



City of Portland Charter Commission Agenda

March 9, 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. Zoom Information

- a. 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 use *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://us06web.zoom.us/j/84634876725?pwd=WGFHM1RGM25JVUxNOGxnUDRyWC8wUT09>

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International numbers available: <https://us06web.zoom.us/j/84634876725?pwd=WGFHM1RGM25JVUxNOGxnUDRyWC8wUT09>

2. Call to Order (6:00-6:05 pm)
3. Review and Approval of Minutes (6:05-6:10pm)

- a. Approval of the Draft February 23, 2022 meeting minutes.
4. Public Hearing, deliberation, and vote on Governance Models (6:10-7:10 pm)
 - a. Description: Commissioners will hold a public hearing, then deliberate and vote on reforms to the basic structure of Portland's government.
Relevant document (s).
 - a. Commissioner Sheikh Yusuf's governance model proposal
 - b. Governance Committee's governance model proposal
 - c. Matrix comparison of two models
 - d. Commissioners Barowitz's organizational charts
 - e. Commissioner Chann's organizational chart
 - f. Relevant research and interviews
5. Break 7:10-7:15 pm
6. Public hearing, deliberation, and vote on Universal Resident Voting from Elections Committee (7:15-8:00pm)
 - a. Description: Commissioners will hold a public hearing, then deliberate and vote on a proposal to establish universal resident voting.
Relevant document (s)
 - a. Proposal on Universal Resident Voting.
7. Break 8:00-8:05
8. Public Hearing, deliberation, and vote on Councilor Pay proposal from Procedures Committee (8:05-8:45 pm)
 - a. Description: Commissioners will hold a public hearing, then deliberate and vote on a proposal to change the city council pay system.
Relevant document(s):
 - a. Proposal on Councilor Pay
9. First reading on Code of Ethics proposal from Procedures Committee (8:45-8:55 pm)
 - a. Description: members of the Procedures Committee will present and field clarifying questions on a Code of Ethics proposal. There will be no vote on this proposal.
Relevant document(s):
 - b. Proposal on Code of Ethics
10. First reading on Participatory Budgeting proposal from Procedures Committee (8:55-9:00 pm)
 - a. Description: members of the Procedures Committee will present and field clarifying questions on a Participatory Budgeting proposal. There will be no vote on this proposal.
Relevant document(s):
 - b. Proposal on Participatory Budgeting:
"The City Council shall develop and implement a participatory budgeting system wherein a portion of the municipal budget and/or the Capital Improvement program 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."
11. First reading on Clean Election Proposal and Cost Estimates

- a. Clean Election Proposal
Clean Election Cost Estimate
- 12. Social Media Policy
 - a. Social Media Policy
- 13. New Business
- 14. Adjourn



City of Portland Charter Commission Minutes Charter Commission Meeting

February 23, 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

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+16465588656,,82222487849#,,, *270952#

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Webinar ID: 822 2248 7849

Passcode: 270952

International numbers available: <https://us06web.zoom.us/j/82222487849?pwd=NHp0V2J5LzZpL0VHY25wODZQTElHUT09>

- b. Chair Kebede called the meeting to order at 6:03 p.m.
Commissioners present were Barowitz, Buxton, Chann, Eglinton, Houston, Kebede, Lizanecz, O’Brien, Sheikh-Yousef, Stewart-Bouley, Washburn, and Waxman. (Quorum established)

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2. Approval of Minutes

The draft meeting minutes for February 9, 2022, were approved on February 14, 2022. The draft meeting minutes for February 14, 2022, will be considered at a future meeting.

3. Workshop on Governance Models

Commissioners deliberated about reforms to the basic structure of Portland's government. Commissioner Barowitz guided the Commission through the charts he had prepared of various governmental structures, organized with one, two, and three branches (and with variations).

The discussion began with the League of Women Voters suggestion that the Commission start with "how many branches" should the Portland government have. Commissioners Stewart-Bouley, Buxton, and Kebede found this useful. Chair Kebede explained that Phil Steele and Valerie Kelly prepared a matrix and worked with Commissioner Barowitz to prepare the organizational charts.

Chair Kebede approached the question by comparing the power of local government to hire senior staff and departments heads to the State Governor's power to appoint persons subject to legislative ratification. Commissioner Washburn stated that checks and balances are important, as is avoiding the concentration of power; she said three branches is the way to go. On Commissioner Waxman's question, the three-branch chart was explored. Commissioner Stewart-Bouley stated she did not support three branches, since it had the potential to create problems we don't see at the moment, and that she's leaning between one branch and one branch with oversight, recalling an expert's admonition that the Commission "Has to come up with what's best for your city." Commissioner Lizanecz said that he leans toward two branches, perhaps splitting the mayor from the council, but not vesting the mayor with all executive powers. Commissioner Chann said that he was in the spectrum between Commissioners Lizanecz and Sheikh-Yousef, splitting the mayor from the council, but not giving the mayor complete authority over the administrative staff, and suggested the mayor and council exercise joint authority over personnel. Commissioner Buxton said that because a mayor currently cannot act to carry out their policy agendas, although voters have that expectation, policy development needs to be enshrined, and she is not sure which system, works best for that result. Chair Kebede noted that policy development responsibility could be grafted onto any of the models. Commissioner Eglinton said he's leaning toward the one branch with elected oversight model.

Chair Kebede said he wants to avoid unilateral exercise of authority, and suggested a two-branch system, with, for example council veto authority over the mayor's decisions. He also pointed out what seemed like recurring themes, such as concern over who had the power to hire and fire department heads and city administration such as the manager, clerk and corporation counsel. Commissioner Lizanecz agreed with the joint mayor/council authority over personnel to provide more department head accountability than to a city manager. Commissioner Barowitz thought that with oversight, the mayor and council can be empowered to do more. Commissioner O'Brien offered that there is no perfect model,

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and that the City's 1923 choice (for a city manager) was a pendulum swing that stunted its democracy. He suggested four points to consider: 1) incremental change to get the right fit, 2) separate branches often fight over power, 3) there are cost implications – larger municipalities have deeper pockets to afford to hire staff, and cost can affect public support, and 4) what would full-time mayor's role be if there is also a professional administrator and the mayor is not also on the council? Commissioner Barowitz is inclined toward one of the two-branch options. Commissioner Sheikh-Yousef prefers that the mayor hire and fire subject to council vote. Commissioner Waxman is leaning toward two branches. After discussion, it was established that the council currently appoints the manager, clerk and corporation counsel, and confirms the manager's appointments of department heads and associate corporation counsel. Commissioner Houston supported the concept of hiring and firing as a shared responsibility.

Commissioner Chann offered a "Lizanecz-Chann Compromise" chart. Following that conversation Commissioner Sheikh-Yousef is now leaning toward two branches with oversight. Commissioner Eglinton supports shared appointment responsibilities as now in the Charter. Commissioner Barowitz suggested that there may be a good reason for an elected mayor to have the right to hire/fire without council ratification, in order to put own team in place to implement policy.

Chair Kebede noted that a consensus is emerging, and the discussion was closed for this meeting.

4. Public hearing, deliberation, and vote on Proportional Ranked Choice Voting (PRCV) proposal from Elections Committee

Members of the elections committee presented a proposal to amend the ranked choice voting (RCV) system. Commissioner Chann summarized the proposal, explaining that in the election of at-large seats for the Charter Commission, multipass RCV had been used with a 50% threshold as required by the existing Charter, and that the RCV Resource Center has recommended a lower threshold. To permit flexibility, the proposal allows the City Clerk to choose a system that the City Council has authorized. Commissioner Buxton offered her observations that regular RCV favors coalition building, and that PRCV may not have as great an effect in that respect, but may achieve more representative voting results. Commissioner Sheikh-Yousef questioned whether this could help achieve more representative voting results or would help do so. Commissioner Washburn opined that PRCV is fairer than RCV, and that the voters come first – she supports it even though she would not have been elected if it had been in place.

