



City of Portland Charter Commission Meeting

Wednesday, April 20, 2022 at 6:00 PM Charter Commission Meeting
April 20, 2022 at 6:00 PM Agenda updated on 4-19-2022 at 10:02 AM.

1. Call to Order (6:00-6:05 pm)
 - a. Due to the existence of an "emergency or urgent issue", the Charter Commission Committees will conduct this meeting by remote methods/technology at the Zoom link provided below, in accordance with the requirements of 1 M.R.S. section 403 -B and the Charter Commission Remote Participation Policy.

Please click the link below to join the webinar:

<https://us06web.zoom.us/j/81381417000?pwd=UmVoSTFTT1FTaDlIQ3pPc2lYc0J6Zz09>

Passcode: 463228

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US: +13017158592,,81381417000#,,, *463228# or
+13126266799,,81381417000#,,, *463228#

Or Telephone:

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2. Approval of the prior meeting minutes (6:05-6:10 pm)
 - a. Approval of the draft April 13, 2022 Charter Commission Meeting Minutes
3. Public Hearing, Deliberation, and vote on Governance Model in Charter language (6:10-9:00 pm)
 - a. Description: Commissioners will hold a public hearing, deliberate, and vote on language intended to capture Commissioners' unofficial votes on reforms to the basic

City of Portland Charter Commission Agenda

Charter Commission Meeting

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structure of Portland's government:

Relevant documents(s):

a. Governance Model in charter language from Perkins Thompson

Older Documents:

b. Chann-O'Brien and Buxton-Washburn-Sheikh-Yousef-Kebede Overlap

c. Chann -O'Brien Proposal

d. Amendment to Chann-O'Brien Proposal (amended by Commissioners Buxton, Sheikh-Yousef, Kebede)

e. Commissioner Sheikh-Yousef's governance model proposal

f. Matrix comparison of two models

g. Commissioner Barowitz's organizational charts

h. Relevant research and interviews

4. Public Hearing, Deliberation, and Vote on Communication Policy (9:00-9:05 pm)
 - a. Description: Commissioners will hold a public hearing, deliberate, then vote on this proposal.
Relevant document(s):
 - a. Communication proposal
5. Public Hearing, Deliberation, and Vote on Office of Information Proposals (9:05-9:35 pm)
 - a. Description: Commissioners will hold a public hearing, deliberate, then vote on this proposal.
Relevant document(s):
 - a. Office of Information proposal
6. Ratification of Final Language for School Budget Proposal from Education Committee (9:40-9:50 pm).
 - a. Description: Commissioners will deliberate and vote to approve final language for this proposal.
Relevant document(s):
 - a. Proposal for school budget process
7. Ratification of Final Language for Capital Improvement Program Process Proposal from Education Committee (9:50-10:00pm)
 - a. Description: Commissioners will deliberate and vote to approve final language for this proposal.
Relevant document(s):
 - a. Proposal for capital improvement program process
8. Ratification of Final Language for Vacancies and Participatory Budgeting proposals (10:00-10:10 pm).
 - a. Description: Commissioners will deliberate and vote to approve final language for this proposal.

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Relevant document(s):

a. Proposal for Vacancies and Participatory Budgeting

9. Scheduling Discussion

- a. Description: Commissioners will decide whether to meet on any or all April 22nd, 25th, and May 4th. These meetings would be in addition to the commission's already-scheduled meeting on Wednesday, April 27, 2022.

10. New Business

11. Adjourn



City of Portland Charter Commission Meeting Minutes

April 13, 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 6:00 p.m.
Commissioners present were Kebede, Barowitz, Buxton (joined 6:08 p.m.), Chann, Eglinton, Houston, Lizanecz, O'Brien, Sheikh-Yousef, Stewart-Bouley, Washburn, and Waxman.
(Quorum established)

3. Review and Approval of Minutes

On motion by Commissioner Eglinton, seconded by Commissioner Washburn, the Commission voted to approve the draft meeting minutes of April 6, 2022, by roll-call vote of 12 to 0, with amendment by Commissioner Houston to correct a reference under new business to the amount of a proposed change to councilor pay.

4. Public Hearing, Deliberation, and Vote on School Budget Process Proposal from Education Committee

Commissioner Houston described the process changes made by this proposal to give the school board budget autonomy. Budget guidance would be provided by a Joint Committee on Budget Guidance – with four councilors and four school board members, covering a two-year period and updated annually. Commissioner Eglinton explained that the intent of the Joint Committee is to bring more of the budget development into public view and earlier in the process.

Public hearing was held and public comment was received.

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- a. On motion by Commissioner O'Brien to split the proposal to separate discussion of Eglinton amendment (Joint Committee on Budget Guidance) from school board autonomy, seconded by Commissioner Buxton, the Commission voted by roll-call vote 11 to 1 (Washburn) in favor of said split.
- b. Joint Committee on Budget Guidance: On motion by Commissioner Eglinton, seconded by Commissioner Waxman, the Commission voted unanimously to approve creation of the Joint Committee on Budget Guidance by roll-call vote of 12-0.
- c. School Board Autonomy: Commissioner Chann offered an amendment to address objection that city council is being taken out of the process. The amendment would give city council discretion to hold a public hearing and make a non-binding resolution with budget recommendation after the school budget is presented. Commissioner Houston thought this might be redundant with the Joint Committee process, but that it could be a friendly amendment.

Commissioner Sheikh-Yousef asked if the Commission is considering an executive mayor, why would it not consider school budget autonomy. Commissioner Chann observed this is already an issue between the school board and city council and he does not want to add to the issues. Commissioner Washburn asked if there was anything stopping the city council from making a non-binding resolution now. Commissioner Chann responded no, but this makes his amendment would make it explicit. Commissioner O'Brien agreed with Commissioner Sheikh-Yousef, and wondered if mayor could be intermediary between the school board and City Council. Commissioner Eglinton noted that the city council has the ability to make a non-binding resolution and to hold a Joint Committee on Budget Guidance, but that the Charter amendment would formally require it. Commissioner Houston raised a concern over how this amendment would impact school budget process.

Commissioner O'Brien acknowledged the problem between the school board and city council as legitimate. He recalled that the city council used to exercise line-item veto authority. He agreed with legal counsel, and also noted that the vast majority of Portlanders expect the city council and school board to work together on a solution.

Chair Kebede stated that he intended to review the arguments and make up his mind on the legal issues regarding school budget autonomy between May 9 and July 11 – before the Commission needs the attorney opinion. For now he will vote in favor.

Commissioner Houston stated he supports this; he thought last Charter Commission was trying to establish more school board/city council parity, but in practice, there still seemed to be imbalance. He added that he wants to streamline the process.

Commissioner Barowitz noted that this item has two constituencies – parents and taxpayers. Yet, education is a good investment in everyone's future.

Commissioner Buxton supports the proposal, which allows school board candidates to run on an agenda where they have budgeting authority.

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Commissioner Chann supports the proposal because of importance of education and what schools can do if not interfered with.

Commissioner Waxman supports Commissioner Eglinton's proposal but not this one. She recalled budget battles with the city council, when she organized parents and then ran for school board. She tried to change the temperature of the debate at the time and they were very successful. The city manager and superintendent worked together, there were more public hearings, and neighborhood meetings were inclusive. She said she does not support complete budget autonomy for the school board.

Chair Kebede stated that the current vote is whether to include the proposal in the Preliminary Report, to describe what the Commission intends to send to voters. It is conceivable that the Commission will remove the proposal from the final report, or may have another attorney sign off on a particular proposal or proposals.

Commissioner O'Brien observed that this is a challenge to State law and its intent, and the stakes are high to generate this level of risk.

On Motion by Commissioner Washburn, seconded by Commissioner Sheikh-Yousef, the Commission voted by roll-call vote, 9 (Washburn, Buxton, Barowitz, Lizanecz, Houston, Stewart-Bouley, Chann, Sheikh-Yousef, Kebede) to 3 (O'Brien, Waxman, Eglinton) in favor of the School Board Autonomy proposal.

5. Public Hearing, Deliberation, and Vote on Capital Improvement Program Process Proposal from Education Committee

Commissioner Eglinton presented the proposal to bring more parity between the school district and city regarding capital improvement program planning. Both Auburn and Lewiston Charters have language that requires the city manager/administrator and the superintendent to prepare a joint capital improvement program (CIP) plan. The proposal would be placed in Article VI, Administrative Officers.

Commissioner Buxton asked if there would be any changes with regard to an executive mayor. Commissioner Eglinton responded that the proposal should substitute whoever develops the City budget for the term "City Manager" currently in the draft.

Public hearing was held and public comment was received.

On Motion by Commissioner Eglinton, seconded by Commissioner Houston, the Commission voted by roll-call voted unanimously 12-0 to send this proposal to the voters.

Commissioner O'Brien stated that from experience, he believes this is important and is the right way to go.

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6. Public Hearing, Deliberation, and Vote on Code of Ethics Proposal from Procedures Committee

Commissioner Lizanecz explained that the proposal requires an Ethics Commission to be established and for it to adopt a code of ethics. Portland has some personnel and conflicts provisions, but not a code of ethics like Bangor has for elected and appointed officials. The proposal allows for interpretation of Charter and rendering of advisory opinions.

Commissioner Barowitz discussed the role and need for an Accountability Officer to administer the process. He explained that the language comes from other charters and ordinances, particularly the Bangor and Waterville ordinances. He clarified that the code of ethics would be proposed by the Ethics Committee and enacted as an ordinance by the City Council.

Public hearing was held and public comment was received.

Commissioner O'Brien said he will support the proposal but would be willing to work with legal counsel to truncate provisions. He offered ideas to shrink this text but not to change the "temperature" of the proposal. He would specify meeting at least annually, additional funding, the ability of the chief operating officer (COO) to request advisory opinion, reference to whistleblower laws, and that the accused are entitled to confidentiality. He added that the Ethics Commission would have the right to appoint an Accountability Officer (subject to funding). Commissioner Lizanecz said he was inclined to accept the "truncated" O'Brien proposal. Commissioner Barowitz hadn't completed his review and would take it under advisement. Chair Kebede recommended that the O'Brien proposal be considered when preparing the proposal in final Charter form with the input of Commissioners O'Brien, Barowitz, and Lizanecz as they work with the Commission's legal adviser.

On Motion of Commissioner Eglinton, seconded by Commissioner Lizanecz, the Commission voted by unanimous roll-call vote 12-0 in favor of the proposal.

7. First Read of Governance Model in Legal Language

Attorney Katsiaficas used his memorandum to provide an overview of the proposed governance changes in the Charter.

Commissioner Buxton recommended removing the existing reference to the city council's making agendas.

Commissioner O'Brien asked about the Legislative Committee membership by mayor with vote on committee. In discussion, this was a tradeoff for a non-councilor mayor who is the City's spokesperson in Augusta.

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Commissioner Barowitz had several questions and comments: (a) whether the Executive Committee would hold public meetings to develop agendas; (b) whether the Executive Committee would be subject to the Maine Freedom of Access Act; (c) the provisions regarding hiring and firing are not consistent in terms of votes (majority vs. supermajority); (d) a proposal for a more generic reference to a Legislative Committee, given that other city council committees are not listed in the Charter.

Commissioner Eglinton noted that the Legislative Committee is described on the city council's webpage as the Legislative/Nominating Committee. The legislative duties are to advocate at the state, regional, and federal levels, which seems fitting for the executive mayor to participate in.

Commissioner O'Brien explained that he sought to achieve a lawful way to set agenda. He asked for ideas for who could work with the mayor.

Commissioner Sheikh-Yousef asked what role an executive mayor would have as council chair with no vote. Attorney Katsiaficas suggested the mayor might serve as facilitator.

Commissioner Barowitz wondered where the annual election of Executive Committee came from; Attorney Katsiaficas explained this is a placeholder.

Commissioner Sheikh-Yousef suggested instead that the City have both a city council chair and a mayor.

Chair Kebede noted that April 27 is the final meeting for Preliminary Report, and recommended the Commission focus on concluding the governance package at the next meeting (April 20).

8. First Read of Office of Information

Commissioner O'Brien offered a proposal to establish an Office of Information; the communications director would be appointed as constitutional officer. The benefits would be: (a) provide fixed location for constituent services; (b) provide broader access to information, whereas the communications director now reports to the city manager; and (c) prevent gatekeeping of information. This proposal would create a new department of the same status as the city clerk's office.

9. Preamble and Land Acknowledgment, Ratification of Final Language

Commissioner Washburn made a motion, seconded by Commissioner Sheikh-Yousef, to add the final language to the Preliminary Report. Commissioner O'Brien moved to amend the language to remove "unceded" – which was withdrawn after Chair Kebede's explanation that this is the word indigenous leaders use and is not a legitimate legal argument. The

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Commission voted unanimously by roll-call vote 12-0 to ratify the language for the Preliminary Report.

10. Public Hearing, Deliberation, and Vote on School Board Vacancies proposal

Commissioner Houston explained that the initial draft has been modified so that the same vacancy process applies to city council and school board. It matches what is done in Auburn and elsewhere in Maine, and allows for filling of a vacancy of less than six months by appointment.

Public hearing was held and public comment was received.

Commissioner O'Brien asked who makes nominations for appointment, and Commissioner Houston responded that it is not specified – the school board and city council are responsible for their own nominations.

On motion by Commissioner Eglinton, with friendly amendment to include city council vacancies, seconded by Commissioner Sheikh-Yousef, the Commission voted by roll-call vote 11-0 (Chann absent) in favor of the proposal.

11. First Read of Peaks Island Council

Commissioner Lizanecz proposes placement of recognition of the existence of the “Peaks Island Council” in the Charter, as requested by the Peaks Island Council.

Commissioner Waxman noted that she has always believed the islands need their own representation, and so supports this. Commissioner Stewart-Bouley as an islander, approves of the proposal – the islands are not just another neighborhood, but truly unique.

Chair Kebede observed that this proposal simply gives recognition to the Peaks Island Council. It does not change what the Peaks Island Council can do, but just requires an ordinance and protects its existence by putting it in Charter.

12. New Business

Facilitation is available for the governance proposal next week; 6 Commissioners were in favor, 5 against. Chair Kebede agreed to consult with Samaa Abdurraqib and to set up brief conferences with Commissioners in advance.

Commissioners are asked to prepare narratives on their proposals for the preliminary report.

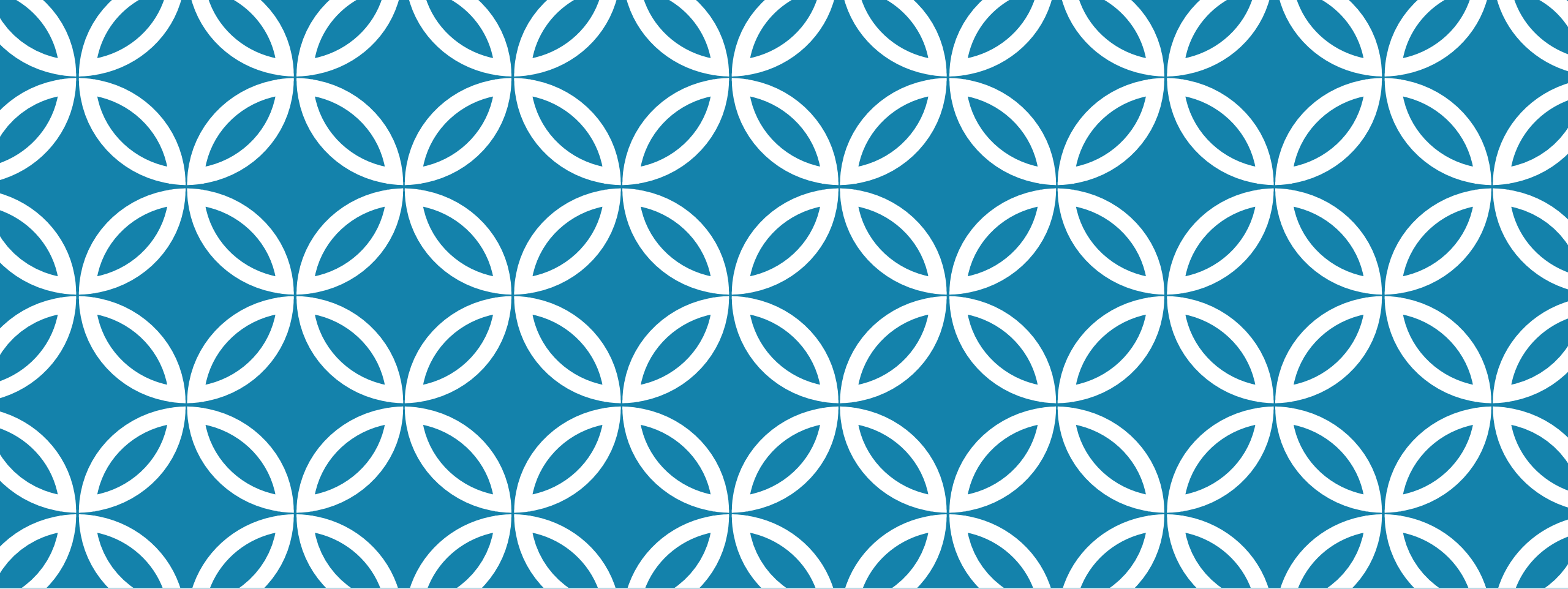
There was discussion of the addition of two meetings in case additional time is needed to complete pending proposals before the preliminary report is submitted. With the new meetings, the schedule is as follows (all meetings starting at 6:00 p.m.):

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Wednesday, April 20;
Friday, April 22;
Monday, April 25;
Wednesday, April 27; and
Wednesday, May 4.

