



City of Portland Charter Commission Meeting Minutes

March 23, 2022 (Remote via Zoom)

1. Zoom Information

The meeting was conducted as a remote meeting by Zoom videoconference in accordance with the Commission's Remote Participation Policy and State law (1 M.R.S. §403-B).

2. Call to Order

Chair Kebede called the meeting to order at 6:03 p.m.
Commissioners present were Barowitz, Buxton, Chann, Eglinton, Houston, Kebede, Lizanecz (joined 6:10 p.m.), O'Brien, Sheikh-Yousef, Stewart-Bouley, Washburn, and Waxman. (Quorum established)

3. Review and Approval of Minutes

On motion by Commissioner Waxman, seconded by Commissioner Eglinton, the Commission voted to approve the draft meeting minutes of March 16, 2022 by roll-call vote of 11-0.

4. Deliberation on Governance Models

Commissioners deliberated on reforms to the basic structure of Portland's government.

Commissioner Chann made a motion to move the Chann/O'Brien Governance Compromise and the Amended Chann/O'Brien Governance Compromise up on the agenda to receive a first reading and clarifying questions so that these could be included in further deliberation on this topic. The Commission voted 10-2 (Washburn, Sheikh-Yousef opposed) to approve the motion.

A discussion followed as to how to proceed: conduct a first reading and then postpone the discussion to next week, or first reading and then discuss governance components while the facilitators are present.

Commissioner Chann began presenting the Governance Compromise. It incorporates the mayor as chief executive officer as favored in the straw poll. The mayor also would chair the city council but would only vote in event of a tie; he likened this to the role of the Vice President with regard to the US Senate. The mayor would have a more significant role in development of the City budget, and would hire the “constitutional officers” subject to council confirmation. The city manager would be responsible for day-to-day administration.

Commissioner O’Brien added that the mayor and at-large councilors would serve as the executive committee to would provide the channel for official communications, and that the mayor would be at the table for economic development discussions.

Commissioner Eglinton questioned what the mayor’s “supervision” over the city manager entailed, and the response was oversight, not micromanagement. Commissioner Barowitz asked what oversight or checks and balances there would be over each branch, and the response was that each branch – legislative and executive – would serve as a check on the other. The proposal is silent on the ombudsman/public advocate concept for now. Commissioner Barowitz also asked about the use of “city manager” rather than “city administrator”; Commissioner O’Brien responded that whatever the title, the position is the City’s chief operating officer.

Chair Kebede presented the Amended Chann/O’Brien Governance Compromise. The mayor no longer would be a council member or have a council vote, but would be the chief executive officer as in Westbrook, ME and in Burlington, VT. A professional administrator would be supervised by the mayor. The mayor would be to the City as the Governor is to the State of Maine. As to whether additional oversight is needed, the Chair noted that the executive and legislative branches in the cities cited oversee each other successfully. The mayor would be the City’s official representative with regard to other entities, including the Governor and Legislature.

The commissioners agreed to act at the next meeting on issues not addressed by the proposals, to move expediently by consensus rather than by formal motion through a list of issues to be assembled by Commissioner Washburn. The Commission then would begin to promptly prepare and review the text for the Charter revision to effect the changes.

5. Public Hearing, Deliberations, and vote on Clean Elections proposal from Elections Committee

Commissioner Buxton presented the Clean Elections proposal.

The Commission’s legal advisor recommended an amendment to remove Section 13.a. to avoid constitutionality concerns.

The Commission conducted a public hearing. Among the comments received was a rebuttal by John Brautigam, Esq. to the legal advice provided to the Commission. The Commission’s legal advisor said he would review the authorities cited by Atty. Brautigam, and the Commission proceeded subject to this issue’s later resolution.

Commissioner O'Brien moved to adopt the proposal, seconded by Commissioner Washburn. Following deliberation, the Commission considered several amendments offered by Commissioner O'Brien.

- 1) to strike or be silent on whether a candidate participating in clean election program must participate in a city-sponsored debate, seconded by Commissioner Eglinton; amendment failed on a tie vote of 5 yes (O'Brien, Eglinton, Chann, Washburn, Waxman), 5 no (Kebede, Huston, Sheikh-Yousef, Lizanecz, Buxton), 1 abstention (Barowitz)
- 2) to amend language regarding the database for contributions so that it would be determined by the city council; the amendment was seconded by Commissioner Washburn and then withdrawn.
- 3) to add a concept to section 13(a) to prevent for-profit and non-profit corporations from achieving financial gain through pending or future contracts and business when make contributions. Commissioner Washburn stated that the ethics code may be a better place for this prohibition. The amendment passed on a vote of 10 yes (O'Brien, Eglinton, Chann, Kebede, Huston, Sheikh-Yousef, Lizanecz, Buxton, Barowitz, Waxman), 1 no (Washburn)

Following a general discussion the Commissioners voted 11-0 to approve the motion as amended (Commissioner Stewart-Bouley absent).

6. Public Hearing, Deliberations and vote on Redistricting proposal from Elections Committee

Commissioner Chann presented the Elections Committee proposal to increase the number of district councilors from 5 to 10, with 3 at-large seats, for a total of 13 councilors. District lines would be drawn by the council and adjusted as now happens under a State law requiring a reapportionment ordinance after each decennial census.

Commissioner Waxman recognized that smaller districts would make it easier to conduct participatory budgeting, but was not sure the voters would support 13 councilors and 10 districts.

