City of Portland
Charter Commission Agenda

February 23, 2022, 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. Zoom Information
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      Please click the link below to join the webinar:
      https://us06web.zoom.us/j/89601151512?pwd=NE55MG9pMVZWd2J2V0hORkRNL09GUT09
      Passcode: 922781
      Or One tap mobile :
      US: +13017158592,,89601151512#,,,,*922781# or
      +13126266799,,89601151512#,,,,*922781#
      Or Telephone:
      Dial(for higher quality, dial a number based on your current location):
      US: +1 301 715 8592 or +1 312 626 6799 or +1 646 558 8656 or +1 253 215 8782 or
      +1 346 248 7799 or +1 720 707 2699
      Webinar ID: 896 0115 1512
      Passcode: 922781
      International numbers available: https://us06web.zoom.us/u/kbvngCXpXk

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2. Call to Order 6:00-6:05pm

3. Review and Approval of Minutes from prior meeting (6:05-6:10pm)

   a. Approval of the Draft February 9, 2022 meeting minutes.

4. Workshop on Governance Models (6:10-7:10 pm)

   a. Description: Commissioners will deliberate about reforms to the basic structure of Portland's government:
   Relevant document(s):
      a. Commissioner Sheikh - Yousef's governance model proposal
      b. Governance Committees' governance model proposal
      c. Matrix comparison of two models
      d. Commissioner Barowitz's organizational charts
      e. Relevant research and interviews ("cc Governance Committee Work Plan 2021")

5. Public Hearing, deliberations, and vote on Proportional Ranked Choice Voting proposal from Elections Committee (7:10-7:45 pm)

   a. Description: members of the elections committee will present a proposal to amend our ranked choice voting system. There will be no voting on this proposal.
   Relevant document(s):
      a. Proportional Ranked Choice Voting Proposal
      b. Marpheen Chann Amendement of Proportional Ranked Choice Voting Proposal

6. Public Hearing, deliberations, and vote on Amended Police Oversight Proposal form Department's Committee(7:45-8:20pm)- PENDING CHARTER LANAGUAGE

   a. Description: Commissioners will hold a public hearing on an amended version of the police oversight proposal from the Departments Committee. There will be a public comment and a vote.
   Relevant document(s):
      a. Proposal in charter language

7. First Read of Councilor Pay and code of ethics from Procedures Committee (8:20-8:40 PM)

   a. Description: members of the procedures committee will present a proposal on councilor pay and code of ethics. There will be no voting on this proposal.
   Relevant Document (s):
   Councilors Pay Proposal
      a. Proposal on councilor pay
      b. Proposal on code of ethics.

8. First read Universal Resident Voting from Elections Committee (8:40-9:00pm)

a. Description: members of the election committee will present a proposal for universal resident voting. There will be no voting on this proposal.
Relevant document(s):
a. Proposal on universal resident voting.

9. New Business

10. Adjourn

DRAFT

City of Portland Charter Commission Minutes
Charter Commission Meeting

February 9, 2022 (Remote via Zoom)

1. Call to Order

   a. Due to the existence of an "emergency or urgent issue," the Charter Commission and its 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. §403-B and the Charter Commission's Remote Participation Policy.

   You are invited to a Zoom webinar.
   When: Jan 26, 2022 06:00 PM Eastern Time (US and Canada) Topic: Charter Commission Governance Committee

   Please click the link below to join the webinar:
   https://us06web.zoom.us/j/82222487849?pwd=NHp0V2J5LzZpL0VHY25wODZQTElHUT09 Passcode: 270952
   Or One tap mobile :
   US: +13126266799,,82222487849#,,,,*270952# or +16465588656,,82222487849#,,,,*270952#
   Or Telephone:
   Dial(for higher quality, dial a number based on your current location):
   US: +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592 or +1 346 248 7799 or +1 720 707 2699 or +1 253 215 8782
   Webinar ID: 822 2248 7849
   Passcode: 270952
   International numbers available: https://us06web.zoom.us/u/kba1uqhqs1

   b. Chair Kebede called the meeting to order at 6:07 p.m.
   Commissioners present were Barowitz, Buxton, Chann, Eglinton, Houston, Kebede, Lizanecz, O'Brien, Sheikh-Yousef, Washburn, and Waxman. Commissioner Stewart-Bouley was absent. (Quorum established)

2. Review and Approval of Minutes

Motion to approve the draft meeting minutes of January 26, 2022. Moved by Commissioner Washburn, seconded by Commissioner Houston. Motion passes by 11-0 by roll call vote (Commissioner Stewart-Bouley absent).

3. Public Hearing, deliberation, and vote on Preamble and Land Acknowledgement Proposal from Procedures Committee
   The Commission considered a proposal for a Charter Preamble and Land Acknowledgement. Commissioner Washburn presented the proposal. She explained that the Committee sought to tighten the language of the existing Preamble and to provide a Land Acknowledgement as a matter of justice.

   Several members of the public presented their comments on the proposal.

   Commissioner Buxton asked about whether other rights besides education should be mentioned; Commissioner Barowitz offered that the reason to limit to education is that the Charter specifically mentions the School Board, and Chair Kebede added that the Preamble is intended not as a comprehensive recital of rights but as an overview. Commissioner O'Brien asked if there still was a legal concern about the use of the word "unceded"; Chair Kebede provided his opinion that a preamble is not actionable, and Attorney Katsiaficas offered his conservative advice to omit the word lest it be part of a potential claim. Commissioner O'Brien stated his approval pending careful legal review.

   On motion by Commissioner Washburn, seconded by Commissioner Eglinton, the Commission approved the Preamble and Land Acknowledgement Proposal to be placed before the City Council and voters by roll-call vote of 10-0 (Commissioner Chann was absent during vote).

   On motion by Commissioner Washburn, seconded by Commissioner Lizanecz, the Commission approved a change to the agenda to move the Governance Model Workshop ahead of the Police Oversight Proposal by roll-call vote of 10-0 (Commissioner Chann was absent during vote). Commissioners agreed to limit the length of discussion to one hour to allow consideration of all agenda items.

4. Workshop on Governance Models
   Commissioners deliberated about reforms to the basic structure of Portland's government. Commissioner O'Brien offered the following framing of the issues among Governance Committee members: all agree the mayor should be elected, should draft the budget, and should be able to initiate policy, but disagree 1) whether the mayor should have the power to hire and fire staff, and 2) how to ensure government oversight. Commissioner Sheikh-Yousef noted that the committee had been discussing a chief of staff/public advocate, and suggested separating that out for another time to focus on the mayor. Commissioner Lizanecz agreed the question was more about the mayor versus city manager and less about the chief of staff/public advocate.

   Commissioner Chann envisioned the mayor as chief executive officer, the city manager as chief administrative officer, managing the civil service system and staff, and the City

Council as having the power to hire/fire the city manager and department heads. Commissioner Lizanecz asked about the City Council role, perhaps nominating and appointing department heads.

Chair Kebede offered that the Commission would not want to "over-empower" a chief executive and suggested listing governmental powers and then determining whether these should be shared or in one branch or the other.

Commissioner Barowitz provided his main concern – to provide the kind of government that gives people a say in what happens in their lives. He asked that the Commissioners look at the government structure from the standpoint of a resident served by the City to see if it is efficient (and also guard against waste, fraud and abuse).

Commissioner O'Brien noted that while a city manager's power to directly hire/fire may be limited, that person's influence would be pervasive and would extend down the line. Commissioner Buxton suggested that the power to propose legislation could be shared. Commissioners Chann offered that if the city manager has role of administering departments, the manager also should choose department heads.

Commissioner Sheikh-Yousef stated that the mayor and city manager cannot share roles, and that the duties are the same and that the mayor should replace the city manager.

Commissioner Eglinton said that he approached the question initially with no opinion and was looking for where governance could be improved. He sees the city council as the central recipient of constituent input, with the mayor providing a multi-year voice for policies developed by the City Council, not administration or implementation of policy; he likened the difference between the City Council and city manager to the school board (development of policy) and superintendent (implementation of policy), and noted he did not see a compelling need for two policy entities in the form of the city council and the mayor. He said an elected ombudsman/public advocate/chief of staff might introduce additional policy conflicts if the person ran on a specific platform.

Commissioner Buxton noted that an elected mayor provides voter accountability, while it's more difficult for voters to hold an appointed manager accountable.

Commissioner Lizanecz pointed out that both proposals shift power away from a chief executive/manager, but that he was hesitant to shift all everything to an elected mayor.

Commissioner Chann added that throughout the U.S. there have been corrupt mayors, and that he is concerned about favoritism, suggesting a focus on the role of the city council to increase democracy.

Commissioner Waxman observed that she had in the past participated in an effort to form a charter commission to promote an elected, but not all-powerful, mayor.

5. Public Hearing, deliberation, and vote on Amended Police Oversight Proposal from Departments Committee
   Commissioners considered for a Charter provision governing police oversight. The proposal had received its first reading on January 26, 2022.

   Commissioner Buxton explained her amendment to support the work of the oversight board by adding a funding mechanism, a concept she said the National Agency on Civilian Oversight of Law Enforcement (NACOLE) recommends. Her amendment would place that amount at 0.05% of the City police budget.

   Commissioner Lizanecz explained his proposed amendments: 1) to remove the stipend, since it was unnecessary; 2) to remove the Community Chairs reference since this has not been formulated yet; and 3) to provide that the City Council will appoint a minimum of five members.

   Several members of the public presented their comments on the proposal. Comments expressed included concerns about the following topics: what sorts of appeals the proposed board would hear and from whom (the public? officers?); whether the board would be empowered to review video; whether the board would be carefully shaped by public employees; how this differs from the current board; what the legal language would say; where are the current guardrails; support for removal of stipends and for the board process; and whether this proposal addresses what is needed and accounts for what already exists.