The Commission received public comment.

After deliberation, the consensus was to empower the council to adopt a PRCV system and to substitute "may" for "shall" to allow flexibility to adopt a PRCV method.

On motion by Commissioner Chann, seconded by Commissioner Washburn, by unanimous roll-call vote of 12-0, the Commission voted to send the draft to its legal adviser to prepare

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language not inconsistent with the Commission's discussion for the Commission to review and act upon.

5. Public hearing, deliberation, and vote on Amended Police Oversight Proposal from Department's Committee

Commissioners held a public hearing on an amended version of the police oversight proposal from the Departments Committee. Commissioner Lizanecz presented the proposal and late changes to the language.

Commissioner O'Brien asked for clarification of the appeal process. He noted the frustration of some with the vagueness and lack of teeth in the proposal, but noted that it serves as a deterrent that provides for a second opinion on resolution of complaints. It was noted that an outside technical adviser provides the opportunity for an outside perspective.

The Commission received public comment.

Commissioner Sheikh-Yousef said that she would not support this proposal because while there would be paid staff, board members would receive no pay for this important work. Commissioner O'Brien offered several friendly amendments. After discussion, the Commission directed its legal adviser to prepare revisions to the proposal language not inconsistent with the Commission's discussion for consideration at the next meeting.

6. First read of councilor pay and Code of Ethics from Procedures Committee

Members of the procedures committee presented a proposal on councilor pay and code of ethics. Commissioner Washburn summarized the councilor pay proposal, and offered a small change to the language to amend the multiplier for 1.4 times the State hourly wage to 1.35 times, for a \$17.00 hourly wage.

7. First read of universal resident voting from Elections Committee

Members of the election committee presented a proposal on universal resident voting. Commissioner Washburn summarized the proposal, which had just been posted that afternoon on the city's website.

8. New Business

Chair Kebede explained that it is time to start drafting the Commission's preliminary report, and asked each Committee to prepare a summary to accompany each proposal it presents. He suggested using the 2010 report as a template.

9. Adjourn

On motion by Commissioner Washburn, seconded by Commissioner Houston, the Commission voted to adjourn by roll-call vote of 12-0. Meeting adjourned at 9:22 pm.

CHANN/LIZANECZ/STEWART-BOULEY TWO-BRANCH COMPROMISE FRAMEWORK

EXECUTIVE + ADMINISTRATION

LEGISLATIVE + OVERSIGHT

EXECUTIVE

LEGISLATIVE

ADMINISTRATION

OVERSIGHT

ELECTED OFFICIALS

MAYOR

Can propose policies to Council, gives State of City Address
Prepares and presents City Budget
Oversees implementation of policies set by Council, City Manager, and implementation of City Budget
Can be removed by 2/3 majority of Council

COUNCIL

Elects Chairperson
Any councilor can propose policy
Votes on and adopts City Budget
Provides oversight of City Executive, Constitutional Officers, and Administration on behalf voters through Ombudsman

POLICY

CONSTITUTIONAL OFFICERS

Joint Exec/Leg Committee Nominates, Council Confirms and Appoints
Join Exec/Leg Committee Recommends Dismissal, Council Confirms Dismissal

CITY MANAGER

Supports Mayor in managing implementation of policies set by Council and implementation of City Budget
Manages day-to-day operations of the city and oversees department heads and staff
Supports Mayor in preparation of City Budget; oversees and coordinates preparation of departmental budgets

CITY ATTORNEY

Advises Mayor and Council and represents the City in legal matters

CITY CLERK

Manages scheduling, notice, public meetings
Manages and oversees elections

OMBUDSMAN

Assists the Council in providing Constituent Services
Coordinates fulfillment of FOIA and information requests
Investigates complaints and reports to Ethics Commission or Council for action
Enforces conflicts of interest policies and ordinances

CITY ADMINISTRATION

Joint Exec/Leg Committee Nominates Department Heads, Council Confirms and Appoints
Department Heads manage hiring and firing of staff; no unilateral hiring/firing by Mayor

FIRE DEPARTMENT	POLICE DEPARTMENT
PERMITTING & INSPECTIONS	PLANNING AND URBAN DEV
HOUSING & ECONOMIC DEV	SUSTAINABILITY OFFICE
HEALTH & HUMAN SERVICES	
PUBLIC WORKS	JETPORT
PARKING	PARKS & RECREATION
ASSESSOR	HUMAN RESOURCES
FINANCE	INFORMATION TECHNOLOGY

CITY BOARD & COMMITTEES

Joint Exec/Leg Committee Nominates Appointments, Council Confirms and Appoints

POLICE REVIEW BOARD	
HISTORIC PRESERVATION	RENT BOARD
PLANNING BOARD	ZONING BOARD OF APPEALS
CDBG ALLOCATION COMM.	PORTLAND DEV CORP
RENTAL HOUSING ADVISORY	
CONTINUUM OF CARE	EMERGENCY SHELTER
DISABILITY ADVISORY	
PARKS COMMISSION	SOUND OVERSIGHT
PUBLIC ART COMMITTEE	PESTICIDE MANAGEMENT
LAND BANK COMMISSION	
ASSESSMENT REVIEW	CIVIL SERVICE COMMISSION



**CITY OF PORTLAND, MAINE
CHARTER COMMISSION
GOVERNANCE COMMITTEE**

CITY LEADERSHIP MODEL RECOMMENDATIONS

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.

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- 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

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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

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- 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

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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.

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- 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 Svava said the National Civic League's *Model City Charter* endorses the council manager form of government.
- Dr. Svava 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. Svava 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.

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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.

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- 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.

9

- 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]

3/4/2022

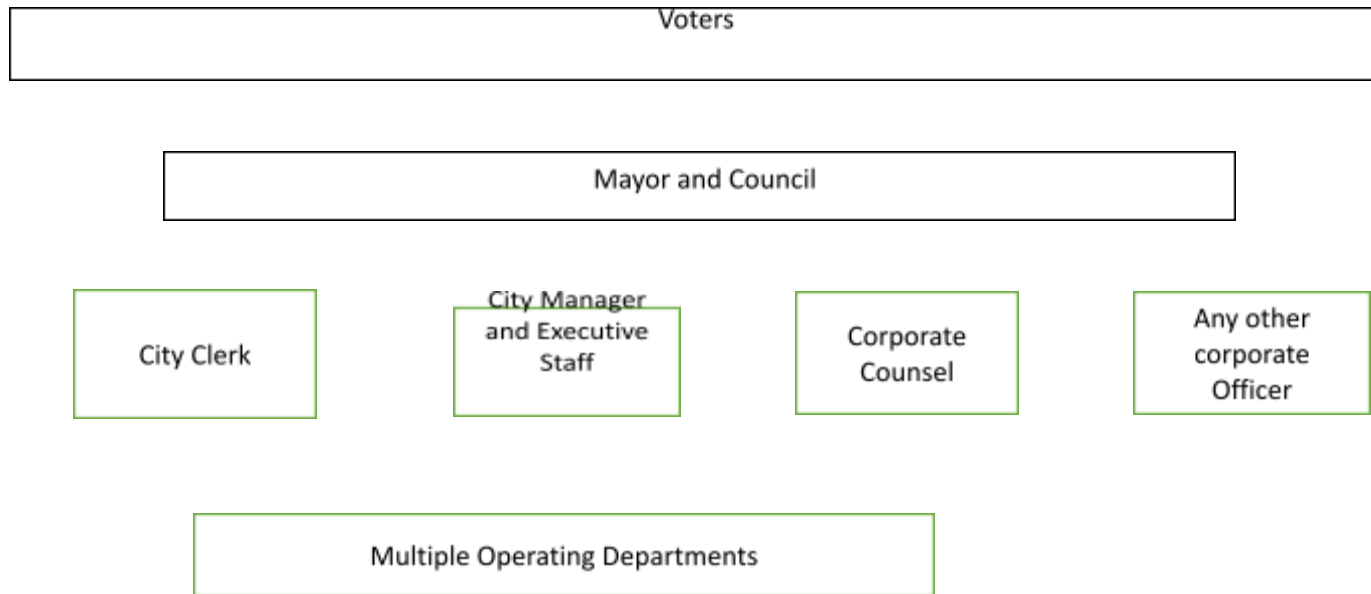
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Structural Examination of Systems of City Government

