

# **PORTLAND CHARTER COMMISSION**

## **MINUTES of NOVEMBER 5, 2009**

The scheduled meeting of the Portland Charter Commission was called to order at 5:30 p.m.

**Agenda #1.** Chair called meeting to order; noted that Comm. Gooch is ill and Comm. Valleau had a schedule conflict and would make it later if he could.

**Agenda #2.** Minutes of October 22, 2009 approved.

**Agenda #3.** Public comment

Stephen Scharf of Portland – need to correct a reference in minutes re appointment to school committee; reference to a city/school joint budget committee – should include outside experts. He supports having an elected mayor but not strong mayor.

**Agenda #4.** Announcements

- a. Blogspot.Colin Woodard; has campaign costs
- b. Chart comparing cities as to elected mayor/city manager by E. Boynton
- c. Since there has not been any concern raised on the overall work schedule, we will proceed with that outline with the understanding that there are a number of unknowns on how long certain subjects will take and that we will have to be flexible.

**Agenda #5.** Deliberation

Chair Plumb – passed out the collation of responses to the worksheet questions. She posed the following questions: How do we construct a system that would meeting the interests of those who are most concerned about maintaining the professionalism of the city’s administration and those who are most concerned about creating a stronger political leadership for the community? How do we reduce the wild card risk in whatever system we recommend?

Comm. Mermin – How do we best get accountability? by giving a mayor control of budget and appointments or by not giving that power to force the mayor to be a facilitative leader? Think we need to require the person in the job to be a facilitative leader. If give too much budget control or hire and fire power, they no longer need to work with the Council.

Comm. Spritz – If have mayor, has to have more than cheerleading capacity and powers. Has to be involved in the budget. Elected mayor would collaborate with the City Manager on the annual budget. Mayor has to have some fiduciary involvement.

Comm. O'Brien – like having 3 part system with someone in the middle. In schools, chair and superintendent meet regularly and agree upon priorities of the School Committee and the agendas. Representative of School Committee sitting with CEO of schools has been very effective. Chair of finance also meets with them; have check and balance between political, administrative and financial.

Comm. Smith – might have collaboration between City Manager and Mayor to come up with recommendations for council on the budget. Still going to have to facilitate getting the budget passed.

Comm. Cohen – Need to try to find a “middle” spot. Struck by panel discussion agreement on direct election of mayor and with considering the system of “rotation” being the worst choice. How much power can and should mayor have in order to have some amount of balance between manager-mayor-council? Budget is very important – should it be collaborative or should manager prepare it for the mayor? Should mayor have veto power? Ultimately it's a council function even if mayor has veto. Who should appoint the manager? Don't want stalemate if have co-equal mayor and city manager. Leaning toward system where mayor hires manager with a check but could be persuaded otherwise.

Comm. Ranaghan – agree that majority feel that some form of popularly elected mayor go to the voters, with middle of the road powers. Generally looking at 3 year term – not a “vision”, just a snapshot. By the time you figure out where all the money goes, that won't guarantee any vision. Accountability issue – manager doesn't do the budget; the department heads and division heads do the budgets; manager doesn't know where every dollar goes. Budget is 200 pages. Budget grows from the ground up, not the top down. Services don't change much from year to year. Look at costs of Manchester and Santa Fe mayor offices. ICMA booklet talks about not making a change in the governmental form unless there is a substantial reason. If there is a problem in the city, it is a people problem, not a structural problem. Do not want a mayor handing out committee assignments as it will become a quid pro quo. Do not believe we need to make a change – ask yourself if you think we need to make a change.

Comm. O'Brien – City Manager's job is to deliver services, elected mayor would be a referendum on political directive from the public and would provide some direction to the manager e.g., if mayor runs on consolidation, then that would become a priority.

Comm. Cohen – Used to be of opinion if “aint broke, don't fix it”. But there is a mandate out there and over and over again we hear that people are ready for a change. We have very good staff people in city and they do good work but

the challenge is that the bureaucracy is here for a long time and it gets used to doing things a certain way and the elected officials have difficulty penetrating the bureaucracy.