   The Commission then addressed the amendments:
   - Commissioner Lizanecz moved to amend the proposal to provide that the City Council will appoint a minimum of five members; Commissioner Houston seconded the motion, and on by roll call vote, the Commission approved the motion by vote of 11-0.
   - Commissioner Lizanecz moved to amend the proposal to remove the stipend; Commissioner Houston seconded the motion. In the ensuing discussion, several Commissioners expressed that board members should be paid to reflect the seriousness of board matters and the priority the City gives this work, and to increase board diversity. Other Commissioners expressed that stipends do not belong in the Charter and should be up to the City Council, and should be universal. By roll call vote, the Commission approved the motion by vote of 8-3 (Commissioners Chann, Eglinton, Waxman, O'Brien, Houston, Sheikh-Yousef, Lizanecz, and Barowitz voting in favor, Commissioners Washburn, Buxton, and Kebede opposed). Commissioner Buxton moved to amend the proposal to provide funding for the board from the Police budget at 0.05% of the budget. Commissioner Washburn seconded the motion, and on by roll call vote, the motion failed by vote of 3-8 (Commissioners Washburn, Buxton, and Kebede voting in favor, Commissioners Chann, Eglinton, Waxman, O'Brien, Houston, Sheikh-Yousef, Lizanecz, and Barowitz opposed).

   Commissioner Lizanecz offered to work with the Commission's legal advisor to clarify staffing and other proposal features in developing charter language for a final vote. Commissioner Barowitz noted the letter received by the Commission on the day of the

meeting from Portland Police Chief Heath Gorham outlining concerns with the lack of definition of "appeals."

6. First read of Proportional Ranked Choice Voting proposal from Elections Committee
   Members of the elections committee presented a proposal to amend the City's ranked choice voting system.
   Commissioner Chann presented his proposal to permit the use of Proportional Ranked Choice Voting (PRCV) in multiple-seat elections. Commissioners asked clarifying questions regarding the technical support for the proposal; and suggested it would increase election fairness.

7. New Business
   Commissioner Buxton said that the Commission is hiring its own communications person to facilitate communications and get information posted promptly.

   Chair Kebede informed the Commission that he has filed a request for report deadline extension, and that the City Council will hear and act on that request on February 28, 2022.

8. Adjourn
   On motion by Commissioner Washburn, seconded by Commissioner Houston, the Commission approved to adjourn the meeting by roll-call vote of 11-0 (Commissioners Stewart-Bouley absent). Meeting adjourned at 9:50 p.m.

CITY OF PORTLAND, MAINE
CHARTER COMMISSION
GOVERNANCE COMMITTEE

CITY LEADERSHIP MODEL RECOMMEDNATIONS

January 11, 2022

PURPOSE

This report serves to summarize the activities and recommendations of the Portland Charter Commission's Governance Committee in its objective to propose structural changes to the leadership model of Portland's municipal government.

COMPOSITION

The Governance Committee comprises four members of the Portland Charter Commission:

- Robert O'Brien, Chair — Elected in Portland District 2
- Ryan Lizanecz, Vice Chair — Elected in Portland District 5
- Nasreen Sheikh-Yousef, Secretary — Elected At-Large
- Shay Stewart-Bouley — Elected in Portland District 1

RECOMMENDATIONS

The Governance Committee met eight times in the fall of 2021 and interviewed 17 speakers with experience in municipal government, in addition to phone calls, emails, and conversations that committee members may have had with engaged members of the public and public officials.

Several issues emerged about Portland's leadership structure:

- No elected mayor has been provided the opportunity to meaningfully influence the development of the city's draft budget, as specified in the current Charter.
- There are no clear mechanisms by which an elected mayor may propose policies outside of the Council committee structure.
- Council procedures make it difficult for individual councilors to advance policies outside of the committee structure.
- City Councilors' access to staff has been inconsistent over several administrations.
- There is no method for holding the Council accountable to its own rules or for keeping the administration in line with the Charter.

As such, these shortcomings have led to public impressions that the city manager is unaccountable and that the mayor is ill-equipped to pursue a policy platform. Furthermore, the limitations of developing policy only in Council committees has diminished the city's ability to be agile and proactive amid changing societal dynamics and a gentrifying economy. As a result, the Council is frequently reacting to external urgencies, and referenda campaigns have increased in number and success at the polls.

To address these issues, the Governance Committee recommends the following changes to Portland's leadership structure.

Regarding the Mayor

- Ensure that the elected mayor has a prominent role in the development of the city's draft budget with access to department heads and staff support.
- Allow the mayor to form by right a staffed public task force around any policy endeavor not taken up by Council committee.

Regarding access to City Hall staff

- Create a new Chief of Staff who reports directly to the Council and whose office shall:
    - Coordinate Council staffing needs and requests for direct access to staff.
    - Receive, initiate, and track constituent services.
    - Fulfill all Freedom of Information Act (FOIA) requests.
    - Notice all City meetings and post all materials.

Regarding policy development at the Council

- Formally allow individual councilors to introduce a policy proposal not on a Council committee at a Council workshop or public hearing.
- Allow a member of a Council committee to "call the question" (initiate a vote) on a policy that has been assigned to the committee for more than 90 days.
- Allow a councilor to sponsor a policy initiative on behalf of a constituent that is not already assigned to a Council committee.

- When a referendum campaign has reached a threshold of two-thirds of the required signatures, initiate a public hearing at the City Council.

Regarding accountable governance

- Require a duly elected Charter Commission to nominate three of its standing members and one alternate to serve on an arbitration panel after the Commission has been dissolved (and until such time as a new Commission is elected).
- The arbitration panel will convene when called upon by act of the City Council to interpret Charter language and provide a formal decision. These decisions will be binding for City business unless appealed to a court of law.

These recommendations are referred to the Charter Commission by unanimous consent of three members of the Governance Committee: Commissioners Robert O'Brien, Ryan Lizanecz, and Shay Stewart-Bouley. Commissioner Nasreen Sheikh-Yousef was absent from the committee's December 8 deliberations and has since sponsored her own proposal to the Charter Commission.

METHODOLOGY

At its meeting of August 11, 2021, the Charter Commission assigned these topics to the Governance Committee to examine:

- Redistricting and Council Structure
- Mayor/City Manager Roles, Powers, Duties, Accountability
- School Board/City Council Relationship
- Community and Neighborhood Boards
- Office of Public Advocate
- Home Rule
- Human Rights Commission
- City Staff Relationship to Elected/Appointed Officials

From this list of topics, on September 8, 2021, the Governance Committee distilled related structural themes into one, overarching leadership topic:

1. City Leadership Structure: powers & duties, relationships, districts, terms.
    a. Administration
    b. Mayor Position
    c. Council
    d. Council-Appointed Positions (Clerk, Corporation Council)
    e. Neighborhood Voices

The remaining topics assigned by the Commission were set aside for later examination.

At the meeting of September 8, all four committee members agreed to design a leadership model on a zero-basis, founded on input from research and interviews, rather than adopting or hybridizing an existing model.

WORK PLAN

Election of Officers & Development of Work Plan
September 8, 2021
Recording: https://townhallstreams.com/stream.php?location_id=42&id=39849
Minutes: https://tinyurl.com/minutes-sept-8

Values Mapping & Desired Outcomes
September 22, 2021
Recording: https://townhallstreams.com/stream.php?location_id=42&id=40131
Notes about Values: https://tinyurl.com/commission-values

- With facilitator David Plumb

Chair O'Brien researched and sought input from fellow committee members on the speakers invited for interview sessions. Speaker nominations were derived from the personal knowledge of committee members, proposals from engaged members of the public, and discussions with the Maine Municipal Association (MMA) and the International City/County Management Association (ICMA).

Mayors Interviews
October 13, 2021
Recording: https://townhallstreams.com/stream.php?location_id=42&id=40566
Notes from Mayors interviews: https://tinyurl.com/mayor-interviews

- Kate Snyder
- Michael Brennan
- Panel of Jill Duson, Jim Cohen, and Karen Geraghty
- Ethan Strimling

Experts Interviews
November 8, 2021
Recording: https://townhallstreams.com/stream.php?location_id=42&id=41035
Notes from Expert interviews: https://tinyurl.com/expert-interviews

- Dr. Chyrl Laird, recent Government professor at Bowdoin, now at U Maryland
- Dominick Pangallo, Chief of Staff in Salem, MA

- Dr. Jim Svara, UNC researcher/editor of 4th ed. of Nat. Civic League's *Model City Charter*

Managers Interviews
November 10, 2021
Recording: https://townhallstreams.com/stream.php?location_id=42&id=41102
Notes from Manager interviews: https://tinyurl.com/manager-interviews

- Joe Gray, former City Manager of Portland
- Tanisha Briley, City Manager in Gaithersburg, MD; formerly in Columbus Heights, OH
- Kevin Sutherland, ex Chief of Staff in Ithaca, NY; ex City Administrator in Saco; finalist for Town Manager in Bar Harbor (later hired)
- Sheila Hill-Christian, former Acting City Manager in Portland
- Note: former Portland City Manager Jon Jennings was invited but formally declined

City Councilors Interviews
November 29, 2021
Recording: https://townhallstreams.com/stream.php?location_id=42&id=41552
Notes from Councilor interviews: https://tinyurl.com/council-interviews

- Belinda Ray, 2015-2021
- David A. Marshall, 2006-2015
- Pious Ali, 2016-present
- Kimberly Cook, 2017-2020

Leadership Model Deliberations
December 8, 2021
Recording: https://townhallstreams.com/stream.php?location_id=42&id=41743
Notes from deliberations: https://tinyurl.com/deliberation-notes

- With facilitator David Plumb

FINDINGS

All committee agendas, minutes, and materials may be found at this link:
https://drive.google.com/drive/u/1/folders/1Vivn114pB2mnff7fjbLUT0PYpZvmetFA

Values

On August 25, 2021, the full Charter Commission ratified this Guidance Statement:

> Create a structure of government which maintains expert administration while also promoting robust democratic representation, and public participation. This structure should ensure accountability, transparency, and accessibility while

increasing equity, inclusion, diversity, and justice.