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

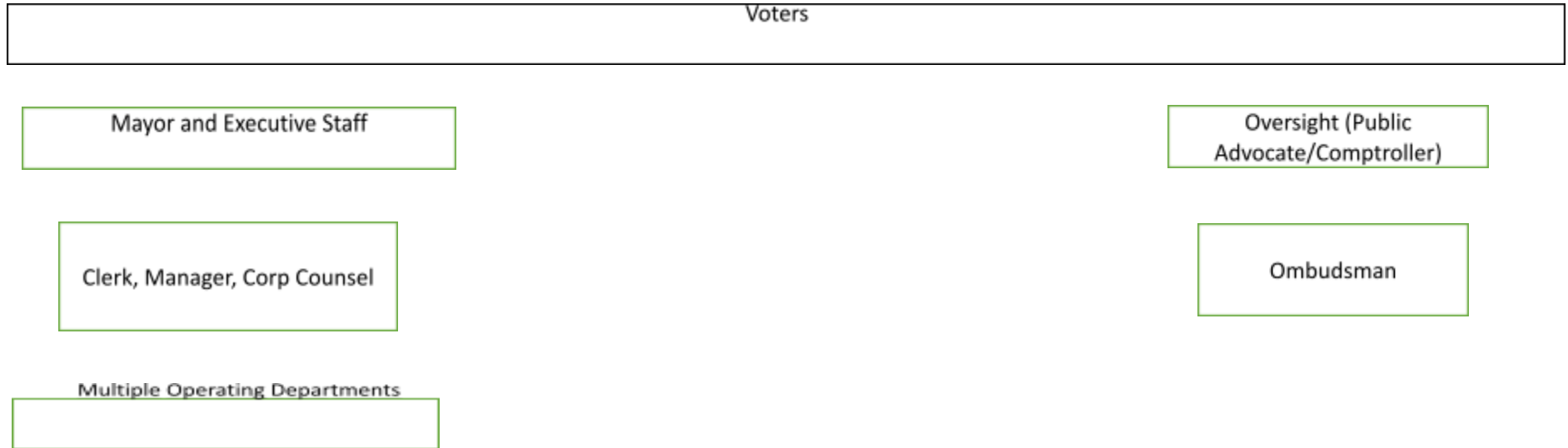
Often Cited Advantages of this form

- 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

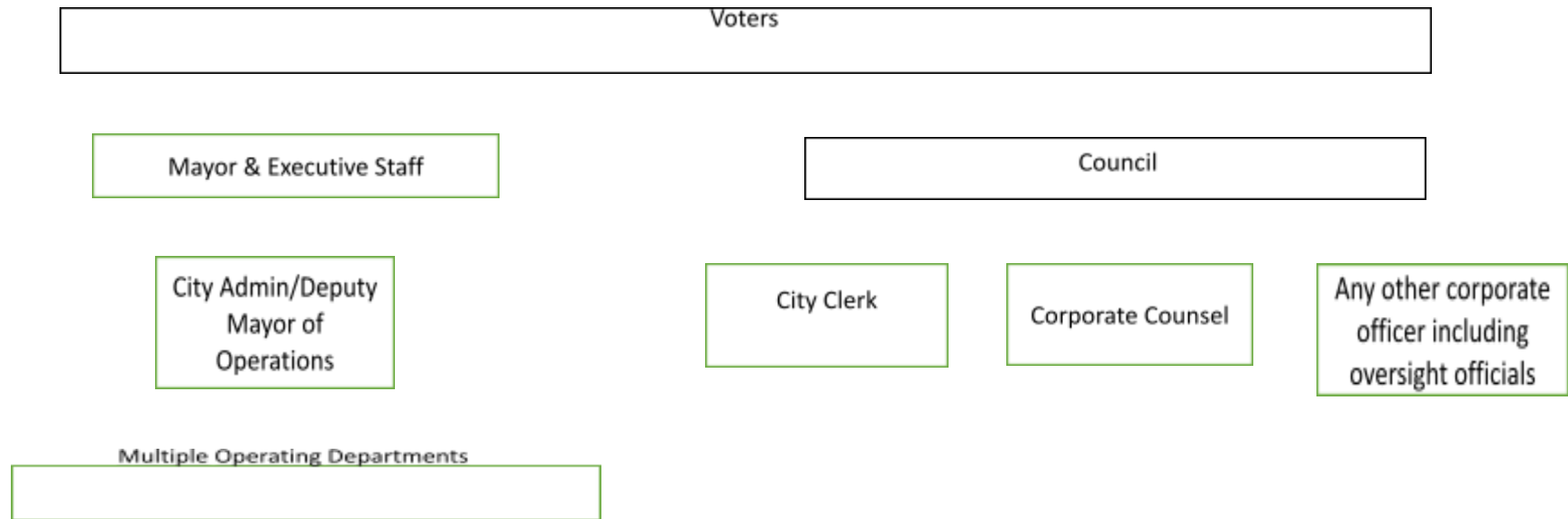
Often-cited Advantages of this form

- 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

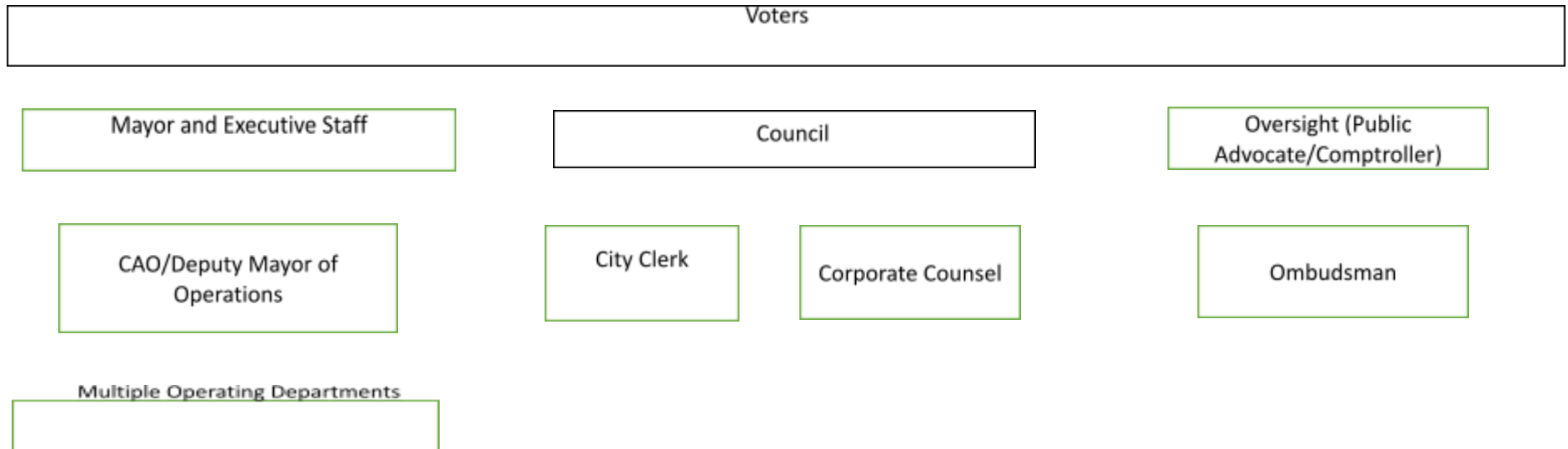
Often Cited Advantages of this form

- 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	Three 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.]

