

**PORTLAND CHARTER COMMISSION**  
**MINUTES of MAY 6, 2010**

- Agenda #1:** Chair Plumb called the meeting to order  
Reviewed agenda items for meeting.  
Next week will be final vote on preliminary report
- Agenda #2:** Public comment on agenda.  
None
- Agenda #3:** Approval of 4/29/10 minutes passed unanimously (8-0)
- Agenda #4:** Announcements  
\*Comm. Cohen – must leave about 6:15 p.m. but may be able to return  
\*Comm. Chipman – let’s have a group photo again; group agreed to set that up for one of the July meetings
- Agenda #5:** Discussion and preliminary agreement on remaining issues
- a. Article 7, Section 15 Fund Balance
- \*Chair Plumb
    - Technical subcommittee got recommendations from department heads and they were approved; then Comm. Ranaghan saw language and wanted to make changes to it.
  - \*Comm. Ranaghan
    - Existing charter talked about cumulative reserve fund, spoke to paying claims and other liabilities that might come up and paying out of cumulative reserve fund. This hits upon one part of fund balance; fund balance is net worth; some may be spendable, some not. Monies can flow into and out of fund balance. Existing provision didn’t talk about whole universe of fund balance.
    - Through generally accepted accounting principles has become more complicated over the year; sets up various pots.
    - Want to throw out old language and put in basic city policy of how to handle fund balance, with eye that city maintains good net worth.
    - Now thinking we should just not have it in the charter at all; city is required to follow GAAP
    - Policy that exists now is a fine policy, and can be changed from time to time in future
    - What’s in there now is only a piece of the policy
  - \*Ellen Sanborn, Director of Finance
    - When this started review of this language, there is no cumulative reserve so I thought this was just addressing the issue of uninsured claims
    - We have to have reserves in any case;
    - Agree the fund balance policy doesn’t need to be in the charter.
    - Think it is okay to take it out

- But there is nothing in the fund balance policy which should be in charter; terminology is changing so policy needs to be adjusted, but if in charter will not be easy to adjust. Issues of duties and reporting are all in the charter in other places.
- Whether you leave section 15 in is okay, or take it out is okay.
- \*Comm. Ranaghan
  - If city went back to fully insured, then the current language would be dated too, so okay to delete fully.
- \*Comm. Cohen
  - Whatever we say in the charter needs to be flexible; is there some bare minimum concept language that should be in charter?
- \*Ellen Sanborn
  - What's in the current proposed language is flexible but it's up to you whether it's in there or not.
- \*Comm. Mermin
  - Should we just strike the language?
- \*Ellen Sanborn
  - Only problem might be if, for some reason, there wasn't one of the defined anticipated liabilities and it wasn't the normal course of business at end of the year to be able to reserve that, yes, we could come to council and make sure we had the money. Not sure if Finance Director could do the reserve because of the GAFO re-write now going on.
- \*Comm. Ranaghan
  - Can always come to the council to set up the reserves.
- \*Comm. Smith
  - Agree that the marked up fund balance policy is not needed
- \*Comm. Spritz
  - Would it make a difference if this is in the charter or not?
- \*Ellen Sanborn
  - Moving money in and out of reserves does NOT mean that I can spend it; council still has to appropriate money to expend it.
  - GFOA is rewriting the fund balance; unsure whether I could do the non-traditional reserves without the authority in the original redrafted section 15. I'm unsure of it because they are in the process of rewrite. The fallback is if I don't have authority to do it, then legislative body (council) would have to do it.
- \*Comm. Ranaghan
  - It is not unusual for legislative body to make those decisions whether to fund a reserve or not or let it become an unfunded liability.
- \*Comm. Cohen
  - Feeling that there are still questions; not sure I'm comfortable making a decision on this. Wonder if Dick and Ellen can go offline and come up with a sentence or two. Not sure I want to be the arbiter of those questions.
- \*Ellen Sanborn

-We have been going around on this for awhile and don't think more time will help. I don't think leaving the language already adopted or keeping it out will hurt us either way. Other communities may take everything to council but here we distinguish between what comes to council in substantive form and regular daily business, which I consider this to be regular daily business.

\*Chair Plumb

-We agreed to the language in the technical issues in March, which is the language we have, absent the bold changes. Options: stick with what we have; add the bolded language; or take the language we have and take it out.

\*Comm. Smith

-Is there anything in charter about fiscal management for council? Ans. See Article I, Section 2, first sentence.

**Motion to eliminate section 15 entirely, passes 8-1 (Plumb)**

- b. Clarification on whether or not the Commissioners intended to have the council set the initial salary prior to the availability of nomination papers for the first election.