13. Adjourn

On motion of Commissioner Waxman, seconded by Commissioner Washburn, the Commission voted unanimously (11-0) to adjourn at 10:56 p.m.



TWO PLANS FOR PORTLAND

An Overlap Analysis

KEY TO THE PLANS

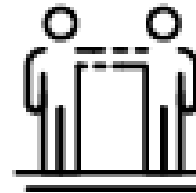
Blue Plan: Chann-O'Brien

Purple Plan: Chann-O'Brien as amended by Buxton, Kebede, Sheikh-Yousef and Washburn

Please note that colors are intended merely as handy ways to distinguish the plans and do not denote anyone's politics or opinions. They were chosen because they are the colors of Portland's two public high schools.



Agreement



Agreement in principle;
Details need to be
reconciled



We need to
talk

MAYOR AS CHIEF EXECUTIVE

The mayor shall be the chief executive officer of the City of Portland, overseeing and supervising the city administrator and implementing policies passed by the City Council.

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COUNCIL AS LEGISLATIVE BRANCH

The Mayor shall preside as chair of the City Council.

The Mayor shall cast a vote only in the event of a tie.

The Mayor and At-Large Councilors shall together form an Executive Committee, who will appoint Council members to committees.

The Executive Committee will develop and propose Council rules of procedure for adoption by the City Council.

The Executive Committee will serve as the official channel for the Mayor and Council to communicate with Constitutional Officers about policies, priorities, and to set agendas for Council meetings.

Councilors shall appoint members to committees and elect a 2-year council president.

The council president develops and proposes council rules of procedure for adoption by the council.

The council president serves as the official channel for Council to communicate with constitutional officers about policies, priorities, and agendas for Council meetings.

The mayor may propose legislation to be taken up by council. Individual council members may sponsor legislation. All city staff and members of the public may petition a councilor to sponsor legislation to be taken up on their behalf.



PUBLIC FIGUREHEAD

Mayor shall serve as the official representative of the City in Augusta and Washington, D.C.

Mayor shall serve as the official spokesperson for the City.

May form public task force by right with reasonable staffing support for any issue not taken up by Council.

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BUDGETARY POWERS

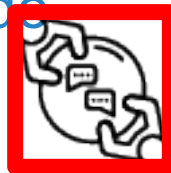
The Mayor shall present the City Budget to the Council for adoption.

The Mayor shall communicate their and City Council's priorities for the drafting of the City Budget by the City Manager, who will work with Department Heads to develop their departmental budgets.

The Mayor may veto the City Budget and the Council can override with a 2/3 majority vote.

The mayor, with the assistance of department heads and the city administrator, drafts and presents the annual city budget to the council for adoption.

The mayor, with the assistance of the city administrator, works with department heads to develop their departmental budgets.



HIRING AND FIRING OF CITY STAFF

The City Manager, Corporation Counsel, and City Clerk shall be hired following a search process that includes the Mayor and City Council and a majority vote of the City Council.

The Mayor shall chair the City Manager, Corporation Counsel, and City Clerk's annual performance review and may call, at any time, an executive session of the Council to discuss performance. These officers may be removed following a majority vote of the City Council.

The Mayor shall not have the power to unilaterally hire and fire city staff, including the City Manager, City Attorney, City Clerk, Department Heads.

The Mayor advises and consents to City Manager's nominations of Department Heads and presents to City Council for confirmation.

The mayor may not unilaterally hire and fire city staff, including the city administrator, city attorney, city clerk, and department heads.

The mayor nominates department heads and the city administrator, and presents nominations to the City Council for confirmation.

Only department heads may fire and hire city staff.

The council cannot unilaterally fire or hire officers, including the city administrator or department heads. The mayor shall recommend removal of an officer, and the council can approve with simple majority. If council seeks to discharge an officer, they should seek approval of the mayor, who will make the recommendation for removal to be approved by a majority of the council. Should the council seek to remove an officer without mayoral approval, they may only do so with a $\frac{3}{4}$ majority vote.



POLICY IMPLEMENTATION, ECONOMIC DEVELOPMENT, DAY-TO-DAY OPERATIONS

The Mayor shall ensure that policies passed by the Council are implemented by the City Manager and city staff and shall meet regularly with the Executive Committee and the City Manager to develop a plan for implementation to help ensure and measure accountability.

The Mayor shall lead an economic development task force.

The mayor oversees the implementation of policies passed by the council and shall meet regularly with the Council Executive Committee to develop implementation plans and report on results and measure accountability.

The mayor shall direct the city administrator and department heads to implement council policies.

The mayor shall lead an economic development task force.



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.			

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

EXECUTIVE + ADMINISTRATION

LEGISLATIVE + OVERSIGHT

EXECUTIVE

LEGISLATIVE

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

Reports to

Reports to

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

ADMINISTRATION

OVERSIGHT

GOVERNANCE COMPROMISE

(AMENDMENT)

Co-Sponsors: Commissioners CHANN and O'BRIEN amended by BUXTON, KEBEDE, SHEIKH-YOUSEF, and WASHBURN

MAYOR AS CHIEF EXECUTIVE

- The mayor shall be the chief executive officer of the City of Portland, overseeing and supervising the city administrator and implementing policies passed by the City Council.
- The mayor is no longer a member of the Council and does not have a council vote.

COUNCIL AS LEGISLATIVE BRANCH

- Councilors shall together form an Executive Committee, which appoints members to committees and elects a 2-year council president.
- The council president develops and proposes council rules of procedure for adoption by the council.
- The council president serves as the official channel for Council to communicate with constitutional officers about policies, priorities, and agendas for Council meetings.
- The mayor may propose legislation to be taken up by council. Individual council members may sponsor legislation. All city staff and members of the public may petition a councilor to sponsor legislation to be taken up on their behalf.

PUBLIC FIGUREHEAD

- The mayor shall serve as the official representative of the city in Augusta and Washington, D.C.
- The mayor shall serve as the official spokesperson for the city.
- The mayor may form public task forces with staffing support for any issue not taken up by the council.

BUDGETARY POWERS

- The mayor, with the assistance of department heads and the city administrator, drafts and presents the annual city budget to the council for adoption.
- The mayor, with the assistance of the city administrator, works with department heads to develop their departmental budgets.

REMOVAL OF MAYOR

- If the mayor is convicted of a felony materially related to their official duties, the City Council may, upon a vote of $\frac{3}{4}$ of its members, remove the mayor from their office.
- If the mayor engages in official misconduct or neglect of duty, the council may schedule a recall election by a $\frac{3}{4}$ ths vote. (from Westbrook)

APPOINTMENTS AND STAFFING

- The mayor may not unilaterally hire and fire city staff, including the city administrator, city attorney, city clerk, and department heads.
- The mayor nominates department heads and the city administrator, and presents nominations to the City Council for confirmation.

- Only department heads may fire and hire city staff.
- The council cannot unilaterally fire or hire officers, including the city administrator or department heads. The mayor shall recommend removal of an officer, and the council can approve with simple majority. If council seeks to discharge an officer, they should seek approval of the mayor, who will make the recommendation for removal to be approved by a majority of the council. Should the council seek to remove an officer without mayoral approval, they may only do so with a $\frac{3}{4}$ majority vote.

POLICY IMPLEMENTATION, ECONOMIC DEVELOPMENT, AND DAY-TO-DAY OPERATIONS

- The mayor oversees the implementation of policies passed by the council and shall meet regularly with the Council Executive Committee to develop implementation plans and report on results and measure accountability.
- The mayor shall direct the city administrator and department heads to implement council policies.
- The mayor shall lead an economic development task force.
- The mayor shall chair the city administrator's annual performance review and may call, at any time, an executive session of the council to discuss performance.

[CHANGES TRACKED]

GOVERNANCE COMPROMISE

Co-Sponsors: Commissioners CHANN and O'BRIEN amended by KEBEDE, BUXTON, SHEIKH-YUSUF, and WASHBURN

MAYOR AS CHIEF EXECUTIVE

- The mayor shall be the chief executive officer of the City of Portland, overseeing and supervising the ~~City Manager~~ city administrator and implementing policies passed by the City Council.
- The mayor is no longer a member of the Council and does not have a vote.
- ~~The mayor signs or vetoes all legislation enacted by the Council.~~
- ~~The mayor shall preside as chair of a twelve (12) member council.~~
- ~~The mayor shall cast a vote only in the event of a tie.~~
- ~~The mayor and At-Large Councilors shall together form an Executive Committee, who will appoint Council members to committees.~~
- ~~The Executive Committee will develop and propose Council rules of procedure for adoption by the City Council.~~
- ~~The Executive Committee will serve as the official channel for the mayor and Council to communicate with Constitutional Officers about policies, priorities, and to set agendas for Council meetings.~~

COUNCIL AS LEGISLATIVE BRANCH

- Councilors shall together form an Executive Committee, which appoints members to committees and elects a 2-year council president.
- The council president develops and proposes council rules of procedure for adoption by the council.
- The council president serves as the official channel for Council to communicate with constitutional officers about policies, priorities, and agendas for Council meetings.
- CB added: The mayor may propose legislation to be taken up by council. Individual council members may sponsor legislation. All city staff and members of the public may petition a councilor to sponsor legislation to be taken up on their behalf.

PUBLIC FIGUREHEAD

- The mayor shall serve as the official representative of the city in Augusta and Washington, D.C.
- The mayor shall serve as the official spokesperson for the city.
- The mayor may form public task forces ~~by right~~ with staffing support for any issue not taken up by the council.

BUDGETARY POWERS

- The mayor, with the assistance of department heads and the city administrator, drafts and presents the annual city budget to the council for adoption.

Commented [1]: Veto power was not in original document Michael sent. I think the veto powers significantly alters the powers of the mayor and makes this ****much**** less of a compromise proposal than Michael's original text. I'm still not sure where I land on veto power, but I think if the goal is still to encourage some council-mayor collaboration, it might be better to allow Mayor to sponsor legislation (and spell this out in detail in this proposal) and form legislative tasks force, rather than give mayor veto power. If the mayor doesn't have veto power and instead needs to collaborate w/ councilors to push their agenda, is that more collaborative? I don't think their lack of a veto makes them any less "accountable" to voters, we've just seen veto power abused pretty extensively in Maine, especially with such a split electorate.

Either way-- I think veto power is up for debate and I think we should hash it out as commission. I don't know if i can sign on to something with veto power for the mayor.

Commented [2]: Is this a Committee of the Whole or do councilors elect a few of their members as executives?

Commented [3R3]: Similar question: I think the WHOLE council should elect the whole of their executive committee-- so they all vote on their president and 2(?) other committee members to serve on Exec.

broader q is do they need an exec committee or is it better just to have 1 CP?

Commented [4]: this was a common thread b/tw Gov Committee and NSY proposal.

- The mayor, ~~with the assistance of the~~ shall direct the drafting of the City Budget by the City Manager, ~~who will work with and~~ city administrator, ~~shall~~ works with department heads to develop their departmental budgets.

REMOVAL OF MAYOR

- If the mayor is convicted of a felony materially related to their ~~the performance of the Mayor's~~ official duties, the City Council may, upon a vote of ¾ of its members, remove the mayor from their office.
- If the mayor engages in official misconduct or neglect of duty, the council may schedule a recall election by a 3/4ths vote. (from Westbrook)

APPOINTMENTS AND STAFFING

- The mayor may not unilaterally hire and fire city staff, including the ~~City Manager~~ city administrator, city attorney, city clerk, and department heads.
- The mayor ~~advises and consents to City Manager's~~ shall nominate ~~sions~~ department heads ~~and the city administrator,~~ and presents nominations to the City Council for confirmation.
- Only department heads may fire and hire city staff.
- ~~The city council may not unilaterally discharge department heads or the city administrator. These individuals Department heads/City Administrator may only be fired if the Mayor recommends such action and a majority of the council approves. The council cannot unilaterally fire or hire officers, including city administrator or department heads. The mayor shall recommend to remove an officer, council can approve with simple majority. If council seeks to discharge an officer, they should seek approval of mayor, who will make the recommendation for removal to be approved by majority of council. Should the council seek to remove an officer without mayoral approval, they may only do so with a ¾ majority vote.~~

POLICY IMPLEMENTATION, ECONOMIC DEVELOPMENT, AND DAY-TO-DAY OPERATIONS

- The mayor oversees the implementation of policies passed by the council and shall meet regularly with the Council Executive Committee to develop ~~a plan for implementation~~ plans and report on results, ~~to help ensure and measure accountability.~~
- The mayor shall direct the city administrator ~~and department heads~~ City Manager to implement council policies.
- The mayor shall lead an economic development task force.
- The mayor shall chair the ~~City Manager~~ city administrator's annual performance review and may call, at any time, an executive session of the council to discuss performance.

Commented [5]: I'm not sure I'm 100% behind this addition, I think it makes sense for the council to not be able to fire a mayor's staff out from under them, but at the same time...what if a mayor hires someone who turns out to be a real dumpster fire of a person, but they won't fire them because they're a personal friend, you'd want a check on that thru the council, right?)

Does it make more sense that the mayor can nom, hire, fire w/ a vote of 2/3rds of council, and council likewise can by 2/3 or even larger majority opt to remove a high level staffer? It offers a balance on power and addresses some folks concerns about cronyism better.