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

<u>Powers & Authority</u>	<u>Current Portland Charter</u>	<u>Governance Committee Proposal</u>	<u>Shiekh-Yousef Proposal</u>
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 Administrator, 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.

<u>Powers & Authority</u>	<u>Current Portland Charter</u>	<u>Governance Committee Proposal</u>	<u>Shiekh-Yousef Proposal</u>
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

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.

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

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

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 no 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.

Draft Language for a Charter Provision Governing 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 1.35 times the state's minimum hourly wage or 1.35 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.

CITY OF PORTLAND ETHICS COMMISSION & CODE OF ETHICS

1. The proper operation of the City of Portland requires that all City officials, whether elected, appointed, or 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 Ethics Commission shall hereby be established for all by the City Council.

1.1 PURPOSE: To provide impartial oversight as to ensure that standards of conduct are defined and upheld; and 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.

Section 1.2 Ordinance required.

The City Council shall maintain an ordinance defining the code of ethical conduct of elected and appointed City officials, as well as all employees of the City in accordance with all applicable labor laws, contracts, and confidentiality requirements. The ordinance shall be developed and recommended by the Ethics Commission, as provided in Section 2, and be approved and later amended with the approval of 2/3 of City Councilors present and voting. The ordinance shall establish the process for filing complaints and soliciting advisory opinions by residents of Portland and city employees.

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

1.3.1 Whereby the disclosures as provided in Sec. 1.3 wherein prior to being sworn into office, all elected city officials and executive and senior city staff shall complete a disclosure form. 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. Applicable forms shall be public documents 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. 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 and in accordance with all applicable labor laws, contracts, and confidentiality requirements.

1.4 The Board shall devise, with the assistance from city staff and/or outside counsel, a code of ethics for Portland City officials and employees which shall include but be not limited to:

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

1.5 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, or for any violation of the code of ethical conduct.

Section 2. Formation of Ethics Commission.

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

Section 2.1. Independence.

The Commission shall remain an independent body, free from interference from any City employees or elected officials. The Commission may request funding from the City Council for an independent investigation as needed.

Section 2.2. Term.

Commissioners shall serve for a term of three (3) years.

Section 2.3 Duties.

The Commission shall develop the Code of Ethics. The Commission shall provide a report to the City Council no less than annually. The Commission shall consider questions and render advisory opinions.

Section 2.3.1. Advisory Opinions.

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

The names of complainants shall be protected by confidentiality, unless they elect to waive it. No complainant shall be retaliated against for filing a complaint.

Section 2.3.2. Advisory Interpretation of the City Charter

The Ethics Commission may, at its discretion, also render non-binding, advisory opinions on City compliance with The City Charter. The Commission shall provide its written interpretation of the Charter on the written request of any resident or official of the City. The Commission's interpretation is advisory only and for educational purposes and shall not be the basis for any legal action. A copy of the request and the proposed response shall be provided to the City Council, Mayor and City Manager for review prior to being issued.

Section 2.3.3. The Ethics Commission shall deliver all advisory opinions including but not limited to ethics violations, conflicts of interest, and charter opinions, to the City Attorney, Chief Executive/Administrator, Mayor and City Council in compliance with applicable law, no less than 14 days after a decision is made. **AND PUBLIC REVIEW??**

Section 3. Violations of Ethics Code.

Violations apply to both elected and appointed officials and any member of city staff. If the Commission finds violations of the ethics code, the Commission may recommend, by a simple majority vote, advisory opinions to the applicable hiring authority any appropriate disciplinary or removal proceedings and notify the city attorney that further action should be taken in accordance with state law. Opinions rendered by the Commission are not legally binding and purely advisory in nature and shall be

rendered in accordance with all applicable labor laws, contracts, and confidentiality requirements. .

In no circumstances shall the ethics commission have access to any personal information protected by state law.

Any City Councilor or Mayor found in violation of the ethics code may be reprimanded by the City Council. The Council may decide to do nothing, censure a member, remove a member, or set a recall election. Whichever option is selected, requires a 2/3rds majority vote of the City Council.

Suspected criminal conduct shall be reported immediately to the Portland police department.

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

Section 3.1 Conflict of Interest of Elected Officials, Boards, and *ad hoc* Committees

3.1.1 Determination of Conflict

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

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 of the complaint or who is not the complainant themselves.

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.

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

Members of the public may bring their complaint to the entire body or to other city officials including the Ethics Commission. The Commission may refer complaints to the appropriate office or body for consideration. 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.

Section 3.2 Acknowledgement of Complaint

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

Section 3.3 Failure to Disclose or Comply with Code of Ethics

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.

Examples of Ethics Boards/Commissions/Ordinances/Charter Amendments:

Bangor, ME: Population: 31,753

- Ordinance: <https://ecode360.com/6889057>
- Charter Amendment (establishes board & requires creation of code):
<https://ecode360.com/14956369>

Waterville, ME: Population: 15,828

- Ordinance: <http://www.waterville-me.gov/ordinances/wp-content/uploads/sites/25/2018/02/Ethics-Ordinance-Revised-010518.pdf>
- Charter Amendment: Article VI (establishes board & requires creation of code)
<http://www.waterville-me.gov/clerk/wp-content/uploads/sites/10/2017/08/2020-Charter-with-Revision-Markups.pdf>

Windham, ME: Population: 18,434

- Ordinance (establishes both the Ethics Board & code):
<https://www.windhammaine.us/DocumentCenter/View/1017/Ethics-Policy---Board-of-Ethics?bidId=>

York, ME: Population 13,723

- Ordinance (no board established - up to chairs & department heads to regulate conduct):
<https://www.yorkmaine.org/DocumentCenter/View/1348/a-Code-of-Ethics-2021-06-14?bidId=>

Bristol, ME: Population 2,834

- Ordinance (no board established but complaints are brought straight to the selectmen to decide).

https://www.bristolmaine.org/sites/g/files/vyhli4191/f/uploads/code_of_ethics_and_conduct.pdf

Lisbon, ME: Population 9,711

- Ordinance (establishes an ethics panel of three voters and issues advisory opinions on conflicts of interests)

https://library.municode.com/me/lisbon/codes/code_of_ordinances?nodeId=PTICOOOR_C H12ETCOIN_S12-3ETPA

Ogunquit, ME: Population 1,577

- Ordinance (no board, ethics violations are determined internally on boards and committees) https://www.townofogunquit.org/vertical/Sites/%7B2524508A-BBA7-433A-9EAA-E74D93FCB25D%7D/uploads/CODE_OF_ETHICS_FOR_BOARDS_AND_COMMITTEES.pdf

Madison, ME: Population 2,433

- Ordinance (includes ethics board with advisory opinions provided to select board) <https://ecode360.com/9856843>

Kennebunk, ME: Population 11,536

- Internal procedures governing rules for the council. <https://www.kennebunkmaine.us/DocumentCenter/View/218/Select-Board-Code-of-Ethics?bidId=>