On September 22, 2021, facilitator David Plumb led Governance Committee members in articulating which values they sought to be reflected in a leadership model. The results were:

Accountable and Responsive

- There are channels for concerns that are accessible and result in actual responses.
- There is a clear chain of command, and clarity on who you can speak with about your interests and concerns.
- People see the connection between the public voice and decision-making.

Transparent and Communicative

- People know what is going on and there is easy access to information.

Participatory

- There are vehicles to participate.
- Barriers to participate are removed – we recognize that time is a major barrier for working people.

Representative and Giving Voice

- Decisions are made considering the whole community.
- Local government includes people with different experience and background.
- Access to government is not defined by money.
- The systems work for everyone.

Efficient and Showing Leadership

- City can tackle problems and reach conclusions. Local government is seen a place of solutions.
- The city policy-making process works to address interests and concerns – people use it and see their interests met.
- The city has big plans and develop bold ideas though a democratic process.

Integrity

Key Takeaways: Mayors Interviews

- All three recent mayors (Snyder, Strimling, and Brennan) said there is misunderstanding by residents about the current mayor position's limited powers to pursue constituent services, to direct city services, or to enact executive orders.
- All three recent mayors said they had inadequate input on the city manager's draft budget.

- All three recent mayors said access to city staff changed dramatically among administrations, from virtually no prohibitions in the past to being highly regulated more currently.
- The panel of past councilor-mayors (Duson, Cohen, and Geraghty) said:
    - Councilor-mayors typically had outside employment and volunteered part-time at City Hall.
    - Councilor-mayors relied on a trusted, collaborative, and communicative relationship with the City Manager to pursue the mayor's objectives.
    - Councilor-mayors' goals were reliant on their relationships with fellow councilors.
    - Jill Duson noted that just prior to the last Charter Commission (2009-2010), the Council had gradually abdicated its policy-making powers to staff. The cultural norm on the Council had become for staff to present policies to Council for deliberation and endorsement.

Key Takeaways: Experts Interviews

- Dr. Chyrl Laird told the committee that the national movement to professional management of municipal government in the early 20th century was in response to corruption in political patronage systems, like Tammany Hall in New York City.
- Dr. Laird also said the city manager system served to insulate the business class from more populist sentiments on city councils. At-Large council seats further diluted populist momentum.
- Dominick Pangallo serves as chief of staff an executive mayor in Salem, MA (pop. 43,252). The current mayor, Kim Driscoll, has been a city manager in the past and has those professional skills. Salem's mayor does not sit on the council and the council elects its own president, who also chairs the school board.
- Mr. Pangallo said an executive mayor can see the city's needs universally, similar to an at-large councilor, and can direct resources and programming to areas most in need.
- Mr. Pangallo also said a mayor tends to be more responsive to public needs than a city manager on account of their elected status.
- Mr. Pangallo said a four-year term is a very long time for an incompetent or destructive mayor to run a city hall largely unchecked. Salem's proximity to Boston benefits the city by the number of residents with professional skills who could run for mayor.
- Dr. Jim Svara said the National Civic League's *Model City Charter* endorses the council-manager form of government.
- Dr. Svara said a mayor should serve by the power of persuasion rather than executive authority, being the chief diplomat of city hall, interfacing between the council, manager, public, business interests, and outside officials.
- Dr. Svara later emailed the committee to say that upon reading Portland's Charter, he sees Portland's conflicts deriving from the partial powers extended to the mayor, leading to confusion and posturing.

Key Takeaways: Managers Interviews

- Joe Gray has 30 years of experience at Portland City Hall. He was first hired as an Urban Planner during the Urban Renewal era. Mr. Gray was installed as city manager on December 24, 2000 upon the untimely death of popular City Manager Bob Ganley. Mr. Gray retired on February 11, 2011. Mr. Gray served in a council-manager form of government.
- Mr. Gray said effective leadership required constant and diverse input from the mayor, individual councilors, neighborhood groups, service providers, and business interests. Open, honest, frank, and regular communication was necessary to achieve productive outcomes.
- Mr. Gray saw his job as listening to the mayor's and council's goals and setting up the systems to deliver on them.
- Tanisha Briley is the city manager in Gaithersburg, MD (pop: 69,657), and formerly of Columbus Heights, OH (pop: 44,571). She talked about seeking out citizens where they are for input, namely events where she is likely to talk to busy parents.
- In Gaithersburg, all council seats are at-large and Ms. Briley appreciated that for their city-wide perspectives. She valued councilors as crucial for "ears on the ground."
- Kevin Sutherland was once employed as chief of staff for an executive mayor in Ithaca, NY (pop: 30,569).
- He mentioned that staff can sometimes drag their feet to wait out an elected mayor rather than implement a directive they disagree with.
- Ithaca had to add the chief of staff position more recently to provide the mayor the professional expertise to run a city. Prior to hiring a chief of staff, mayors' budgets led to excessive spending in efforts to fulfill their platforms.
- In addition to managing city services, the chief of staff served as the gate keeper between the Council and City Hall staff.
- In Saco (pop: 19,497), where Mr. Sutherland was the city administrator, the mayor was full-time with an office at City Hall. The mayor nominated the city administrator for hire to the Council. The mayor there chaired the Council but only voted in the event of a tie. Their primary responsibility was to build and bridge relations between the administration, the Council, and the public – which takes a great deal of effort and is time-consuming.
- In Bar Harbor (pop: 5,535), where Mr. Sutherland was soon to be hired as town manager, all ordinances go to public vote at the Town Meeting.
- Sheila Hill-Christian has served as chief of staff in Richmond, VA (pop: 226,622), for both a council-manager form of government, and an executive mayor form of government.
- She said in a council-manager system of government, there is more neighborhood focus. The council's and manager's staffs talked daily.

- With an executive mayor, Ms. Hill-Christian observed, there is an emphasis on political agenda and political relationships. There is a closer relationship between mayor's office and administration than there is with the administration and the council.
- Ms. Hill-Christian said the mayor's platform was considered to represent the public's goals, but the day-to-day operations of delivering city services do not always come into consideration. It can be hard for City Hall to focus on the day-to-day when dealing with political issues. Executive mayors, she said, struggled with oversight of chief administrative officers.
- In Ms. Hill-Christian's view, mayors tend to think a few years out, not as long term as career professionals. Mayors wanted groundbreakings and ribbon cuttings to keep getting reelected.
- Ms. Hill-Christian also had these thoughts on at-large councilors versus district councilors: Local constituencies that people can refer to is important; many small districts force local councilors to come to the table and compromise to get their fair share; smaller districts allow more communities to have more voice and not be ignored; smaller districts allow more people to participate in politics.

Key Takeaways: Councilor Interviews

- Belinda Ray served on the Portland City Council for District 1 from 2015-2021.
- She shared:
    - Council holds annual goal-setting meeting every winter. Goals reflected in the city manager's budget in the spring.
    - Policy initiatives from councilors, the mayor, and administration all go to Council committees.
    - All councilors have access to city staffers for support services and research upon request.
    - She met regularly with City Manager Jon Jennings and had an honest and frank rapport with him. She found the administration to be responsive to her requests.
    - Policy adoption reflects the temperament of the Council – some ambitious goals could be scaled back, while other ambitious goals could be expanded.
- David Marshall was elected to the Portland City Council for District 2 and served from 2006-2015.
- Mr. Marshall:
    - Had advocated before the last Charter Commission (2009-2010) for a much stronger mayor than what we have today, though the current iteration is an improvement over the councilor-mayor model from before.
    - Observed the current model today with the mayor as a member of the Council limits the elected mayor's ability to pursue a platform.
    - Felt the newly required annual goal-setting meeting on the Council was an odd process to evaluate the merits of policy ideas.

    - Saw the city's government oscillate between "strong manager-weak council" and "weak manager-strong council" over different managerial styles. It was a matter of personalities, not the Charter structure.
- Pious Ali is on the Portland City Council as an At-Large member. He was first elected in 2016.
- Mr. Ali says:
    - It is difficult for councilors to move policies outside of the committee structure.
    - If the administration or staff are against your policy goal, they can interfere with its progress.
    - The mayor currently has no mechanism for moving policy proposals outside of committee structure.
    - Councilors are at the mercy of staff to fulfill individual requests or constituent requests. He has experienced some requests go unfulfilled.
    - He supports at-large councilors on the council makeup for their balancing of universal needs over local district desires.
- Kimberly Cook represented District 5 on the Portland City Council from 2017-2020.
- Ms. Cook observed:
    - There are no written, formal processes: the city manager will add items to the agenda as he sees fit.
    - The manager assigns staff, and how much a Councilor is helped depends on how much the manager supports an idea.
    - The difficulty of pushing forward big policy ideas on the Council is why Portland has seen public referenda in recent years.
    - Council rules are enforced only by Council, and inconsistently followed. There is no grievance mechanism when rules are breached. There is no means of holding the City responsible for its own rules of procedure.
    - Only one annual performance review of the city manager took place while she was on the Council, in 2020. The review was too narrow in its scope; there was not enough opportunity to ask questions, gather information, or engage the public.

[END OF REPORT]

Governance Committee Colleagues,

I present the below proposal so that we can consider a system of government for Portland that more fully moves us away from our current undemocratic City Manager. It was developed based on the principles I told the voters I would represent, one-on-one feedback from fellow commissioners who also ran on these principles, testimony from our committee hearings (although we need to expand that input as described below), emails and comments many of us have received, my own research, and input from community members.

The core components of the model I am proposing are:

- **Democracy first;**
- **Strong checks and balances between both branches;**
- **Efficient administration;**
- **Public accessibility/accountability.**

What I outline is based on the Mayor-Council forms of government that almost all other states in America have in their largest cities (see attached document). Of particular note, I looked at the eight other northeast states, which all have elected mayors in their largest city (From Bridgeport to Manchester to Providence to Boston, etc.). I also looked closely at Wilmington, Delaware. Wilmington is perhaps the closest to Portland in terms of population vs ratio to the state (70,000 in Wilmington/1,000,000 in Delaware). It is also Delaware's service center, economic engine, and one of its most diverse cities, much like Portland.