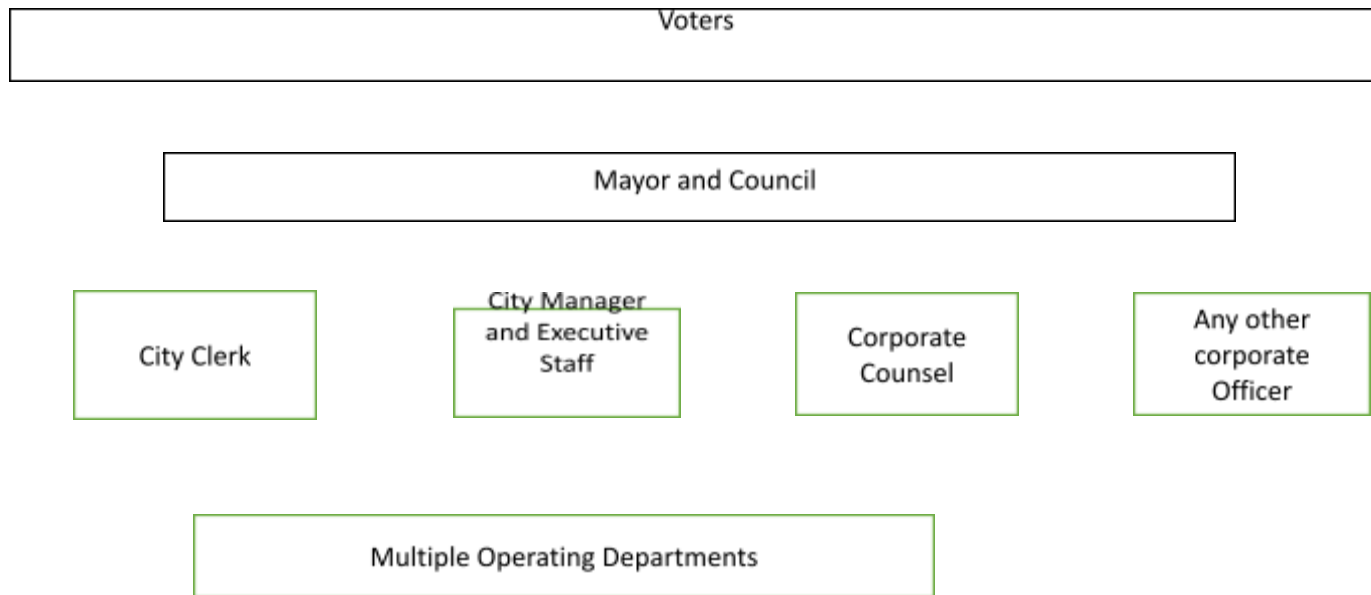
Commented [6]: This section feels a little convoluted. Does it make sense to say more simply:
"Mayor may hire and fire department heads and the city administrator with nomination and approval for any new hires or discharges with a 2/3 council vote? Department heads are responsible for hiring and firing of their own staffers."

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

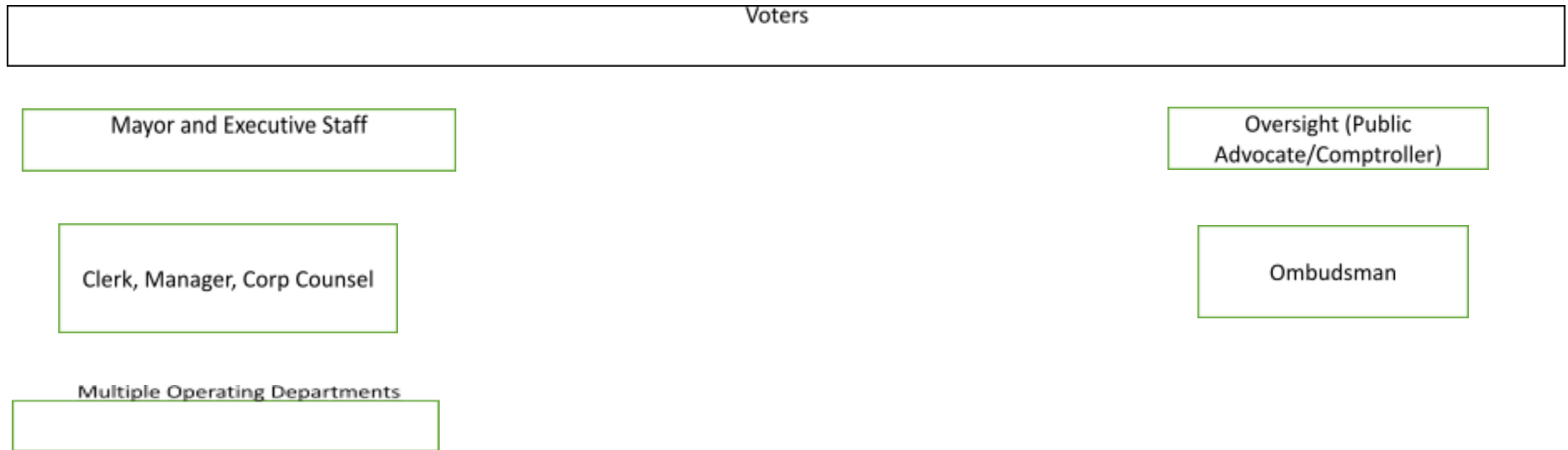
Often Cited Advantages of this form

- 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

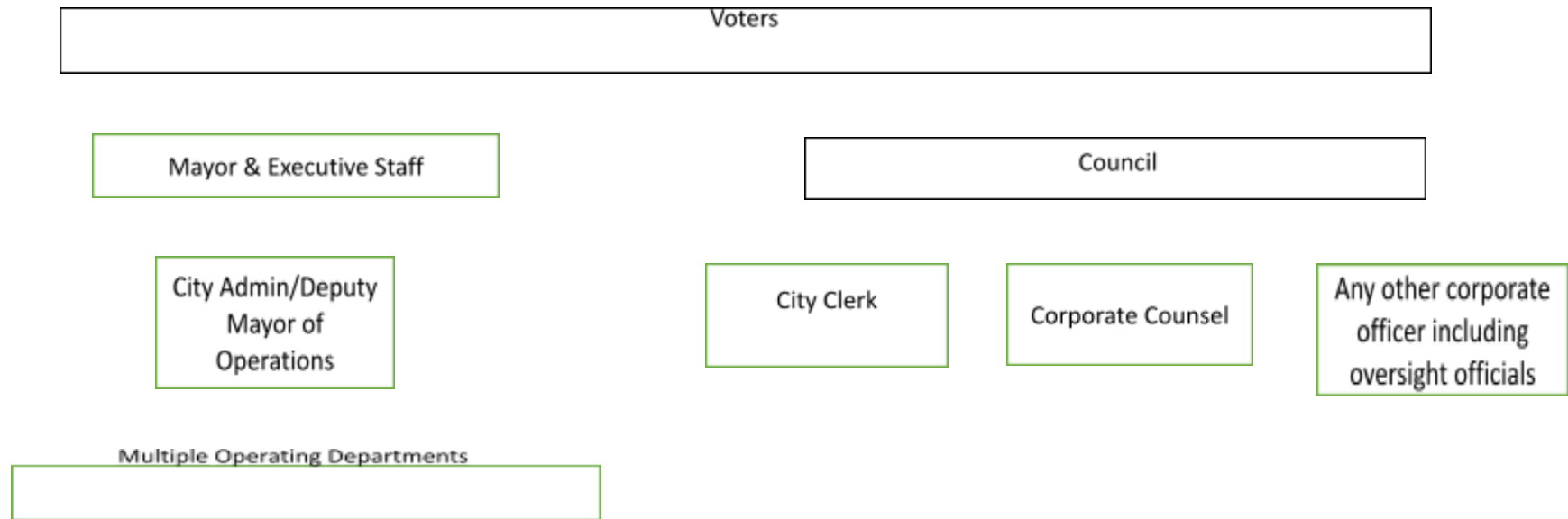
Often-cited Advantages of this form

- 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

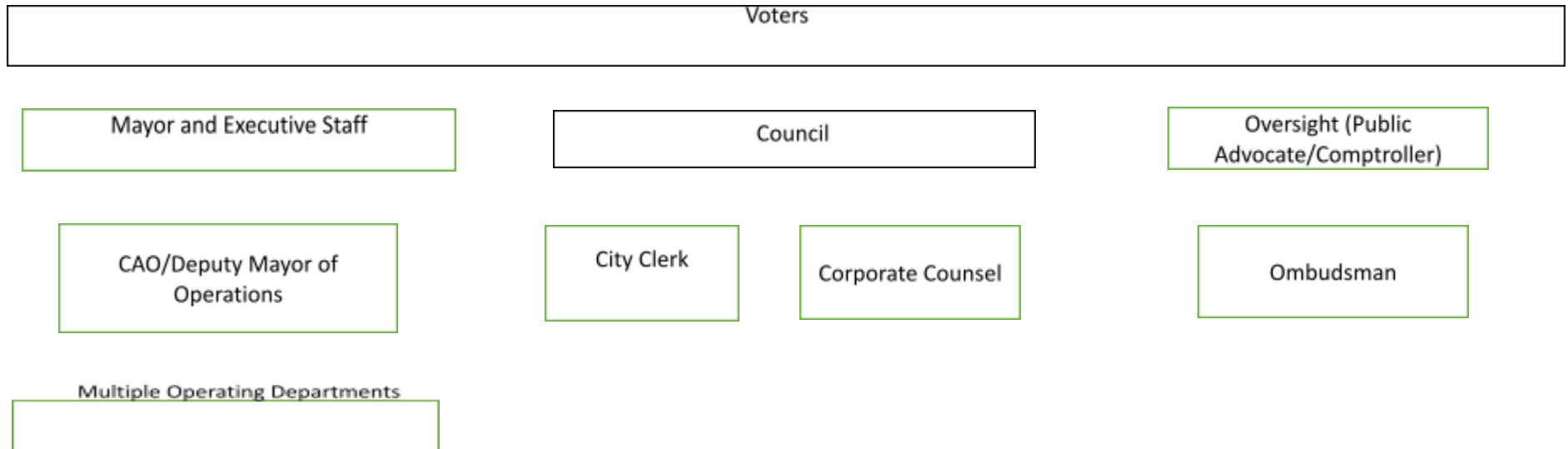
Often Cited Advantages of this form

- 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.

GOVERNANCE COMPROMISE

Co-Sponsors: Commissioners CHANN and O'BRIEN

MAYOR AS CHIEF EXECUTIVE

- The Mayor shall be the chief executive officer of the City of Portland with supervision of the City Manager and the implementation of policies passed by the City Council.
- The Mayor shall preside as chair of the City Council.
- The Mayor shall cast a vote only in the event of a tie.
- The Mayor and At-Large Councilors shall together form an Executive Committee, who will appoint Council members to committees.
- The Executive Committee will develop and propose Council rules of procedure for adoption by the City Council.
- The Executive Committee will serve as the official channel for the Mayor and Council to communicate with Constitutional Officers about policies, priorities, and to set agendas for Council meetings.

PUBLIC FIGUREHEAD

- Mayor shall serve as the official representative of the City in Augusta and Washington, D.C.
- Mayor shall serve as the official spokesperson for the City.
- May form public task force by right with reasonable staffing support for any issue not taken up by Council.

BUDGETARY POWERS

- The Mayor shall present the City Budget to the Council for adoption.
- The Mayor shall communicate their and City Council's priorities for the drafting of the City Budget by the City Manager, who will work with Department Heads to develop their departmental budgets.
- The Mayor may veto the City Budget and the Council can override with a 2/3 majority vote.

HIRING & FIRING OF CITY STAFF

- The City Manager, Corporation Counsel, and City Clerk shall be hired following a search process that includes the Mayor and City Council and a majority vote of the City Council.
- The Mayor shall chair the City Manager, Corporation Counsel, and City Clerk's annual performance review and may call, at any time, an executive session of the Council to discuss performance. These officers may be removed following a majority vote of the City Council.
- The Mayor shall not have the power to unilaterally hire and fire city staff, including the City Manager, City Attorney, City Clerk, Department Heads.
- The Mayor advises and consents to City Manager's nominations of Department Heads and presents to City Council for confirmation.

POLICY IMPLEMENTATION, ECONOMIC DEV & DAY-TO-DAY OPERATIONS

- The Mayor shall ensure that policies passed by the Council are implemented by the City Manager and city staff and shall meet regularly with the Executive Committee and the City Manager to develop a plan for implementation to help ensure and measure accountability.
- The Mayor shall lead an economic development task force.

PART I CHARTER*

***Editor's note**--Historical references are cited in parentheses at the end of each section. Such references cite only the various amendments adopted by referenda conducted pursuant to home rule powers granted by P.L. 1970, c. 563 (30 M.R.S.A. § 1911 et seq.). Prior to 1970 and home rule the charter and its various amendments were enacted by the Maine Legislature and such are not cited in said parentheses. A history of the charter and amendments is attached as Appendix A.

State law reference(s)--Home rule, 30 M.R.S.A. § 2101 et seq.

Preamble

Art. I. Grant of Powers to the City, §§ 1, 2
Art. II. City Council; Mayor, Ranked Choice Voting §§ 1--11 Art.
III. Board of Public Education, §§ 1--6
Art. IV. Elections, §§ 1--11 Art. V. Recall, §§ 1--7
Art. VI. Administrative Officers, §§ 1--8
Art. VII. Business and Financial Provisions, §§ 1--16 Art.
VIII. Miscellaneous Provisions, §§ 1--5

PREAMBLE

We, the People of Portland, Maine, establish this Charter to secure the benefits of local governance and to provide for the general health, safety and welfare of our community. In so doing, we build a government that meets the needs of the people it serves and whose character it reflects. Our government shall further cooperation, encourage leadership, solicit our input and support the active participation of our residents in their governance. Our government shall be effective and accountable and shall promote equal rights and representative democracy.

Our government shall provide public education that enables all residents to acquire the knowledge and skills necessary to participate fully in Portland's civic, intellectual, cultural and economic life, in order to enrich and strengthen our community and our common future.

(Referendum 11/2/10)

ARTICLE I. GRANT OF POWERS TO THE CITY

Section 1. Corporate existence retained.

The inhabitants of the City of Portland shall continue to be a body politic and corporate by the name of the City of Portland, and shall have, exercise, and enjoy all the rights, immunities, powers, privileges, and franchises and shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise, pertaining to or incumbent upon such city as a municipal corporation or to the inhabitants or municipal authorities thereof; and may enact reasonable by-laws, regulations, and ordinances for municipal purposes, not inconsistent with the Constitution and laws of the State of Maine, and impose penalties for the breach thereof as such by-laws, regulations, or ordinances shall provide. Such penalties shall not limit nor diminish in any way the city's authority to seek and obtain higher or different penalties provided by state or other law. (Referenda 12/4/72; 11/2/10)

Section 2. Powers and duties.

The administration of all the fiscal, prudential, and municipal affairs of the City of Portland, with the government thereof, except the general management, care, conduct, and control of the schools of such city which shall be vested in a board of public education as hereinafter provided (also referred to herein as the "school board"), and also except as otherwise provided by this charter, shall be and are vested in the mayor and in one body of nine members, which shall constitute and be called the city council, all of whom shall be inhabitants of the city, and shall be sworn in the manner hereinafter prescribed.

The executive powers of the city shall be vested wholly in the mayor and may be exercised either personally or through the chief operating officer ("COO") and the several departments and boards of the city, under the mayor's general supervision and control

The legislative powers of the city shall be vested in the city council. The members of the city council shall be and constitute the municipal officers of the City of Portland for all purposes required by statute, and, except as otherwise herein specifically provided, shall have all powers and authority given to, and perform all duties required of, municipal officers and mayors of cities under the laws of this state.

All other powers now or hereafter vested in the inhabitants of such city, and all powers granted by this charter, except as

herein otherwise provided, shall be vested in the city council.
(Referendum 11/2/10)

ARTICLE II. MAYOR

Section 1. Election, tenure of office.

The position of mayor shall be elected by majority vote as provided in section 3 of article III. The candidate(s) for mayor shall be nominated in the same manner as at large members of the council. The term of mayor shall be four (4) years, with a maximum limit of two consecutive terms. The election and position of mayor shall be a non-partisan, full-time position.

Notwithstanding the prior paragraph, for the municipal election in November of 2023, the election for mayor shall be for a one-time one-year term ending in 2024. Thereafter, the mayor shall be elected every four (4) years in line with the presidential election.

Section 2. Compensation of the mayor.

Prior to the date nomination papers are available for the first mayoral election, the city council shall set the mayor's compensation and shall re-set it prior to the date nomination papers are available for each mayoral election thereafter. During the mayor's term, the city council may adjust the mayor's compensation, but no such order increasing the mayor's compensation shall take effect during the then current municipal year, and no such payment of compensation shall be made in advance. At minimum, the mayor shall be paid compensation consisting of a salary which is no less than one and one-half (1.5) times the median household income for Portland as most recently published by the U.S. Census Bureau, American Community Survey, or successor index thereto, at the time such compensation is set or adjusted, plus customary city benefits.

The mayor shall not hold any office or employment the compensation of which is payable by the city or school department during the term for which he or she was elected.

Section 3. Mayor's powers and duties.

The mayor shall be the chief executive officer of the city, responsible for providing leadership, and shall have the following

Commented [A1]: Comm. Sheikh-Yousef suggested that the mayor only serve 2 consecutive 4-year terms which is how the language currently reads.