Comm. Smith – think system is antiquated and there is a way to take a modest step. Most important is providing process of election in the city that provides opportunity to express views on direction of the city. Only see this over a long period of years in council elections – drifts left or drifts right. Useful to have mandate from people when talking to council, city manager and outside people and business. Do not look at mayor’s office for getting things done in current system. Even just having mayor elected for 3 year term while leaving intact the city manager’s administrative authority, you can bring in more focus in direction for city in setting priorities. City is sometimes missing opportunities, it is a big ship and slow to change. More public discussion might be good. The current system solved the problems of early 20<sup>th</sup> century but may have swung the pendulum too far.

Comm. O’Brien – at the panel, Jim Bennett was specific that whether or not you have elected mayor to make sure there is a professional city manager. But very concerned that if we recommend that we have an elected mayor, then we need very concrete reasons to have an elected mayor, not fuzzy “vision” at cost of maybe \$250,000. Have to be very clear about the concrete advantages people will see over time with an elected mayor.

Comm. Chipman – a lot of people that want an elected mayor and lot of concerns about it. Think there is a mandate for putting some form of elected mayor on the ballot. If the majority of voters don’t want to spend any money on it, then the voters can decide that. I support an elected mayor, but concerned about how much it costs to run, need to look at public campaign funding.

Comm. Mermin – Professionalism question is important to many of us. Think elected mayor could add to the professionalism. Better to talk about “priorities” than vision – right now city manager has nine people setting the priorities. Having a more focused direction for priorities even on a 3 year basis. City manager should be telling the policy leaders how to do what they want to do, and policy decisions should be from elected officials. If the city had a majority elected official, think we could develop a different relationship with state and federal governments and attract different development. Like the idea that if the mayor sets the budget that gives them a concrete way to set priorities. Concerned about having them hire and fire the manager. Would like idea of having a “year off” so that mayor has a year working with a seasoned city manager.

Chair Plumb – have for years opposed an elected mayor, because so concerned that no matter how you defined the role of mayor, they would be in here 24-7, counting pencils, trying to fire dept heads and mucking things up. I’m very

protective of the professionalism of the city manager form. I have had a shift in thinking. In the background work, it seems clear that there has been evolution and change, so it feels less radical to me to consider some type of popularly elected mayor in conjunction with city manager form of government. Also fairly broad public sentiment that we need more political clarity; open to having a popularly elected mayor with very limited powers. To force an elected mayor to be a facilitative leader, rather than having a sledge hammer. Think we could craft an elected mayor while keeping the professional management. I do note that Comm. Valleau shares a lot of Comm. Ranaghan's concerns.

Comm. Treverrow – I agree that we have a mandate to put an elected mayor out to vote. I do see a divide in the community but feel more of the community leans toward an elected mayor, but not for a strong executive mayor. One of the powers we could allocate to mayor is to call for joint sessions between city council and school committee as a facilitative power. Don't see any reason to allocate anything close to \$250,000 to mayoral salary. Feel it should be defined as a full time role, but don't need to invest that much into it. Would also be hesitant to emphasize how much we want to spend on mayoral role.

Comm. Davis – we can look at it as trying to look forward to position Portland government to be agile in future. Our system is no longer meeting the needs of the current demands or well-positioned for future demands, despite being somewhat successful up to now. We should be crafting something that will allow us to look forward. Try to put into place something that will get to facilitative leadership, collaboration between school committee and council and bring them together. As for salary, maybe should be targeted to median salaries in Portland. Need to be framing the structure for the future.