That said, no individual model from another city will work perfectly for us. After reviewing and discussing the below proposal, I would suggest the committee invite a number of elected mayors from neighboring states to join us by zoom. We could then get their direct input on how their model works and what they would advise as we develop ours.

As you will see, I have tried to address some of the committee concerns regarding the day-to-day operations and ensuring that our elected Mayor does not get bogged down in the minutia, while still ensuring public accountability that services are being implemented according to our values.

Additionally, please note that my proposal contains an elected public advocate (PA). The public advocate position, as you'll see, is a bit of a bridge, but also creates third party accountability. It will be able to fulfill some of the roles that were described in the committee's version of a council chief of staff. The particulars are outlined below.

Thanks, and I look forward to discussing this further.

-Nasreen

Strong Council & Elected Mayor

Powers of the Council

City Council becomes the chief policy-making body of the city, including powers to enact all policy proposals, approve/reject all nominees for department heads and boards/commissions, approval of the city budget and all revenue changes (including ongoing scrutiny of expenditures/revenues), and emergency power approvals (further detail of these powers described in sections below). Councilors serve three-year terms, rotating, sworn in on the first Monday in January after the November election. No term limits.

City Council elects 2-year Council President from its own ranks with majority vote (removal by 2/3rds). The Council President is the voice of the Council and meets with the Mayor regularly. President chairs Council meetings, sets Council rules/agenda, and creates/appoints/removes all standing committees/committee members/chairs. The President may create and appoint members to any ad-hoc committee to investigate a particular policy and/or investigate government malfeasance. Plus, any/all other duties bestowed upon the office by a majority vote of the Council. Council Presidents may not serve more than 4 consecutive terms.

The City Council will have its own independent staff to meet its responsibilities, policy development, public communications, and administrative tasks. Council's budget will be determined within the annual city budget proposed by the Mayor and reviewed in accordance with the budget process.

Powers of the Mayor

Elected Mayor ensures the implementation of policy and oversees the efficient administration of the city. No longer a member of the Council and does not have a vote. Does have the ability to propose policy for Council review and must sign/veto all legislation enacted by the Council (described below).

The Mayor will nominate for Council review and approval a "City Administrator" who will be responsible for the day-to-day supervision of all Department Heads, also nominated by the Mayor, and city operations. The "City Administrator" will serve under the direction of the Mayor, however, will be required to attend any Council Committee meeting when a committee chair requests it.

Mayor is elected on the same cycle as the US President (effective 2024) and sworn in on the first Monday in January after the November election. May serve only two consecutive 4-year terms.

Nomination and Oversight of Department Heads

The Council reviews/approves/rejects all Mayoral nominees of Department Heads to lead city staff (Chief of Police, Director of Public Works, Director of HHS, etc.). Council approves/rejects each nominee with majority vote after the council committee of jurisdiction holds public hearings/vote on each nominee (for instance: Public Safety Committee reviews nominee for Chief of Police). Staff below department heads are hired by their respective supervisors and do not need Council approval.

All Department Heads, after review/approval by Council, will report to and serve at the will of the Mayor after approval by Council, with day-to-day oversight administered by the City Administrator. All Department Heads, or designee, are required to provide all requested information to council committees of jurisdiction and testify to committees when called upon. All Department Heads may request to attend a Committee meeting to report on any matter pertaining to the committee's jurisdiction.

Policy Development

All policy proposals must go through Council for public review/amendment/final disposition.

All Councilors and the Mayor will have the right to submit policy proposals for Council consideration/review/action. All Department Heads, or their designee, will be available to elected officials for the purpose of any proposed policy development. (If a staff member or constituent wants to propose an idea for Council consideration, they can ask an elected official to sponsor the proposal).

All policies, ordinances, orders, expenditures, revenue changes, etc. approved by Council must then be signed into law by the Mayor or vetoed within 10 days of passage. Council may override all vetoes within 15 days, with 75%+ super-majority. If Council overrides, policy is enacted. If council fails to override, policy is not enacted. If Council fails to override, Council may amend to generate 75% support of Council or to gain Mayor's signature.

Council actions that solely impact the operations of the Council (rules, procedures, committee structures, vacancies, etc.) or that are non-binding statements do not need to be signed by the Mayor nor can they be vetoed.

Development, Passage and Implementation of Budgets

Mayor develops/proposes City budget, excluding education expenditures, for Council consideration. Council amends/approves after public hearings. Same veto standard.

The Mayor oversees implementation of the City budget through Department Heads. Council monitors implementation of the budget through committees of jurisdiction. May request that any Department Head under their jurisdiction attend their committee meeting to present budget progress and answer any questions.

Mayor develops/proposes schoolwide education budget, in consultation with School Board Chair and Superintendent, for School Board consideration. School Board amends/approves after public hearings and sends to voters for approval. The city council no longer votes on the school budget.

Compensation

Council salaries increased to $17K a year (from $6K), with annual COLA based on CPI (likely proposal from Procedures Committee member). Current benefits (HC/Pension, etc.) not changed. Commensurate for School Board members.

Mayor salary increased to twice the average income for a family of four in Portland as defined by the annual census (up from 1.5x to recognize the increased responsibilities). Adjusted at the start of each new term.

Succession Plan

In the event of a vacancy or incapacity of the Mayor, the “Elected Public Advocate” (described below) is first in line to replace the Mayor. Council President is second.

In the event of a Council or School Board vacancy, the Mayor nominates three people for consideration. Council or School Board may only seat from the list of nominations. Should they reject all three, the Mayor must nominate three others. Once seated, the nominee remains in place until the next general election. The seated individual may run for the seat.

Elected Public Advocate

The Elected Public Advocate serves as an independent ombudsperson for city government whose mission is to improve the transparency, responsiveness, and accountability of City government. An additional set of eyes and ears on the council and mayor branches.

Public Advocate is elected on the same cycle as the US President (effective 2024). May serve only two consecutive 4-year terms.

Duties of the Public Advocate

Public Advocate is charged with meeting constituent needs (direct or referred by any other elected official), providing outside review of city agencies, responding to FOIA requests, investigating citizens' complaints about city services, and making proposals to address perceived structural shortcomings or failures for Mayor or Council consideration. Public Advocate has authority to propose structural changes to city government and/or greater oversight controls for Council deliberation and consideration. In the event of a vacancy or incapacity of the mayor, the Public Advocate is first in line to become Mayor until the end of the elected term.

Nomination of the City Clerk

The City Clerk, overseeing elections and Clerk functions, becomes an independent office of the executive and legislative branches by being nominated by the Public Advocate at the beginning of their term. City Clerk is approved/rejected by the Council. Once approved, the City Clerk reports to the Public Advocate and may not be removed without recommendation by the Public Advocate and 66% approval by the Council. The City Clerk is not term-limited and may cross over administrations.

Nomination of the City Attorney

The City Attorney, providing legal advice to the Council/Mayor and constituents, becomes an independent office of the executive and legislative branches by being nominated by the Public Advocate and approved/rejected by the Council. Once approved, the City Attorney reports to the Public Advocate and may not be removed without recommendation by the Public Advocate and 66% approval by the Council. The City Attorney is not term-limited and may cross over administrations.

Development, Passage and Implementation of Budget

The Public Advocate's office will be funded with no less than .05% (half a percent) of total revenue to the city in order to keep it independent of Mayor/Council determinations (current City Clerk/Attorney budgets total $1.5M). If they need additional funds, they may request such from Council for approval through the normal budget process.

Appointments to City Committees and Boards

The Council reviews all nominations to board and commissions for final approval/rejection, which are now made by the Public Advocate through an open and transparent application process. Council approves/rejects each nominee with majority vote after the council committee of jurisdiction holds public hearings/vote on each nominee.

Public Advocate's Salary:

Public Advocate will be paid 1.5x the average salary for a family of four in Portland as determined by the annual census.

Succession Plan

In the event of a vacancy or incapacity of the Public Advocate, the Council will appoint a Council member to fill the role, and a special election will be held to fill the term of the Public Advocate vacancy at the next general election.

Cost Analysis

This proposal is projected to be revenue neutral.

Implementing this Strong Council and Elected Mayor will save approximately $200,000. With the elimination of the City Manager, the City will save about $250,000 in salary and benefit costs. $50K of that would be used for the enhancement of the Mayor's salary/benefits. The salary for the proposed City Administrator salary can be pulled from the current Chief of Staff position in the City Manager's office.

The Public Advocate's salary will be covered by shifting the current Deputy City Manager salary (will save about $50K) and the Clerk and Attorney budgets will stay the same. The department

will then have around $250,000 for community liaisons, administrative work, and investigation costs.

The cost for the increase to Councilor's salaries is being explored by the "Procedures committee" and will be priced out in that committee. This proposal should take into account that a future Council may want to provide an additional stipend for the Council President.

All that said, obviously if this passes, the annual city budgeting process will determine whether any particular provision should receive more or fewer resources.