Commented [A2]: Comm. Sheikh-Yousef has requested that the mayor be elected on the same cycle as the US President.

Commented [A3]: Comm. Sheikh-Yousef has requested the mayor's salary be set at a minimum level of 10% higher than the salary of the highest paid department head

Commented [A4]: Chair Kebede suggests should be "increasing or decreasing" rather than just "increasing," to protect against the council docking the Mayor's pay.

powers and duties:

- (a) To articulate the city's vision and goals and build coalitions to further such vision and goals. The mayor shall give an annual state of the city address during a special meeting of the city council called for that purpose;
- (b) To introduce policy and legislation to the city council through a public process, such as a task force created for such purpose, or through standing city council committees;
- (c) To convene and lead an annual workshop session of the city council to discuss and identify the city's goals and priorities in order to provide guidance for the city's chief operating officer (COO) and to inform the public. The COO shall attend this workshop session, and a summary of the session shall be made available to the public;
- (d) To represent the city with other municipalities, levels of government, community and neighborhood groups, and the business community;
- (e) To preside as chair of the city council, but without a vote on any matters before the city council except as otherwise provided by this charter;
- (f) To facilitate the implementation of city policies and keep the city council informed as to the progress on all city council directives, the general financial standing of the City, the current status of all negotiations, and recommendations for city council action. With regard to the delivery of city services, the mayor may inquire about specific issues pertaining to city services but shall not intervene on behalf of an individual regarding city business.
- (g) To direct the COO in the preparation of all city budgets and present the budget to the city council for approval;
- (h) To direct the COO in the preparation of the annual capital improvement program plan described in article VI, section 5, paragraph (i), and to present such program plan to the city council;
- (i) To facilitate among the COO, city council, board of public education and the public to secure passage by the city

Commented [A5]: Chair Kebede recommends that the mayor should be able to introduce policy directly to the council, in addition to the channels already specified.

Commented [A6]: Chair Kebede suggests "COO" or "chief operating officer" should be replaced with "mayor," since mayor is policy leader and chief executive under our proposal

Commented [A7]: Comm. Sheikh-Yousef has suggested removing the mayor as chair of the council and empowering council to elect Council President as Chair.

Commented [A8]: Chair Kebede recommends replace "facilitate" with "lead". The mayor is the CEO, not the city manager/COO.

Commented [A9]: Comm. O'Brien has requested stronger language to avoid micromanaging of COO.

council of the annual city and school budgets;

(j) To exercise veto power over the annual city appropriation as provided in article VIII, section 8;

(k) To be a voting member of the executive committee established pursuant to article VII, section 9;

(l) To be a voting member of the review committee established pursuant to article VII, section 10;

(m) To be the public figurehead for the city. In this role the mayor:

1. Shall serve as the official representative of the city in Augusta, nationally and internationally;

2. Shall serve as the official spokesperson for the city;

3. May form public task force(s) by right with reasonable staffing support for any issue not taken up by the city council; and

4. Shall be a voting member of the city council's legislative committee.

Commented [A10]: Chair Kebede asks does mayor have veto power over other appropriations (e.g., supplemental appropriations)? I think the answer should be yes (see below at Art. VIII, Sec. 7).

Notwithstanding the foregoing, the COO shall be in charge of the day to day operations of the city and administration of the city budgets presented by the Mayor and approved by the city council. The mayor shall not have the power to intervene in the day to day operations of the city. (Referendum 11/2/10)

Commented [A11]: Chair Kebede states that The unnumbered bit that starts "Notwithstanding" and ends "council" should be deleted. I don't see why we would have language that entirely undermines the ceo mayor's power.

Section 4. Absence or disability of mayor; acting mayor.

In the temporary absence or disability of the mayor, the mayor may select an acting mayor from among the other council members and such person shall perform the duties of the mayor during such temporary absence or disability for a maximum of sixty consecutive (60) days or return of the mayor, whichever comes first. If through physical or mental incapacity the mayor is unable to select an acting mayor, or if the mayor's absence or disability exceeds sixty (60) consecutive days, the council shall select an acting mayor from among its membership until such time as the mayor is able to resume his or her duties or a vacancy is declared pursuant to section 7 below and a new mayor elected. (Referendum 6/13/78; 11/7/00; 11/2/10)

Commented [A12]: Chair Kebede asks do we envision staff for the mayor? If so, do we want to give the mayor the power to hire support staff who report to the mayor alone?

Commented [A13]: Comm. O'Brien has requested stronger language to avoid micromanaging of COO.

Commented [A14]: Comm. Sheikh-Yousef has suggested that the Council President is first in line to replace the mayor in event of vacancy or incapacity which has been added below

Section 5. Vacancy of mayor.

A vacancy in the office of mayor shall occur upon the happening of the following: (1) the death of the mayor; (2) the effective date of the resignation of the mayor; (3) the removal of mayor from the city; (4) the conviction of the mayor of a felony directly related to the duties of mayor while in office; (5) the recall of the mayor pursuant to the provisions of article V; or (6) the removal of the mayor by the council pursuant to section 6 of this article.

The council shall declare a vacancy in the office of mayor to exist upon the qualification of the mayor for any city or school department office, or the acceptance of any employment with the city or school department, the compensation for which is payable by the city or school department.

The mayor may in writing addressed to the council resign his or her office effective at a future date specified in such written resignation. Once submitted to the council, such resignation may not be withdrawn, and the mayor's office shall become vacant on such specified future date.

If a vacancy in the office of mayor occurs or is declared prior to the next regular municipal election, the vacancy shall be filled by the Council President until such time that a special election takes place on the same date as the next scheduled municipal or state election which is no less than 127 days after the date the vacancy occurs or is declared, unless the council, by a vote of at least six (6) of its members, calls a special election on an earlier date. Such election shall be called and held and nominations made as in other elections. (Referenda 11/2/76; 11/4/86; 11/2/99; 11/2/10)

Section 6. Recall and removal of mayor.

The mayor may be removed from office by the city council for office for any of the following reasons:

- (a) Engaging in official misconduct or neglect of duty. Complaints received by the city that the mayor is engaging or has engaged in official misconduct or neglect of duty shall be sent to the ethics commission for review. The ethics commission shall review such complaint with at least seven (7) days written notice of the complaint and of the ethics commission meeting to the mayor, who may attend with counsel, and the

Commented [A15]: Comm. Sheikh-Yousef has suggested that the Council President be first in line to replace the mayor in event of vacancy (until the next regular municipal election)

ethics commission shall make a recommendation on the complaint to the full city council. A recommendation to remove the mayor for official misconduct or neglect of duty shall specify as particularly as possible the acts of misconduct or the instances of neglect of duty complained of, should be filed with the city clerk, who shall serve a copy of that recommendation upon the mayor at the mayor's residence. Any vote to order a recall election of the mayor for official misconduct shall require a vote of three-fourths (3/4) of all the members the city council.

- (b) Conviction of a felony materially related to the duties of the mayor. Upon the conviction of the mayor of a felony materially related to the duties of the mayor, the city council shall vote on a resolution to remove the mayor for such conviction. Any vote to remove the mayor for a conviction shall require a vote of three-fourths (3/4) of all the members of the city council.

At any hearing of the ethics commission or meeting of the city council in which the removal of the mayor is the topic, the mayor shall have the right to be present, speak, be represented by counsel, and present a defense.

ARTICLE ~~IIII~~. CITY COUNCIL

Section 1. City to be divided into election districts.

For the purpose of all elections the city, including its islands, shall be divided into five (5) districts to establish compact and contiguous districts of approximately equal population.

The city council for voting purposes may by ordinance divide the election districts into voting districts. (Referenda 11/2/76; 6/13/78; 11/4/86; 11/2/11)

Section 2. Composition, election, tenure of office.

The city council shall be composed of nine (9) members, including the mayor who shall be one of the nine (9) members of the city council, and shall hold office for a term of three (3) years and until their successors are elected and qualified, except as provided below for the term of mayor and for one at large seat in the election of 2013 only. Four (4) members, including the mayor, shall be elected at large from and by the registered voters

Commented [A16]: Chair Kebede states: This ethics complaint is vulnerable to abuse. Current language arguably requires the ethics commission to meet anytime anyone makes a complaint. Portland residents with personal vendettas can force ethics meetings. I suggest saying something like: "the ethics commission shall provide a written response confirming receipt of any ethics complaints and forward the same to the mayor, and may, if it deems such action necessary, make a recommendation to the city council."

Commented [A17]: Comm. Sheikh-Yousef has suggested enlarging the council to 13 to prevent ties. [This conversation may be better served as part of the redistricting redline that will be forthcoming.]

Commented [A18]: Comm. Sheikh-Yousef raised a comment regarding two or three-year terms for councilors. Currently, the charter provides for three year terms.

of the entire city, and one (1) shall be elected from each of the five (5) districts heretofore provided for, from and by the registered voters of each district. ~~References in this charter to the city council, councilors, council, its members or membership, shall be deemed to include the mayor, unless otherwise specifically provided.~~

For the municipal election in November of 2013, one of the two at large seats up for election shall have a one-time four year term ending in 2017. Thereafter, the council term shall return to be three (3) years for this seat. The city clerk shall designate which seat shall be for the four (4) year term prior to the availability of nomination papers for the 2013 election, and nomination papers shall be separately issued for each of the two at large seats. Each at large candidate may take out and file nomination papers for only one of the at large seats. The municipal ballot will list the 4-year and 3-year council seats as separate questions.

All candidates must be residents of the city for a period of at least three (3) months prior to the date on or before which nomination papers are to be filed. The candidate from each of the five (5) districts must be a resident of such district for a period of at least three (3) months prior to the date on or before which the nomination papers are to be filed.

~~Beginning with the regular municipal election in November, 2011, the at large position then up for election shall be designated as the mayor's position and shall continue as the mayor's position thereafter. The position of mayor only shall be elected by majority vote as provided in section 3 of this article. The candidate(s) for mayor shall be nominated in the same manner as other at large members of the council. The term of mayor shall be four (4) years, with a maximum limit of two consecutive terms. The election and position of mayor shall be a non-partisan, full-time position. (Referenda 12/1/75; 6/13/78; 11/4/86; 11/3/87; 11/2/10; 11/6/12)~~

Section 3. City council president.

The city council shall be led by a Council President who shall be elected by majority vote by the members of the city council and shall preside over meetings of the city council. The Council President shall appoint another council member to serve as Council Vice President to preside over city council meetings in the Council President's absence. The appointment of a Council Vice President shall be affirmed by a majority vote of all of the members of the city council. In case of the absence of the

Council President and Council Vice President, the city council shall choose a Council President, pro tempore, by a majority vote of those members present and voting. In case of a vacancy in the office of Council President, by death, resignation or otherwise, the same shall be filled for the unexpired term by a majority vote of those members present and voting by roll call.

The Council President shall be a voting member of the executive committee established pursuant to article VII, section 9

Section 34. Ranked choice voting; instant runoff tabulation.

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

- (a) The ballot shall give voters the option of ranking candidates in order of choice.
- (b) If a candidate receives a majority, i.e. at least one more than fifty percent (50%) of the first choice votes cast, that candidate is elected.
- (c) If no candidate receives a majority of first choice votes, an instant runoff re-tabulation shall be promptly conducted by the city clerk and completed within five (5) business days of the election. The instant runoff re-tabulation shall be conducted in successive rounds, with the majority determined for each successive round by the number of votes cast in that round. The candidate with the fewest votes after each successive round in which no candidate receives a majority of the votes cast in that round shall be eliminated, and the votes in the successive rounds shall be re-tabulated among the remaining candidates until one candidate receives a majority of the votes cast in that round. In each successive round, each voter's ballot shall count as a single vote for whichever candidate the voter has ranked highest who has not been eliminated in a prior round, if any.
- (d) After the first round, a majority is determined as at least one (1) more than fifty percent (50%) of the votes cast for a remaining candidate in a particular round.
- (e) The city clerk may adopt additional regulations consistent with this subsection to implement these

Commented [A19]: Comm. Sheikh-Yousef suggested adding a Council President to chair the council and serve on the executive committee. The draft language is based upon Westbrook's charter.

provisions. The ballot shall contain instructions on how to vote for each office.
(Referenda 11/2/2010; 3/3/2020)

Section 45. Compensation of councilors ~~and mayor.~~

~~Except as otherwise provided in the paragraph below for the mayor's compensation, the~~ The city council shall by order establish the amount each member shall be entitled to receive as compensation for all services rendered, and specify when any compensation shall be payable, but no such order increasing their compensation ~~, including that of the mayor,~~ shall take effect during the then current municipal year, and no such payment of compensation shall be made in advance.

~~Prior to the date nomination papers are available for the first mayoral election, the city council shall set the mayor's compensation and shall re-set it prior to the date nomination papers are available for each mayoral election thereafter. During the mayor's term, the city council may adjust the mayor's compensation. At minimum, the mayor shall be paid compensation consisting of a salary which is no less than one and one half (1.5) times the median household income for Portland as most recently published by the U.S. Census Bureau, American Community Survey, or successor index thereto, at the time such compensation is set or adjusted, plus customary city benefits.~~ No member shall hold any office or employment the compensation of which is payable by the city or school department during the term for which he or she was elected. (Referenda 12/1/75; 6/13/78; 11/4/86; 11/3/87; 11/2/10)

~~Section 5. Mayor's powers and duties.~~

~~The mayor shall be the official head of the city, responsible for providing leadership, and shall have the following powers and duties:~~

- ~~(a) To articulate the city's vision and goals and build coalitions to further such vision and goals. The mayor shall give an annual state of the city address during a special meeting of the city council called for that purpose;~~
- ~~(b) To convene and lead an annual workshop session of the city council to discuss and identify the city's goals and priorities in order to provide guidance for the city manager and to inform the public. The city manager shall attend this workshop session, and a summary of the session shall be made available to the public;~~

- ~~(c) To represent the city with other municipalities, levels of government, community and neighborhood groups, and the business community;~~
- ~~(d) To preside as chair of the city council, and vote upon all matters in the same manner as other members of the city council, except as provided in article VII, section 8. The mayor shall direct the city manager in the preparation of council meeting agendas;~~
- ~~(e) To facilitate the implementation of city policies through the office of the city manager;~~
- ~~(f) To consult with and provide guidance to the city manager in the preparation of all city budgets and to provide comments on such budgets at the time they are presented by the city manager to the city council for approval;~~
- ~~(g) To consult with and provide guidance to the city manager in the preparation of the annual capital improvement program plan described in article VI, section 5, paragraph (i), and to provide comments on such program plan at the time it is presented by the city manager to the city council;~~
- ~~(h) To facilitate among the city manager, city council, board of public education and the public to secure passage by the city council of the annual city and school budgets;~~
- ~~(i) To exercise veto power over the annual city appropriation as provided in article VII, section 8;~~
- ~~(j) To establish performance guidelines in conjunction with the other members of the city council for regular evaluations, no less than annually, by the city council of the performance of the city manager, corporation counsel and city clerk, such evaluations to be based upon those guidelines. Such performance guidelines shall have measurable goals and objectives, taking into consideration, as applicable, the achievement of city policies and priorities;~~
- ~~(k) To chair any subcommittee with at least two (2) other city councilors to recommend the appointment or removal of the city manager, corporation counsel or the city clerk, but the full city council shall have the final decision in~~

~~regard to such appointment or removal by a vote of at least five (5) members of the council; and~~

- ~~(1) To appoint the members and chairs of the city council committees and various ad hoc committees and communicate such appointments to the city council, which may override such appointments by a vote of at least six (6) council members.~~

~~Notwithstanding the foregoing, the city manager shall be in charge of the day to day operations of the city and administration of the city budgets approved by the council. (Referendum 11/2/10)~~

~~Section 6. Absence or disability of mayor; acting mayor.~~

~~In the temporary absence or disability of the mayor, the mayor may select an acting mayor from among the other council members and such person shall perform the duties of the mayor during such temporary absence or disability for a maximum of sixty consecutive (60) days or return of the mayor, whichever comes first. If through physical or mental incapacity the mayor is unable to select an acting mayor, or if the mayor's absence or disability exceeds sixty (60) consecutive days, the council shall select an acting mayor from among its membership until such time as the mayor is able to resume his or her duties or a vacancy is declared pursuant to section 7 below and a new mayor elected. (Referendum 6/13/78, 11/7/00, 11/2/10)~~

Section 76. Vacancies.

