



City of Portland Charter Commission Agenda

February 22, 2022 at 6:00 PM

Due to the existence of an "emergency or urgent issue", the Charter Commission & its Committees will conduct meetings 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.

Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live, a recording will be available following the meeting in our Agenda Portal.

For public comment, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

1. Call to Order

- a. This meeting will take place remotely using Zoom.

This meeting will be held remotely pursuant to the Remote Meeting Policy adopted by the Charter Commission and as authorized under 1 M.R.S. 403-B because of the existence of an emergency or urgent issue that requires the committee to meet by remote methods. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live, a recording will be available following the meeting.

For public comment, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

Please click the link below to join the webinar:

<https://portlandmaine-gov.zoom.us/j/84795200539?pwd=WSsxa0diNFJEMVhYZXZQT24xZjRqUT09>

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Or One tap mobile :

US: +19292056099,,84795200539#,,, *365266# or
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Webinar ID: 847 9520 0539

Passcode: 365266

International numbers available: <https://portlandmaine-gov.zoom.us/j/ktDGaT33S>

2. Approval of the prior meeting minutes
 - a. Approval of the Draft February 8, 2022 meeting minutes.
3. Discussion of participatory budgeting proposal as follows:
 - a. "The City Council shall develop and implement a participatory budgeting system wherein a portion of the municipal budget is allocated based on a process that involves the input of as many residents of Portland as possible. The City Council may establish a subcommittee, a task-force, or any other structure that is necessary and proper for the design, implementation, and management of a participatory budgeting system."

Public Comment period
Vote on Participatory Budgeting
4. Discussion of Code of Ethical Conduct
 - a. Public comment period
Vote on Code of Ethical Conduct
5. First Read on Citizen Initiatives proposal
 - a. Citizen Initiative proposal
6. New Business
7. Adjourn

Minutes for Charter Commission Procedures Committee
2/8/2022

1. Call to order 6:17pm

2. Approval of Minutes

Moved by Councilor Waxman, seconded by Commissioner Kebede. Passes unanimously.

3. Councilor Pay proposal

Public Comment period:

Karen Snyder, this should be in the code. Hourly rate can be abused and can be a pathway to corruption. Civic duties should not be compensated.

Commissioner Waxman: not supportive. Believes this rule does not belong in the charter, but belongs instead in the code.

Commissioner Barowitz: shares some of Commissioner Waxman's concerns.

Kebede moves passage, Barowitz seconds. Discussion followed. Meeting briefly ends due to technical issue.

Kebede: speaks in favor, largely. Some edits suggested.

Barowitz:

Corruption: unpaid officials easier to corrupt.

Public comment again:

Valerie Kelly: will this remove the city council's authority to edit their own compensation?

Karen Snyder: "multiplied by 20 hours per week in office"

Joey Brunelle: be mindful of the interaction between stipend and healthcare benefits.

Commissioner Waxman calls a vote on the proposal.

Commissioner Waxman: councilors can give themselves a raise, I do not believe this belongs in the charter.

Commissioner Barowitz: giving themselves a raise creates the appearance of a conflict of interest.

Commissioner Kebede: let's ask councilors.

Vote: commissioners Washburn, Kebede, and Barowitz vote yes. Commissioner Waxman opposes. Proposal is forwarded to full commission by a 3-1 vote.

4. Participatory Budgeting

Commissioner Waxman describes her participatory budgeting (PR) proposal.

Public Comment:

Joey Brunelle: there are best practices for Participatory Budgeting. No need to spell out too many details in charter. Available if you need my expertise.

Karen Snyder: what's the 1.5% figure in the proposal?

Discussion followed.

Joey Brunelle speaks again. Says permanent steering committee is generally set up for a PB steering process.

Commissioners Waxman and Kebede to work on a very streamlined PR proposal.

6. Updates on Citizen Initiatives and Charter Copy editing projects.

Nothing.

7. New Business

Commissioner Barowitz says there will be an ethics and oversight proposal on February 22nd.

Commissioner Waxman: we need deadlines so we can finish our work on time.

8. Adjourn

Motion to adjourn by Waxman, seconded by Barowitz. Unanimous vote.

Code of Ethical Conduct

1. The proper operation of the City of Portland requires that all City officials, whether elected or appointed, and city employees be impartial, equitable, and responsive to the needs of the people and each other in the performance of their respective functions and duties; that proper conduct by City officials will promote public confidence in the integrity of government and will be maintained by all City officials; that public office not be used for personal or financial gain or advantage; and that the structure of City government be used properly in decision and policy-making. In recognition of these goals and the importance of protecting public interest and City officials, a Code of Ethics shall hereby be established for all by the City Council.