Forms of government for the largest city of every state			
State	**Largest City**	**Population**	**Chief Executive**
Vermont	**Burlington**	42,899	**Mayor**
West Virginia	**Charleston**	47,215	**Mayor**
Wyoming	**Cheyenne**	63,957	**Mayor**
Maine	Portland	66,417	Manager
Delaware	**Wilmington**	70,635	**Mayor**
New Hampshire	**Manchester**	112,525	**Mayor**
Montana	**Billings**	116,827	**Mayor**
North Dakota	**Fargo**	124,844	**Mayor**
South Carolina	**Charleston**	136,208	**Mayor**
Connecticut	**Bridgeport**	144,900	**Mayor**
Mississippi	**Jackson**	164,422	**Mayor**
Rhode Island	**Providence**	179,335	**Mayor**
South Dakota	**Sioux Falls**	181,883	**Mayor**
Arkansas	**Little Rock**	197,881	**Mayor**
Utah	**Salt Lake City**	200,591	**Mayor**
Alabama	**Birmingham**	208,928	**Mayor**
Iowa	Des Moines	216,853	Manager

Idaho	**Boise**	228,790	**Mayor**
New Jersey	**Newark**	282,090	**Mayor**
Alaska	**Anchorage**	291,538	**Mayor**
Hawaii	**Honolulu**	347,397	**Mayor**
Kansas	Wichita	389,225	Manager
Louisiana	**New Orleans**	399,187	**Mayor**
Minnesota	**Minneapolis**	427,728	**Mayor**
Virginia	Virginia Beach	450,189	Manager
Nebraska	**Omaha**	468,262	**Mayor**
Georgia	**Atlanta**	504,527	**Mayor**
Missouri	**Kansas City**	507,928	**Mayor**
New Mexico	**Albuquerque**	560,218	**Mayor**
Wisconsin	**Milwaukee**	592,025	**Mayor**
Maryland	**Baltimore**	599,827	**Mayor**
Kentucky	**Louisville**	620,578	**Mayor**
Nevada	Las Vegas	647,829	Manager
Oklahoma	Oklahoma City	649,021	Manager
Oregon	Portland	661,189	Commission
Michigan	**Detroit**	672,662	**Mayor**
Tennessee	**Nashville**	681,928	**Mayor**
Massachusetts	**Boston**	699,927	**Mayor**
District of Columbia	**Washington, D.C.**	702,455	**Mayor**
Colorado	**Denver**	716,492	**Mayor**
Washington	**Seattle**	749,627	**Mayor**
Indiana	**Indianapolis**	867,125	**Mayor**

North Carolina	Charlotte	881,819	Manager
Ohio	**Columbus**	895,477	**Mayor**
Florida	**Jacksonville**	903,889	**Mayor**
Pennsylvania	**Philadelphia**	1,587,828	**Mayor**
Arizona	Phoenix	1,660,272	Manager
Texas	**Houston**	2,325,502	**Mayor**
Illinois	**Chicago**	2,705,994	**Mayor**
California	**Los Angeles**	3,994,928	**Mayor**
New York	**New York City**	8,879,928	**Mayor**
Total Population		39,829,721	
Pop. Mayor Cities		**34,206,907**	
% in Mayor Cities		**86%**	

Almost 90% of Americans, in comparable cities to Portland, operate with a directly elected mayor.

Portland's Current Distribution of Powers & Authority Compared to Proposals for Change

Powers & Authority	Current Portland Charter	Governance Committee Proposal	Shiekh-Yousef Proposal
1) Who is the Chief Executive Officer?	City Manager	City Manager	Mayor
2) Who has policy making authority?	City Council	City Council; Mayor has special right to form staffed public task force on policy not taken up by Council Committee.	City Council; Mayor can propose policy to Council, which would be required to consider and vote on it.
3) Who oversees policy implementation?	City Manager	City Manager	Mayor
4) Who are the top city officials?(note 1)	City Manager, City Clerk, Corporation Counsel	City Manager, City Clerk, Corporation Counsel, Chief of Staff (note 2)	City Administator, City Clerk, Corporation Counsel, Public Advocate (note 3)
5) What is the process for filling top city official positions	Mayor chairs committee with at least 2 other Council members to nominate City Manager, Clerk, and Corporate Counsel. Council confirms by majority vote.	Same as current for City Manager, Clerk, Counsel, and Chief of Staff	Public Advocate is elected. Clerk and Counsel nominated by Public Advocate. Administrator nominated by Mayor. Council confirms all by majority vote.
6) What is the process for removing top city officials	Mayor-chaired 3 person Council Committee may recommend removal; Council approves by majority vote.	No change	Public Advocate may recommend removal of City Clerk or Corporate Counsel; Council must approve with 2/3rds vote. City Administrator serves at will of the Mayor. Public Advocate may be removed by citizen's recall.
7) Who manages day to day operations of city affairs?	City Manager	City Manager	City Administrator under direct supervision of Mayor
8) How are Department Heads hired/supervised/ removed?	City Manager nominates, Council approves. Heads serve at will of the City Manager.	no change	Mayor nominates, Council approves; department heads serve at will of the Mayor.

Powers & Authority	Current Portland Charter	Governance Committee Proposal	Shiekh-Yousef Proposal
9) Is mayor a member of Council? If yes, does mayor have a vote?	Mayor is voting member and chairs the Council.	no change	Mayor is not a member. Council elects its own President from amongst its members.
10) Who Creates and Appoints members to Council Committees?	Mayor, but council may override with 2/3 vote.	no change	President of Council can create committees and appoint members.
11) Who appoints members of city boards and commissions?	Council	no change	PA nominates; Council approves/ rejects by majority vote.
12) Who has authority for preparing/ approving Municipal Budget	City Manager prepares with "guidance" from Mayor; Council approves.	Mayor prepares with assistance from Manager; Council approves.	Mayor prepares with assistance of Administrator; Council approves.
13) Who has authority for preparing/ approving School Budget?	School Board/Superintendent with guidance from Council; approval by Council and then by voters.	no change	Mayor prepares with School Board Chair and Superintendent; School Board approves and sends to voters; no Council vote.
14) Can Mayor veto the municipal budget approved by the Council?	Yes Override requires 6 (of 8) votes. Mayor does not vote.	No	Yes; 75% majority needed to override veto.
15) Can Mayor veto other Council decisions?	No	No	Yes -- full veto power over all policies, ordinances, orders, expenditures, etc.; Council requires 75% vote to override.
16) How long does the Mayor serve in office?	4 years	4 years	4 years, corresponding with Presidential election years
17) Are their mayoral term limits?	3 terms	3 terms	2 terms
18) Can Mayor be removed before term is over?	Via citizens' recall	Via citizens' recall	Via citizens' recall

Powers & Authority	Current Portland Charter	Governance Committee Proposal	Shiekh-Yousef Proposal
19) Have new powers/authority been proposed for non-city officials	Not applicable	Charter Arbitration Panel (note 4) and required City Council hearing for Referendum Advocates (note 5). Council required to develop procedures through which citizens may formally propose policies for council consideration (note 6).	None

Notes:

1) For purposes of this chart, current top city officials (other than mayor) include the city manager/administrator, city clerk, and corporate counsel as these are often in a town's Charter. New top positions proposed include a Chief of Staff and a Public Advocate.

2) Duties of proposed Chief of Staff: coordinate Council staffing need; receive and track constituent services and FOIA requests; post notices of city meetings and post all materials.

3) Duties of proposed Public Advocate: serve as independent ombudsman to improve city government. Provide outside review of city agencies, investigate citizen complaints, and make proposals for improvement to Mayor and Council. Respond to FOIA requests. Serves as Mayor in case of vacancy or incapacity of elected Mayor.

4) Arbitration panel will convene when called to act by City Council to interpret Charter language and provide a formal decision. Panel to consist of 3 members from previous Charter Commission.

5) When a referendum campaign has collected 2/3 of the required signatures, City Council will be required to hold a public hearing.

City of Portland, Maine
Charter Commission

GOVERNANCE COMMITTEE

WORK PLAN

ELECTION OF OFFICERS & DEVELOPMENT OF WORK PLAN
September 8, 2021
Recording: https://townhallstreams.com/stream.php?location_id=42&id=39849
Minutes: https://tinyurl.com/minutes-sept-8

VALUES MAPPING & DESIRED OUTCOMES
September 22, 2021
Recording: https://townhallstreams.com/stream.php?location_id=42&id=40131
Notes about Values: https://tinyurl.com/commission-values

- With facilitator David Plumb

MAYORS INTERVIEWS
October 13, 2021
Recording: https://townhallstreams.com/stream.php?location_id=42&id=40566
Notes from Mayors interviews: https://tinyurl.com/mayor-interviews

- Kate Snyder
- Michael Brennan
- Panel of Jill Duson, Jim Cohen, and Karen Geraghty
- Ethan Strimling

EXPERTS INTERVIEWS
November 8, 2021
Recording: https://townhallstreams.com/stream.php?location_id=42&id=41035
Notes from Expert interviews: https://tinyurl.com/expert-interviews

- Dr. Chyrl Laird, recent Government professor at Bowdoin, now at U Maryland
- Dominick Pangallo, Chief of Staff in Salem, MA
- Dr. Jim Svara, UNC researcher/editor of 4th ed. of National Civic League's *Model City Charter*

MANAGERS INTERVIEWS
November 10, 2021
Recording: https://townhallstreams.com/stream.php?location_id=42&id=41102
Notes from Manager interviews: https://tinyurl.com/manager-interviews

- Joe Gray, former City Manager of Portland
- Tanisha Briley, City Manager in Gaithersburg, MD; formerly in Columbus Heights, OH
- Kevin Sutherland, ex Chief of Staff in Ithaca, ex City Administrator in Saco, finalist for City Manager in Bar Harbor
- Sheila Hill-Christian, former Acting City Manager in Portland
- Note: Jon Jennings was invited but formally declined

CITY COUNCILORS INTERVIEWS
November 29, 2021
Recording: https://townhallstreams.com/stream.php?location_id=42&id=41552
Notes from Councilor interviews: https://tinyurl.com/council-interviews

- Belinda Ray, 2015-2021
- David A. Marshall, 2006-2015
- Pious Ali, 2016-present
- Kimberly Cook, 2017-2020

LEADERSHIP MODEL DELIBERATIONS
December 8, 2021
Recording: https://townhallstreams.com/stream.php?location_id=42&id=41743
Notes from deliberations: https://tinyurl.com/deliberation-notes