A vacancy in the membership of the city council shall occur upon the happening of the following: (1) the death of a member; (2) the effective date of the resignation of a member; (3) the removal of a member from the district from which he or she was elected; (4) the removal of a member from the city; (5) the conviction of a member of a felony while in office; or 6) the recall of a member pursuant to the provisions of article V. The council shall declare a vacancy in its membership to exist upon the failure of a member to attend any six (6) consecutive regular meetings of the city council, or at least sixty (60) percent of the regular meetings of the city council held in any one calendar year unless such member shall be excused (by vote of at least four (4) other members) for health reasons or other good cause.

The council shall declare a vacancy in its membership to exist upon the qualification of any member for any city or school department office, or the acceptance of any employment with the city or school department, the compensation for which is payable by the city or school department.

A member may in writing addressed to the council resign his or her office effective at a future date specified in such written resignation. Once submitted to the council, such resignation may not be withdrawn, and such member's office shall become vacant on such specified future date.

If a vacancy in the membership of the city council occurs or is declared prior to the next regular municipal election, the vacancy shall be filled at a special election to take place on the same date as the next scheduled municipal or state election which is no less than 127 days after the date the vacancy occurs or is declared, unless the council, by a vote of at least six (6) of its members, calls a special election on an earlier date. Such election shall be called and held and nominations made as in other elections. (Referenda 11/2/76; 11/4/86; 11/2/99; 11/2/10)

Section ~~87~~. Meetings of the council.

The city council shall meet at the usual place for holding meetings on the first Monday in ~~December-January~~ following the regular municipal election, or as soon thereafter as possible, and at such meeting the mayor and councilors-elect shall be sworn to the faithful discharge of their duties by a justice of the peace, or by the city clerk. The city council shall at such meeting establish by resolution or rule a regular place and time for holding its meetings, and shall meet regularly at least twice each month. (Referenda 6/13/78; 11/4/86; 11/7/00; 11/2/10)

Commented [A20]: Comm. Sheikh-Yousef requested changing the swearing in of newly elected officials to first Monday in January.

Section ~~98~~. Special meetings.

Special meetings may be called by the mayor, and in case of his or her absence, disability, or refusal, may be called by five (5) or more members of the city council. At least twenty- four (24) hours notice of the time and place of holding such special meeting shall be given to all members of the city council. (Referendum 11/2/10)

Section ~~109~~. Quorum.

Five (5) members of the city council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least twenty-four (24) hours' notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which adjournment was taken. (Referendum 11/2/10)

Section ~~1110~~. Procedure.

The city council shall keep a record of its proceedings and shall determine its own rules of procedure and make lawful regulations for enforcing the same. The meetings of the city council shall be open to the public in accordance with state law. The city council shall act only by ordinance, order, or resolve. All ordinances, orders, and resolves, except orders or resolves making appropriations of money, shall be confined to one subject which shall be clearly expressed in the title. An appropriation order or resolve shall be confined to the subject of appropriations only.

No ordinance and no appropriation order or resolve shall be passed until it has been read on two separate days, except when the requirement of a second reading on a separate day has been dispensed with by the vote of at least seven (7) members of the city council. The yeas and nays shall be taken upon the passage of all ordinances and entered on the record of the proceedings of the city council by the clerk. The yeas and nays shall be taken on the passage of any order or resolve when called for by any member of the city council. Every ordinance, order, and resolve shall require on final passage the affirmative vote of at least five (5) members of the city council. No ordinance shall take effect until thirty (30) days after its passage and no order or resolve shall take effect until ten (10) days after its passage, except as herein otherwise provided for emergency ordinances, orders and resolves.

The city council may, by vote of at least seven (7) of its members, pass emergency ordinances, orders, or resolves to take effect at the time indicated therein, but such emergency ordinances, orders, or resolves shall contain a section in which the emergency is set forth and defined, provided, however, that the declaration of such emergency by the city council shall be conclusive. (Referendum 11/2/10)

ARTICLE ~~III~~IV. BOARD OF PUBLIC EDUCATION

Section 1. Composition, election, tenure of office, compensation.

The board of public education shall be composed of nine (9) members who shall hold office, except as hereinafter provided, for a term of three (3) years and until their successors are elected and qualified. Four (4) shall be elected at large from and by the

registered voters of the entire city, and one (1) shall be elected from each of the five (5) districts heretofore provided for in section 1 of article II, from and by the registered voters of each such district.

All candidates must be residents of the city for a period of at least three (3) months prior to the date on or before which nomination papers are to be filed. The candidate from each of the five (5) districts must be a resident of such district for a period of at least three (3) months prior to the date on or before which the nomination papers are to be filed.

The city council shall by order establish the amount each member of the school board shall be entitled to receive as compensation for all services rendered, which compensation shall be the same as that received by members of the city council, ~~other than the mayor~~. The city council shall provide additional compensation to the chair of the school board appropriate to reflect his or her additional responsibilities as chair. (Referenda 11/2/76; 6/13/78; 11/4/86; 11/3/87; 11/2/10)

Section 2. Chair.

On the first Monday in December following the regular municipal election, or as soon thereafter as possible, the board of public education shall elect one of its members as chair for the ensuing year and until a successor is elected and qualified, and may fill for the unexpired term any vacancy as chair that may occur.

At a date and time to be mutually agreed upon by the chair of the school board and the mayor, the chair shall deliver an annual address on the "state of the public education system in Portland" to the city council and the public. (Referenda 11/2/76; 6/13/78; 11/7/00; 11/2/10)

Section 3. Organization.

The school board shall meet for organization on the first Monday in December following the regular municipal election, or as soon thereafter as possible. The members-elect shall be sworn to the faithful discharge of their duties by a justice of the peace or by the city clerk, and a record made thereof. The members shall at such meeting, or as soon thereafter as possible, establish a regular place and time for holding meetings and shall meet regularly at such place and time. Five members of the school board shall constitute a quorum for the transaction of business,

but a smaller number may adjourn from time to time. At least twenty-four (24) hours' notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which adjournment was taken. (Referenda 6/13/78; 11/7/00; 11/2/10)

Section 4. Powers and duties.

The board of public education shall have all the powers, and perform all the duties in regard to the care and management, including sound fiscal management, conduct, and control of the public schools of the city, which are now conferred and imposed upon school committees and school boards by the laws of this state, except as otherwise provided in this charter. (Referendum 11/2/10)

Section 5. School budget.

Not later than three and one-half (3.5) months before the end of the fiscal year, the superintendent shall submit to the school board budget estimates of the various sums required for the support of public schools for the ensuing fiscal year and shall thereafter provide the school board with such information relating to such estimates as the school board shall require.

During the thirty (30) days following submission of the superintendent's proposed budget to the school board, the school board and the city council, or their designated subcommittees, shall meet jointly at least twice to review the proposed school budget, focusing on its underlying assumptions and supporting data and the ability of the city to raise the necessary funds for the support of such proposed budget. The superintendent and the ~~city manager~~^{COO} shall provide information regarding such proposed budget as reasonably requested by the school board and the city council, or their designated subcommittees.

The budget submitted by the superintendent to be reviewed jointly by the school board and the city council shall provide a complete financial plan of all school funds and activities for the ensuing fiscal year. In organizing the school budget for joint review, the superintendent shall utilize the most feasible combination of expenditure classification by fund, organization, unit, program, purpose or activity, and object. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income and all proposed expenditures, including debt service for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated

income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. The total of proposed expenditures shall not exceed the total of proposed income.

Not later than the last Monday in April of each fiscal year, the school board shall submit to the city council a budget of the various sums required for the support of the public schools for the ensuing fiscal year in the format provided above, and shall thereafter provide the city council with such information relating to such budget as the city council shall require.

A budget hearing on such budget estimates shall be held prior to final action by the city council. The city council in its appropriation resolve for the ensuing year shall, in addition to amounts appropriated for other general city purposes, appropriate one gross amount for the support of the public schools, which amount shall not be less than the sum required to be appropriated for such purposes by the general laws of the state. Such gross amount shall not be less than the sum requested by the school board except by a vote of at least six (6) members of the city council. Such appropriation shall be expended under the direction and control of the school board but no such appropriation shall be exceeded except by consent of the city council.
(Referendum 6/13/78; 11/2/10)

Section 6. Vacancies.

A vacancy in the membership of the board of public education shall occur upon the happening of the following: (1) the death of a member; (2) the effective date of the resignation of a member; (3) the removal of a member from the district from which he or she was elected; (4) the removal of a member from the city; (5) the conviction of a member of a felony while in office; or (6) the recall of a member pursuant to the provision of Article V. The school board shall declare a vacancy in its membership to exist upon the failure of a member to attend any six (6) consecutive regular meetings of the school board or at least sixty (60) percent of the regular meetings of the school board held in any one calendar year unless such member shall be excused (by a vote of at least four (4) of the members) for health reasons or other good cause. A member may in writing addressed to the school board resign his or her office effective at a future date specified in the written resignation. Once submitted to the school board, such resignation may not be withdrawn and such member's office shall become vacant on the specified future date.

If a vacancy in the membership of the school board occurs or is declared prior to the next regular municipal election, the vacancy shall be filled at a special election to take place on the same date as the next scheduled municipal or state election which is no less than 127 days after the date the vacancy occurs or is declared, unless the council, by a vote of at least six of its members, calls a special election on an earlier date and shortens the time for obtaining and filing nomination petitions established in article IV, section 6. Such election shall be called and held and nominations made as in other elections. (Referenda 11/2/76; 11/4/86; 11/2/99; 11/2/10)

ARTICLE ~~IV~~. ELECTIONS

Section 1. Continuity in office.

In the event redistricting of the city shall cause a then council member or school board member to reside in a district other than that from which such person was elected, the office of such member shall not thereby be considered vacated but such member shall continue in office until a successor is duly elected and qualified. Each district councilor and district school board member in office on the effective date of any such redistricting shall be deemed to represent the newly constituted district of the same numerical designation as that formerly represented and shall continue to serve in that capacity until expiration of his or her term. (Referenda 6/13/78; 11/4/86; 11/2/10)

Section 2. Regular municipal election.

On the first Tuesday after the first Monday in November of each year, the regular municipal election shall be held and the registered voters of the city or district, as the case may be, shall ballot for a mayor and for such councilors and for such members of the school board as may be necessary to fill the offices of those whose terms would then normally expire and fill any existing vacancy in an unexpired term of office. (Referenda 12/1/75; 11/2/76; 6/13/78; 11/4/86; 11/7/00; 11/6/01; 11/2/10)

Section 3. Wardens and ward clerks.

The wardens and ward clerks shall be nominated by the city clerk and appointed by order of the city council. They shall be and remain residents of the city and all other qualifications for appointment shall be as provided in Title 21-A of the Maine Revised Statutes. They shall hold their office for one year from the date of appointment, unless a shorter term is specified by the

order of appointment, and until others have been chosen and qualified in their stead. The warden and the ward clerk shall be sworn to the faithful performance of their duties by a person qualified under the statutes of the state to administer oaths, and a certificate of such oath shall be entered by the clerk on the records of such ward. (Referenda 11/2/76; 6/13/78; 11/4/86, 11/4/08; 11/2/10)

Section 4. Nominations.

The nominations of all candidates for elective offices provided for by this charter shall be by petition. The petition of a candidate for mayor or an at large council seat or at large school board seat shall be signed by not less than three hundred (300) nor more than five hundred (500) registered voters of the city. The petition of a candidate for a district council seat or a candidate for a district school board seat shall be signed by not less than seventy-five (75) nor more than one hundred fifty(150) registered voters of the respective district. Voters may sign petitions for more than one (1) candidate for each office to be filled at the election. (Referenda 12/1/75; 11/2/76; 11/4/86; 11/4/08; 11/2/10)

Section 5. Form of nomination petition.

The signatures to nomination petitions need not all be affixed to one nomination petition, but to each separate petition there shall be attached an affidavit of the circulator thereof stating the number of signers of each petition, and that each signature appended thereto was made in his or her presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer giving the street and number of the street, or other description sufficient to identify the same. The form of the nomination petition shall be substantially as follows:

To the city clerk of the City of Portland

We, the undersigned voters of the City of Portland, hereby nominate, _____ whose residence is _____ for the office of _____ to be voted for at the election to be held in the City of Portland on the _____ day of _____, _____, and we individually certify that we are qualified to vote for a candidate for the above office.

Name _____ Street and Number _____, being duly sworn,

deposes and says, that he (she) is the circulator of the foregoing nomination petition containing _____ signatures, and that the signatures appended thereto were made in his or her presence and are the signatures of the persons whose names they purport to be.

(Signed) _____.

Subscribed and sworn to before me this _____ day of _____, _____.

Attorney, State of Maine Bar # _____
Notary Public

If this petition is deemed insufficient by the city clerk, he or she shall forthwith notify by mail _____ at _____. (Referendum 11/2/10)

Section 6. Filing of nomination petitions, and acceptance of nomination.

The city clerk shall make nomination petitions available to the candidates one hundred and twenty-seven (127) days prior to the election. The nomination petitions for any one (1) candidate must be assembled and united into one (1) petition and filed with the city clerk during normal business hours not earlier than eighty-five (85) nor later than seventy-one (71) days before the date of election. No nomination shall be valid unless the candidate shall file with the city clerk in writing at the time of filing of such nomination petitions his or her consent accepting nomination, agreeing not to withdraw and, if elected, to qualify. Such nomination petitions and consent, once filed may not be withdrawn. Any challenge to a nomination petition must be submitted to the city clerk in writing, setting forth the specific reasons for the objection, no later than five (5) days, excluding Saturdays, Sundays, and legal holidays, from its date of filing, or it is barred. No person shall take out nomination papers for more than one position at the same election, nor be nominated, nor shall any person consent to being nominated, at the same election for any other elective office provided for by this charter, and no person shall simultaneously hold more than one (1) elective office provided for by this charter. (Referenda 11/2/76; 6/13/78; 11/4/86; 11/6/01; 11/4/08; 11/2/10)

Section 7. Form of ballot.

All official ballots for use in all municipal elections shall be prepared by the city clerk and furnished by the city, consistent with the voting machines used and the form of any state ballot(s), and the use of ranked choice voting. Ballots for use in elections under this charter shall contain the names of the various candidates, with their residence, and the office for which they are candidates, and instructions on how to mark the ballot. The candidates for each office shall be grouped under the title of each office, plainly and distinctly marked. There shall be as many blank spaces under the name of each office as there are vacancies to be filled. The procedure for counting write-in votes shall be governed by Title 21-A, Maine Revised Statutes, unless inconsistent with article II, section 3, in which case the charter provisions shall govern. Notwithstanding the foregoing, in the event of an emergency such as the illness, death or disqualification of a nominee for municipal office prior to the general election, the time frame for accepting a declared write-in candidate may be shortened by the city clerk. Such ballots may also contain such measures as may be submitted to the voters of the city by the legislature or by the city council and shall be without party mark or designation.

In preparing all ballots for election under this charter, the city clerk shall arrange the names of all qualified candidates for each office in alphabetical order according to surnames.
(Referenda 11/2/2010; 3/3/2020))

Section 8. Specimen ballots.

The city clerk shall cause specimen or sample ballots to be prepared and to be posted in public places in each ward and voting precinct and advertised in the newspapers not later than ten (10) days prior to the municipal election. Such specimen ballots shall be printed on colored paper and marked "Specimen Ballot," and shall contain the names of the certified candidates with the residence of each, instructions to voters, and such measures as may be submitted to the voters by the legislature or by the city council. Such specimen ballots shall also be without party mark or designation. (Referendum 11/6/01; 11/2/10)

Section 9. Count of ballots.

