

## PORTLAND CHARTER COMMISSION MINUTES of APRIL 1, 2010

**Agenda #1:** Chair Plumb called the meeting to order

**Agenda #2:** Public comment on agenda.

\*Steven Scharf of State Street

- salary should be “true compensation”
- should it even be worded in the charter
- should reference to “manage the process”
- agree with Ben Chipman on when it should start

\*Steve Bragdon

- mayor should be responsible for budget and therefore should make final decisions
- should be a salary
- should be a stronger mayor

**Agenda #3:** Minutes of 3/25/2010 meeting approved (8-0)(Trevorrow, Smith, Cohen, Davis absent)

**Agenda #4:** Announcements

- a. Next meeting is Thursday, April 8. Jim Cohen will be chairing; the meeting will include discussion and preliminary agreement on all remaining issues, report back from Technical Subcommittee
- b. Will have a meeting on April 15.
- c. Comm. Spritz and Mermin will miss 4/15 and 4/22

**Agenda # 5:** Discussion and preliminary agreement remaining issues re: elected mayor

- a. Clarify relationship between city manager and mayor and budget – (no. 5 of Elected Mayor Decisions).

\*Comm. Valleau

- raised need to clarify this; who should have the last word.
- believe council deserves to have it be city manager’s professional expertise in the budget

\*Comm. Gooch

- Feedback from people is that we have not yet crafted a full-time mayor.
- Should be the mayor’s budget with city manager tracking the budget.
- Leery of loss of professional expertise and need for crafting a budget that’s rational and successful in meeting city’s needs.
- Want to see it be the mayor’s budget

\*Comm. O’Brien

- Would this affect our bond rating?

\*Joe Gray, City Manager

- what affects the bond rating is how we overall manage our budget, not mayor versus city manager.
- look at a number of factors

\*Comm. Spritz

- see the mayor sitting with manager and discussing how mayor’s priorities are reflected in the budget

- then see the city manager doing the nitty gritty, using his/her professional expertise working with the department heads.
- comfortable with language that the mayor will guide the budget but the budget is put together by the professionals.
- \*Comm. Mermin
  - agree basically with Comm. Spritz
  - see the manager having more focused direction from mayor, rather than negotiating with whole council
  - what we really need to change Portland is someone with clout to go to community and sell the budget
  - need to have the mayor “own” the budget
- \*Comm. Gooch
  - decisions of how we are going to spend our funds should reflect our priorities; but the core of the budget stays the same.
  - but need to have someone who can drive the priorities and be accountable for the budget.
  - don’t want mayor to be able to sidestep accountability by saying it’s the “city manager’s budget”.
  - along with the CIP planning process, start to set long-term vision for city.
- \*Comm. Valleau
  - would like to make an amending motion at the right time
  - would substitute “policy guidance” for “direction”
  - it’s actually the city council’s budget and they are the ones accountable for it.
- \*Comm. Cohen
  - it’s the Governor’s budget and the President’s budget; professional staff do it.
  - thought the intent was that it would be the mayor’s budget with the assistance of the manager.
  - city manager would continue to prepare the budget but manager would be reporting to the mayor, and mayor’s responsibility to sell the budget.
  - mayor would present it; once presented, it’s the council’s budget.
- \*Comm. Smith
  - should have something in on CIP planning as well
  - what about issue of day to day management of the budget, in consultation with the mayor for significant budget corrections
  - manager preparing the budget under the direction of the mayor, sends statement to mayor to be engaged in that process.
  - in addition to the discretionary services, there can be cumulative effect over time
- \*Comm. Chipman
  - feedback in 1<sup>st</sup> district is that mayor’s position is too weak
  - the budget should be the mayor’s responsibility; more accountability in city hall.
- \*Comm. O’Brien