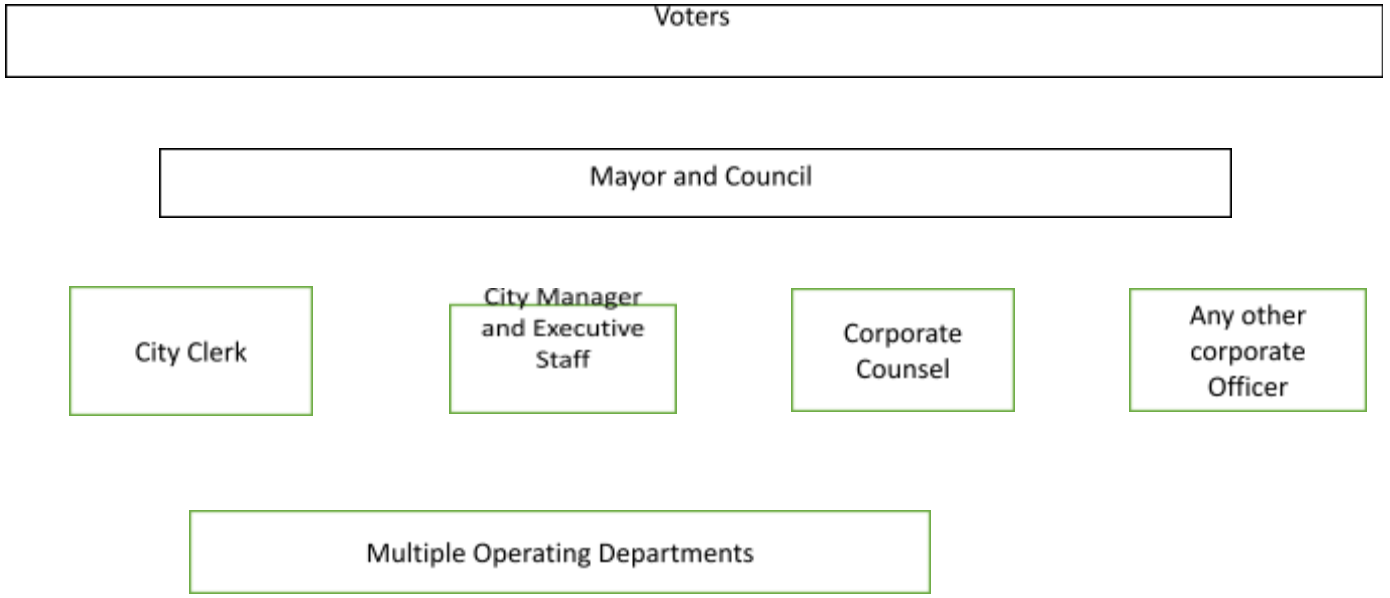
- With facilitator David Plumb

Structural Examination of Systems of City Government

A Visual Representation of the Elements of City Government

Submitted by Zack Barowitz, D3

One Branch



Defining Characteristics

1) Council has all executive, legislative, and oversight powers.
2) Mayor is head of Council, sets meeting agendas, and typically has some other legislative powers no other council member has.
3) All (most) executive powers delegated by Council to an appointed City Manager

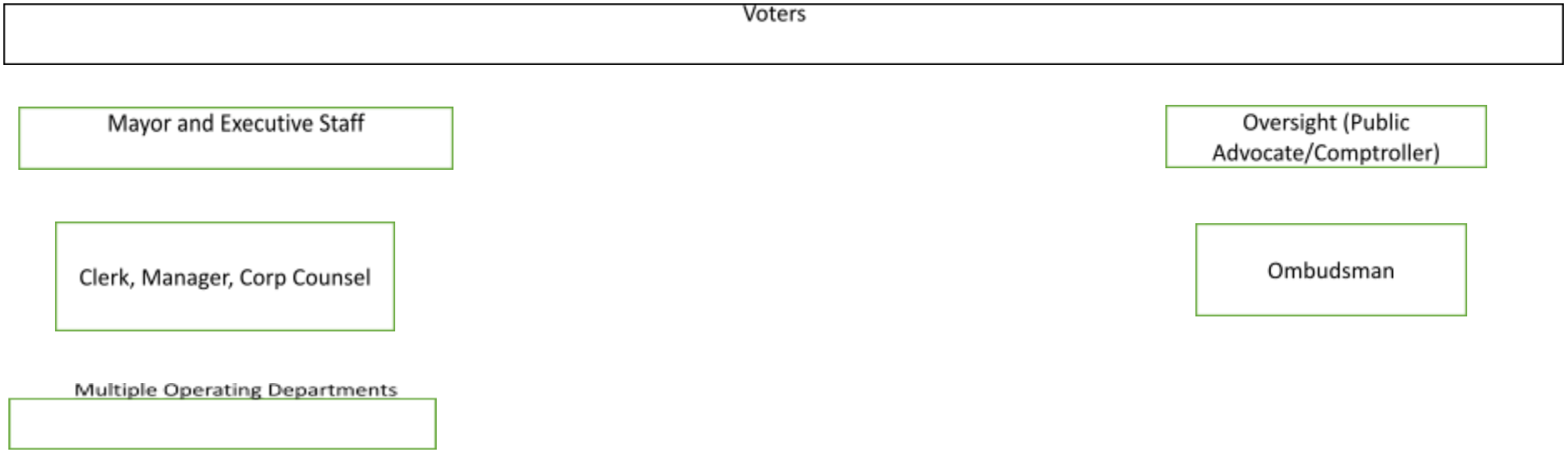
Often Cited Advantages of this form

a) Executive decisions are made by a professionally trained expert in city management
b) CEO is not influenced by political considerations relating to his/her own electoral interests
c) CEO devotes more time to administrative functions including policy implementation than to policy development
d) No interbranch divisiveness and maximal congruence between policy development and policy implementation

Often Cited Disadvantages of this form

a) CEO is not accountable to the voters, a fundamental disconnect with the principle that government decision-makers should be accountable to the people they serve.
b) No direct incentive for CEO to be responsive to individual citizen or interest group concerns
c) Little to no incentive for meaningful oversight of government agencies, programs, and policies or individual behavior of corporate officers

One Branch + Elected Oversight



Defining Characteristics

1) Single branch for legislative & administrative
2) Oversight branch has investigatory and advisory powers but not adjudicative ones

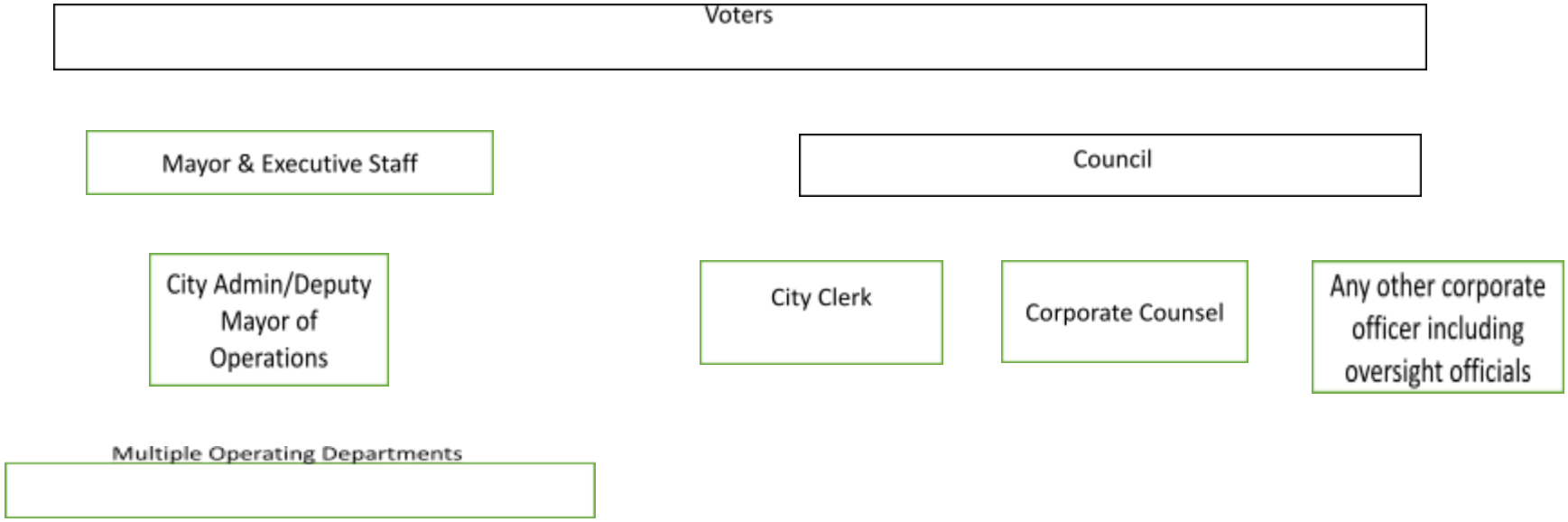
Often-cited Advantages of this form

a) Branch dedicated to government oversight will lead to more comprehensive investigation and reporting of how city government is functioning
b) Independence of oversight branch reduces influence of other government officials in determination of what is investigated/researched, what recommendations are made, and what final reports actually say
c) Independent branch dedicated to reviewing operations of city government is best place to house “ombudsman” providing non-judicial recourse for citizens dissatisfied with executive and/or legislative branch decisions

Often-cited Disadvantages

a) Single branch gives less authority to elected officials

Two Branches



Defining Characteristics

1) Separate branches for executive and legislative functions
2) Mayor not a member of the Council