Upon closing of the polls, ballots shall be counted in accordance with Title 21-A, Maine Revised Statutes, unless inconsistent with article II, section 3, in which case the charter provisions shall govern, and the results thereof delivered to the

city clerk by the wardens. (Referendum 11/2/10)

Section 10. Canvass of returns.

The city clerk shall examine the records of the several voting places and within forty-eight (48) hours after such election shall determine and declare the successful candidates as follows: The person or persons, not exceeding the number to be voted for at any one time for any office, having the majority of votes cast at such election, shall be determined and declared to be elected. If no candidate for mayor, city council, or school board has a majority of the votes cast as provided in article II, section 3, the city clerk shall conduct an instant runoff tabulation as provided in such section until the candidate with the majority of votes cast is determined. The city clerk shall provide written notice of the election results to all candidates. (Referenda 11/6/01; 11/2/10; 3/3/2020)

Section 11. State election laws applicable.

The laws of the state in Title 21-A of the Revised Statutes relating to the qualifications of electors, registration, the manner of voting, the duties of election officials, and all other particulars in respect to preparation for conducting and managing elections, so far as they may be applicable, shall govern all municipal elections in the City of Portland, except as provided below regarding 42-day pre-election reports and as otherwise provided herein.

In addition to the reports required for municipal candidates by Title 21-A of the Maine Revised Statutes, 42-day pre-election reports must be filed by municipal candidates no later than 11:59 p.m. on the 42nd day before the date on which a general election is held and must be complete as of the 49th day before that date.

Nothing in this charter shall prohibit the use of electronic or revised voting methods and procedures to the extent authorized by state and/or federal law. (Referenda 11/4/08; 11/6/2018)

ARTICLE ~~VVI~~. RECALL

Section 1. Applicability.

~~The mayor or A~~any member of either the city council or the school board may be recalled and removed from office by the registered voters of the City of Portland, as hereinafter provided, except that this provision shall not apply to a member of

either body who has one (1) year or less to serve in his or her term, i.e., any petition to recall a member must be certified by the clerk no later than November 30 of the year prior to that member's next scheduled November re-election date. (Referenda 11/4/86; 11/2/10)

Section 2. Petition for recall.

In the case of either the mayor, or an at large member of the city council or of the school board, any five hundred (500) registered voters of the city may affirm and file with the city clerk an affidavit containing the name of the mayor or of the member of the city council or of the school board whose removal is sought, together with a statement of the reasons why such removal is desired. In the case of a district member of the city council or of the school board, any two hundred and fifty (250) registered voters of the member's district may affirm and file with the city clerk an affidavit containing the name of the district member whose removal is sought, together with a statement of the reasons why such removal is desired. Members of the city council and of the school board shall not be included on the same affidavit and only one member's name shall be on an affidavit.

Within seven (7) calendar days of receipt of such an affidavit, the city clerk shall prepare a sufficient number of petitions which shall contain the signature of the city clerk, his or her official seal, the date, and the name of the person whose removal is sought. In addition, the statement of reasons for removal referred to above shall either be printed on such petitions or attached thereto. Such petitions shall be on paper of uniform size with as many individual sheets as reasonably necessary.

The city clerk shall file the completed petitions in his or her office. During the thirty (30) days following their filing, the city clerk shall arrange to have petitions, noting that removal is being sought as well as the reasons therefor, available for signature both at city hall and also at public places as indicated below. Notice of the location of the public places where petitions may be signed shall be given by publication at least forty-eight (48) hours in advance and such notice shall contain the specific location of such public place or places, the dates it or they will be open, and the times during which petitions may be signed. In the case of either a district councilor or a district school board member, the city clerk shall select one (1) site outside of city hall, but within the district of the member whose removal is sought, and such location shall be open for four (4) days between the hours of noon and 8:00 p.m. In the case of at

large councilors or members of the school board, the city clerk shall select four (4) sites outside of city hall and such locations shall be open for four days each between the hours of noon and 8:00 p.m.

The city clerk shall designate election clerks to supervise each such site. Election clerks shall be residents of Portland and at least eighteen (18) years of age. They shall be sworn to the faithful performance of their duties by the city clerk. Each qualified voter who signs a petition shall include his or her place of residence, providing either the street and number or a description sufficient to identify the place.

To mandate a vote in the case of ~~the mayor or~~ an at large councilor or an at large member of the school board, the recall petition must be signed by at least three thousand (3,000) registered voters of the city, or in the case of a district councilor or district member of the school board, by at least fifteen hundred (1,500) registered voters of that member's district. (Referenda 12/1/75, 11/4/86; 11/2/10)

Section 3. Verification of recall petition.

At the expiration of the thirty (30) day period for signing petitions described in section 2, the city clerk shall declare the petition closed and, within ten (10) days thereafter, shall ascertain whether or not the petitions have been signed by the requisite number of registered voters. The city clerk shall attach his or her certificate, showing the results of such examination, to the petitions.

If the clerk's certificate should show that the petitions are insufficient, he or she shall advise both the city council and also the person or persons whose removal was sought of that fact. A finding of insufficiency shall not prejudice the filing of a new petition for the same purpose, except that such new petition shall not be filed within twelve (12) months from the date of the receipt of the clerk's certificate by the city council. (Referenda 11/4/86; 11/2/10)

Section 4. Calling of recall election.

If the clerk's certificate should show that the petitions are sufficient, he or she shall submit them, together with the clerk's certification, to the city council at its next regular meeting following certification, and shall also notify the person or persons whose removal is sought. The city council shall, within

ten (10) days of receipt of the clerk's certificate, or on its own in the case of a council vote to hold a recall election for the mayor under article II, section 6, order an election to be held not less than forty-five (45) nor more than ninety (90) days thereafter; except that, if a regular municipal election should occur within ninety (90) days after receipt of the certificate, the city council may, in its discretion, schedule the recall election for the same date as the regular municipal election. The recall election shall be called and held as other elections under this charter, except for the specific limitations imposed by this article.

All registered voters in the city may vote on the recall of the mayor or an at large member of the council or school board; only the registered voters of the applicable district may vote on the recall of a district member of the council or school board. (Referenda 11/4/86; 11/2/10)

Section 5. Form of ballot.

Unless the mayor or the member or members whose removal is sought shall have resigned within ten (10) days after the receipt by the city council of the clerk's certificate or of the council's vote to hold a recall election for the mayor, the form of the question to be submitted to the voters shall, as nearly as possible, be: "Shall (name of official and his or her title) be recalled?" (Referendum 11/4/86)

Section 6. Count of ballots.

In case a majority of those voting for and against the recall of any official shall vote in favor of recalling such official, he or she shall be thereby removed, and, in that event, the candidate to succeed such person for the balance of the unexpired term shall be determined as provided for in the case of a vacancy in the office.

If a majority of those voting should decline to recall a particular official, then no proceedings, seeking the recall of that same official, shall be initiated under this article within twelve (12) months from the date of the election in which his or her recall was sought. (Referendum 11/4/86)

Section 7. Election may be ordered.

If the mayor or a member of either the city council or school

board who is recalled should either request a recount or dispute the election as permitted by law, then that member shall remain in office until the recount or dispute has been finally determined; and the provisions of article II, section 7, ~~and~~ article III, section 6, and article IV, section 6 relating to vacancies in the office of the mayor, city council or school board, shall be stayed. (Referendum 11/4/86; 11/2/10)

ARTICLE ~~VIII~~ VII. ADMINISTRATIVE OFFICERS

Section 1. Appointments.

- (a) The following officers shall be recommended for appointment by the executive committee and approved~~appointed~~ by vote of at least five (5) members of the city council: ~~city manager~~COO, city clerk, and corporation counsel, chief of police, and ~~they may appoint~~ constables at large.
- (b) All department heads shall be recommended for appointment by the executive committee and approved by a vote of at least five (5) members of the city council. ~~appointed by the city manager, subject to confirmation by the city council.~~
- (c) All attorneys employed in the corporation counsel's office shall be appointed by the corporation counsel, subject to confirmation by the city council.
- (d) All other employees shall be appointed by the ~~city manager~~COO upon recommendation of the heads of their departments. (Referendum 11/4/86; 11/2/10)
- ~~(d)~~ (e) All persons recommended for appointment shall be recommended solely on the basis of character and qualification to perform the duties of the office or position to be filled by the appointment.

Section 2. Organizational powers.

The city council shall have power to provide by ordinance for the organization, conduct, and operation of the departments, agencies, offices, and boards of the city, for the creation of additional departments, agencies, offices, and boards and for the division of any such departments, agencies, offices, and boards; and for the alteration, abolition, assignment, or reassignment of all such departments, divisions, agencies, offices and boards;

Commented [A21]: Comm. Sheikh-Yousef has requested a discussion regarding the Public Advocate. This governance proposal has not fleshed out the idea of a Public Advocate or an "Ombudsman" whether elected or appointed.

Commented [A22]: Chair Kebede suggests that the Chief of Police, now appointed by the Council as a department head, be appointed as an officer along with the COO, corporation counsel and city clerk.

Commented [A23]: Chair Kebede suggests replacing "approved" with "confirmed" and "recommended" with "nominated" in Section 1 (a) and (b). This would be in keeping with the general practice of approval processes for officers who are appointed by executives. Subsection (c) already uses "confirmed."

provided, however, there shall be a director of finance to perform the functions specified in article VII of this Charter. The city council shall, by ordinance, designate those department heads responsible for performing duties required by state law. (Referendum 11/4/86)

Section 3. Civil service rules.

The city council shall provide by ordinance for a system of civil service rules for the appointment, promotion, demotion, lay-off, reinstatement, suspension, and removal of the members of the police department and of the fire department, other than the chiefs of such departments, and for a civil service commission to administer the same.

Section 4. Compensation and tenure of offices.

The city council shall fix by order the salaries of the appointees of the city council. Salaries of the appointees of the ~~city manager~~COO shall be fixed by the ~~city manager~~COO, subject to the approval of the city council. All appointive officers shall hold office during the pleasure of the appointing power.

Section 5. Appointment; qualifications; powers and duties of the ~~city manager~~Chief Operating Officer (COO).

The ~~city manager~~COO shall be ~~recommended by the mayor and chosen approved by~~ the city council solely on the basis of character and executive administrative qualifications, and may or may not be a resident of the City of Portland or of the State of Maine at the time of appointment. Such person shall give bond for the faithful discharge of his or her duties to the City of Portland and in such sum as the city council shall determine and direct, and with surety or sureties to be approved by the city council. The premium on such bond shall be paid by the city. Such person shall be ~~responsible for the delivery of city services~~ ~~the administrative head of the city~~ and shall be responsible to the ~~city council~~mayor for the administration of all departments. Neither the mayor nor members of the city council shall direct, request or interfere with the appointment or removal of any of the officers or employees of the city for whom the ~~city manager~~COO is responsible, nor shall any of them give an order, publicly or privately, to any such city officer or employee relating to any matter in the line of that officer's or employee's city employment. Notwithstanding the foregoing, nothing herein is intended to prevent the ~~city manager~~COO from assigning staff to work and communicate directly with councilors, boards and

Commented [A24]: Chair Kebede recommends the same as above, replace "approved" with "confirmed" and "recommended" with "nominated."

Commented [A25]: Comm. O'Brien suggested a set of changes to address the mayor/COO division of executive responsibilities and duties, and this is part of those changes.

commissions, council committees, neighborhood and other groups and organizations, on city work.

The ~~city manager's~~ COO's powers and duties shall be as follows:

- (a) To see that the laws and ordinances are enforced, but shall delegate to the chief of the police department the active duties connected therewith regarding criminal conduct.
- (b) To exercise control over all departments, divisions, agencies, and offices created herein or that may be hereafter created.
- (c) To implement the policy decisions of the mayor and city council.
- (d) To coordinate city programs and operations and recommend improvements in such programs and operations to the ~~council~~ mayor.
- (e) To prepare city budgets, ~~at the direction of the mayor in consultation with and incorporating policy guidance of the mayor, and to present such budgets to the council. Upon presentation of the budget by the mayor to the council, the COO shall provide a memo to the council on behalf of city staff, which memo may include, but shall not be required, such advice, guidance, information or requests that the COO believes is relevant on behalf of all non-union staff and departments.~~
- (f) To make appointments as provided in this charter.
- (g) To attend meetings of the city council, except when his or her removal is being considered, and recommend for adoption such measures as he or she may deem expedient.
- (h) To keep the city council fully advised as to the business and financial condition and future needs of the city and to furnish the city council with all available facts, figures, and data connected therewith when requested.
- (i) To prepare a five (5) year rolling capital improvement plan, at the direction of the mayor, for annual presentation by the mayor to the city council, which plan includes the following:

Commented [A26]: Chair Kebede notes that his communications policy suggests that we cut the portion that starts "nor shall any of them" and ends "on city work." Jim Cohen testified to the governance committee about the problems that this provision created.

Commented [A27]: Comm. O'Brien has suggested an amendment whereby the COO can provide a budget memo to the council

Commented [A28]: Chair Kebede observes that the last clause of this subsection seems to suggest that the COO has the power to recommend policy. I would strike the last clause of this section, since policy proposals are the ceo-mayor's province.

Commented [A29]: Chair Kebede notes that this seems to allow the COO to go above the mayor's head and make presentations to the city council. I would want the mayor to have power over the COO making such presentations -- or provide for a procedure through which the council may request such presentations.

1. A one (1) year plan of specific projects and their cost;
 2. A two (2) through five (5) year plan of specific projects and general categories, and amounts of proposed spending and funding sources; and
 3. A discussion of the basis for the plan and the factors which went into its development or amendments.
- (j) To prepare and submit to the city council such reports as are requested or he or she deems advisable; and
- (k) To perform such other duties as may be prescribed by this charter or required by ordinance of the city council.
(Referenda 11/4/86; 11/2/10)

Section 6. Vacancy in office of ~~city manager~~COO.

During any vacancy in the office of ~~city manager~~COO, and during any absence or disability of the ~~city manager~~COO of more than sixty (60) days, the city council shall designate a properly qualified person to perform the duties of manager and fix such person's compensation. During a temporary absence of sixty (60) days or less, the ~~city manager~~COO may designate a qualified person to perform the duties of manager during such absence. While so acting, such person shall have the same powers and duties as those given to and imposed on the ~~city manager~~COO. Before entering his or her duties, he or she shall give bond to the City of Portland in a sum and with surety or sureties to be approved by the city council. The premium on such bond is to be paid by the city.
(Referendum 11/2/10)

Section 7. Duties of administrative officers.

Duties of administrative officers shall be prescribed by the appointive power, but such duties shall not be inconsistent with this charter or any ordinance enacted by the city council as provided herein. (Referendum 11/4/86; 11/2/10)

Section 8. Continuity in office.

Any and all officers, department heads, and employees of the City of Portland on the effective date of this charter shall continue in such capacity until a successor is appointed and qualified as provided herein, unless sooner removed by the

Commented [A30]: Chair Kebede states that the appointment process for the COO in the COO's absence should mirror the appointment process for the original COO. As currently written, this section gives the COO the power to designate her own successor.

appointive power designated herein. (Referendum 11/4/86; 11/2/10)

Section 9. Executive committee.

The executive committee shall consist of the mayor, the Council President, and one (1) city councilor elected annually by the city council; The executive committee shall appoint the members and chairs of the city council committees and various ad hoc committees and communicate such appointments to the city council, set city council agendas, and undertake such other duties as may be assigned by the city council. The executive committee shall also recommend the appointment of the COO, corporation counsel and the city clerk, as provided in article VII, section 1(a) and of department heads as provided in article VII, section 1(b). the appointment process for the COO in the COO's absence should mirror the appointment process for the original COO. As currently written, this section gives the COO the power to designate her own successor.

Section 10. Review committee.

The review committee shall consist of the mayor and . The review committee shall establish performance guidelines for regular evaluations, no less than annually, and for performance reviews as stated below, of the performance of the COO, corporation counsel and city clerk, such evaluations and reviews to be based upon those guidelines. Such performance guidelines shall have measurable goals and objectives, taking into consideration, as applicable, the achievement of city policies and priorities.