Comm. Smith – would leave hire and fire the way it is now as council decision, with mayor as member of council, but assign mayor responsibility to evaluate city manager performance in conjunction with council. Wonder if it might be a ½ time job, not full-time; do avoid the ultra meddlesome mayor; would cost less, intrigued by targeting median income or could have council set the salary with a floor and have it debated in the budget. On cost, do not see a compelling reason why an elected mayor couldn't be staffed with existing CM staff. If we're talking about \$250,000, I do not think the voters would approve it.

Comm. Ranaghan – it is about the money. City council now spends at least \$150,000 on itself; have health insurance and retirement. Go back and ask the mayors how much time they spent even as a 1 year appointment. It's a huge number of hours; once elected, the mayor determines how much time and effort to put in. On non-partisan election – every election is partisan. Cannot set professional standards for a mayor. Do not want to have the leader of the city not have professional qualifications. Name a city in the state or

New England that has gotten more federal and state dollars than Portland in last 40-50 years. City manager in Portland has never had a contract; serves at pleasure of city council. The evaluation should come from the 9 elected officials that represent whole city; evaluations have been inconsistent, those elected have not taken it to heart as an important aspect of their job. Do not think that has been done well.

Comm. O'Brien – I am on staff at a statewide non-profit and we have a board. Despite expertise of Executive Director, he is happy to hear from president of board. Takes back and forth conversation to keep organization healthy, rather than have one person make decision of which way organization should go.

Comm. Cohen – have taken down multiple points but I fear that this might be reduced to sound bites and the good work we do will be ignored by the sound bites. Really about the future of the city and how to best position it; about whether we have a functional government or not. How do we get a government that works? Right now it is not working as well as it should. Portland is not well-liked in the legislature; Portland frequently doesn't do very well in funding. We need a champion to stand up for Portland.

Comm. Spritz – agree that we should be careful not to get lost in the weeds. At the panel, all 4 agreed that the goal is to have non-partisan elections and this does affect the degree to which the parties are involved. Do not have the knowledge about specific state or federal funds we might have received. However, in economic development, it is clear that in the last 5-10 years, Portland has been rudderless in how to develop itself. There has been a sense that we have 9 individual voices in City that shift over time. City has lacked a clear sense of how it can grow economically; that would be one of the things I would want a mayor to work on. City has great potential but need coalescing of the energy in one place.

Comm. Mermin – It is about moving forward. If we make it a part-time position, is that an expectation that person has another job. Is that an inherent conflict?

Comm. Davis – have had a number of neighborhood organizations over the years with individual voices, think that's part of the evolution to get to one voice. I have managed federal and state funds – there are two kinds – 1) competitive grants; 2) allocated by certain standards. Mayor could be pivotal in setting us up to get discretionary, competitive grants.

Chair Plumb – pretty full discussion about value of having or not having an elected mayor. In responses, there were a lot of differences around certain areas and might want to look at those areas.

- 1) full-time or part-time pros and cons; pay issue – attract people but not for the salary;
- 2) what is the budget role?

3) what would be the hire/fire role?

Comm. Spritz – Get nervous thinking about this as a part-time person. If we want someone to spend their week working on improving Portland, do we end up pre-selecting who can afford to run for the office. If you are looking at someone who would be comparable to City manager and Superintendent, then probably looking at \$100,000 plus benefits. Would this kill it at the ballot box? Would want someone thinking about the City all the time.

Comm. Cohen – in Nashua, the Mayor's days begin 6 or 7 a.m. to 10 p.m., works Saturdays; takes Sundays off. Extraordinarily stressful to serve as mayor even as ceremonial position. During my time as mayor, I was easily putting in 30 hours per week. Doing that with another job and a family is an impossibility. By the time the mayor reaches the end of that year, they are limping to the finish line, waiting to get back to their lives. Worry that if talking about elected mayor, will be talking about a huge amount of time and effort. Want people to be talking to people and groups, representing city. Really have to be talking about a full-time job; don't want to have to worry about conflicts. If want good people to run for an office; have to pay a fair wage. People in senior management positions make reasonable salaries. Take politics of salary out of the equation. We have staff within the city who can service the mayor.