1.1 PURPOSE: To ensure that standards of conduct are defined and upheld; to make public the sources of income as well as other areas of personal and pecuniary interests to city officials, their family members, and major supporters for purposes of recusal.

1.2 Whereby, the Portland City Council shall devise and make available a Code of Ethics for all elected city office-holders, appointed officials, and city employees to which all shall adhere.

1.2.1 Any and all complaints shall be recorded by the city attorney's office or ombudsman

1.3 The code shall include and encompass but not be limited to the following:

- Standards of Conduct
- Disclosure of Confidential Information
- Conflicts of Interest
- Disclosure of Conflict
- Determination of Conflict
- Board of Ethics

1.4 Whereby the City Council shall devise and make available a disclosure form for all elected city officials and executive & senior city staff who shall complete said form prior to being sworn into office. The form shall disclose all sources of income, as well as those of close family members, in accordance with common and accepted practices consistent with state and community standards. These disclosures shall be made publically accessible and posted together on the city's website and on the page of that city official as applicable.

1.4.1 The Portland city council shall devise, with the assistance from city staff, disclosure forms for Portland City officials, including but not limited to:

- Councilors
- School Board

- All other elected officials
 - All appointments including but not limited to boards, commissions, and task forces
- and
- All city employees

1.4.2 Anyone, whether they be a city official or member of the public, may bring a complaint to the attention of city officials for the purposes of consideration of a conflict of interest or the appearance of a conflict of interest.

1.4.2.2 If the subject is a member of an elected or appointed body, including but not limited to council, board, committee, or task force, the complaint shall be brought to the attention of the chair (or equivalent). Complaints against staff members should be brought to the attention of the subject's direct supervisor. Members of the public may bring their complaint to the entire body or to other city officials.

1.4.2.2.1 If the complaint is against the chair, then the complaint shall be brought to the attention of the next most senior member who is not subject to complaint. *[e.g., if the chair and vice chair both work for the same bank that might have a conflict.]*

1.4.2.3 Once a complaint has been made, the subject shall be notified of the complaint and shall have the option to recuse themselves or to request deliberation. Public notice shall be given of the complaint unless confidentiality requirements prohibit it.

1.4.2.4 Complaints determined by the chair of the relevant body (or the next most senior member, if the complaint is against the chair) to be frivolous, scurrilous, libelous, unsubstantiated, unfounded, of nuisance, or otherwise without account need not be deliberated or referred if the complaint is publicly designated as such.

1.4.2.5 Except as described in the preceding paragraph, all complaints shall be considered or deliberated in as timely manner as possible and in any case shall be considered in advance of deliberation on the relevant proposal or law.

1.4.3 Determination of Conflict

Once the complaint of conflict has been initiated as provided above, the body shall deliberate the matter themselves or refer deliberation to an appropriate office or entity.

1.4.4 The complainant shall receive a response to the complaint regarding the outcome.

1.4.5 If the council does not develop its own disclosure form, then the state form shall be used (with appropriate modifications of language, e.g., change all references to the "State of Maine" to the "City of Portland") as a default.

1.4.6 The form shall be a public document and may be referenced by the public for purposes of recusal. The form shall be updated on an annual basis or upon change of employment or situation.

1.5 Failure to disclose or comply with the code of ethics shall result in disciplinary action that may include termination of the individual from their position with the city.

Memo

To: Commissioner Washburn
From: Commissioner Barowitz
CC: Commissioner Waxman, Commissioner Kebede
Re: Citizen Initiatives
Date: February 14, 2022

Based on the workshop that the procedures committee on citizens initiatives, follow up discussions with members of that workshop, research, and my own experience with ballot questions I would like to recommend the following considerations for amendments to the city charter to improve the process of citizen initiatives. Provided they comply with state law.

1. There should be **a clear and predictable timeline** from when the question is submitted to when the initiative would appear on the ballot. Unfortunately this is a necessarily muddy process because elections occur at irregular intervals and thus the timing is such that we cannot simply say “shall appear on the next ballot” as that might be only days away. Perhaps a 120-day buffer would work: If it is more than 120 days until the next election it will appear on that ballot. If it is fewer than 120 days then it would appear on the subsequent ballot. I believe that state law already assures this but I would like to be sure or improve it within the confines of state law.
2. The **title should match the content of the initiative**. While it may be the case that the ballot question might be complex and wide-ranging it should still reasonably and honestly match the content of the question. If at the hearing (see #3 below) it is found that the question is not accurately reflected in the title; a new title shall be negotiated. If a title is not agreed upon then it should go to a neutral arbitrator.
3. Before the signatures are all turned in (perhaps at the 70% threshold, there shall be a **public hearing** where the sponsors shall present the petition question to the city council who will consider an analysis of the question (see above) and the council may offer a compromise subsequent to the hearing.