Bridgton, ME: Population 5,418

- Ordinance (establishes penalty for violation and applies to all elected officials and employees) <https://bridgtonmaine.org/wp-content/uploads/2017/09/Code-of-Ethics.pdf>

New York, NY: Population: 8.5 Million

- Charter Chapter 68 (establishes the Conflicts of Interest Board, defines its powers and obligations, defines prohibited interests and conduct, establishes reporting requirements, establishes the Board's power to impose penalties, authorizes the Board to investigate and adjudicate gifts by lobbyists): <https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCcharter/0-0-0-5995>
- The Rules of the City of New York <https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCrules/0-0-0-86448>

El Paso, TX: Population: 679,813

- Charter Title 2, Chapter 2.92 (establishes board, Standard of Conduct, duties, jurisdiction, and procedures)
https://library.municode.com/tx/el_paso/codes/code_of_ordinances?nodeId=TIT2ADPE_CH2.92ET_ARTIIIETRECO_2.92.150ADOP
- Ordinance
https://library.municode.com/tx/el_paso/ordinances/code_of_ordinances?nodeId=1078214

Philadelphia, PA: Population 1.58 Million

- Charter Chapter 11 (establishes Board, powers and duties)
https://codelibrary.amlegal.com/codes/philadelphia/latest/philadelphia_pa/0-0-0-182492
 - Code (defines duties, standards, prohibited conduct, penalties, establishes standard of conduct and financial disclosure requirements)
https://codelibrary.amlegal.com/codes/philadelphia/latest/philadelphia_pa/0-0-0-217009
-

Examples of Charter Compliance Commissions:

Provincetown, MA: Population: 2,994 - Charter Compliance Commission

- Charter Amendment: <https://www.provincetown-ma.gov/125/Charter-Compliance-Commission>
- <https://www.provincetown-ma.gov/DocumentCenter/View/202/Charter-PDF?bidId=>
(page 6)

Bourne, MA: Population: 19,872 - Charter Compliance Commission

- Charter Amendment:
https://www.townofbourne.com/sites/g/files/vyhlf7346/f/uploads/town_charter_2016.pdf
- <https://www.townofbourne.com/charter-compliance>

Milton, VT: Population 2,507 - Charter Compliance Commission

- Charter Amendment:
<https://legislature.vermont.gov/statutes/section/24appendix/129/00702>
-

Reasoning:

1. Protect whistleblowers.
2. Fight and discourage corruption, waste, fraud, abuse, and favoritism from both elected and unelected individuals.
3. Increase transparency and accountability in municipal government.

4. Be a safe, independent place to send complaints and concerns regarding ethical conduct.
5. Creates an ethics mission and code for the City of Portland.
6. Cost effective, productive ethical conduct oversight.
7. To bring more voices at the table and the community oriented decisions on what ethical conduct is, rather than one individual.
8. Build public trust in municipal government
9. No associated costs chartered in.

Procedures Committee Proposal on Participatory Budgeting

"The City Council shall develop and implement a participatory budgeting system wherein a portion of the municipal budget and/or the Capital Improvement program 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."

CLEAN ELECTIONS PROPOSAL

Sponsored by Commissioner Catherine Buxtion (At-Large)

Section 12. Public Financing of Municipal Elections

The City Council shall establish and fully fund a mechanism providing public campaign funds to qualified candidates for elected municipal offices. The Council will provide an independent allocation from the City's budget each year in order to ensure the program is sustained and can be made available to candidates for each election.

The mechanism must:

- Provide sufficient funds to allow candidates who meet qualifying criteria to conduct competitive campaigns.
- Be voluntary.
- Limit the amount of private funds a candidate may raise.
- Only be available to candidates who demonstrate public support.
- Be limited to candidates who enter into a binding agreement not to accept private contributions other than those allowed by the public funding program.
- Require that all unused funds from a participating candidate's campaign are returned to the public election fund within 100 days of election.
- Be limited to candidates who agree to participate in at least one city-sponsored debate or voter education event.

The mechanism must be available by the 2024 municipal election.

The mechanism shall be administered by the City Clerk. The Clerk shall ensure there are adequate resources, including paid staff, to ensure effective administration of the program.

The city council may adopt additional regulations and ordinances not inconsistent with this section.

Section 13. Campaign Finance Rules for All Candidates

- a. **Corporate Contributions.** A business entity may not make contributions to any candidate for municipal office. The term business entity refers to a firm, partnership, corporation, incorporated association or other organization, whether organized as a for-profit or a nonprofit entity.
- b. **Campaign Contributions Reporting.** All contributions to campaigns for candidates or ballot questions must be reported to the City Clerk, aligning with all state guidelines. The Clerk must establish a searchable online publicly accessible database to include all reported campaign finance information.

COST ESTIMATE FOR CLEAN ELECTIONS PROGRAM IN PORTLAND, MAINE

Cost Estimate Compiled By: Commissioner Marpheen Chann (At-Large), Chair, Charter Commission Ad Hoc Elections Committee

Initiative: Establishes a Clean Elections fund to be administered by paid staff within the Office of the City Clerk, funds to be allocated by the City Council on an annual basis.

COST ESTIMATE	FY 23-24	FY 24-25
POSITIONS	1.00	1.00
Personal Services	\$87,733.73*	\$90,365.75
All Other	\$200,000**	\$200,000
TOTAL COST ESTIMATE	\$287,734.73	\$290,366.75

*Grade: 2022 BAND C42 (37.5), Step: 0 (<https://www.portlandmaine.gov/DocumentCenter/View/31790/Order-254-2021>); City Clerk Correspondence; Benefits = 36.9% on average for City of Portland Non-Union Employee. FY 24-25 figure calculated with standard 3% COLA.

** Estimate from League of Women Voters Presentation on Clean Elections on September 21, 2021 (Slide 11)(attached).

Clean Elections Position in the clerks office

Katherine Jones <klj@portlandmaine.gov>
To: Marpheen Chann <mchann@portlandmaine.gov>

Tue, Jan 11, 2022 at 3:56 PM

Hi Marpheen

Currently the Business License administrator's salary is around \$56,000. The Principal Administrative Officer's pay range is roughly \$65,000. I would think that the position of overseeing the Clean Elections for the City would require a financial background and an understanding of elections. So my best guess would be somewhere in the vicinity of \$65,000.

Does this make sense?

Kathy

Katherine Jones, City Clerk, CCM, CMC, Registrar

City of Portland

[389 Congress Street](#)

[Portland, ME 04101](#)

(207) 874-8614

(207) 874-8612 Fax

CITY OF PORTLAND, MAINE
FY22 Proposed Non-Union Pay Plan (2.0%)

