

PORTLAND CHARTER COMMISSION

MINUTES of DECEMBER 3, 2009

Agenda #1. Chair Plumb called the meeting to order, with Comm. Valleau present by telephone connection.

Agenda #2. Minutes of 11/19/2009 unanimously approved (Ranaghan/Cohen).

Agenda #3. Public Comment

Charles Bragdon of Munjoy South

*Ask reconsideration of strength of elected mayor; should have more executive powers, not a ceremonial position. Should be separate executive body with oversight of Council. Should also be off-year election.

Stephen Scharf of Verandah Street

*# 2 of straw man - elected mayor will “replace” one of the at-large positions, not “be” an at-large city councilor.

*Use City Manager consistently

Agenda #3: Announcements

Chair Plumb – Reminder of change in schedule so next meeting is Dec. 10

Agenda #4: Changes to Straw Man Proposal

Motion to reconsider last meeting’s 5-5 vote re: length of term for elected Mayor (Chipman/Cohen)

Comm. Chipman:

*A 3 year term would always align with one or more of the district races giving higher turnout in those districts with mayor’s race.

*Set at 2011 for 4 years so it never coincides with partisan state and federal elections; mayors could align themselves with partisan candidates

*Would help make local elections more unique and boost turnout in those off years, allow for more media coverage; more voter focus on local race.

*Will drive up cost of campaigning if tied in with other elections.

Motion to reconsider passed 11-1 (Ranaghan)

Motion to have a 4 year term starting in 2011 (Chipman/Cohen)

Comm. Cohen:

*Want to have high voter turnout and would like them to coincide with state and federal general elections.

Comm. Spritz:

*Think the mayoral election may get lost in the shuffle with on-year cycle.

*Now would rather have the election focus on the mayor and go to off-year cycle.

*Support the increase in time the mayor will be in office.

Comm. Ranaghan:

*The proposal has some merit, but don't think the Commission's decision should be based on voter apathy problems.

Comm. Mermin:

*Support the 4 year term; creating a more special position without adding to powers but still having accountability for leadership and implementation of a vision.

Comm. Treverrow:

*originally thought the mayor would have more powers so I supported a shorter term; but with Mayor as part of council, I support a longer term.

*Having it on off-cycle would generate public interest and help voter turnout.

Comm. Smith:

*Premise of having elected mayor is having a broad voter mandate of a particular set of positions being articulated. Higher level of voter participation when other things are going on.

*Think we have work to do to get voters to support an elected mayor at all, so the more familiar the proposal is, the better. Voters are used to 3 year terms.

*Partisan – non-partisan; support non-partisan but don't need to structure that in.

Comm. O'Brien:

*Still support 3 years. Think successful campaigns are adaptive and will adapt to whether on or off year cycle.

*Referendum elections are not on a particular election cycle and they can be very big issues, e.g. the "no on 1" in Portland this year, and will influence the campaign in a given cycle.

Comm. Gooch:

*Not particularly worried about whether elections fall on off or on year.

*We have put together "soft powers" in straw man proposal. Person is going to need more than 3 years for efficacy and 4 years will get past one full turnover in the council.

*Agree that we shouldn't worry about voter apathy but should focus on making it as efficacious as possible.

Comm. Cohen:

- *We put in majority vote for mayor in order to give the mayor a mandate.
- *In large elections, the focus is on running the campaign; in small elections, the focus is on who votes. Science of elections is what matters who you get to the polls on election day, and it matters in a small election.
- *Would like the mayor to be elected by as representative a sample of voters at large, not just who you get to the polls on election day.
- *Don't care that much about 3 versus 4 years, but would like the election to be about who is most qualified.
- *People will care about who is going to be mayor of Portland, regardless of who or what else is on the ballot.

Comm. Chipman:

- *Point of bringing this forward is to have a unique situation in Portland, if in off year, people and media more attentive to a mayor's race.
- *On turnout, think the mayor's race would draw more people out to polls and bring out people who care about who is running for mayor.
- *Everybody who votes will have a pretty clear understanding of who is running and what they stand for.

