandate change. It has the authority to access records, and its power lies in its ability to bring attention to a

matter. The office reports to no one in the government, being directly elected. Its authority is buoyed by the robustness of local news in New York, as the Advocate has channels for drawing attention to a matter. The Public Advocate can be very influential, but there is the potential for creating false expectations when the office can not implement the changes it recommends.

The city's Comptroller is also a citywide independent elected office, with the statutory authority to audit agencies, and publish its results. The Comptroller also receives complaints, and can address government corruption and malfeasance.

New York also has a 311 system, through which people can file complaints about the actions of city government by phone, web browser, or mobile application. The system directs complaints to the appropriate agencies, and serves as central clearinghouse that compiles and tracks data.

On an elected Public Advocate versus an appointed Ombudsman, and which system provides better effectiveness and accountability.

Pastor believes an elected Public Advocate serves best as an effective watchdog, accountable only to the public.

New York also has a Department of Investigation, that specifically addresses issues of wrongdoing by public officials. With a Commissioner appointed by the Mayor, the agency still maintains a great deal of independence, because the commissioner can only be removed for cause.

The City Council, an elected body, also serves as a check on the Mayor, and possesses investigative powers and subpoena authority.

On commonalities in the backgrounds of people who seek the office of Public Advocate, and the political nature of the office.

The office has only existed since 1993, so there have not been that many who have held the office. They have tended to come from backgrounds in community activism and city politics.

The position often serves as a stepping stone to higher office. Prior to his election to Mayor, Bill de Blasio served as the Public Advocate, and Mark Green was the Democratic candidate for Mayor. The Public Advocate also serves as interim mayor for 60 days if the Mayor becomes incapacitated or resigns.

The Public Advocate is selected through partisan primaries, often in a crowded field, with the winner of the Democratic primary selected in the general election thus far.

On tension with other offices, particularly during campaign season.

Pastor has not noticed the tenor of the Public Advocate's press conferences and communications significantly changing in the run-up to elections, but a Public Advocate's focus may shift. It is inherently a political role, and often adversarial in its relationship to the Mayoralty and other city bodies.

On the Public Advocate's relationship to the City Council, and the potential advantages of placing such an office under the Council's purview.

In New York, the Public Advocate can introduce legislation, and participate in Council hearings. A robust Advocate can provide greater investigative authority to a city in conjunction with a City Council, and there tends to be a great deal of synergy between watchdog and lawmaking roles.

On Boards of Ethics, and how they can fit into a municipal government.

New York has a Conflicts of Interest Board, an independent body with members appointed by the Mayor and Comptroller. Pastor does not recommend placing such a body under the Council or Mayor, because it should be free to investigate those bodies. In addition to investigations, the Board issues advisory opinions, providing ethical guidelines to officials and city staff.

Chair Lizanecz thanked Pastor for sharing his expertise, and donating his time on short notice.

6. Quick Break

Chair Lizanecz called a five-minute recess.

7. Discussion of Constituent Services/Ombudsman Model

Chair Lizanecz provided an outline for discussion, if other commissioners found it amenable. Commissioner Barowitz suggested reviewing and discussing what the committee had larded through its interviews. Commissioner O'Brien suggested identifying commonalities among commissioners, and then discussing their differences.

Commissioner Barowitz opined that Portland would be best served by a "Goldilocks scenario," with a position less limited than that of Topeka's Ombudsman, but not with the same level of prominence as New York's Public Advocate.

Chair Lizanecz stated that he found Council appointment preferable to public section for such an office. Commissioner Barowitz responded that he was content with either method of appointment, but wished to see the office guaranteed a wide brief and independent investigative authority.

Commissioner O'Brien said the title of "Chief of Staff" currently under discussion in the Governance was created a placeholder, and "Community Liaison" or "City Liaison" would be more accurate to his vision of the office. O'Brien said he was not comfortable with placing such an office under the City Manager. He also wished to see greater transparency and availability of recourse in public complaints regarding city actions and staff.

Commissioner Sheik-Yousef expressed concern over who would provide Council oversight, if a watchdog agency was placed under the Council and reported to the Council. Commissioner Sheik-Yousef suggested the title of "Public Advocate" as a starting point for finding common ground. Sheik-Yousef said she believed the office should be elected and independent, and accountable directly to the people.

Chair Lizanecz also suggested Council committee as a means of appointment, with the availability of recall by the Council if necessary.