- often in campaigns have candidates who promise drastic changes in budget;
- if council only use to dealing with 3-5% of budget would this be a check and balance on budget
- \*Comm. Cohen
  - 3-5% is just a benchmark; reflects that fiscally there is very little way of making drastic changes;
  - shift the burden to the mayor and mayor now has to work with the council about the budget; not a final budget until council approves
- \*Comm. Plumb
  - the ultimate check and balance is the city council
  - could elect a mayor who ran on platform of reducing employees by 25% ending services, combine departments, etc.
  - want to give the mayor ability to do something different; but don't want the mayor to race through the budget and do things he/she doesn't understand
  - how do you let the mahyor give some policy direction but still let the manager be in charge of this long process
- \*Comm. Smith
  - we have not given the mayor the power to veto the budget and then be overridden; so mayor only has limited power;
  - if mayor doesn't know what he's doing, that's going to come up pretty quickly;
  - these provide good checks on the mayor.
- \*Comm. Ranaghan
  - could be a very rocky road from February to June, but council will have the final say and probably will still have a good budget
  - don't think what we have is broken, but if city puts in a popularly elected mayor, think he/she has to be involved in the budget.
- \*Comm. Mermin
  - has experience working under elected mayors and many have come in and made changes without problems.
- \*Comm. Valleau
  - how do the other 8 city councilors get the best thinking of the city manager on the budget; how do they get countervailing advice?
  - what position is manager in if giving advice to other councilors different from mayor's position?
- \*Comm. Cohen
  - manager is hired and fired by the full council, not by the mayor.
  - manager reports to full council
- \*Comm. Smith
  - they can ask the manager.
- \*Comm. Valleau
  - right now the council gets the manager's advice through his/her budget
  - puts manager in middle of councilors and the mayor; dynamics are quite different

- \*Comm. Spritz
  - I understand that mayor would meet with other 8 councilors and get input before meeting with the manager;
  - then gives the manager the direction for the budget,
  - then mayor returns to council with the budget.
  - mayor is there to focus the diverse opinions.
- \*Comm. Gooch
  - maybe mayor goes off and does not consult with the other councilors
  - don't think we need to worry about the manager's "loyalties".
  - have heard about the professionalism of the city manager;
  - city managers' judged by quality of city government.
- \*Comm. Ranaghan
  - there will be power plays wielded by the mayor
- \*Comm. Plumb
  - consensus seems to be that the mayor has to have enough role in budget process to drive the policy direction;
  - the manager needs to use his/her professionalism to go through process of developing the budget;
  - how do we articulate what happens in the middle?
  - have manager develop the budget with input from the mayor and make it the mayor's budget
- \*Comm. Cohen
  - prudent process for developing the budget; right now it's the manager's budget; we want it to be mayor's budget
  - want to be sure that mayor has the staff to prepare the budget
  - thought we were trying to figure out today about who has the final authority on the budget.
- \*Comm. Plumb
  - let's look at Comm. Valleau's language again
- \*Comm. Valleau
  - The city manager will prepare the budget with policy guidance from the mayor.
- \*Comm. Spritz
  - think the language is fine as is; describes that mayor shall direct the city manager to prepare the budget and present it to the city council
- \*Comm. Mermin
  - think the language is fine as is; the concept is the mayor driving the budget process
- \*Comm. Trevorrow
  - share the concerns about ownership of the budget and ownership is not explicit to see mayor moved to the front of the sentence
  - consensus is the mayor is a policy mayor, but some would like to see some teeth added to the executive side and give budget ownership to mayor.
- \*Comm. Davis