Commissioner Washburn favored an odd number of councilors, and expressed that increasing the number of councilors increases the connection between council members and those they represent.

The Commission conducted a public hearing.

In deliberation, Commissioner O'Brien explained that a larger council would have more mechanisms to allow more councilors to introduce legislation and would reduce the overburdening of councilors with committee assignments and work that now occurs. He added that tie votes can be addressed by allowing the mayor to vote, and that a 12-member council would allow an even number of councilors to be on the ballot each year.

Commissioner Washburn suggested corresponding increases in the number of school board

members for the same reason. The Commission’s legal advisor noted that the number of districts is set by the existing Charter at five, and that the number of city councilors and of school board members is based on electing one from each of those districts. He explained that he had consulted with the school board’s legal counsel, who had spoken with the Superintendent about increasing the number of school board district seats in step with increases in city council district seats; while the school board had not considered the question, the Superintendent thought it would agree to an increase for increased representation and parity. The Commission’s legal advisor also heard from the city clerk who thought it would be a “nightmare” to administer municipal elections with different school and council districts.

Commissioner Waxman asked where the proposal came from, and several Commissioners responded that they saw there was a lot of interest among voters to broaden representation and diversity and to make the council more directly representative. Commissioner Barowitz said that he heard the same from voters, but was concerned it would create single-issue candidates.

A friendly amendment to reduce the numbers to 6 district and 3 at-large councilors was declined.

Commissioner Chann moved to adopt the proposal, seconded by Commissioners Washburn.

Commissioner O’Brien moved to amend the motion to 12 councilors, with 9 district and 3-at large, with a chair who only votes to break a tie. Commissioner Chann seconded the amendment, which passed by a vote of 6 (O’Brien, Houston, Lizanecz, Eglinton, Waxman, Chann) to 5 (Kebede, Barowitz, Buxton, Washburn, Sheikh-Yousef).

The Commission clarified that this vote is only about the city council, and approved the motion as amended by vote of 8 (O’Brien, Buxton, Lizanecz, Chann, Kebede, Barowitz, Houston, Washburn) to 3 (Waxman, Sheikh-Yousef, Eglinton).

7. Public Hearing, Deliberations, and vote on Code of Ethics proposal from Procedures Committee

Because additions discussed at the last meeting did not make it into the version of the Code of Ethics proposal for this evening’s meeting, this item was tabled to the next meeting by consensus.

8. Public Hearing, Deliberations and vote on Participatory Budgeting Proposal from Procedures Committee

Commissioner Waxman introduced this proposal, explaining that after reviewing several participatory budgeting programs, the Procedures Committee thought it best to prepare a brief outline of the measure in the Charter and to leave development of the details of the actual participatory budgeting process to the city council. Through clarifying questions, Commissioners established that this proposal is limited to the City budget but Commissioner

O'Brien noted that nothing would stop the school board from similarly adopting participatory budgeting.

On motion by Commissioner Waxman, seconded by Commissioner Washburn, the Commission approved the proposal by vote of 10-0 (Commissioners Stewart-Bouley and Lizanecz absent).

9. First Read of School Budget Process Proposal from Education Committee

Commissioner Houston presented the first reading of this proposal. The purposes of the proposal are to make it easier for the public to understand and to participate in the school budget process, and to increase or achieve parity of the school board with the city council, which adopts its own budget. In this proposal, the city council is removed from the budget process except to send the school budget to a budget validation referendum; if at some time the voters decide to cease the budget validation referendum, then the City would instead hold a municipal school budget referendum. The proposal establishes an 8-member Joint Committee on Budget Guidance, with four councilors and four school board members appointed by the mayor and school board chair, respectively, to develop guidance for the City and school budget over the next two years prior to submission of a school budget. Asked by Commissioner Waxman how this proposal came to be, Commissioner Houston noted that he's seen much budget back-and-forth recently, and that he also heard concerns from voters. Commissioner Eglinton added that the Joint Committee portion of the proposal came out of his experience on the school board and with the school district as well as his concern with parity.

The Commission's legal advisor pointed out that unlike the three-part school budget process under State law (school board proposes budget, legislative body votes on budget, voters vote at budget validation referendum), this proposal bypasses the legislative body entirely and goes directly to the budget validation referendum. This could lead to budget invalidation, and the issue would be locked into the Charter. Chair Kebede asked the Education Committee to work with legal counsel to see if the concerns could be addressed.

10. First Read of Capital Improvement Program Process Proposal from Education Committee

Commissioner Eglinton presented the first reading of this proposal. Under the current Charter, the city manager's duties include preparation of a rolling 5-year capital improvement program (CIP) plan that includes both short-term and longer-term projects and presentation of that CIP to the city council. This proposal expands that obligation by directing the city manager and the superintendent to jointly prepare that CIP and to present it to a joint meeting of the city council and school board to provide a comprehensive view of proposed public capital improvement projects in Portland.

11. New Business

Commissioner Barowitz suggested the creation of a constitutional officer position to serve as an auditor overseeing City finances to avoid fraud and waste. This person might be a new hire or might be additional responsibility for an existing City staff person, and that resulting savings and revenue otherwise achieved might pay for new measures under the Charter revisions.

Chair Kebede reminded Commissioners that time is growing short to complete the Commission's work and asked Committees to prepare narratives explain the purpose and process for each proposal.

12. Adjourn

On motion by Commissioner Washburn, seconded by Commissioner O'Brien, the Commission voted to adjourn by roll-call vote of 9-0. The meeting adjourned at 11:00 p.m.