Effective 07/04/21

Grade / Step	0	1	2	3	4	5	6	7	8	9	10
BU #2000: NON UNION											
2002 BAND B21 (37.5) (H)	<u>\$18.1800</u>	<u>\$18.7300</u>	<u>\$19.2900</u>	<u>\$19.8700</u>	<u>\$20.4600</u>	<u>\$21.0700</u>	<u>\$21.7200</u>	<u>\$22.3600</u>	<u>\$23.0300</u>	<u>\$23.7300</u>	<u>\$24.4300</u>
Period / Weekly	<u>\$681.75</u>	<u>\$702.38</u>	<u>\$723.38</u>	<u>\$745.13</u>	<u>\$767.25</u>	<u>\$790.13</u>	<u>\$814.50</u>	<u>\$838.50</u>	<u>\$863.63</u>	<u>\$889.88</u>	<u>\$916.13</u>
Annual	\$35,451.00	\$36,523.76	\$37,615.76	\$38,746.76	\$39,897.00	\$41,086.76	\$42,354.00	\$43,602.00	\$44,908.76	\$46,273.76	\$47,638.76
2003 BAND B22 (37.5) (H)	<u>\$19.8300</u>	<u>\$20.4300</u>	<u>\$21.0400</u>	<u>\$21.6800</u>	<u>\$22.3200</u>	<u>\$22.9900</u>	<u>\$23.6800</u>	<u>\$24.3900</u>	<u>\$25.1200</u>	<u>\$25.8800</u>	<u>\$26.6600</u>
Period / Weekly	<u>\$743.63</u>	<u>\$766.13</u>	<u>\$789.00</u>	<u>\$813.00</u>	<u>\$837.00</u>	<u>\$862.13</u>	<u>\$888.00</u>	<u>\$914.63</u>	<u>\$942.00</u>	<u>\$970.50</u>	<u>\$999.75</u>
Annual	\$38,668.76	\$39,838.76	\$41,028.00	\$42,276.00	\$43,524.00	\$44,830.76	\$46,176.00	\$47,560.76	\$48,984.00	\$50,466.00	\$51,987.00
2004 BAND B23 (37.5) (H)	<u>\$21.4800</u>	<u>\$22.1300</u>	<u>\$22.8000</u>	<u>\$23.4800</u>	<u>\$24.1800</u>	<u>\$24.9100</u>	<u>\$25.6500</u>	<u>\$26.4300</u>	<u>\$27.2100</u>	<u>\$28.0300</u>	<u>\$28.8800</u>
Period / Weekly	<u>\$805.50</u>	<u>\$829.88</u>	<u>\$855.00</u>	<u>\$880.50</u>	<u>\$906.75</u>	<u>\$934.13</u>	<u>\$961.88</u>	<u>\$991.13</u>	<u>\$1,020.38</u>	<u>\$1,051.13</u>	<u>\$1,083.00</u>
Annual	\$41,886.00	\$43,153.76	\$44,460.00	\$45,786.00	\$47,151.00	\$48,574.76	\$50,017.76	\$51,538.76	\$53,059.76	\$54,658.76	\$56,316.00
2006 BAND B24 (37.5) (H)	<u>\$23.5500</u>	<u>\$24.2700</u>	<u>\$24.9900</u>	<u>\$25.7400</u>	<u>\$26.5100</u>	<u>\$27.3100</u>	<u>\$28.1200</u>	<u>\$28.9700</u>	<u>\$29.8400</u>	<u>\$30.7400</u>	<u>\$31.6600</u>
Period / Weekly	<u>\$883.13</u>	<u>\$910.13</u>	<u>\$937.13</u>	<u>\$965.25</u>	<u>\$994.13</u>	<u>\$1,024.13</u>	<u>\$1,054.50</u>	<u>\$1,086.38</u>	<u>\$1,119.00</u>	<u>\$1,152.75</u>	<u>\$1,187.25</u>
Annual	\$45,922.76	\$47,326.76	\$48,730.76	\$50,193.00	\$51,694.76	\$53,254.76	\$54,834.00	\$56,491.76	\$58,188.00	\$59,943.00	\$61,737.00
2008 BAND B25 (37.5) (H)	<u>\$26.0300</u>	<u>\$26.8200</u>	<u>\$27.6200</u>	<u>\$28.4500</u>	<u>\$29.3000</u>	<u>\$30.1800</u>	<u>\$31.0800</u>	<u>\$32.0300</u>	<u>\$32.9800</u>	<u>\$33.9700</u>	<u>\$35.0000</u>
Period / Weekly	<u>\$976.13</u>	<u>\$1,005.75</u>	<u>\$1,035.75</u>	<u>\$1,066.88</u>	<u>\$1,098.75</u>	<u>\$1,131.75</u>	<u>\$1,165.50</u>	<u>\$1,201.13</u>	<u>\$1,236.75</u>	<u>\$1,273.88</u>	<u>\$1,312.50</u>
Annual	\$50,758.76	\$52,299.00	\$53,859.00	\$55,477.76	\$57,135.00	\$58,851.00	\$60,606.00	\$62,458.76	\$64,311.00	\$66,241.76	\$68,250.00
2010 BAND B32 (37.5) (H)	<u>\$26.0300</u>	<u>\$26.8200</u>	<u>\$27.6200</u>	<u>\$28.4500</u>	<u>\$29.3000</u>	<u>\$30.1800</u>	<u>\$31.0800</u>	<u>\$32.0300</u>	<u>\$32.9800</u>	<u>\$33.9700</u>	<u>\$35.0000</u>
Period / Weekly	<u>\$976.13</u>	<u>\$1,005.75</u>	<u>\$1,035.75</u>	<u>\$1,066.88</u>	<u>\$1,098.75</u>	<u>\$1,131.75</u>	<u>\$1,165.50</u>	<u>\$1,201.13</u>	<u>\$1,236.75</u>	<u>\$1,273.88</u>	<u>\$1,312.50</u>
Annual	\$50,758.76	\$52,299.00	\$53,859.00	\$55,477.76	\$57,135.00	\$58,851.00	\$60,606.00	\$62,458.76	\$64,311.00	\$66,241.76	\$68,250.00

CITY OF PORTLAND, MAINE
FY22 Proposed Non-Union Pay Plan (2.0%)