Comm. O'Brien – thought it should be part-time position to avoid meddling with city manager's office but changing mind. About the salary, need to pay a professional wage. Would hate to burn someone out because they could not afford to continue. Should look at median wage for the City.

Comm. Davis – is it a job or is it public service? Would hate to have a salary that put mayor out of touch with city. Want the mayor to understand what it is to live in the city. That might be a problem in attracting people, but maybe not. Do not want to see it out of touch with the voters.

Comm. Mermin – Would want pay enough so that more than just independently wealthy, retired or otherwise financially independent could run. This is not a 40 hour week job; it's public service and it needn't pay what it might take to get a superintendent or city manager, but cannot discount it all the way down to median. If have parents, think of stress on other members of family, so don't want it too far down on pay scale.

Comm. Chipman – agree that it should be tied to working families, median income etc. Governor only paid \$75,000 but he works full time. Should peg to median income or a little more – \$50,000-60,000 plus benefits.

Comm. Cohen – trying to understand difference between mayor working 60-70 hours per week, and superintendent of schools and city manager. There's a lot

of symbolism around pay and pay raises. You want to make sure you attract that best candidate. Why should we pay those people adequately when an elected mayor will be working side by side with them and putting in many hours. \$75,000 for governor is lowest in nation and is highly criticized as to whether it discourages people from running. Mayor will probably not be able to have a working spouse.

Comm. Ranaghan – not up to charter commission to set the salary; it's up to Council. Don't try to set the salary. Cannot just look at salary – governor has house, and other perks. The dollars will be what they are, and they will be substantial.

Comm. Treverrow – Not convinced that it's the Charter Commission's job to set the salary for the mayor. Whether the office is full-time or part-time is the authority and the powers we grant to the mayor. Need to discuss those things.

Comm. Davis – compensation flows from what you are asking someone to do. Need to look at what we want the person to do and craft it in a balanced way. Don't want someone to overdo it. Want someone to provide direction and act as a catalyst for others.

Comm. Smith – Been convinced by discussion that this is a full-time job. I would have spent more time with some of the business leaders in the city talking to them with what would make them willing to invest in the city and build employment and tax base in city. Someone who is a fulltime mayor can start connecting with a lot of groups and get a handle on what people are concerned about, and how to better govern the city. Probably is a full-time job; don't know if we can figure out the appropriate salary, worry about setting expectations and salary that guarantees we only get a certain type of person – only person with trust fund, second wage-earner, retired. It would be a shame to eliminate large groups of people on an economic basis, so we either have to wrestle that, or punt and let council do it.

Comm. Spritz – what do we get into now or leave up to others to decide? 3 levels of detail for ballot – 1) do you vote yes or no on changes to charter; 2) then more detail on the ballot on what the changes are; and 3) then what is in the charter itself. Council may have discretion over salary. Whether full-time or part-time, they are not going to have a lot of staff, and power of mayor inside city hall will be somewhat limited. Power will be more strongly felt going out into the community and outside of Portland. Probably need to peg it to something else, such as median income plus.

Chair Plumb – came in looking at this as part-time and a stipend; although it is a job that could take an infinite amount of time but we can and should set whatever our expectation is. If it's more public service than salaried, and part-time not full-time, we can set that expectation. But if we want a full-time

mayor, then have a different expectation and command a different approach on salary. Can set the expectation without setting the salary. Have a responsibility to have at least the parameters of a fiscal note that goes with any recommendation. Want some parameters of a fiscal note on every recommendation.

Comm. Cohen – What do the charters in the comparison cities say about salary?  
Could we have some statement of what the goal is in salary?

Chair Plumb – involvement of mayor in the budget. What kind of role would an elected mayor play?

Comm. Smith – could Comm. Cohen talk about how mayor/manager/finance committee function?