Any member of the city council or executive committee (including the mayor) may file a complaint with the review committee regarding the performance of the COO, corporation counsel or city clerk at any time. Upon receipt of such a complaint, the review committee shall determine if a performance review is required. If a performance evaluation or performance review is performed based on a complaint, the review committee shall determine whether to bring forward a request for removal of the individual to the city council to be heard in executive session. Any vote to remove the COO, corporation counsel or city clerk shall require a vote of two-thirds (2/3) of all of the members the city council.

Any member of the city council or executive committee (including the mayor) may file a complaint with the review committee regarding the performance of any department head. Upon

Commented [A31]: Comm. Sheikh-Yousef has suggested that the Executive Committee be comprised of the mayor, council president, and one other city councilor; Comm. Barowitz has suggested replacing the Committee with a Council Speaker, Council President, or Council Chair; Chair Kebede suggests an Executive Committee consisting of a Council Vice-Chair and Council Secretary, with ability to advise the Mayor in the creation of agendas.

Commented [A32]: Chair Kebede asks who chairs the Executive Committee? I would suggest the mayor.

receipt of such complaint, the review committee, in consultation with the COO, shall determine if a performance review is required of such department head. If a performance review is performed based on the complaint, the review committee shall determine whether to bring forward a request for removal of the department head to the city council. Any vote to remove a department head shall require a simple majority vote of all of the members of the city council

ARTICLE ~~VIII~~VIII. BUSINESS AND FINANCIAL PROVISIONS

Section 1. Accounts and records.

Accounts shall be kept by the director of finance, showing the financial transactions of all departments of the city, and the school department. Accounts shall be kept in such a manner as to show fully at all times the financial condition of the city. The director of finance shall furnish to the ~~city manager~~COO and mayor each month a report containing in detail the revenues, expenses and expenditures of the city on all accounts, and for each appropriation item the expenditures made and the obligations incurred during the preceding calendar month and the total unencumbered balance. All the accounts of the city and the school department shall be audited annually by a qualified certified public accountant to be chosen by the city council. (Referendum 12/1/75; 11/2/10)

Section 2. Collaboration between city and schools.

To the extent practicable and lawful, the city and the school department shall endeavor to share staff and resources and otherwise cooperate with one another in order to provide better city and school services in a cost effective manner. (Referendum 11/2/10)

Section 3. Reports.

The director of finance shall publish each month a set of financial statements reflecting the financial condition of the city and the school department, and such other financial information as may be required by the city council.

The director of finance shall produce a comprehensive financial report on an annual basis which conforms to "Generally Accepted Accounting Principles." (Referendum 11/2/10)

Section 4. Fiscal year.

The fiscal year of the city shall be July 1 through June 30, or such other fiscal year as the city council shall determine. (Referenda 6/13/78; 11/4/86; 11/2/10))

Section 5. Annual budget.

Not later than two (2) months before the end of the fiscal year, the ~~city manager~~mayor shall submit to the city council a proposed city budget prepared by the ~~city manager~~COO and mayor for the ensuing fiscal year. ~~The mayor shall submit comments on the proposed city budget, along with any proposed modifications, concurrently with the manager's submission.~~

The city council shall fix a time and place for holding a public hearing upon the proposed city budget prepared by the ~~manager~~COO and mayor, and shall give not less than ten (10) days prior public notice of such hearing, which hearing shall be at least ten (10) days before the final passage of the appropriation resolve. (Referenda 6/13/78; 11/4/86; 11/2/10)

Section 6. Budget content.

The proposed city budget prepared by the ~~manager~~COO and mayor shall provide a complete financial plan of city general and enterprise funds and activities for the ensuing fiscal year. In organizing the budget, the ~~city manager~~COO and mayor shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating proposed tax levies, and all proposed expenditures, including debt service for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year.

The total of proposed expenditures shall not exceed the total of proposed income. (Referenda 6/13/78; 11/2/10)

Section 7. Appropriation resolve.

The city council shall adopt the annual appropriation resolve for the next fiscal year on or before the last day of the twelfth month of the fiscal year currently ending. Such resolve shall appropriate those amounts deemed necessary for general city purposes and additionally one gross amount for school purposes as

Commented [A33]: Chair Kebede suggests striking the last clause of the first full paragraph because it is a contradictory holdover from the old system (i.e., requiring the mayor to "submit comments on the proposed city budget . . . concurrently with the manager's submission.")

required by section 5 of article III. The total amount appropriated shall not exceed the estimated revenue of the city.

If it fails to adopt such resolve by this date, the city council may make appropriation for current departmental expenses, chargeable to the appropriation for the year, when passed, to an amount sufficient to cover the necessary expenses of the various departments until the annual appropriation resolve is in force.
~~These continuing appropriations shall not be subject to the mayor's veto in section 8 below.~~

Commented [A34]: I strongly recommend restoring this to avoid a City government shutdown.

The city council may by resolution appropriate to any purpose or object for which there shall have been no appropriation for the current year, or for which the appropriation for the current year has proved insufficient, any accruing revenue of the city not appropriated as hereinbefore provided and any unencumbered appropriation balance, or portion thereof, remaining after the purpose of the appropriation shall have been satisfied or abandoned. Such appropriations shall not be subject to the mayor's veto in section 8 below. (Referenda 6/13/78; 11/2/10)

Commented [A35]: Chair Kebede suggests giving the mayor the power to veto the city council's additional appropriations through resolves. This power would be consistent with the budget veto power we've already given the mayor.

Section 8. Mayoral veto of general city purposes appropriations in the appropriation resolve.

Within five (5) business days of the meeting at which the city council adopts the annual appropriation resolve, the mayor may veto the appropriation for general city purposes in such resolve by written communication to the ~~other members of the city council~~. Such communication shall specify the reasons for such veto and shall, at minimum, be posted upon the city's website or similar location and sent to the councilors by electronic mail and by the same means that agendas are delivered to councilors.

~~Any such veto of the appropriation for general city purposes shall not affect city payment of debt service obligations on previously authorized bonds, nor shall it affect the school budget appropriation.~~

Commented [A36]: I strongly recommend restoring this to avoid default on indebtedness and a bond rating downgrade

An order to override the veto shall be placed on the next city council agenda which is at least five (5) calendar days after the date of the mayor's veto communication, and such veto may be overridden by a vote of at least ~~six (6) two-thirds (2/3) of the members of the city council.~~ ~~The mayor shall not vote on such override item.~~

Commented [A37]: Comm. Sheikh-Yousef has suggested overriding a veto on budget with a minimum of 9 votes rather than 2/3 (assuming a 13 member council) [This conversation may be better served as part of the redistricting redline that will be forthcoming.]

If a veto is overridden, the general city purposes

appropriation will take effect on the first day of the fiscal year, or on the day immediately following the override vote, if such vote is after the first day of the fiscal year.

If a veto is not overridden, then at the same meeting the override vote is taken, the general city purposes appropriation which was vetoed shall become an item for further consideration by the city council, without the need for a motion for reconsideration, and the city appropriation may be modified, amended, or otherwise acted upon to secure passage at that meeting or a subsequent meeting without the need for two readings prior to passage.

In the event the city council does not override the veto or does not secure passage of the annual appropriation for general city purposes prior to the start of the fiscal year, or has not otherwise acted to provide continuing appropriations under the second paragraph of section 7 above, then the appropriations for general city purposes in effect for the prior fiscal year shall go into effect as of the first day of the fiscal year, with expenditures chargeable to the appropriation for the year, until the appropriation for general city purposes is approved.
(Referendum 11/2/10)

Section 9. Unexpended appropriations.

All appropriations in the annual budget shall lapse at the close of the fiscal year unless specifically continued by order of the city council, and the unexpended appropriations shall be transferred to the appropriate fund balance account. (Referendum 11/2/10)

Section 10. Borrowing.

The borrowing of money by and for the city shall be limited as to form and purpose by section 11 and section 12 of this article. The credit of the city shall in no manner be loaned to any individual, association or corporation. (Referendum 11/2/10)

Section 11. Bond issues.

Money may be borrowed, within the limits fixed by the constitution and statutes of the state, now or hereafter applying to Portland, by the issue and sale of bonds or notes pledged on the credit of the city, or on the revenues or assets of the projects financed with the proceeds of such borrowings, the proceeds to be used for the acquisition of land, the construction,

reconstruction, major alteration, extraordinary repairs, and equipment of buildings and other permanent public improvements, the purchase of departmental equipment, for economic development to the extent determined by the City Council to serve a valid public purpose, to create reserves to settle workers' compensation obligations, to fund, refund, pay or to create reserves for the payment of the city's unfunded pension fund liabilities and for the payment of refunding bonds, notes and other evidences of indebtedness previously issued, or for any other purpose permitted by state law.

No order providing for the issue of bonds shall be passed without public notice given by posting notice of the same in two (2) public places in the City of Portland and publishing such notice at least twice in a newspaper of general circulation in Portland at least two (2) weeks before final action of the city council. In addition, the city council may, in its discretion, provide that such notice shall be published on the city's website and in such other additional media as the city council determines are appropriate to notify the general public of the public hearing.

Any order authorizing the issue of bonds must be approved by vote of at least seven (7) members of the city council. (Referenda 11/4/86; 11/5/91; 11/8/94; 11/2/99; 11/2/10)

Section 12. Temporary loans.

Money may be borrowed in anticipation of receipts from taxes during any fiscal year but the aggregate amount of such loans outstanding at any one (1) time shall not exceed eighty percent of the revenue received from taxes during the preceding fiscal year. All such loans shall be paid within the year out of the receipts from taxes for the fiscal year in which the loans are made. Money may be borrowed in anticipation of money to be received from the sale of bonds to be issued, in case such bond issue has been authorized; all such loans shall be subject to the provisions of the laws of the State of Maine in relation thereto. This section shall not limit in any way the power granted to towns and cities to borrow money as contained in the Revised Statutes of the State of Maine and acts amendatory thereof and additional thereto. (Referendum 11/4/86; 11/2/10)

Section 13. Payments.

The director of finance shall establish adequate financial controls to reasonably ensure that all payrolls, bills and other

claims and demands against the city are in proper form, correctly computed, duly certified and legally due and payable.

The director of finance may require any claimant to make oath to the validity of his or her claim, may investigate any claim and for such purpose or purposes may examine witnesses under oath. (Referendum 11/2/10)

Section 14. Bonds of officers.

The city council shall require a bond with sufficient surety or sureties, satisfactory to the city council, from all persons trusted with the collection, custody or disbursement of any of the public moneys; and may require such bond from such other officials as it may deem advisable; the premium charges for such bonds to be paid by the city. (Referendum 11/2/10)

Section 15. Collection and custody of city moneys.

All moneys received by any officer, employee or agent of the city belonging to the city, or for or in connection with the business of the city, shall forthwith be paid by the officer, employee or agent receiving the same into the city treasury, and shall then be deposited by the director of finance with a federally insured banking institution or institutions or insured credit union or unions. All interest from all deposits of money belonging to the city shall accrue to the benefit of the city. (Referendum 11/2/10)

Section 16. Voter referendum required for certain city council actions.

- (a) The city council shall submit the following to voter referendum:
 - (1) Orders or resolves authorizing the issuance of general obligation securities of the city in a principal amount greater than five one-hundredths of one (1) percent of the last certified state valuation of the city for a single capital improvement or item of capital equipment; or
 - (2) Orders or resolves directly or indirectly obligating the city to expend, over a term greater than one (1) municipal year, municipal tax funds in excess of an amount greater than seven and one-half one-hundredths of one (1) percent of the last certified state valuation of the city for a single capital improvement or item of capital

equipment.

- (b) The provisions of this section shall not be applicable to any order or resolve authorizing (i) the refunding of any securities or other obligations of the city; (ii) the issuance of general obligation securities, or other direct or indirect obligations, of the city for streets, sidewalks, or storm or sanitary sewers; or (iii) any construction or financing of improvements or equipment needed as a result of fire, flood, disaster or other declared emergency. For purposes of this section, the city council may by vote of at least seven (7) of its members adopt emergency orders or resolves authorizing construction or financing of improvements or equipment needed as a result of fire, flood, disaster or other emergency and such orders or resolves shall contain a section in which the emergency is set forth and defined; provided, however, that the declaration of such emergency by the city council shall be conclusive.
- (c) Any order or resolve described in subsection (a) of this section shall be approved by separate action of the city council.
- (d) No order or resolve described in subparagraph (a) of this section, not excepted by subparagraph (b), shall become effective until approved by a majority of voters voting at a regular or special municipal election. In the event that the total number of votes cast for and against the question for the referred order or resolve should be less than ten (10) percent of the registered voters of the city, then such order or resolve shall be deemed to be approved and effective.
- (e) The form of the ballot question for the referred order or resolve shall be substantially as follows:

Shall the order or resolve entitled "_____
_____", be approved?
(Referendum 11/4/86; 11/2/10)

ARTICLE ~~VIII~~IX. MISCELLANEOUS PROVISIONS

Section 1. No personal interest.

No member of the city council or school board or board or commission thereof and no officer or employee of the city or

| school department, including but not limited to the mayor, shall:

- (a) Have a substantial financial interest, direct or indirect, in any contract entered into by or on behalf of the City of Portland or the school board, except his or her employment contract, or in the sale to or by the city or school department of any land, materials, supplies or services when such officer, employee or member exercises on behalf of the city or school department any function or responsibility with respect to such contract or sale. All contracts or sales made in violation hereof are void, and the city treasurer is expressly forbidden to pay any money out of the city treasury on account of any such transaction.
- (b) Purchase or accept anything from the city or school department, other than those items or services which are offered to the public generally, and then only upon the same terms and under the same procedures offered to and used for the general public. This shall not include those items or services which are received as compensation, or as a part of such person's employment contract, or which are necessary for the performance of such person's duties.
- (c) Accept or receive from any person, firm, or corporation acting under a franchise, contract, or license from the city or school department, any frank, free pass, free ticket, or free service, or accept, directly or indirectly, from any such person, firm, or corporation any service upon terms more favorable than those granted to the public generally. (Referenda 11/4/86; 11/2/10)

Section 2. Ordinances, rules and regulations continued.

All ordinances in force at the time that this charter takes effect, not inconsistent with this charter, shall continue in force until amended or repealed. All rules and regulations of the municipal officers or of any office of the City of Portland in force at the time that this charter takes effect, not inconsistent with the provisions hereof, shall continue in force until amended or repealed.

Section 3. Continuity of actions.

All rights, actions, proceedings, prosecutions and contracts of the city or any of its departments, pending or unexecuted when

this charter goes into effect and not inconsistent therewith shall be enforced, continued or completed in all respects as though begun or executed hereunder.

Section 4. Summons before city council and civil service commission.

The clerks of the supreme judicial and superior courts may issue summonses or subpoenas for witnesses to attend and to produce books, documents and papers at any meeting of the city council or of the civil service commission of the City of Portland at which a hearing is had in any matter regarding any alleged dereliction, which summonses shall be served as summonses are required to be served in matters before the supreme judicial or superior courts. Failure to obey a summons or subpoena shall be punished by the appropriate court in the same manner as contempt is punished under the general law. (Referendum 11/4/86)

Section 5. Effect of private and special laws.