- think we could say it more strongly by leading with the mayor and describe what the mayor will do
- \*Comm. Smith
  - think the way it's worded is fine and gives a soft landing; manager still does nuts and bolts; gives some assurance of professionalism through city manager doing nuts and bolts of budget
  - should we talk about both budgets, the city manager shall prepare the operating and capital budget and will present the budgets to the council – will suggest as an amendment at appropriate time.
- \*Comm. Davis
  - what about grants and other sources of funds?
  - should include all budgets, including HCD
- \*Comm. Ranaghan
  - there are grants that are not in the budget, e.g. airport grants
  - really talking about operating budget, the grants are all separate
- \*Comm. Cohen
  - support adding capital
  - not sure about the HCD budget, but if intend it to be the mayor's HCD budget, then need to be explicit
- \*Comm. Ranaghan
  - caution against putting in HCD/CDBG grant funds;
  - leave it as operating budget; maybe add on CIP budget
- \*Comm. Cohen
  - support adding capital budget
  - HCD currently have advisory committee which makes recommendations to city manager; city manager's budget then goes to council;
  - if goal is to have HCD budget have mayor's imprint, then need to be explicit
- \*Comm Plumb
  - need to decide if we want to change the language;
  - if going to change the language what to?
  - do we want to add to it the CIP and any other specific funds?
- \*Comm. Ranaghan
  - caution against referencing HCD since that could be gone in future
  - need to talk about this as operating budget, of which there may be some federal money in it;
  - operating budget perhaps adding CIP
- \*Comm. Davis
  - do we want the mayor have control over some funds or all funds?
  - current charter is silent because there is no mayor; if want mayor to have direction driven power, then mayor needs to have control over all funds
  - could end up with manager driving some funds and mayor driving some funds
- \*Comm. Plumb
  - anyone have a motion to make?
- \*Comm. Cohen

-seems like many of us are comfortable with current language.

\*Comm. Chipman

**Motion “At the direction and vision of the mayor, the city manager will prepare the budget and the mayor shall present the budget to the city council” (fails for lack of a second)**

\*Comm. Trevorrow

**Motion “The mayor shall direct the city manager to prepare the city budget and will present the city budget to the council”** Seconded

\*Comm. Gooch - Friendly amendment to main motion –

**Motion The mayor shall direct the city manager in the preparation of the city budget and shall present the city budget to the city council.**

\*Comm. Davis

-if we have taken out “city” budget is the intention to open it up to all budgets?

\*Comm. Gooch and Trevorrow – no, did not intend to take out city

**Motion: The mayor shall direct the city manager in the preparation of the city budget and shall present the city budget to the city council, passes (10-2)** (Smith, Valleau)

\*Comm. Smith – amendment to the language just adopted

-Insert before the word city “in preparation of the operating and capital city budgets”

-also worry about not including HCD budget, but not sure how to deal with that

-Assume that this is a statement of intent – a narrative

**Motion - the mayor shall direct the city manager in preparing the operating and capital budgets and shall present the budgets to the council, seconded**

\*Comm. Spritz – could say that mayor shall direct the city manager in the preparation of all city budgets; but would prefer to keep as is until hear from Comm. Ranaghan’s subcommittee on capital budget.

\*Comm. Ranaghan

-agree that you should wait until subcommittee comes forward

-should not say “all budgets”, there are different processes for HCD, grants, sewer fund etc.

-really changing the whole process

\*Comm. Davis

-it varies depending upon the type of grant

-when you keep some things off the books and out of their reach, there’s a lot of latitude about how those funds can be used

-should not take away from the mayor the ability to influence how they are allocated

\*Comm. Cohen

-would like to postpone and see if there is a way to capture this range of budgets

-Jetport budget comes to council as does the sewer budget setting the sewer rate;

-talking about what policies should underpin the financial expenditures and revenues for the City  
-comfortable postponing and have counsel suggest when we return as to whether there is a way to capture this range of budgets

\*Comm. Mermin

-agree with Comm. Cohen and hope there is some technical way that all these budgets are encompassed in the language; should not go down this path very far

\*Comm. Smith

-not sure how I feel about the issue of all these other things that might qualify as budgets.

“All budgets requiring council approval”

Will withdraw motion if the seconder agrees

\*Comm. Ranaghan

-Will be on next agenda

(Comm. Smith will not be here next week, would like to have it brought up by someone else)

b. Who would set the Council Meeting agendas, the Mayor or the Manager

\*Chair Plumb

-think the mayor sets the agenda

\*Comm. Gooch

-Motion that the mayor sets the city council agenda, seconded.