Commissioner O'Brien said he comfortable with Council appointment because, unlike the City Manager, the position would not directly influence policy or the budget.

Commissioner O'Brien said that, while the Governance committee had previously envisioned a Chief of staff handling Council scheduling and arranging meeting between Council members and city staff, he was now willing to jettison those duties from the position in the interest of efficiency and streamlining.

Commissioner Barowitz envisioned the position as providing a second avenue for recourse when Council and other governments acted incorrectly, before a complainant sought redress in the legal system. Commissioner O'Brien said that an independent body that could provide alternate legal interpretations would still not trump the interpretations of the City Attorney, and might be of limited utility. Barowitz said the position as he envisioned it would be limited to the powers of persuasion.

Commissioner Sheik-Yousef suggested making the City Attorney, and possibly the City Clerk, an elected position, to make the office accountable to the public. She would be more comfortable with an appointed Public Advocate/Ombudsman/City Liaison if the City Attorney were elected.

Chair Lizanecz said that eliminating the office of City Manager might make it easier to identify and call out municipal malfeasance. Lizanecz did not agree that making the City Attorney an elected position would serve the public good. Commissioner O'Brien said he was open to debating whether the City Attorney should be elected, noting that Attorneys General were often elected to office.

Commissioner O'Brien introduced the idea of a panel of attorneys that could be petitioned if a legal opinion was disputed.

Commissioner Barowitz advocated for such a body being appointed by the Council, saying it would empower the city's elected representatives.

Commissioner Sheik-Yousef reiterated her idea of an elected City Clerk, in the interest of accountability, transparency, and a government with necessary checks and balances.

Chair Lizanecz asked for ideas on how to best proceed, following the evening's conversation. He asked for conceptual, baseline areas of agreement that could be brought to the full Commission. Commissioner Houston said the Committee had created a good list of potential powers and duties that would serve as good starting point for Commission discussion.

Commissioner O'Brien agreed the committee had reached a good stopping point, and he wished to hear the thoughts of Governance Committee member Commissioner Shay-Bouley. O'Brien suggested reconvening with an expert that could help the committee identify the pros and cons of various approaches discussed. Commissioner Sheik-Yousef agreed that it would be helpful to discuss matters with an expert, possibly an academic.

Chair Lizanecz asked staff member Denno to look into any research that addressed these issues and could help the committee.

8. **Adjournment**

Chair Lizanecz called for adjournment. The motion was made by Commissioner Barowitz and seconded by Commissioner Houston. The motion was approved unanimously and the meeting was adjourned at 9:15 pm.

PORTLAND ETHICS COMMISSION & CODE OF ETHICS

Section 1. Ordinance required.

The City Council shall maintain an ordinance defining the code of ethical conduct of elected and appointed City officials, as well as all employees of the City. The ordinance shall be developed by the Ethics Commission, as provided in Section 2, and only be approved and later amended with the approval of 2/3 of City Councilors present and voting.

Section 2. Formation of Ethics Commission.

The ordinance shall direct the formation of an Ethics Commission, consisting of seven (7) members who are residents of the City, to review the code ordinance once every three (3) years. The commission shall be appointed by the City Council. Elected officials and their immediate family members shall not be permitted to be members of the commission. The commission shall meet as needed, but no less than annually.

Section 3. Independence.

The Commission shall remain an independent body, but shall provide a report to the City Council no less than annually.

Section 3. Advisory Opinion.

The Ethics Commission or quorum of at least five (5) members, shall be convened on request for an advisory opinion by no less than two (2) members of the City Council, the Mayor, or the Chief Executive of the City. The Commission may issue, at its discretion, advisory opinions upon request of any city officer, official, employee, or resident of the City.

Section 4. Violations of Ethics Code.

The Commission may recommend to the applicable hiring authority any appropriate disciplinary or removal proceedings and notify the city attorney that further action should be taken in accordance with state law. Any City Councilor or Mayor found in violation of the ethics code may be removed by a 2/3rds majority vote of the City Council. Suspected criminal conduct shall be reported to the police department.

Reasoning:

1. Protect whistleblowers.
2. Fight and discourage corruption from both elected and unelected individuals.
3. Increase transparency and accountability in municipal government.
4. Be a safe, independent place to send complaints and concerns regarding ethical conduct.
5. Creates an ethics mission and code for the City of Portland.
6. Cost effective, productive ethical conduct oversight.
7. More voices at the table and the community oriented decisions on what ethical conduct is, rather than one individual.

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