Comm. Davis:

- *Would like to think mayoral position would develop voters who want to vote on that issue, not just turning out for other issues.
- *Would be less partisan.
- *Not persuaded that more voters necessarily means a more educated or representative vote; can have an overload on issues and ideas.
- *Like the offset with the Council races.
- *Helps avoid an element of "outwaiting" elected officials, but 4 years would give someone more power.

Comm. Gooch:

- *If we're right in saying that people who care about mayor, they will come out whether in an on or off year elections.
- *I don't know the truth of why people vote when they vote.
- *My interest is in introducing more leadership and more participation in Portland politics to get new ideas and new things done.

Comm. Ranaghan:

- *If 4 years is right term, then all city councilors should be elected for 4 years if this gets out the most votes and best candidates.

Comm. Smith:

*When we talked about changing City elections from May to November, a lot of these same issues came up with small May turnouts.

*Decided intrinsically better to have larger turnout.

*Cannot quantify the level of knowledge about the candidates.

*No harm in having elections held when there is high turnout. There are certain times when people are more interested than others, not convinced will get lost in the shuffle so not worried about off year and on year elections.

Comm. O'Brien:

*Should we postpone item until we discuss redistricting or adjusting the number of districts?

Comm. Spritz:

*Worried we are trying to outthink how voters will think down the road. Willing to put turnout issue aside and look only at idea of having a 3 year or 4 year term.

Chair Plumb:

*Do you want to separate the issue of term from when it begins.

Motion to amend Chipman motion by taking out 2011, and consider only the issue of 3 year or 4 year term (Spritz/Mermin)

Comm. Mermin:

*I think the length of term is important, not whether an off or on year election.

Comm. Chipman:

*Important to have mayoral election in off years so would like to see where Commission is on that issue. Very concerned about partisan races in even numbered years.

Comm. Smith:

*Is the theory that we would revisit the issue later if remove the odd year?

Comm. Treverrow

*If remove the odd year, then we should have discussion at later point in time of district makeup.

Chair Plumb

*Agree with Cohen, have a more representative vote in larger voting arena than in smaller voting arena.

*This was part of deliberations when city moved to May elections, believing that we would get more engaging discussions. All we really got

was fewer voters, so then moved to November elections. In end, more people voting is better.

Motion to amend main motion to take out reference to 2011 passes 9-3 (Gooch, Treverrow, Chipman)

Main motion to amend straw man to be a 4 year mayoral term passes 8-4 (Valleau, Ranaghan, O'Brien and Smith)

Comm. Cohen:

*Who is responsible for making sure there is an agenda for the Council meetings. Not clear under current charter but manager exercises that authority.

*Helpful to see who sets the final agenda and is responsible for it and should be the mayor.

Motion to have mayor set final agenda and be responsible for it (Cohen/Gooch).

Comm. Ranaghan:

*Need clarification as to what that means, in concert with Manager? Role of department heads? Too vague, need a little meat on the proposal.

Comm. Cohen:

*Current process is entirely silent.

*Not looking to change the process of getting things on the agenda, but somebody has to have final review of an agenda and that should be the mayor.

Comm. Ranaghan:

*If say that mayor has final authority, then mayor can drive policy through control of the agenda. Can be manipulated so that items are not discussed or discussed too early, too late etc. Question whether councilors will be able to get their items on in a timely manner.

Comm. Smith:

*Share the concerns; generally this works right now; can imagine someone controlling the agenda whether charter is silent or not.

*Cannot recall this ever being an issue. Could conceivably be a very powerful tool but not necessarily for good.

Comm. Cohen:

*Think it's worth discussing because silence doesn't mean it's the Manager's responsibility; think it makes sense to define who makes final decisions on agenda and would like it to be elected person.

*This is a new issue so I will withdraw the suggestion with idea that we should revisit it and have more informed discussion later.

Motion and second withdrawn re: having mayor set the agenda.