Comm. Cohen – City manager gives direction to department heads about what the expectation is; departments structure the budget; common for city manager to take pulse of the council as to what likely expectation is; there is a collaborative process by the time the budget is delivered by the city manager to Council and then it is sent to Finance Committee. Finance committee brings in each department head with thick budget notebooks with good detail. Finance committee then makes recommendations which can be substantial. Then Finance committee recommendations go to full council. One or two public hearings in community; hearing in council chambers; sometimes amendments on floor, then 5 vote majority passes the regular budget. CIP budget is a 7 vote requirement. 7 votes is very high threshold and creates discipline on the council so it helps create a collaborative environment. There has been talk about multi-year planning for CIP.

Comm. Ranaghan – there really are two parts to budget: by division and department and then broken down by line item. Also divide it up by programs. The key to the budget is the programs. Don't look at the line items per se, have to look at programs. Multi-year budgeting does not work, get fuzzy after the 13<sup>th</sup> month. Long term CIP planning is important and is done on a 3-5 year basis. 7 vote rule in charter probably should be changed since everything goes to referendum. Mayor's involvement would be at the program level. The policy-making of City Council should be at the program level.

Comm. Smith – agrees with Comm. Ranaghan.

Comm. Spritz – could either have a mayor as champion for the City with state of the City speech every January but who has relatively little involvement in actual budget or could have mayor who sits down collaboratively with city manager and works on the priorities mayor ran on, recognizing that most of budget is in concrete. Could see mayor getting involved in city council



discussions. I would prefer having mayor work with city manager, and then be hands off with city council.

Comm. Mermin – See no reason for mayor to back off once it gets to council. If mayor is a facilitative leader, then part of what they are doing is working with the council to use their political clout. Want ability to sway and facilitate what they have built with the city manager.

Chair Plumb – vision I would carry would be that the mayor would be elected with some sense of direction and begin to inform the budget process from beginning. Priorities need to factor into budget development process. Mayor also has role in going to community and picking up needs in community and relaying those to the city manager, but not at a detail line item level. Then facilitative role in selling budget to community and to council. See a real role even for a part-time mayor.

Comm. Davis – If they are elected in November and sworn in early December, then is mayor coming on board too late to sway budget cycle and does that have implication for timing of elections?

Comm. Cohen – if we want a mayor to be purely ceremonial, basically what we have now, but elected by people for 3 year term? Concern about just that is whether there is any reason for other members of council to especially listen to mayor? The budget is an important policy issue. Mayor needs to have some budget role. There has to be some ability for the mayor to ensure that they are getting good information and that is a structural issue. Making it the mayor's budget means that manager has to make sure there is good information. Leaning toward a veto for the mayor to overturn council action with 2/3 override. Gives mayor ability to require supermajority of council to overturn his/her budget.

Comm. O'Brien – like to consider the role of the finance chair. Budget does absorb a tremendous amount of time. Are we electing an overseer of the budget? Mayor's time might be better spent on diplomacy and programs. Like the idea of having Finance Chair as a kind of deputy mayor. De facto this is how it has been working on SC.

Comm. Mermin – the numbers push the policy. If you take away the ability of mayor to influence budget, it undercuts political leadership. Would create a person who is running for mayor and create conflict.

Comm. O'Brien – If have mayor involved in development of budget, then they will not be able to cover the legislature – budget season and legislative season overlap.

Comm. Davis – not sure it's a bad thing to have a training ground for mayor; can delegate to Finance Committee but then bring it back with possibility of a veto.

Comm. Spritz – not worried about mayor getting absorbed in minutiae of budget, will delegate to administration.

Comm. Smith – if make it mayor's budget, then take away from professional city manager. Wonder if we have a mandate for them to present a budget together; encourage them to collaborate to present a budget to the council.

Comm. Ranaghan – on city side, the department heads not even involved until it's cooked for awhile. Would be very afraid of a veto of the budget by one person. Still have 9 people who represent the whole city. Might support having mayor have a tie breaking vote. Very heavy hammer to be able to veto budget.