\*Chair Plumb

-sure hope the mayor consults with the manager on it.

-would like to postpone and see if there is a way to capture this range of budgets

**Motion that the mayor sets the city council agenda, passes 12-0**

\*Comm. Spritz

-would like to take this out of order; decide on the duties before we decide salary or full-time

d. Clarify the meaning of “manage the process” in this earlier vote: That the Mayor shall manage the process for recommending to the Council the hiring or firing of a City Manager, City Clerk and Corporation Counsel, but the Council will be engaged in the process and will have the final vote on hiring or firing the City Manager, City Clerk and Corporation Counsel.

\*Chair Plumb

-what is meant by the mayor will “manage the process”

\*Comm. Ranaghan

-think the idea here was that the mayor would chair a committee that went through the process of hiring or firing

\*Comm. Mermin

-want intentional evaluations of personnel

\*Comm. Gooch

-would like something that says manager is hired under contract for a term of not more than 3 years

\*Chair Plumb

- would like that postponed to 4/8
- \*Comm. Cohen
  - there are two different items – one on hiring and firing and one on evaluations;
- Is the mayor putting together the process and taking the process to council or is it having the mayor send one name to the council for approval or disapproval?
- \*Comm. Cohen
  - concept was that mayor would oversee the process, not a process of one person.
- \*Comm. Smith
  - don't say here who has hire and fire over those below manager,
  - my concept was that you would have a hiring or firing committee
- \*Chair Plumb
  - let's define the problem
- \*Chair Gooch
  - “manage the process wording is somewhat muddled;
  - agree with Comm. Ranaghan and Smith that:
  - Gooch: the mayor shall chair the committee responsible for recommending to the council for the hiring or firing of the three council appointed employees.
- \*Chair Plumb
  - are not saying there cannot be others involved in the hiring process?
- \*Comm. Cohen
  - The mayor shall chair a committee of councilors responsible for recommending to the council for the hiring or firing of the 3 council employees.
- \*Comm. Ranaghan
  - Mayor and at least two city councilors are responsible for the hiring and firing and annual evaluation process for those employees
- \*Chair Plumb
  - Mayor shall chair a committee of at least two additional councilors responsible for recommending to the Council the hiring and firing of the 3 council appointees
- \*Comm. Spritz
  - the mayor and subcommittee can forward as many names as they want to
  - just saying that someone is responsible for directing the process
  - mayor shall oversee this part of the process
- \*Comm. Mermin
  - have made the mayor the chair of a committee and the committee can go through whatever process it wants to.
- \*Comm. Ranaghan
  - intent not to have this in the hands of one person
- \*Comm. Gooch
  - think this does reflect commission thinking at this moment
- \*Chair Plumb



-could be read that this committee would just bring forward 1 candidate but doesn't have to be

\*Comm. Mermin

-are we leaving out the second part of the sentence

\*Comm. Plumb

-thought that it was replacing the whole thing because if then say "and the council will be engaged in the process" remuddies the waters.

\*Comm. Ranaghan

-don't need to say it; council is involved

\*Comm. Cohen

-don't care if we do it ahead of time or later but need to look at the end of the sentence.

**The mayor shall chair a committee of at least 2 additional councilors which will be responsible for recommending to the council for the hiring or firing of any of the council appointees, passes 11-1 (Valleau)**

\*Comm. Cohen

-move that we add "but the council will have the final vote on hiring or firing the city manager, city clerk and corporation counsel".

\*Comm. Ranaghan

-don't need this;

\*Comm. Spritz

- think it's important that we make it clear that there is a recommending authority in mayor, but council has final say.

\*Comm. Smith

-would prefer to lead with the idea that the hiring or firing of a council appointee shall require an affirmative vote of the whole city council and then talk about the mayor's oversight of hiring and firing.

\*Comm. Cohen

-should not draft this now

\*Chair Plumb

-what we want to accomplish is that it is clear that the council has the final say in hiring and firing of council appointees.