Comm. Chipman:

*Term limits not yet taken up; should put it out to the voters.

Motion that we amend straw man to put in term limits for elected mayor of 2 consecutive terms of 4 years. (Chipman/Ranaghan).

Comm. Gooch:

*Don't like term limits. Votes are the limits.

Comm. Smith

*Term limits for legislature have been unmitigated disaster, but works for President. Not necessarily against it, but don't know if it should be 2 terms or 3 terms.

Comm. O'Brien:

*Term limits work out well for an executive but not for member of general assembly. Nice when you have an executive position to have person not thinking about next election.

Comm. Spritz:

*Hope that we're still thinking about this and going to discuss more; this is only a "straw man" at this point and should stay flexible for next few months. But I do like term limits as a check and balance.

Comm. Gooch:

*James Phinney Baxter was 6 time mayor of Portland.

Comm. Mermin:

*Opposed to term limits; goes back to faith in the voters. Don't think we have created a structure with that kind of power in the mayor; leave it to voters to decide who they want to have as mayor.

Comm. Davis:

*Coming down on trusting the voters with no term limits. If you have a termed out person, can have an accountability stalemate, outwaiting the term.

Comm. Cohen:

*Let the voters decide; agree with lame duck argument of Comm. Davis.

Comm. Chipman:

*Proposed terms limits for executive positions and don't know of any executive positions that don't have term limits. Should put this on the

ballot and let the voters decide what they think about this issue. 8 years is a good chunk of time to get things done.

Comm. Smith:

*Helpful to make the legislative/executive distinction. The importance of how we put things on the ballot is raised by this issue. Term limits could be free-standing question. Would feel very strongly it should be a separate item and let the voters have their say.

Comm. Mermin:

*So far straw man is not an executive position; it is a legislative position. An executive mayor who hires and fires and builds political stronghold is why you have limits. We have basically created a policy director.

Comm. Smith

*This is more than just a legislative position but still have a lot of the attributes of an executive leader.

Motion to have a limit of two consecutive terms for mayor passes, 7 - 5 (Mermin, Davis, Plumb, Cohen, Gooch)

Motion made that straw man be given duty to give an annual state of the city address (Treverrow/Gooch)

Amendment to motion to set the date for the state of the city address to be at first council meeting in October (Gooch/Cohen)

Comm. Chipman:

*Should not get into setting a date when the address should be made.

Comm. Ranaghan:

*Currently that's really the budget address, and that's already covered in #5 of the straw man. Budget message was typically delivered by city manager and in this case we've transferred it over to the elected mayor.

Comm. Spritz:

*Should have state of the city address but not in October, one month from election. If anything it should be earlier in year when budget is ahead.

Comm. Cohen:

*There should be a date certain but earlier in the year is better, but this is not the budget address; it is different.

Comm. Gooch withdraws the amendment re: October date for state of city address.

Comm. Smith agrees we should look at setting a date later in process.

Motion to give Mayor duty of making an annual state of the city address passes, 11-1 (Ranaghan)

Comm. Ranaghan:

*Like to address #11 on straw man that mayor will be full time with a salary set by Council at a level that will attract capable to run.

*Have been doing research, not yet finished, looking at all of the municipalities in New England with population between 60,000 and 100,000.

16 or 18 cities that fall into grouping, e.g. Brockton, Warwick, Nashua, Concord, Cambridge, Fall River, W or E. Hartford, Lawrence, Revere.

*14 or 15 of these have popularly elected mayors; average size of mayor's budget (not including overhead, fringes etc.) is \$365,000/year; median is \$355,000. Most have a chief of staff, administrative assistant, travel, expenses etc.

To peg this to other Maine cities is not realistic, more likely will fall with these other New England municipalities.

*Need to find out which ones have city managers, so can get cross section of similar New England municipalities. They will not be in the 50,000 range. Initial numbers point to several hundred thousand dollars per year. This proposal is not inexpensive.