Private and special laws which apply to the City of Portland in effect on November 4, 1986 shall continue in force until amended or repealed. (Referendum 11/4/86)

APPENDIX A

Charter Legislative History

1. Town of Portland incorporated by Act of Commonwealth of Massachusetts on July 4, 1786; Town of Portland Records, p. 1
2. City of Portland incorporated by adoption of charter on March 26, 1832; original charter can be found in Chapter 248, Special Laws of Maine 1832, p. 380; amendments as follows:
 - c. 325, S.L. 1833, p. 501
 - c. 500, S.L. 1834, p. 749
 - c. 402, S.L. 1838, p. 511
 - c. 541, S.L. 1839, p. 648
 - c. 33, P & SL 1842, p. 25
 - c. 200, P & SL 1845, p. 258
 - c. 266, P & SL 1845, p. 310
 - c. 233, P & SL 1849, p. 333
 - c. 330, P & SL 1850, p. 458
 - c. 167, P & SL 1853, p. 158
 - c. 35, P & SL 1857, p. 48
 - c. 103, P & SL 1857, p. 93

c. 109, P & SL 1857, p. 100

A total revision of the charter was accomplished in 1863; c. 275, P & SL 1863, p. 257; amendments as follows:

c. 348, P & SL 1870, p. 316

c. 647, P & SL 1871, p. 624

c. 21, P & SL 1875, p. 16

c. 8, P & SL 1881, p. 9

c. 86, P & SL 1881, p. 86

(c. 450, P & SL 1897, p. 707--Revision of charter rejected by voters in 1897)

c. 384, P & SL 1901, p. 569

c. 68, P & SL 1903, p. 116

(c. 287, P & SL 1905, p. 328--abolishing common council rejected by

voters April 24, 1905)

c. 344, P & SL 1907, p. 638

c. 427, P & SL 1907, p. 758

(c. 148, P & SL 1921, p. 513--"Murray Bill" charter revision rejected by voters September 13, 1921)

(c. 149, P & SL 1921, p. 532--"Brewster Bill" charter revision rejected by voters September 13, 1921)

A total revision of the charter was accomplished in 1923 by adoption by voters of "Brewster Bill" on September 11, 1923; c. 109, P & SL 1923, p. 596; ("Nichols Bill" c.104, P & SL 1923, p. 557 was rejected same date); amendments as follows:

c. 56, P & SL 1929, p. 484

(c. 112, P & SL 1929, p. 604--Mayor--Alderman form rejected by voters on September 10, 1929)

c. 31, P & SL 1931, p. 353

c. 50, P & SL 1945, p. 629

c. 113, P & SL 1945, p. 736

c. 144, P & SL 1945, p. 71

c. 72, P & SL 1947, p. 722

c. 72, P & SL 1949, p. 765

c. 103, P & SL 1949, p. 803

c. 28, P & SL 1953, p. 528

c. 108, P & SL 1955, p. 756

c. 88, P & SL 1957, p. 707

c. 143, P & SL 1959, p. 873

A total revision of the charter was accomplished in 1961; c. 194, P & SL 1961, p 1125; amendments as follows:

c. 64, P & SL 1963, p. 966

c. 65, P & SL 1963, p. 967

c. 157, P & SL 1963, p. 1187

c. 177, P & SL 1963, § 1, p. 1291

(c. 6, P & SL 1965, p. 649 rejected by voters on December 6, 1965)

City of Portland
Code of Ordinances
~~Article VIII~~

Charter

~~Rev. 12-6-12~~

c. 7, p & SL 1965, p. 650
c. 81, P & SL 1965, p. 760

(c. 127, P & SL 1965, p. 849 rejected by voters on December 6, 1965)

c. 221, P & SL 1967, p. 136

c. 83, P & SL 1969, p. 1628

c. 136, P & SL 1969, p. 1792

c. 146, P & SL 1969, p. 1820

(c. 185, P & SL 1969, p. 1958 rejected by voters on November 3, 1970)

State constitutional law reference--Municipal home rule,
Const. of Maine, Art. VIII, Pt. 2.

Referend12/4/72 Art. I,
a 1

Referend12/1/75 Art. II, 2
a

Art. IV, 2

Art. IV, 4

Art. V,

2

Art. VII 1

,

Referend11/2/76** Art. II, 1
a

Art. II, 4

Art. III 1,2,5

,

Art. IV, 2,3,4,

6

Art. V,

2

Referenda 6/13/78 Art. II, 1,2,3,5

Art. III, 1,2,3,4

Art. IV, 1,2,3,6

Art. VII,3,4,5,6

Referenda 11/4/86***Art. II, 1,2,4,5

Art. III, 1,5

Art. IV, 1,2,3,4,6,7,9

Art. V, 1,2,3,4,5,6,7

Art. VI, 1,2,5

Art. VII 7-10 (Rp1d)

Art. VI, 11-12 (Rnbd as Art. VI,
7-8)

Art. VII, 3,4,9,10,16

Art. VIII, 1,4,5

Art. VIII, 6 (Rp1d)

Referenda 11/3/87 Art. II, 2

Art. III, 1
Referenda 11/5/91 Art. VII, 9 Referenda 11/8/94 Art. VII, 9
Referenda 11/2/99 Art. II, 4
Art. III, 5
Art. VII, 9
Referenda 11/7/00 Art. II, 3,5
Art. III, 2,3
Art. IV, 2
Referenda 11/6/01 Art. IV, 2,6,8,10 Referenda 11/4/08 Art. IV,
3,4,5, 6,7,11
Referenda 11/2/10**** Charter Revisions recommended
by the Portland Charter Commission established on November 4,
2008, and passed by the voters on November 2,2010

****Editor's note--**The amendment establishing district councilor elections became effective January 1, 1976, except that for the purpose of nomination and election of district councilors such amendment shall apply as the presently occupied district seats become available thereafter by normal expiration of term or by vacancy and to every district election thereafter.

*****Editor's note--**A referendum passed Nov. 4, 1986 and effective July 1, 1987, repealed former sections 7 through 10 of article VI to eliminate references to obsolete offices (assistant assessors, director of public welfare) and renumbered former sections 11 and 12 as 7 and 8 respectively. Former sections 7 through 10 derived from the legislation enumerated in the first editor's note to this Charter.

*****Editor's note--**A referendum passed Nov. 4, 1986, effective July 1, 1987, amended section 4 of article VIII to clarify the summons-subpoena power and to provide that failure to obey either a summons or a subpoena will subject offenders to contempt. Former section 5 of this article was deleted as a result of the amendment to section 4 and a new section 5 added to preserve certain rights granted to the city by special acts of the legislature. Former section 6 was deleted to conform to 30 M.R.S.A. § 1915(4) which establishes the effective date of Charter revisions. See the editor's note to the Charter for derivations of deleted sections.

******Editor's note--**Portland voters approved a referendum passed on November 4, 2008 to establish a Portland Charter Commission to make recommendations to revise the Portland City Charter. Those recommendations were subsequently passed by the voters on November 2, 2010, and incorporated the provisions on the popularly elected mayor in Article 2, as well as making changes to the School and Elections articles and technical amendments throughout the

City of Portland
Code of Ordinances
~~Article VIII~~

Charter
~~Rev. 12-6-12~~

document.

Amend ARTICLE VI, ADMINISTRATIVE OFFICERS, by amending the first paragraph of Section 5. Appointment; qualifications; powers and duties of the city manager, as follows:

Section 5. Appointment; qualifications; powers and duties of the city manager. The city manager shall be chosen by the city council solely on the basis of character and executive administrative qualifications, and may or may not be a resident of the City of Portland or of the State of Maine at the time of appointment. Such person shall give bond for the faithful discharge of his or her duties to the City of Portland and in such sum as the city council shall determine and direct, and with surety or sureties to be approved by the city council. The premium on such bond shall be paid by the city. Such person shall be the administrative head of the city and shall be responsible to the city council for the administration of all departments. ~~Neither the mayor nor members of the city council shall direct, request or interfere with the appointment or removal of any of the officers or employees of the city for whom the city manager is responsible, nor shall any of them give an order, publicly or privately, to any such city officer or employee relating to any matter in the line of that officer's or employee's city employment. Notwithstanding the foregoing, nothing~~ herein is intended to prevent the city manager from assigning staff to work and communicate directly with councilors, boards and commissions, council committees, neighborhood and other groups and organizations, on city work. The Chief Executive shall use their best efforts to see that the laws and City ordinances are enforced and that the duties of all subordinate officers are faithfully performed. The Chief Executive shall take care that the funds of the City are properly expended, and shall recommend to the consideration of the City Council whatever measures the Chief Executive may deem necessary for the prudent and efficient management of the affairs of the City, including but not limited to rules that govern communications between city staff and elected officials.

CHARTER COMMISSION
City of Portland, Maine

PROPOSAL: OFFICE OF INFORMATION

Sponsor: Robert O'Brien
Date: April 3, 2022

PURPOSE

To consolidate city services related to communicating with the public, the press, and policy makers, and for the efficient and unbiased transfer of city documents.

PURVIEW

The Office of Information's duties shall include communications for all city departments, the Mayor's office, and the Council; constituent services; fulfilling Freedom of Information Act (FOIA) requests; the legal noticing of public meetings and accompanying documents; and procuring city documents or answers to clarifying questions from staff upon request from a councilor according to Council rules.

STRUCTURE

The City shall have a new Office of Information and the Council shall name its director, on parity with other constitutional officers in the Charter.

CHIEF OP. OFFICER	OFFICE OF INFORMATION	CITY CLERK	CORP. COUNSEL
	Communications		
	Constituent Services		
	FOIA Requests		
	Meeting Noticing		
	Councilor requests for docs/clarifying questions for staff, according to council rules		

Amend ARTICLE III. BOARD OF PUBLIC EDUCATION, Section 5. School Budget, as follows:

Prior to the submission of a school budget, the school board and city council shall establish a Joint Committee on Budget Guidance, consisting of four city councilors and four school board members, appointed by the Mayor and school board chair, respectively. The purpose of the joint committee is to develop guidance for the city and school district on budget priorities and constraints, covering a two-year period and updated annually. The joint committee shall obtain public comment on the guidance prior to submitting the guidance as a proposed non-binding joint resolution to the city council and school board for their approval.

Not later than three and one-half (3.5) months before the end of the fiscal year, the superintendent shall submit to the school board budget estimates of the various sums required for the support of public schools for the ensuing fiscal year and shall thereafter provide the school board with such information relating to such estimates as the school board shall require.

~~During the thirty (30) days following submission of the superintendent's proposed budget to the school board, the school board and the city council, or their designated subcommittees, shall meet jointly at least twice to review the proposed school budget, focusing on its underlying assumptions and supporting data and the ability of the city to raise the necessary funds for the support of such proposed budget. The superintendent and the city manager shall provide information regarding such proposed budget as reasonably requested by the school board and the city council, or their designated representatives.~~

The budget submitted by the superintendent ~~to be reviewed jointly by the school board and the city council~~ shall provide a complete financial plan of all school funds and activities for the ensuing fiscal year. In organizing the school budget for ~~joint~~ review by the school board, the superintendent shall utilize the most feasible combination of expenditure classification by fund, organization, unit, program, purpose or activity, and object. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income and all proposed expenditures, including debt service for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. The total of proposed expenditures shall not exceed the total of proposed income.

Not later than the last Monday in April of each fiscal year, the school board shall ~~submit to the city council~~ prepare a budget of the various sums required for the support of the public schools for the ensuing fiscal year in the format provided above, ~~and shall thereafter provide the city council with such information relating to such budget as the city council shall require.~~

The school board shall hold a budget hearing on such budget estimates shall be held at least seven (7) days prior to final action by the city council determining the total amount of the school budget. The city council shall thereafter submit the school budget determined by the school board to a budget validation referendum. If the voters discontinue use of the budget validation

referendum process, the city council shall instead submit the school budget to a municipal school budget referendum. The warrant calling the budget validation referendum or the school budget referendum shall include voter information containing the amount of locally raised funds and the amounts for each cost center summary budget category proposed by the school board.

The city council in its appropriation resolve for the ensuing year shall, in addition to amounts appropriated for other general city purposes, appropriate one gross amount for the support of the public schools, which amount shall equal the greater of (i) the amount adopted by the voters at the school budget referendum or ratified at the budget validation referendum, as appropriate. Or (ii) not be less than the sum required to be appropriated for such purposes by the general laws of the state. ~~Such gross amount shall not be less than the sum requested by the school board except by a vote of at least six (6) members of the city council.~~ Such appropriation shall be expended under the direction and control of the school board but no such appropriation shall be exceeded except by consent of the city council voters. (Referendum 6/13/78; 11/2/10)

~~The city council in its appropriation resolve for the ensuing year shall, in addition to amounts appropriated for other general city purposes, appropriate one gross amount for the support of the public schools, which amount shall equal the reater of (i) the amount adopted by the voters at the school uddget referendum and ratified at the budget validation eferendum, as necessary, or (ii) not be less than the sum required to be appropriated for such purposes by the general laws of the state. Such gross amount shall not be less than the um requested by the school board except by a vote of at least ix (6) members of the city council. Such appropriation shall be expended under the direction and control of the school board but no such appropriation shall be exceeded except by consent of the voters city council. (Referendum 6/13/78; 11/2/10)~~

Amend ARTICLE VI. ADMINISTRATIVE OFFICERS, Section 5. Appointment; qualifications; powers and duties of the city manager in the second paragraph, subparagraph (i), as follows:

Section 5. Appointment; qualifications; powers and duties of the city manager.

...

The city manager's powers and duties shall be as follows:

...

- (i) To jointly prepare with the Portland Public Schools superintendent a five (5) year rolling capital improvement plan for annual presentation to a joint meeting of the city council and school board, which plan includes the following:
 - 1. A one (1) year plan of specific projects and their cost.
 - 2. A two (2) through five (5) year plan of specific projects and general categories, and amounts of proposed spending and funding sources; ~~and~~
 - 3. A discussion of the basis for the plan and the factors which went into its development or amendments; and
 - ~~3.~~ 4. A listing and discussion of capital improvements pending or in process of construction or acquisition.

Participatory Budgeting

1. *Amend ARTICLE VI. ADMINISTRATIVE OFFICERS, Section 5. Appointment; qualifications; powers and duties of the city manager, subsection i., as follows:*
 - (i) To prepare a five (5) year rolling capital improvement plan, utilizing the participatory budgeting process established by the city council pursuant to Article VII, Section 5, for annual presentation to the city council, which plan includes the following:
 1. A one (1) year plan of specific projects and their cost;
 2. A two (2) through five (5) year plan of specific projects and general categories, and amounts of proposed spending and funding sources; and
 3. A discussion of the basis for the plan and the factors which went into its development or amendments.
2. *Amend ARTICLE VII. BUDGET, Section 5 Annual Budget, as follows:*

The city council shall develop and implement a participatory budgeting system wherein a portion of the city budget is allocated based on a process that involves the input from as many residents of Portland as possible. To achieve such participatory system, the city council may establish a subcommittee, task force, or any other structure that is necessary and proper for the design, implementation, and management of a participatory budgeting system.

After the participatory budgeting process, but in no event ~~Not~~ later than two (2) months before the end of the fiscal year, the city manager shall submit to the city council a proposed city budget prepared by the city manager for the ensuing fiscal year. The mayor shall submit comments on the proposed city budget, along with any proposed modifications, concurrently with the manager's submission.

The city council shall fix a time and place for holding a public hearing upon the proposed city budget prepared by the manager, and shall give not less than ten (10) days prior public notice of such hearing, which hearing shall be at least ten (10) days before the final passage of the appropriation resolve. (Referenda 6/13/78; 11/4/86; 11/2/10)

Amend the current ARTICLE II, CITY COUNCIL., Section 7. Vacancies, in the last paragraph as follows:

If a vacancy in the membership of the city council occurs or is declared more than six (6 months) prior to the next regular municipal election, the ~~vacancy-unexpired term~~ shall be filled at a special election, citywide or for a district, to take place on the same date as the next scheduled municipal or state election which is no less than 127 days after the date the vacancy occurs or is declared, unless the council, by a vote of at least six (6) of its members, calls a special election on an earlier date. Such election shall be called and held and nominations made as in other elections. If a vacancy occurs within 6 months prior to the next regular election, the city council appoints a qualified person from the same district or at-large, as appropriate, to serve until the next regular municipal election.

Amend the current ARTICLE III, Board of Public Education., Section 6. Vacancies, in the second paragraph as follows:

If a vacancy in the membership of the school board occurs or is declared more than six (6) months prior to the next regular municipal election, the ~~unexpired term~~~~vacancy~~ shall be filled at a special election to take place on the same date as the next scheduled municipal or state election which is no less than 127 days after the date the vacancy occurs or is declared, unless the council, by a vote of at least six of its members, calls a special election on an earlier date and shortens the time for obtaining and filing nomination petitions established in article IV, section 6. Such election shall be called and held and nominations made as in other elections. If a vacancy occurs within 6 months prior to the next regular election, the school board appoints a qualified person from the same district or at-large, as appropriate, to serve until the next regular municipal election.

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