Effective 07/04/21

Grade / Step	0	1	2	3	4	5	6
BU #2000:							
NON UNION							
2020 BAND C41 (37.5)	\$31.2939	\$32.2317	\$33.2011	\$34.2011	\$35.2211	\$36.2816	\$37.3632
Period / Weekly	<u>\$1,173.52</u>	<u>\$1,208.69</u>	<u>\$1,245.04</u>	<u>\$1,282.54</u>	<u>\$1,320.79</u>	<u>\$1,360.56</u>	<u>\$1,401.12</u>
Annual (A)	<u>\$61,023.00</u>	<u>\$62,852.00</u>	<u>\$64,742.00</u>	<u>\$66,692.00</u>	<u>\$68,681.00</u>	<u>\$70,749.00</u>	<u>\$72,858.00</u>
2022 BAND C42 (37.5)	\$32.8645	\$33.8435	\$34.8539	\$35.9040	\$36.9755	\$38.0973	\$39.2395
Period / Weekly	<u>\$1,232.42</u>	<u>\$1,269.13</u>	<u>\$1,307.02</u>	<u>\$1,346.40</u>	<u>\$1,386.58</u>	<u>\$1,428.65</u>	<u>\$1,471.48</u>
Annual (A)	<u>\$64,086.00</u>	<u>\$65,995.00</u>	<u>\$67,965.00</u>	<u>\$70,013.00</u>	<u>\$72,102.00</u>	<u>\$74,290.00</u>	<u>\$76,517.00</u>
2024 BAND C43 (37.5)	\$34.5067	\$35.5368	\$36.6083	\$37.6989	\$38.8317	\$40.0045	\$41.1979
Period / Weekly	<u>\$1,294.00</u>	<u>\$1,332.63</u>	<u>\$1,372.81</u>	<u>\$1,413.71</u>	<u>\$1,456.19</u>	<u>\$1,500.17</u>	<u>\$1,544.92</u>
Annual (A)	<u>\$67,288.00</u>	<u>\$69,297.00</u>	<u>\$71,386.00</u>	<u>\$73,513.00</u>	<u>\$75,722.00</u>	<u>\$78,009.00</u>	<u>\$80,336.00</u>
2026 BAND C44 (37.5)	\$36.3939	\$37.4851	\$38.6072	\$39.7701	\$40.9632	\$42.1872	\$43.4517
Period / Weekly	<u>\$1,364.77</u>	<u>\$1,405.69</u>	<u>\$1,447.77</u>	<u>\$1,491.38</u>	<u>\$1,536.12</u>	<u>\$1,582.02</u>	<u>\$1,629.44</u>
Annual (A)	<u>\$70,968.00</u>	<u>\$73,096.00</u>	<u>\$75,284.00</u>	<u>\$77,552.00</u>	<u>\$79,878.00</u>	<u>\$82,265.00</u>	<u>\$84,731.00</u>
2030 BAND C45 (37.5)	\$39.0155	\$40.1883	\$41.4021	\$42.6360	\$43.9211	\$45.2373	\$46.5835
Period / Weekly	<u>\$1,463.08</u>	<u>\$1,507.06</u>	<u>\$1,552.58</u>	<u>\$1,598.85</u>	<u>\$1,647.04</u>	<u>\$1,696.40</u>	<u>\$1,746.88</u>
Annual (A)	<u>\$76,080.00</u>	<u>\$78,367.00</u>	<u>\$80,734.00</u>	<u>\$83,140.00</u>	<u>\$85,646.00</u>	<u>\$88,213.00</u>	<u>\$90,838.00</u>
2032 BAND C51 (37.5)	\$36.3939	\$37.4851	\$38.6072	\$39.7701	\$40.9632	\$42.1872	\$43.4517
Period / Weekly	<u>\$1,364.77</u>	<u>\$1,405.69</u>	<u>\$1,447.77</u>	<u>\$1,491.38</u>	<u>\$1,536.12</u>	<u>\$1,582.02</u>	<u>\$1,629.44</u>
Annual (A)	<u>\$70,968.00</u>	<u>\$73,096.00</u>	<u>\$75,284.00</u>	<u>\$77,552.00</u>	<u>\$79,878.00</u>	<u>\$82,265.00</u>	<u>\$84,731.00</u>
2034 BAND C52 (37.5)	\$39.0155	\$40.1883	\$41.4021	\$42.6360	\$43.9211	\$45.2373	\$46.5835
Period / Weekly	<u>\$1,463.08</u>	<u>\$1,507.06</u>	<u>\$1,552.58</u>	<u>\$1,598.85</u>	<u>\$1,647.04</u>	<u>\$1,696.40</u>	<u>\$1,746.88</u>
Annual (A)	<u>\$76,080.00</u>	<u>\$78,367.00</u>	<u>\$80,734.00</u>	<u>\$83,140.00</u>	<u>\$85,646.00</u>	<u>\$88,213.00</u>	<u>\$90,838.00</u>
2040 BAND D61 (37.5)	\$41.3611	\$42.5955	\$43.8701	\$45.1861	\$46.5432	\$47.9501	\$49.3784
Period / Weekly	<u>\$1,551.04</u>	<u>\$1,597.33</u>	<u>\$1,645.13</u>	<u>\$1,694.48</u>	<u>\$1,745.37</u>	<u>\$1,798.13</u>	<u>\$1,851.69</u>
Annual (A)	<u>\$80,654.00</u>	<u>\$83,061.00</u>	<u>\$85,547.00</u>	<u>\$88,113.00</u>	<u>\$90,759.00</u>	<u>\$93,503.00</u>	<u>\$96,288.00</u>
2042 BAND D62 (37.5)	\$43.4216	\$44.7272	\$46.0632	\$47.4405	\$48.8784	\$50.3373	\$51.8467
Period / Weekly	<u>\$1,628.31</u>	<u>\$1,677.27</u>	<u>\$1,727.37</u>	<u>\$1,779.02</u>	<u>\$1,832.94</u>	<u>\$1,887.65</u>	<u>\$1,944.25</u>
Annual (A)	<u>\$84,672.00</u>	<u>\$87,218.00</u>	<u>\$89,823.00</u>	<u>\$92,509.00</u>	<u>\$95,313.00</u>	<u>\$98,158.00</u>	<u>\$101,101.00</u>
2044 BAND D63 (37.5)	\$45.5939	\$46.9611	\$48.3789	\$49.8168	\$51.3165	\$52.8565	\$54.4373
Period / Weekly	<u>\$1,709.77</u>	<u>\$1,761.04</u>	<u>\$1,814.21</u>	<u>\$1,868.13</u>	<u>\$1,924.37</u>	<u>\$1,982.12</u>	<u>\$2,041.40</u>
Annual (A)	<u>\$88,908.00</u>	<u>\$91,574.00</u>	<u>\$94,339.00</u>	<u>\$97,143.00</u>	<u>\$100,067.00</u>	<u>\$103,070.00</u>	<u>\$106,153.00</u>
2047 BAND D64 (37.5)	\$49.7760	\$51.2651	\$52.8056	\$54.3968	\$56.0184	\$57.7016	\$59.4360
Period / Weekly	<u>\$1,866.60</u>	<u>\$1,922.44</u>	<u>\$1,980.21</u>	<u>\$2,039.88</u>	<u>\$2,100.69</u>	<u>\$2,163.81</u>	<u>\$2,228.85</u>
Annual (A)	<u>\$97,063.00</u>	<u>\$99,967.00</u>	<u>\$102,971.00</u>	<u>\$106,074.00</u>	<u>\$109,236.00</u>	<u>\$112,518.00</u>	<u>\$115,900.00</u>
2045 BAND D65 (37.5)	\$51.5611	\$53.1117	\$54.7032	\$56.3445	\$58.0379	\$59.7827	\$61.5672
Period / Weekly	<u>\$1,933.54</u>	<u>\$1,991.69</u>	<u>\$2,051.37</u>	<u>\$2,112.92</u>	<u>\$2,176.42</u>	<u>\$2,241.85</u>	<u>\$2,308.77</u>
Annual (A)	<u>\$100,544.00</u>	<u>\$103,568.00</u>	<u>\$106,671.00</u>	<u>\$109,872.00</u>	<u>\$113,174.00</u>	<u>\$116,576.00</u>	<u>\$120,056.00</u>
2046 BAND D71 (37.5)	\$48.0933	\$49.5312	\$51.0205	\$52.5611	\$54.1211	\$55.7533	\$57.4261

CITY OF PORTLAND, MAINE
FY22 Proposed Non-Union Executive Pay Plan (2.0%)