Motion to take #11 out of straw man (Chipman/Smith)

Comm. Valteau:

*Favor part-time mayor with a stipend because 1) we have a tradition of civic duty which has never been fully compensated as an occupation and we have done well with that; 2) would discourage people who might not be able to give up job and do the job; and 3) would make Portland unique if have full time paid mayor which would not help us with legislature.

Comm. Smith:

*This is not the night to do justice to this discussion.

*How much does the structure in other cities compare to Portland's?

*How much of the other cities' costs overlap with other functions already being done in City Hall and can be handled with budget reallocations or job duties reallocations?

*This issue will be the fulcrum point in many ways of this vote on elected mayor and we owe it to the voters to have some ideas about how it might play out.

*Can we get information about what it might cost and then have a rational, informed detailed discussion about it? Would like to put off to a future meeting. Should we have an ad hoc subcommittee to help out on it.

*The motion is premature; inclined to leave #11 in as a placeholder.

Comm. Cohen:

*Would be a huge mistake to rest structure of government over the salary for the position.

*With any overall budget management it is common to reallocate, to add and delete positions.

*Currently have City Manager with communications director, 2 assistant city managers, neighborhood director and other staff.

*It is not right to suggest that all these functions will be duplicated if have an elected mayor.

*Do not want misinformation out there about cost implications of the discussion.

Comm. O'Brien:

*My experience is that this is the debate stopper. Should they be full-time? Should they be paid? People not sure. Need to spend more time looking at it.

Comm. Spritz:

*Keep in as a placeholder; want some allusion in the straw man that the position will be compensated in some way. The majority has resolved the fulltime versus parttime position.

Comm. Davis:

*Have not discussed this as much as we need to; there is a profound difference between a full time paid position and a mayor who is a civic leader.

*Think this issue is still unsettled; also concerned that city is only ½ of the budget.

*Need to gather more data and deserves a thorough discussion on just this issue by the Commission.

Comm. Chipman:

*Don't think we have a proposal that seems like a full-time job and we are still crafting that proposal. Not quite there yet.

*We should get more feedback from community and the Charter Commission doesn't set the salary.

Comm. Gooch:

*We decided this would be a full-time position and left open the question of whether it should be a stipend or a salary.

*This is the issue when it comes to whether to have a full-time mayor.

*Perhaps should look at what have we missed by not having adequate leadership in the city? What has that cost us? If Comm. Ranaghan's figures are correct (1.2 – 1.5 million over 4 years) this is a very small portion of overall city budget which would be 1 billion dollars. So if

couch this as an investment with a return in our future, schools, better Portland, it's less than ½ of 1% per year of city budget.

Comm. Mermin:

*We need a much fuller discussion about the compensation.

Comm. Plumb:

*We need to be clear about what we are putting before the voters – is it a part time position doing a civic duty, or full time person who will be paid appropriately for working full time. Cannot put something out that is not clear. Can make the decision later.

Motion to eliminate #11 from straw man fails 2-9 (1 abstention) (Chipman, Davis; Treverrow abstains).

(Comm. Valteau ends call)

Chair Plumb: Sense is that group wants to come back to this issue at another time.

Comm. Spritz:

*Sense queasiness about how mayor is being defined thus far i.e., “soft powers”. I trust that this is where we're at on 12/3/09 and I personally would like to see a stronger representation than in this paper. I would like to make sure that we vigorously revisit this in months to come to add or eliminate some powers. Should we have a “straw man” subcommittee? Do not want to have us delay this until May 15. Want to revisit this on a regular basis.

Chair Plumb:

*On the process - Had a process of investigation and general sense of where people were on this issue.

Then the original proposal was fully discussed and there were amendments.

*I don't want to leave the impression that these issues were not deliberated.

*Agree that this is only a preliminary decision and subject to change down the road; concern is that we not have every issue left permanently open.

Comm. Mermin:

*Think #11 is about where we dropped off; and wonder if there are a couple of core issues that still need to be addressed in more detail.