\*Chair Plumb:

-Comes out of discussion last meeting; some misunderstanding because we essentially stopped our discussion on Comm. Chipman's motion, had a discussion on what people would like to accomplish in this issue and, from that discussion, Comm. Smith brought forward some language that met the needs better than what we were working on at the time. So we put up Comm. Smith's motion up; I tried to amend it which failed and then we passed Comm. Smith's language. Some felt that we already had language in there that said salary would be set prior to the time nomination papers were taken out. So was it your intention to have that as part of the language or not?

\*Comm. Smith

-My intention was to not include that provision; thought we were dispensing with that prior language.

\*Comm. Chipman

-If council doesn't set the salary, how do we know what the salary would be? Shouldn't we have language that clarifies that they are going to set the salary and then every four years there after? Some felt that there was an agreement that at least the first time around that needed to happen.

\*Comm. Chipman

-The amendment which failed included every 4 years but did not include the reference to when the salary would be set. We need to have when initial salary is set

\*Comm. Cohen

-I thought the sentence was there about having the council set the salary prior to when nomination papers are set; did not understand that when we dispensed with Comm. Chipman's motion that we also lost that language  
-There should be some language setting the compensation, whether just for the first election or for every 4 years.

\*Comm. Mermin

-Will move to include a line that the salary be set the first time prior to the time nomination papers are taken out

-Salary should be set outside of the political process the first time

\*Comm. Chipman

-If nothing is done, would they just be at minimum?

\*Comm. Spritz

-Value in having council state what would be appropriated for the mayor's salary early on and then it can go up and down.

\*Comm. Ranaghan

-Why wouldn't we want to do it every time and not just the first time?  
Should be consistent.

\*Comm. Valleau

-Agree that it ought to be done every 4 years because what happens at the end of the 4 years or 8 years and next mayor takes for granted that he/she will be paid what the prior mayor was being paid

\*Chair Plumb

-That was in my prior amendment which failed so someone on prevailing side will need to reconsider it.

**Motion that Council set the salary the first time prior to the time nomination papers are taken out passes 8-1 (Ranaghan)**

**Motion to reconsider whether salary should be set prior to nomination papers being taken out every 4 years, passes unanimously.**

\*Comm. Smith

-I move that the council shall set the salary at least once every four years for the next successive year in the city budget adopted for the fiscal year in which the mayor is elected.

-Let's forget wording and talk concept – council should 1) establish what the mayor's salary should be coming into office; 2) that it only do that for the coming fiscal year and flexible to do whatever it wants after that; and 3) that it be incorporated into the city budget, and 4) give fair notice to someone running for office what it will be and 5) depoliticize the issue to extent possible.

\*Comm. Ranaghan

-Way too complicated; doesn't have to be tied to the budget at all. If just change initially to every 4 years prior to the nomination papers being taken out, the salary will be taken out.

Discussion of language that says increases cannot take effect until the following fiscal year.

\*Comm. Ranaghan

-That language does not tie the budget process per se.

\*Chair Plumb

-Options

At least every 4 years, ahead of political process

Budgetary cycle preceding the election

5 months prior to election

Prior to nomination papers are available.

\*Comm. Chipman

-What we're talking about is requiring the council to re-visit the issue every 4 years; I don't support it, except setting initial salary.

\*Comm. Spritz

-Like the idea of re-visiting every 4 years; forces the council to publicly debate and discuss the salary for the elected leader.

-Most people don't know how much city councilors are paid and this gives occasion for public discussion

\*Comm. Smith

-Could still adjust between the 4 years.

-Is it clear what happens if council does not act? Ans. No

-Can say that the council shall set the mayor's salary in May of the year of the mayor's election.

**Motion that the salary should be set at least once every 4 years passes 8-2**

(Chipman, Trevorrow).

\*Comm. Chipman

-Put this together with Comm. Mermin's language.

\*Chair Plumb

-Happens prior to nomination papers being made available and on a regular cycle every 4 years thereafter.

\*Comm. Smith

-Wording should be such which makes it clear that you're at the default and up to the council to set the salary.

\*Chair Plumb

-Any other issues in the draft charter language?

\*Comm. Smith

-Just want it clear that we are combining issues on which we would vote, all of the attributes of the mayor would be in one ballot question. People are not going to pick from a menu.

\*Chair Plumb

-Counsel to send out draft ballot questions to be reviewed and if folks are comfortable, then we could put it in the preliminary report, but it doesn't have to be in the final report.

-It would be the council's decision about how to put it on the ballot, but thought we should make a recommendation.