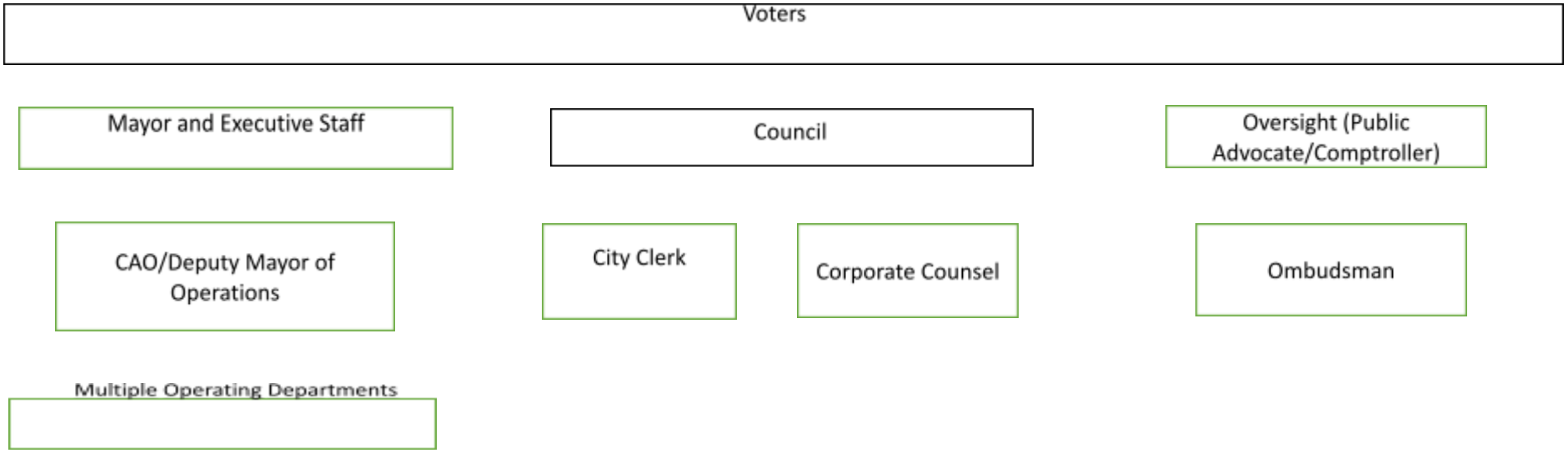
Often Cited Advantages of this form

a) Leaders responsible for executive and legislative functions are directly accountable to voters
b) Leaders of both branches have electoral incentives to be responsive to individual citizens and interest groups
c) Checks and balances between both branches, including legislative branch oversight of city agencies, are typically built-in

Often Cited Disadvantages

a) CEO (Mayor) typically has little to no city management experience
b) Potential politicization of city services
c) Interbranch divisiveness has tendency to develop

Three Branches



Defining Characteristics

3) Separate branches for executive, legislative, and government oversight functions, each with elected leaders
4) Oversight branch has investigatory and advisory powers but not adjudicative ones
5) Public Advocate position tends to be breeding ground for individuals with ambitions for higher office

Often-cited Advantages of this form

d) Branch dedicated to government oversight will lead to more comprehensive investigation and reporting of how city government is functioning
e) Independence of oversight branch reduces influence of other government officials in determination of what is investigated/researched, what recommendations are made, and what final reports actually say
f) Independent branch dedicated to reviewing operations of city government is best place to house "ombudsman" providing non-judicial recourse for citizens dissatisfied with executive and/or legislative branch decisions

Often-cited Disadvantages

b) Additional branch increases likelihood of interbranch divisiveness

Evaluation of the systems based on goals, values, and anticipated outcomes.

Because values are more easily agreed upon than methods, I think a consideration of goals is a good place to start. My current thinking on structure of government is to test various models against various values, goals, and expected outcomes.These could include:

- Responsiveness of government to constituent needs–*and* to change, innovation, and unexpected events
- Efficient administration
- Provide avenues for public recourse
- Transparent oversight/daylight to minimize waste, fraud, and abuse
- Empower the legislative/elected body
- Mitigate red tape
- Increase public participation

NB: *This is presented for the sake of illustration not necessarily as a methodological framework.*

Example:

	Current System (One Branch)	Enhanced One Branch	One Branch w/elected oversight	Two Branches: Council-Mayor	Thee Elected Branches: Council-Mayor-Oversight
Efficient Admin					
Empowered Elected Officials					
Public/Transparent Oversight					
Avenues for Public Recourse					
Cost					

Proposed Process for Commission Decision Making

1) Using the above charts, commissioners discuss how many branches Portland's government should have

2) At the end of discussion, a straw-vote is taken on the above question.

3) After straw vote is taken, the Powers/Authority Matrix is used to flesh out the specific powers of the officers in whichever government form has won the most votes. A "Commission Proposal" Column has been added to the previous Matrix to facilitate this "fleshing out". All of the cells in that column are currently blank. Some will be filled in as a result of the above straw-vote (i.e., who is the CEO? And who manages day-to-day operations of city staff?). The Commissioners will then proceed (row by row) to decide how to complete each unfilled cell in the Commission Proposal Column, picking from what's been proposed in the other columns for each row or coming up with some other option entirely. After discussing all the options for each row, further straw-votes would be taken on what goes into each blank cell.

4) After all cells are completed on a straw-vote basis, the Commissioners would then take a final vote on what is contained in the Commission Proposal column as a whole. Presumably some commissioners may disagree with how some of the cells have been completed, but they may still decide to vote in favor of the Commission Proposal as a whole.

Note: To speed up the process described in (3) above, one idea is to give each commissioner their own matrix and have them complete each blank cell themselves. Then all the individual responses could be tabulated (anonymously) to see how much agreement or disagreement there is in terms of each cell. Cells where there is substantial disagreement would (presumably) be the place where discussion and debate would begin.

[NB: This process in particular, and much of the work on this document generally, was developed by Valerie Kelly and Phil Steele, who worked in close collaboration with Cmsr. Barowitz.]

Proportional Ranked Choice Voting Proposal
Sponsored by Commissioner Marpheen Chann (At-Large)

The purpose of this proposal is to address the issue of which ranked choice voting system is optimal in the event of an election where there are multiple candidates to be elected to one seat or constituency. Although elections for multi-winner seats do not occur often in the city of Portland, the recent Charter Commission election and the upcoming at-large school board elections, where multiple candidates are elected to one at-large constituency, are examples of when requiring a threshold of 50% is not best practice as suggested by ranked choice voting experts (see Clerk's email).

A proportion ranked choice system, rather than requiring one candidate to reach a winner-takes-all threshold of 50%, usually through multiple rounds and tabulations, puts in place a method that allows for multiple candidates to cross a lower threshold depending on the number of candidates. The result of PRCV is fairer representation in the case of multi-winner elections.

Proposal:

Section 3. Ranked choice voting; instant runoff tabulation.

...

(f) In the event of a multi-winner election, the City Clerk may administer a proportional ranked choice voting method similar to the guidelines above except that the threshold for a candidate to be elected shall be equal to the total number of valid votes cast in the election divided by the sum of the number one and the required number of winning candidates with respect to the election, rounded up to four decimal places.

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Proportional Ranked Choice Voting Proposal amended to read:

Section 3. Ranked choice voting; instant runoff tabulation.

...

(f) For elections conducted by ranked choice voting where more than one person is to be elected to a single office, the winners shall be determined by a proportional method of ranked choice voting. Such method shall provide for candidates to be elected on the basis of thresholds determined by the number of seats to be filled plus one, ballots to be counted in rounds, votes to be transferred from defeated candidates, and for votes, in fractions or in whole, in excess of the threshold to be transferred from elected candidates. The City Council shall by ordinance establish such a proportional ranked choice voting system.

Original Language Forwarded by Elections Committee:

Section 3. Ranked choice voting; instant runoff tabulation.

...

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Amended Language as it would appear in City Charter Article II, Section 3:

For the positions of mayor, city councilor, and school board member, the city clerk shall implement a ranked choice voting protocol according to these guidelines:

(a) The ballot shall give voters the option of ranking candidates in order of choice.

(b) If a candidate receives a majority, i.e. at least one more than fifty percent (50%) of the first choice votes cast, that candidate is elected.

(c) If no candidate receives a majority of first choice votes, an instant runoff re-tabulation shall be promptly conducted by the city clerk and completed within five (5) business days of the election. The instant runoff re-tabulation shall be conducted in successive rounds, with the majority determined for each successive round by the number of votes cast in that round. The candidate with the fewest votes after each successive round in which no candidate receives a majority of the votes cast in that round shall be eliminated, and the votes in the successive rounds shall be re-tabulated among the remaining candidates until one candidate receives a majority of the votes cast in that round. In each successive round, each voter's ballot shall count as a single vote for whichever candidate the voter has ranked highest who has not been eliminated in a prior round, if any.

(d) After the first round, a majority is determined as at least one (1) more than fifty percent (50%) of the votes cast for a remaining candidate in a particular round.

(e) The city clerk may adopt additional regulations consistent with this subsection to implement these provisions. The ballot shall contain instructions on how to vote for each office.

<u>(f) For elections conducted by ranked choice voting where more than one person is to be elected to a single office, the winners shall be determined by a proportional method of ranked choice voting. Such method shall provide for candidates to be elected on the basis of thresholds determined by the number of seats to be filled plus one, ballots to be counted in rounds, votes to be transferred from defeated candidates, and for votes, in fractions or in whole, in excess of the threshold to be transferred from elected candidates. The City Council shall by ordinance establish such a proportional ranked choice voting system.</u>

Article VIII: CIVILIAN POLICE REVIEW BOARD

Section 1. Purposes, composition, term, appointment, first board, qualifications, vacancies, removal, compensation.

(a) Purposes. For the purposes of increasing public trust and confidence in the Portland Police Department; discouraging police misconduct; helping police officers to feel vindicated in the eyes of their fellow officers and of the public; reassuring the public that complaints are investigated thoroughly and fairly; helping the public to understand the nature of police work; providing oversight of Internal Affairs; defusing public hostility toward police officers; reducing the likelihood of lawsuits against the City; and improving police practices and procedures in interactions with the public, there shall be a civilian police review board.

(b) Composition, term, appointment, first board.