-can we wait until we get some wording back

\*Comm. Cohen

-expect it will be appropriately wordsmithed when it is brought back.

**Motion to add at end of sentence about hiring and firing "but the council will have the final vote on hiring or firing the city manager, city clerk and corporation counsel" passes 10-2 (Plumb, Ranaghan).**

c. What should the charter say about the salary of the Mayor? Is the salary intended to be a stipend or a true compensation for time spent? Should it be in the Charter? If not, how would it be set or to what should it be pegged?

\*Chair Plumb

-salary of the mayor; anything left to do before we do salary?

\*Comm. Chipman

-thought we already decided that the council would set it at a level to attract candidates etc.

- \*Chair Plumb
  - we should do mayor salary tonight; would like to hear what you would like to see on salary
- \*Comm. Chipman
  - we have council have final say on hire and fire; let them set the pay
  - salary that will attract a qualified person to the position
- \*Comm. Ranaghan
  - it's all over the map as to what a mayor gets paid
  - at least half of New England cities about the same size as Portland, the mayor makes about what the manager makes
- \*Comm. Smith
  - worry about having the council have complete discretion to set the salary
  - compromise might be to have language "that the council will set annually the salary for the mayor which is at least 75% of the manager's salary"
- \*Comm. Gooch
  - concerned about having it set annually
- \*Comm. Spritz
  - like the idea, will pay a full-time salary, but not sure right now if it is as demanding as the city manager's job.
- \*Comm. Gooch
  - suggest floor of 1.5 times the median salary of the city of Portland
- \*Comm. Mermin
  - full-time job
  - want to get out of situation where person must maintain another job
  - concerned about conflicts of interest
- \*Comm. Trevorrow
  - prefer the median income because it has a sense of civic duty to the position
- \*Comm. Cohen
  - supports Comm. Smith's floor because it changes by changes to the manager's salary and at any time the council could modify that
  - talking about a 70 hour a week job easily; if want to attract talent, people with families, single parents, we need to recognize that in order for people to have a baseline living and accomplish the work, 75% of the city manager's salary makes sense as a floor.
- \*Comm. O'Brien
  - who calculates the median income? if we go to a formula need to cite the source of the median index
- \*Comm. Valleau
  - if tie it to median income, will it go up and down with median changes
  - tie it to a multiple of city council pay, e.g. 15 times city council pay which pay is already tied to non-union pay increases.
- \*Comm. Gooch
  - we should be formulating the question as to what we want
  - are we trying to attract people already making big money?

- do we want to attract people who want to make the public sector contribution?
- mayor of people should be reflective of the population of Portland and not just the top 2%.
- \*Comm. Chipman
  - concerned about it getting passed in November if number is too big
  - tie it to median income with some percentage and use a particular source
- \*Comm. Mermin
  - if we tie it to individual median income, then the number is a little lower;
  - disagree that the desire to run for office is always driven by altruism;
  - take that piece away; it is a senior management position;
  - not a bohemian lifestyle not a bohemian lifestyle; not a 9-5 job;
  - requires enormous time, commitment, and ability
  - should not go too far astray – senior management position and should be compensated accordingly.
- \*Comm. Ranaghan
  - typically in New England in cities this size, the mayor typically makes about what the manager makes
- \*Comm. Davis
  - worry about setting a salary which is so far from where many of the people in Portland are, so that the person loses touch with that;
  - there is something about public service; not just a job
  - public service needs to be accessible to all;
  - setting it too high for Portlanders with extra cost on the tax bill
- \*Comm. Gooch
  - No less than 1.5 times the median – it is a floor, council could set higher if council desired;
  - are we directing the council to look at ordinary Portlanders, or are we directing them to look at executives.
- \*Comm. Spritz
  - would be an easier sell to the voters to say we have pegged this to average family or individual income in Portland.
- \*Comm. Cohen
  - one dimension is what's politically palatable,
  - another dimension is what's fair;
  - people in the city are making above the median;
  - could see list of salaries of city employees;
  - don't understand why paying less will make the position more approachable;
  - unfortunate that we are saying up front that there is a percentage of the population that cannot take this job because of finances;
  - other communities in New England are paying more;
  - the advantage of picking manager's salary is its more stable over time;
  - median wage goes up and down on regular basis;
  - set a floor designed to attract talent.
- \*Comm. O'Brien

- part of the reason for the salaries in public service are the market conditions; set competitive salaries;
- but the Governor of Maine is paid \$75,000;
- should target it less than market conditions for an executive position;
- should have a threshold where the salary is not a distraction.