Article __ Section __ of the Portland City Charter shall be amended to include the following language:

Proceedings for People’s Initiative:

(a) In general. The submission to the vote of the people of any proposed ordinance dealing with legislative matters on municipal affairs or of any such ordinance enacted by the city council and which has not yet gone into effect, may be accomplished by the presentation of a petition thereof to the city council in the manner hereinafter provided and signed by a number of Portland voters not less than ____% of the total vote for Mayor cast in the Mayoral election preceding the filing of such petition.

The submission of a proposed ordinance, or amendment or repeal, in whole or in part, of an ordinance already in effect shall be hereinafter referred to as the direct initiation of legislation or "initiative." The submission of a petition to override any ordinance passed by the city council but which has not yet gone into effect shall be hereinafter referred to as the "people's veto."

(b) Applicability. Neither this article, nor ordinances dealing with appropriations, tax levy, or with wages or hours of city employees shall be subject to the initiative and "people's veto" referendum provisions herein established.

(c) Petition procedure. Any ten (10) registered voters of the city may file with the city clerk an affidavit stating:

- (1) That the ten (10) registered voters will constitute the petitioners' committee;
- (2) The names and addresses of the ten (10) registered voters;
- (3) The address to which all notices to the committee are to be sent; and
- (4) That the ten (10) registered voters will circulate the petition and file it in proper form.

Upon filing of said affidavit by ten (10) such voters, the city clerk shall have seven (7) calendar days to prepare the proper petition forms pursuant to section 9-37 below with a copy of the submitted ordinance either printed on the petition or attached thereto and shall provide such petition to members of the petitioners' committee and to any other registered city voter who wishes to circulate it. The petition may be circulated for signature by registered voters of the city for eighty (80) calendar days from the original date of issuance of the petition, which date shall be noted by the clerk on each blank form; provided, however, that any petition for the "people's veto" of an ordinance not in effect must be filed with the city clerk prior to the effective date of said ordinance or within thirty (30) calendar days after passage by the city council, whichever is less. Any "people's veto" petition not so filed is void. All provisions as to the filing and the form of petitions in this article, other than the aforementioned time frame, shall apply to both initiative and "people's veto" petitions.

(d) Filing of petition. The petition must be returned to the city clerk for filing by close of business within eighty (80) calendar days from the date of issuance thereof. If the eightieth day is a Saturday, Sunday or holiday, said petition shall be filed by the close of business of the next immediate business day. All petition forms not so submitted are void. The petition forms shall be assembled as one (1) instrument, with each page numbered, attached to a written statement from the petitioners' committee stating the number of petition forms being filed. The clerk shall certify the date of filing and the number of forms returned.

(e) Verification of petition.

(1) Within fifteen (15) calendar days after the petition is filed, the clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars which render it defective. The clerk shall promptly send a copy of the certificate to the petitioners' committee by certified mail, return receipt requested, or by hand-delivery, and shall file a copy with the city council.

(2) A petition certified insufficient may be amended once, if the petitioners' committee files a written notice of intention to amend it with the clerk within eight (8) calendar days after mailing by certified mail, return receipt requested, or hand-delivery of the copy of the clerk's certificate. Within ten (10) calendar days after this notice of intention is filed, the petitioners' committee may file a supplementary petition to correct technical deficiencies in the original which shall, in form and content, comply with the requirements for an original petition but which shall not contain additional signatures of voters.

(3) Within five (5) calendar days after a supplementary petition is filed, the clerk shall complete and file a certificate as to its sufficiency in the manner provided for in an original petition.

(4) Any petition finally determined to be insufficient is void. The clerk shall stamp the petition void and seal and retain it in the manner required for secret ballots.

(5) The clerk's decision as to the sufficiency of the petitions shall be a final determination, reviewable as provided by law.

(f) Hearing. At its first regular meeting after receipt of a report that a petition is sufficient and has at least _____ valid signatures of the registered voters of the city, the city council shall set a date for public hearing, which hearing shall be held within thirty (30) calendar days thereafter. Notice of the hearing shall be published in a newspaper having general circulation in the city at least ten (10) calendar days prior to the hearing and shall contain the text of the petition. As provided by section 9-39, the city council shall take the necessary steps to submit to the voters of the city the ordinance proposed in the petition; provided that, in the case of the "people's veto" referendum, the entire repeal by the city council of the ordinance sought to be referred and, in the case of the initiative, the passage by the city council of the desired ordinance shall put an end to all proceedings under the petition.