The civilian police review board shall be composed of nine (9) or more members who shall hold office, except as hereinafter provided, for a term of three (3) years unless appointed to fill a vacancy, and until their successors are appointed and qualified, but in no case longer than 120 days after expiration of his or her term. A minimum of five (5) voting members shall be appointed by the city council, one (1) voting member shall be appointed by the mayor and three (3) non-voting members shall be appointed by the city council. A majority of the total number of voting members appointed shall constitute a quorum of the board and the board shall act by a majority of voting members present and voting.

For the first board appointed following its creation, the city council shall first select from the current members of the police citizen review subcommittee, currently established by City ordinance, which subcommittee shall be supplanted by the board, in making appointments to the board. On the first board, two voting members shall serve for a one (1) year term, two voting members shall serve for a two (2) year term, and two voting members, including the member appointed by the mayor, shall serve for a three (3) year term; and one non-voting member shall serve for a one (1) year term, one non-voting member shall serve for a two (2) year term, and one non-voting member shall serve for a three (3) year term. Thereafter, all members shall serve for a term of three (3) years. No person shall be appointed to, nor serve, more than three (3) consecutive full terms or nine (9) consecutive years, whichever is greater, on the board. Following appointment of the first board, the city council shall exercise its power of appointment only after the city clerk has published a notice announcing the availability of board positions, describing the responsibilities thereof and soliciting applications by qualified persons, in a newspaper of general circulation at least 15 days before city council acts to appoint to the board.

(c) Qualifications. All candidates for the civilian police review board must be at least 18 years of age and must be residents of the City for a period of at least three (3) months prior to the date on or before which board member is to be seated.

(d) Vacancies. A vacancy in the membership of the civilian police review board member shall occur by a death, resignation or removal. A vacancy in the office of civilian police review board member shall be filled by the appointing authority for that office, and the person appointed to fill the vacancy shall serve the remainder of that term. Any board member who subsequent to appointment becomes disqualified or ineligible to serve shall resign, and failure to do so shall constitute "cause" under (e) below.

(e) Removal. Any civilian police review board member may be removed from office by the city council for cause, after notice and the opportunity to be heard. Failure to disclose grounds for disqualification under (c) above shall disqualify the person from service on the civilian police review board and shall constitute "cause" for removal.

(f) Training. Prior to assuming their duties hereunder, civilian police review board members shall attend training by city staff as to the board's duties and responsibilities, applicable state and local law, ordinances and rules and regulations, accepted police practices and the police department's internal affairs investigation process.

(g) Confidentiality. Each member of the civilian police review board is obligated to maintain the confidentiality of all information and documents either provided to or reviewed by them, in accordance with state law. Failure to maintain such confidentiality will constitute "cause" for removal from the board under (c) above. All reports and requests for disclosure of any information shall be referred to the corporation counsel for review prior to release.

Section 2. Powers and duties.

(a) Complaints. The civilian police review board shall receive all complaints regarding the Portland police department and shall refer such complaints to the Portland police internal affairs department. Portland police department command shall review internal affairs draft findings and shall submit its report on the conclusions of any investigation to the board for consideration no more than fourteen (14) days after the findings become final and after any final disciplinary action has been taken and all appeals exhausted or settled or the case has been closed with no disciplinary action.

(b) Review, reports. The board shall review all final investigation reports submitted by internal affairs and/or command staff for due process issues, including but not limited to, issues of fairness, thoroughness, objectivity, and timeliness. Although it shall have access to individual internal affairs reports in order to review investigative methods and procedures, all reports of the board issued to address complaints filed under Section 2 (a) above shall be done in such a manner that particular complainants, witnesses and officers are not personally identifiable. Reports of the board shall be made available to the public to the extent consistent with the State Freedom of Access Act, 1 M.R.S.A. Sec. 401 *et seq*.

(c) Appeals. The city council shall by ordinance adopt an appeal process consistent with federal, state, and local law for persons aggrieved by a report issued by the civilian police review board on complaints filed with the Board under Section 2 (a) above to appeal that Board report to the city council or such other body as the city council may designate or create for a hearing, in executive session where required, and for the issuance of an advisory opinion which shall not be legally binding on the city, the police department, police officers, or individuals, and which hearing and advisory opinion shall not include or address any disciplinary proceedings. "Persons aggrieved" who may appeal a board report under this section does not include police officers or their representatives.

(d) Policy. The civilian police review board shall be able to make policy recommendations to the mayor, the city council and the chief of police.

(e) Annual report, communications, additional duties. The civilian police review board shall hold a public hearing at least annually to receive comments upon the community complaint process and to engage City residents as to the board's purposes and goals, and shall prepare and present to the mayor, city council, and chief of police an annual report, including but not be limited to, policy and funding recommendations, and the number of complaints submitted to the board and the number of complaints resolved during the previous year. The board may make policy recommendations to the city council and mayor and conduct data-driven analysis. Any recommendations by the board may be assigned by the city council and mayor to staff for research and may be enacted or implemented. The board also may, in its discretion, address the city council on a quarterly basis. The city council and mayor may add to the board's duties by ordinance at any time.

(f) Board Officers. The civilian police review board shall annually elect one of its members to serve as chair, and shall annually elect one of its members as vice-chair, to serve in the absence of the chair. The corporation counsel or his or her designee shall serve as secretary to the board and shall furnish any necessary administrative assistance to that board.

(g) Procedural rules. The civilian police review board shall make suitable procedural rules, from time to time, for the conduct of its duties. Proposed rules shall be submitted to the city council and shall become effective only when approved by the city council. All such rules shall be recorded in the office of the city clerk.

Section 3. Funding, staff, resources.

(a) Funding, staff. The civilian police review board shall be funded as needed by the city council through the annual budget. Such funding shall include professional staff, including but not limited to a "Community Liaison" and a "Police Liaison" familiar with Portland police department standard operating procedures. The city council shall decide

whether the community liaison and police liaison positions are part-time or full-time and/or whether the duties of these positions may be assigned to existing employees. The community liaison shall serve at the direction of the board and shall ensure the

public is aware of the methods for filing complaints, and shall assist the board with carrying out its duties, powers and functions, conducting outreach and with other duties as the board may assign. The board may request additional funding from the city council at any time. The police liaison may be the same person/position as the "technical advisor" described in Section 3(b) below.

(b) Resources. The city shall make available to the board the services of a technical advisor, as needed by the board. The technical advisor may be used for the purposes of training; briefing the board on accepted police practices, applicable law and issues relevant to the discharge of the citizen review function; and educating the board on aspects of the internal investigation process. The technical advisor shall be retained by the city manager after consultation with the chief of police, representatives of the police unions and the chair of the board. Any person who presently maintains any business or professional affiliation with the police department shall be disqualified from serving as technical advisor. The city shall further make available all internal affairs investigation reports and police documents relevant to such investigations which are necessary for the board to conduct its duties hereunder. In no case shall the board have access to police officers' personnel records except to the extent that they are part of an internal affairs investigation report or are considered a public document under the Maine Freedom of Access Act.

(c) Coordination. The board shall work in conjunction with the City's communication department, internal affairs, and any other city departments or offices to effectuate all powers and duties granted to it in this charter and any additional duties assigned to it by the city council or mayor.

Draft Language for a Charter Provision Governing Compensation for City Council Members

FROM: Patricia Washburn
TO: Portland Charter Commission Procedures Committee, Commissioners Kebede, Waxman, and Barowitz
DATE: Feb. 8, 2022
RE: Compensation for City Council Members

Add to Section 2, City Council:

> Each member of the City Council shall be paid a stipend of not less than 1.4 times the state's minimum hourly wage or 1.4 times the city's minimum hourly wage, whichever is lower, multiplied by 20 hours a week, for each week in office. Councilors may choose to refuse payment and the Council may decide to set a higher stipend.
>
> Nothing in this provision shall alter city councilors' access to benefits including health insurance and retirement.

Proposed Amendment to the Charter

The right of all persons of legal voting age under Maine state law who are residents of Portland to vote in municipal elections and on municipal initiatives is established, regardless of citizenship status. Such voters shall hereinafter be referred to as “municipal voters”.

City officials must enact implementing ordinances to create procedures to carry out this section, including but not limited to ordinances ensuring that :

- Voter registration forms allow municipal voter registration without questions about immigration or citizenship status;
- Municipal voters are identified as such on the City’s voter registration rolls:
- Procedures are established to safeguard against municipal voters mistakenly being given state and federal ballots when a municipal election coincides with the date of a state or federal election;
- All municipal voters are provided with an official certification that the City allows residents to vote in municipal elections regardless of immigration or citizenship status;
- Mechanisms are in place, including but not limited to having an advisory committee comprised of both city staff, elected officials, community organizations and residents meaningfully review at established intervals whether the City needs to revise the municipal voter procedures;
- Widespread public education efforts are conducted in multiple languages to advise Portland residents about the availability of municipal voter registration;
- Portland residents have access to all information necessary, available in at least all of the home languages, updated annually, of families whose children attend Portland Public Schools, to enable them to make a knowing and intelligent choice when deciding whether or not to register as municipal voters. That information must include, at a minimum, that:
    - Municipal voters will be able to vote in municipal elections only, and not in state or federal elections;

- There are severe immigration consequences, including denial of permanent residency or naturalization to U.S. citizenship, deportation and future inadmissibility, of voting in state and federal elections should a municipal voter mistakenly be given state or federal elections ballots;
- That the City provides all municipal voters with an official written certification of their registration as a municipal voter allowed to vote in municipal elections regardless of immigration or citizenship status, that can be provided to Immigration authorities;
- That before registering as a municipal voter, it is advisable to consult an immigration lawyer, including information about how to find immigration attorneys and immigration legal aid resources;
- That the City cannot guarantee that municipal voter registration rolls will not become public or be accessed by federal immigration officials, or other agencies or individuals.

The City shall also provide public education materials and create procedures to allow municipal voters, whenever applicable, to change their voter registration to reflect that they are U.S. citizens and entitled to vote in municipal and state and federal elections.