Chair Plumb:

*Reluctant to leave everything open ended indefinitely. Intend to put on the floor full straw man as amended (with reservation about #11 on full-

time, part-time salary) on floor tonight for a vote so we can move on to another subject.

Comm. Mermin - when would the salary issue be discussed?

Chair Plumb – the group can decide that and have process for generating more information before it comes back to the group.

Comm. Cohen:

*Proposal not perfect and will take more work but have come a long way.

*Need to reach a point with a proposal that is the basis for discussion with the public.

Comm. Chipman:

*When first mayor's election would happen should be added to issues to resolve.

*In #2 of straw man, we need to have some clarity about which one of the at-large seats would become the elected mayor's seat.

*Every 3 years have 2 at-large seats at same time with 2 coming up in 2010, so elected mayor should be one of those 2 seats.

*If the Charter amendments are approved, then should have language that specifies that the elected mayor seat will be one of those two seats (whichever seat got the fewest number of votes in the 2010 election).

Motion that the elected mayor be one of the two at large seats in 2010 receiving the fewer votes of the two would be eliminated early, depending on when one started the election for the elected mayor. (Chipman/Gooch).

Comm. Cohen:

*Should postpone this discussion; it's an important transition discussion; have not thought about this yet. Very important and we should add to list of things to be resolved.

Comm. O'Brien:

*Agree with Comm. Cohen. Belongs with discussion of re-districting; would also like to hear from city clerk on this.

Motion is withdrawn to address the issue later.

Comm. Smith - we have several balls in air on this; my sense is that we park this for awhile while we work on other issues. I wonder how we bring these things back? There are also questions about how to put these questions on the ballot, e.g. breaking them out into separate questions.

Comm. Plumb – procedurally here's where we are; hoping we would as a group, even with understanding that several unresolved issues to come back,

would decide if we want to put forward the elected mayor issue to the public or not. This is a preliminary, not final, decision.

Comm. Smith – I am concerned #11 until we have the discussion about the issue of salary.

Motion to reconsider earlier vote on #11 and to amend # 11 to end after “stipend”
(Smith/Spritz)

Motion passes 8-3 (O’Brien, Gooch, Cohen)

Outstanding issues in regard to elected mayor:

Salary

When it would start

Which at-large seat and transition

Who sets the agenda

Whether to put this out as one item or break it up into sub-items

Timing of state of the city address

Review of amendments to straw man proposal:

4 year term, 2 term limit, state of the city address, amendment to #11.

Motion to vote on strawman proposal as amended (Spritz/Ranaghan)

Comm. Smith - clarification that procedurally it will be a new vote after public hearings etc.; that this is a preliminary vote.

Chair Plumb – yes, this is a preliminary vote.

Motion to adopt the strawman as amended passes 10-1 (Ranaghan)

Plumb will redo the long-term schedule.

Agenda # 6: School related issues

Public comment

Charles Bragdon – reduce supermajority requirement; should equalize the stipends; specify the joint budget process; consolidate functions

Stephen Scharf – centralize finance functions; should write into charter permanently that we vote on all school budgets. Important piece of getting fiscally responsible school budget. Should create a committee to have oversight of both city and school budgets. Should have 2 councilors; 2 school committeemen; 3 members of public. Most towns in state have a financial budget committee like this. Also should have joint inauguration of city council and school committee, at night in Merrill Auditorium.

Merging of city and schools is an important concept.

Superintendent Jim Morse – re the issue of having an additional oversight committee for budget development. City is electing Councilors to do a job; electing school committee members to do a job. Not necessary to have a 3d body reviewing their work, particularly since adding another executive participating in process through mayor.

Sarah Thompson of Starboard Road – voters pay attention in city of Portland and would leave it to voters rather than have some people appointed.

Chair Plumb – would like an informal discussion of kinds of things to bring up to level of charter change (looking at list developed on October 22, 2009, attached).

Comm. Cohen – Items 1- 7 on the worksheet is a good list, plus change name to school board. Would consider 8 if could understand it.