\*Comm. Smith

- if you get better governance, you can get decisions made where the taxpayers are much better off;
- are we sure we are trying to reach as broad a spectrum of people as we can;
- we should not “dumb” this down and narrow pool of people we are drawing from;
- if you want to have someone to commit to this for 4 years, then you have to pay for it; you get what you pay for;
- 1.5 times median household income might be ok, but don’t want to idealize the idea of the common man.

\*Comm. Ranaghan

- 75% of manager’s salary will be \$90,000;
- don’t forget adding fringe benefits which brings it to \$110,000.

\*Comm. Davis

- confounding factor with city salaries is pay for longevity;
- what’s fair and reasonable depends upon where you sit;
- mayor’s salary would be substantial increase for me; pay scale outside of city and schools is not the same.
- need a livable wage but also fair to Portlanders.

\*Comm. Chipman

- who sets the manager’s salary? City council.
- less stability and more political if tie it to manager’s salary

\*Comm. Mermin

- have already discounted it in both scenarios
- we pay a higher rate because of the specific job – e.g. superintendent
- people understood the value of what we were hiring and value to school system;
- if city is ready for an elected mayor, then ready to pay for it.

\*Comm. Spritz

**Motion that the city council shall pay the mayor an annual salary of not less than 1.5 times the median household income as established as an average for the previous year.**

\*Comm. Chipman

- Makes it more reasonable to the voters

\*Comm. Gooch

- Emphasize that it is a floor; need to compete in the marketplace and open the pool as wide as possible and not foreclose that top 2%.

\*Comm. O’Brien

- Floor allows the salary to be reviewed periodically

\*Comm. Spritz

-Deliberately made this an annual salary, not a 4 year salary; should be reviewed annually

\*Comm. Cohen

-It's an average of the median household income over the prior 12 months.

\*Chair Plumb

-Let's create a series of tables of what the numbers would look like

\*Comm. Ranaghan

-If this were to go forward to have an annual review and adjustment, mayor can put that issue on at any time;

-Important to talk about total compensation.

\*Comm. Spritz

-Talking about salaries only, do not need to get into fringe benefits in charter

\*Comm. Gooch

-My only concern is with having it set annually.

-Should be set and fixed for 4 year term; so it couldn't be used as a club

\*Comm. Davis

-benefits issue not inconsequential; should be set to some standard such as the non-represented employees or as the council has.

\*Comm. Chipman

-makes sense to not have it fluctuate every year;

-Set it for 4 years

**Motion to amend the motion to set it for 4 years using the formula (for a future term) – fails 6-6 (Smith, Cohen, Plumb, Spritz, Davis, Ranaghan in the negative)**

\*Comm. Smith - would this prevent mayor from voting on the salary?

\*Comm. Cohen – can vote on issue before us without resolving this issue of what the mayor can vote on.

**Main Motion: The city council shall pay the mayor an annual salary of not less than 1.5 times the median household income as established by the average of the previous year's median passes 12-1 (Gooch)**

\*Chair Plumb – will take up rest of items on list next week; plus issue of 3 year contract for mayor; plus Comm. Ranaghan's report from technical subcommittee.

\*Comm. O'Brien - Harry Pringle will be available for next week to talk about responsibility of schools for finances.

\*Comm. Trevorrow – would like to have meeting of 5 people to discuss minority report. Meeting needs to be noticed.

Adjourned.