Effective 07/04/21

Grade / Step	0	1	2	3	4	5	6
BU #1100: EXECUTIVE							
1101 BAND E81 (37.5)	\$54.6517	\$56.2939	\$57.9872	\$59.7211	\$61.5061	\$63.3627	\$65.2595
Period / Weekly	<i>\$2,049.44</i>	<i>\$2,111.02</i>	<i>\$2,174.52</i>	<i>\$2,239.54</i>	<i>\$2,306.48</i>	<i>\$2,376.10</i>	<i>\$2,447.23</i>
Annual (A)	<u>\$106,571.00</u>	<u>\$109,773.00</u>	<u>\$113,075.00</u>	<u>\$116,456.00</u>	<u>\$119,937.00</u>	<u>\$123,557.00</u>	<u>\$127,256.00</u>
1102 BAND E82 (37.5)	\$57.3851	\$59.0989	\$60.8840	\$62.7099	\$64.5765	\$66.5245	\$68.5235
Period / Weekly	<i>\$2,151.94</i>	<i>\$2,216.21</i>	<i>\$2,283.15</i>	<i>\$2,351.62</i>	<i>\$2,421.62</i>	<i>\$2,494.67</i>	<i>\$2,569.63</i>
Annual (A)	<u>\$111,901.00</u>	<u>\$115,243.00</u>	<u>\$118,724.00</u>	<u>\$122,284.00</u>	<u>\$125,924.00</u>	<u>\$129,723.00</u>	<u>\$133,621.00</u>
1103 BAND E83 (37.5)	\$60.2517	\$62.0568	\$63.9235	\$65.8307	\$67.8099	\$69.8499	\$71.9411
Period / Weekly	<i>\$2,259.44</i>	<i>\$2,327.13</i>	<i>\$2,397.13</i>	<i>\$2,468.65</i>	<i>\$2,542.87</i>	<i>\$2,619.37</i>	<i>\$2,697.79</i>
Annual (A)	<u>\$117,491.00</u>	<u>\$121,011.00</u>	<u>\$124,651.00</u>	<u>\$128,370.00</u>	<u>\$132,229.00</u>	<u>\$136,207.00</u>	<u>\$140,285.00</u>
1104 BAND E92 (37.5)	\$68.1467	\$70.1867	\$72.2973	\$74.4600	\$76.6939	\$78.9995	\$81.3656
Period / Weekly	<i>\$2,555.50</i>	<i>\$2,632.00</i>	<i>\$2,711.15</i>	<i>\$2,792.25</i>	<i>\$2,876.02</i>	<i>\$2,962.48</i>	<i>\$3,051.21</i>
Annual (A)	<u>\$132,886.00</u>	<u>\$136,864.00</u>	<u>\$140,980.00</u>	<u>\$145,197.00</u>	<u>\$149,553.00</u>	<u>\$154,049.00</u>	<u>\$158,663.00</u>



Clean Elections: Context and Best Practices

Presentation to Portland Charter Commission, Elections Committee
Anna Kellar, Executive Director, Maine Citizens for Clean Elections

Nationwide Examples

New York City, NY	1988, 2018	Small Donor Match
Maine (1st State!)	1996, 2015	Clean Elections Grant
Arizona	1998	Clean Elections Grant
Boulder, CO	2001	Small Donor Match
Connecticut	2005	Clean Elections Grant
Santa Fe, NM	2008	Grant + Small Donor Match
Seattle, WA	2015	Voucher
Washington, DC	2018	Small Donor Match
Portland, OR	2018	Small Donor Match

...and more!

Goals

- Eliminate corruption or appearance of corruption
- Expand political equity
- Improve representation by allowing diversity of candidates
- Limit cost of elections

Key Features

A Starting Point: Public Funding Charter Amendment

Section 12. Public Financing of Municipal Elections

The city council shall establish and fund a mechanism providing public campaign funds to qualified candidates for mayor, city council, and school board. The mechanism must provide sufficient funds to allow candidates who meet qualifying criteria to conduct competitive campaigns, must be voluntary, must limit the amount of private funds a candidate may raise, must only be available to candidates who demonstrate public support, and must be limited to candidates who enter into a binding agreement not to accept private contributions other than those allowed by the public funding program. The mechanism must be available by the 2021 municipal elections.

Key Features

1. **“Provide sufficient funds to allow candidates who meet qualifying criteria to conduct competitive campaigns...”**

Candidates who use public funding must receive sufficient funds to get their message out to voters and respond to messages from opponents. However, competitive does not mean unlimited funding. Seed money or Seed Grants are also important elements.

Key Features

2. Must be voluntary

The US Supreme Court has ruled that public funding programs are constitutional so long as they are not mandatory. This means that no candidate can be legally compelled to participate. It also means that the overall campaign finance regulatory system cannot make it impossible or impractical to conduct a viable campaign with private funding.

Key Features

3. May limit the amount of private funds a candidate in the program may raise

Early campaign reforms focused on limiting candidate spending. But over three decades ago the Supreme Court ruled that limits on candidate spending are unconstitutional unless they are part of a voluntary system. The public strongly supports limits on campaign spending, and experience with the Maine Clean Election Act shows that candidates also like spending limits.

Key Features

4. Must only be available to candidates who demonstrate public support

Public funding should support viable candidates, who are willing to work hard and have the support of a significant number in the community. For example, under the Maine Clean Elections Act, candidates demonstrate public support by collecting a set number of \$5 contributions from their constituents before they qualify for public funds. This ensures that limited public resources are targeted to candidates who can show that they are truly viable.

Key Features

5. Must be limited to candidates who enter into a binding agreement not to accept private contributions other than those allowed by the public funding program

A voluntary public funding system not only allows for overall spending limits, but it also allows strict limits on what any one contributor may give to a candidate. This helps prevent corruption and the appearance of corruption, freeing elected officials to vote their conscience and the best interests of their constituents. With private funding, a single contributor can often give a very large amount, making many candidates feel a sense of obligation and indebtedness.

Additional Considerations

- Dedicated fund w/ annual appropriation and rollover, insulated from politics
- Independent administration w/ commission
- Public education and engagement mandate
- Allowing those with low/no disposable income to participate
- Date for implementation



Types of Programs

- Grant (ME, CT)
- Small Donor Match (NYC)
- Voucher (Seattle)
- Cost of fund is similar
 - Approx 100,000-250,000 per year
 - Less than 0.05% of budget

	JURISDICTIONS			
COST METHOD	ME (2018)	CT (2018)	Seattle (2019)	NYC (2021)
Annualized Cost per Person	\$1.68	\$2.79	\$1.63	\$3.43
Annualized Cost as % of Budget	0.025%	0.048%	0.021%	0.031%
Pro-rated for Portland per person	\$110,880.00	\$184,140.00	\$107,580.00	\$226,380.00
Pro-rated for Portland % of budget	\$67,050.00	\$128,736.00	\$56,322.00	\$8,314.20



What to consider

- Variation between administrative burdens
- Equity - how many people are donors? How can they participate?
- Albuquerque and Santa Fe examples





Questions?

Mainecleanelections.org
anna@mainecleanelections.org

MEMORANDUM

TO: Portland Charter Commission

FROM: James N. Katsiaficas, Esq.

DATE: March 4, 2022

RE: Social Media Use by Elected City Officials

Recently, questions have been raised by members of the public regarding appropriate social media use by elected officials, including Portland Charter Commission members. Generally, elected officials are free to use their own personal social media accounts as they see fit. Much of their own speech is protected by the First Amendment, and there is no code of conduct or other rules for how City elected officials conduct themselves on social media.

However, elected officials' social media accounts have regularly been considered a "public forum" for purposes of the First Amendment. This means that elected officials who use their social media accounts for official business cannot discriminate against commenters or participants based on viewpoint. In *Knight First Amendment Institute at Columbia University, et al. v. Trump*, for example, the Federal Circuit Court of Appeals held that President Trump violated the First Amendment rights of individuals whom he "blocked" from his Twitter feed because he disagreed with their viewpoints. Similarly, the U.S. District Court for the District of Maine in *Leuthy v. LePage* characterized constituents' posts on the former governor's Facebook page as protected speech and deletion of those posts as "viewpoint discrimination."

Please note that an elected official's social media account does not need to be called or designated as that of an elected official to give constituents First Amendment protections. Courts look at whether the account is used in a private capacity or an official capacity. The Fourth Circuit Court of Appeals considers a social media account to be one for official business when it is used "as a tool of governance." In *Davison v. Randall*, a public official's Facebook page was deemed an account for official business when the public official used the page to provide information to the public about municipal board activity and to solicit input from the public on policy issues before the board. A social media account that includes the user's public title, links to official websites, lists official contact information, and posts about official activities will likely be considered "a tool of governance", but even a personal account with one or more of these markers of official business may invite challenge if the user blocks a constituent. Whether a social media account such as a Facebook page is being used for official business is a fact-intensive inquiry conducted by a court on a case-by-case basis, but it would be prudent to be careful about social media use and behavior to avoid litigation against the official and the City.