Comm. Cohen – maybe all are saying similar things; mayor would have active hand in the budget. All want a collaborative process but have not resolved what happens if there is no meeting of the minds. If a mayor is actively involved in budget, finance committee is still the Council Committee responsible for working and educating the council on the budget. Right now mayor does not sit on finance committee, so that process still goes forward. Mayor has extra knowledge because would have helped develop the budget. Whether it's veto power, presentation of budget, then should make sure what is that "thing" to provide balance.

Chair Plumb – one thought in lieu of a veto would be that one of mayor's responsibilities would be to appoint a finance committee.  
Next big issue: hire and fire powers.

Comm. Smith – current system is pretty good. Council as whole should hire and fire manager, but mayor should be charged with responsibility for evaluating manager every year in conjunction with council.

Comm. Ranaghan – council hires and fires clerk, city manager and corporation counsel. This should not be vested in a mayor, should be a joint decision of City Council.

Comm. O'Brien – agree with above two comments.

Comm. Mermin – there's a value in choosing to re-hire. Still think should be hired and fired by full council, should strengthen evaluative process and have a contract term so that in addition to annual evaluation, there is a moment when the City Manager is "re-engaged".

Comm. Cohen – current City Manager does not operate according to a contract. The thinking behind that is we want City Manager to always be fearful for his/her job and sharpen pencil and be responsive. No force to try to change that practice. Think it would make sense to have a contract for City Manager. Struggling with whether it is City Council or mayor and City Council who hires city manager.

Comm. Spritz – would be interested in having city manager come and give an opinion on whether he would prefer to have a contract.

Comm. Davis – one alternative is to strengthen the evaluative role for Mayor, with ability to make recommendation to Council.

Comm. O'Brien – had a certain superintendent who had a 3 year contract and it just kept getting renewed. Also have protections that come with a contract; one of reasons school committee was so slow during crisis was legal issue of whether city would have to pay for any lawsuit for breaking contract. On evaluation – had a self-evaluation by superintendent, nothing legally on books for a 360 review.

Comm. Ranaghan – have not had any problem in last 35 years with having to terminate a city manager. Have done very well with no contract so no need to buy someone out if need to terminate them. Do not favor mayor having right to terminate the manager, must be a council decision; can have a committee do a good evaluation process. Do not favor a contract; will just cost us on the day we do need to terminate someone.

Chair Plumb – thread is that the evaluation piece is the key piece and that the mayor should play a key role in coming up with an evaluation. We have done a lot of the big chunks. If useful, I will create a straw man, might create two pieces, to give us a base to work from.

Comm. Spritz – cannot attend in 2 weeks. Hope there will be some allowance for those not able to be here.

Chair Plumb – will try to get something out early enough to get comments.

Comm. Spritz – should be able to participate in final vote.

Chair Plumb – will only be a preliminary decision, and will come back around for a final vote.

Comm. Spritz – would be glad to have public comment at the end.

Comm. Smith – this fits in with two reading issue where there would be a preliminary decision and then some drafting.

Comm. O'Brien – agreed upon having public comment at the beginning, would like to have public comment at beginning for those who need to leave; then at end for others.

Open to the public for comment:

Stephen Scharf of Veranda Street –

Appreciated explanation of 3 year contract concern

Cost of having mayor – think it was a straw man, that we're looking to create a 250,000 mayor job but that's not the case. Might be more like \$100,000 – 150,000 but not the Charter Commission role to set salary.

Budget, if have veto power, should be over the whole thing, don't know if there is any reason for veto. Waterville has an excellent setup and mayor has kept them from increasing their budget.

Nancy Akers of Portland -

Do not want an elected mayor

Emphasizes collective over individual rights

Does not guarantee professionalism in electing mayor

Councilors have to recuse themselves, so why couldn't mayor if mayor had another job?

Problem is current city councilors who change their minds

Maine as a state is rated last in public salaries

Meeting adjourned at 8:40 p.m.