Comm. Gooch – Have changed position on city/school relationship as result of school presentations and see value of leaving some flexibility in the relationship.

Comm. O'Brien – would like to hear more about name change to school board.

Comm. Treverrow – agree with Comm. Gooch; many of my feelings have changed on the subject. Am interested in knowing more about name change; concerned about making structural changes in charter in reactionary way.

Comm. Chipman – would like to have elected mayor chair all meetings, or joint meetings, of school and city budget committees.

Comm. Smith – don't feel strongly about any of the suggestions with regard to charter changes. Yet to be convinced that the issues which have arisen need structural changes in charter. There have been times when school committee has not been sufficiently involved in the school budget but think that may not need a charter change. Not sure I see a lot for us to do structurally.

Comm. Ranaghan – in technical amendments, Finance has a number of changes to clean up language. Charter is very clear about financial controls. Would like the information about administrative budgets for comparison and to see if can dovetail with City functions.

Comm. Mermin – on school items 1 – 8, oppose 2; 3; 5; 6 (administrative function, not in charter). Not clear about 4; favor adding joint budget meetings immediately upon passage of the budget; favor parity of school committee.

Comm. Davis – school and city have been in separate silos for a long time and this won't work in future. Uncertain about how you address that in charter.

Education will drive what the city is like; it's ½ the tax bill. Education one of the most important things the city does. Struggling with how to bring those two things together but do need to look at how the charter addresses it. School side deserves the same kind of leadership and vision on the school side. Augusta directly elects their Chair, Biddeford gives Mayor a role. Would like to think about ways to build that into the structure to have a premier educational system.

Comm. Spritz – Early on did not feel we needed to open up issue of schools. Cannot assume that the more positive relationship will continue into the future, but still not convinced that the Charter is the place to do it. Concerned about #2; 3; 6; Not yet convinced that there are cost savings to be realized from consolidation of financial functions; they're always exaggerated in advance. Would like to see some version of straw man for next week on school issues.

Chair Plumb – I don't see a lot that rises to level of charter change. Might be a way to codify the concept of joint budget work without making it too rigid or complex, but sets expectation that school and city budget development folks will work together, and parity in stipend.

Comm. Gooch – think we should put together a straw man.

Comm. O'Brien – think it helps to have budget go to the public, should have parity of two bodies

School subcommittee to put together school "straw man" issues prior to next meeting.

Comm. Cohen – think #1 is most important on list. Make sure we have laid out a process so there is no question that there will be collaborative process. No on #2; only thing worth talking about is having an expert in finance as a non-voting member. #3 guidance that providing quality education is value of city. #4 nothing in state law or charter covering this right now; #6 not a charter function;

Comm. Smith – there is something structurally which generates friction between city and school committee, i.e. Council sets tax rate which forces political fiscal discipline on council; School committee structurally designed to be more of an advocate for what they are doing. Have a structure which requires different things of the two elected bodies.

Comm. Spritz – I would be content if took 8 items and brought them back next week to vote on them to see if they rise to level of charter change.

Intention is to do school issues at next meeting and making presumption that will be whole meeting. Will continue to work on long-term work plan and find space to come back to issues still unresolved.

Adjourned at 8:40 p.m.

Summary of issues to consider re Schools:

1. Consider ways to codify a good joint budget process including: joint budget meetings, budget timeline, date for delivering the budget
2. Consider having the Council or Mayor appoint one or more members to the School Committee who could be voting or non-voting members, who could be required to have certain expertise or could be the Mayor or a member of the Council.
3. Consider including aspirational language about education.
4. Consider adding to the duties of the School Committee the responsibility for the budget and finances of the schools.
5. Consider reducing the Council vote required to change the School budget to a simple majority.
6. Consider adding a requirement to consolidate the finance functions of the City and Schools and other changes to drive further cooperation and consolidations.
7. Consider raising the School Committee members' stipend to the same as the Councilors.
8. Consider any changes that would encourage retention of School Committee Members.