**Agenda #6:** Any questions or corrections on the Charter change recommendations for our preliminary report?

**Agenda #7:** Discussion of preliminary report and of final report

- \*Chair Plumb
  - Sent out draft of preliminary report, would like feedback
  - One issue is degree to which report should put forward reasons for why it's being recommended; I've put a little of that in the report but it's not an advocacy piece.
- \*Comm. Gooch
  - thought it was clear; would second the notion of including something in report – a page – 500 words on why the commission felt those decisions have been wise.
- \*Comm. Spritz
  - comfortable with that but would like to do it after minority reports are available.
- \*Comm. Smith
  - feel more strongly about the minority report which challenges the positive recommendation of the commission; less concerned about the minority report on non-citizen voting. That's not changing an affirmative recommendation going before the voters.
- \*Chair Plumb
  - Agree that we should have a parallel argument on what we are putting forward.
- \*Comm. Ranaghan
  - Concerned that because Comm. Valleau put forth a minority report that we feel that we now need to add more language on other side to support the overall recommendation of the commission as a counterweight. What if there's another minority report on something else.
  - I do not see the difference with something we're not asking the voters to vote on.
- \*Comm. Davis
  - Need to put in more on our rationale for the recommendation, need to add to that.
  - Never said why we wanted a mayor regardless of a minority report
- \*Comm. Chipman
  - Don't have a problem with statements in favor and either side should be able to amend their statements
- \*Comm. Spritz
  - Agree with Laurie; assumed there would be more explanation within the narrative.
  - That why is two or three paragraphs which should be put in page 3 right now.
- \*Chair Plumb
  - Two issues: why a popularly elected mayor and why the ranked voting system.
  - Want a balance in the report as to why on each side
- Comm. Spritz to work on a re-write and send out in advance.
- \*Chair Plumb
  - Might be helpful to voters to have them for the preliminary report.

- \*Comm. Smith
  - Thin out the issues not being recommended
- \*Chair Plumb
  - Would delete combining inaugurations and name of school committee chair.
  - Counsel to circulate proposed ballot questions
- \*Comm. Spritz
  - Order of the 3 ballot questions
  - Counsel has listed as Technical, Mayor and School; all I'm noting is that we might want to discuss the order.
- \*Comm. Mermin
  - Think it's important for technical changes to pass and get the yes vote and being first would give the technical changes the greatest chance of passing.
- \*Comm. Ranaghan
  - Think the most important question (mayor) should be first
  - Mayor, school and technical.
- \*Comm. Davis
  - Think that RCV is just one of several attributes and should not be singled out in the narrative; entitle it just the popularly elected mayor recommendation and not put RCV in the title
- \*Comm. Ranaghan
  - Keep in the title; huge change in the way we elect people; it's a two part question and important that everyone understand that.
- \*Comm. Chipman
  - Just one of many components of a package
- \*Comm. Smith
  - Title should be brief, but question should be longer and the essential points should be in the summary.
- \*Comm. Mermin
  - Agree with above; but maybe need to refer to majority concept in title because majority is the reason we went to RCV.
- \*Comm. Spritz
  - Just use the short hand language in the title,
  - On the ballot have question and put the bullet points below.

**Agenda #8:** Discussion of public outreach activities to inform and engage the public on the recommendations.

- \*Comm. Spritz
  - Publication of preliminary report on May 21:
    - On city website in a prominent position
    - Physical copies in City Hall, Libraries
    - Copies available to organizations
    - Before June 10 – articles for newspapers;
    - Program on channel 2
    - Distribute as widely as possible

-June 10

At 5:00, public invited but more a round table environment to interact with commissioners informally.

At 7:00, formal hearing

-Encouraged to send e-mails or letters to city hall, c/o Elizabeth Boynton ([liz@portlandmaine.gov](mailto:liz@portlandmaine.gov); Room 211, 389 Congress Street, Portland, Maine 04101).

-Will send a list around in the next few days.

\*Comm. Ranaghan

-Did the committee discuss what happens after the final report?

-When do the Commission's duties cease

\*Chair Plumb

-Not part of the committee's discussion today

-Under state law disband within 30 days after submission of final report

-Individuals can stay engaged but not formally as the Commission

\*Comm. Spritz

-Uncertain how far to think about future actions until the Commission is disbanded but would like to see members advocating for the recommendations

\*Comm. Smith

-In corporate capacity speak for document sent to the city council, otherwise just "former" commissioners.

\*Chair Plumb

-We will speak collectively through the report

\*Comm. Chipman

-Would like to have a District 1 meeting on charter changes and have as many attend as possible.

-Be good to have on in all of the districts around the city.

\*Chair Plumb

-Put information out, but if putting forth the charter commission's work, need to speak for the charter commission recommendations. If a formal charter commission event, need to speak for the charter commission.

Adjourned.