

**PORTLAND CHARTER COMMISSION
MINUTES OF OCTOBER 22, 2009**

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

Agenda Item 1. Chair Plumb called the meeting to order and stated that the business tonight was a continuation of review of the school issues and the charter.

Agenda Item 2. Public comment: none

Agenda Item 3. Approval of minutes from 10/8/09 (Ranaghan/O'Brien).
Unanimous)

Agenda Item 4. Announcements

*Chair Plumb

Panel meeting on 10/26

½ hour break in 10/26 program

Dinner for panel

After panel – have people put together their thinking on mayor issue prior to 11/5 meeting

*John Spritz – ask that commission members be there by 5:15

Agenda Item 5. Continuation of School Committee issue

Chair Plumb: Reviewed the question, concerns and issues identified by the Commission in previous meetings:

* Should there be any Charter recommendations to try to improve the relationship between the City and the schools?

* Perceived lack of control of the school budget

* Overlap of jurisdiction between the city and the schools

* School Board is an oversight body, but is elected which creates misunderstanding of expectation

* How we insure coordination and collaboration between the School system and City Government

* Different structures for selecting the School Committee

* Ways to make city and school finances more efficient

* Question of super majority to amend the school budget

Comm. O'Brien – welcome Harry Pringle and James Morse. Also have 4 members of School Committee present: Jaimey Caron, Kate Snyder, Justin Costa, and Peter Eglinton

Harry Pringle Esq. of Drummond Woodsum

* Review of history of School Committees and of excerpt from Maine School Law, noting the long history of public education in Maine, beginning in 1642, noting that Portland has the oldest continuing operating school committee in the state (1822). The School Committee is the governing body of schools; City Council is the legislative body.

* Review of issue of appointing School Committee members.
Legislative history of 2301: Recodification of Title 20 in 1980's to Title 20-A; recodification was not supposed to change anything of substance, was a ministerial rearrangement of sections so they would be easier to find. Use of the word "selection" in 2301 is a scrivener's error; prior Title 20 provision said "election". Also Section 2404 (which applies to all districts) says "election". York case said that municipality had a lot of discretion in charter unless contrary to state law.

Commission questions and comments:

Comm. Gooch – not clear that it would frustrate purpose of state law if had a couple of appointed members, rest elected.

*Atty Pringle – Biddeford has mayor as ex officio member with no vote except in case of tie. Lewiston and Auburn too. Do not know if there was any discussion of legality of these provisions. Could the Council appoint the entire School Committee; could the Council become the School Committee? Ultimately the courts would have to decide.

Comm. Chipman – in charter we give school committee more control over finances than required by state law.

*Atty Pringle: Not required to have 2/3 vote to reject budget; could be by majority.

Comm. Spritz – how did Biddeford, Lewiston and Auburn adopt the aberration they have? Have they ever been challenged?

*Atty Pringle: No they have never been challenged.

Comm. Cohen – overlay of school consolidation law – budget validation referendum, with 11 different "bucket" of funds, which have to be approved by Council. Could the bottom line authority be changed?

*Atty Pringle: have 11 cost centers mandated by state; You could by charter change the authority of the council to have control over each of the cost centers in addition to control over bottom line. Looking at Sec. 1485 – format of budget "must" be this.... Goal was to allow state to compare cost centers between cities.

Comm. Cohen – can charter allow for a different underlying philosophy of what is in the school budget? Is there the ability to add line item authority? Could charter say that council reserves right to approve line items consistent with state law?

*Atty Pringle – could not change line items in the cost centers.

Comm. O'Brien – is it permissible for school committee to set its own taxes?

*Atty Pringle – no, only if set up a regional school unit with another town, then that RSU could set school taxes.

Introduction of James Morse, Portland Superintendent of Schools, by Comm. O'Brien

James Morse – Many things to be very proud of in the school system but still have a lot of things to do.

- starting on plan for potential cuts in case of \$3 million curtailment by state
- starting multi-year budgeting to try to anticipate budget direction for 5 years
- School Committee is steward of both people's money and student's education.
- Have 200 year history with just 1 year of disaster.
- Doing complete audit of special ed program.
- “Visioning” meeting on what the priorities should be for 5 years in future.
- Facilities task force – putting in state applications for new elementary schools
- Common high school schedule across the high schools to save on duplication of services –
- By Nov/Dec, students will have netbooks for \$1 million less rather than Macbooks
- For first time in 39 years, enrollment went up and elementary classes too large. Provided more teachers by showing cost offsets
- SC understands what their priorities are

Commissioner questions and comments:

Comm. Cohen – very impressed with caliber of the School Committee and Superintendent and data driven and numbers driven approach

Comm. Valleau – how should the schools, school committee and city council work together?

*Supt Morse – cannot legislate behavior, can set pathways. Established Sustainability Plan, working to implement and expand. Still working on strengthening the financial controls.

Comm. Ranaghan – always had tugging between city and school committee on the budget, not just in past few years. Is there a way to get line item authority in the charter? There is duplication of services such as finance, HR, maintenance, etc. How can we suggest a change in charter that will provide more administrative efficiency?

*Supt Morse – city manager, assistant city managers, finance director meetings have all gone very well, very impressed with city staff.

Examples of how city and schools are working together:

- Recreation programs;

- Fuel from city pumps; using purchasing cards with smaller balances on Finance recommendation;
- Library services at Reiche and East End;
- collaboration of PATHS and horticultural employees;
- Community centers – unique in the state, incredibly cost effective.
- City doing HVAC.
- Transportation partnership with METRO for those using METRO, would like to be able to build that relationship.
- City maintenance assistance with Reiche and Lincoln roofs.
- Sharing homeland security money with fire department.
- West School improvements by City employees

Feel that based on 4 months, city and schools couldn't be working better together. Looking at whether there will be cost savings in collapsing other services. See real commitment to working together.

Comm. Mermin – in existing charter, have one hearing specified; would it be useful to have in charter that there be one joint meeting? Are there any opportunities for us to do better, or some way to have joint planning around facilities and transportation?

*Supt Morse – agree stewardship of buildings is very important. Jaimey Caron's Facilities study very important. Also looking at where city school system could generate revenue.

Comm. Smith – We have excellent combination of talent and skills right now, but are there things for charter which would reinforce that kind of behavior in the future? To Atty Pringle, have you seen things that worked particularly well that might be attributable to the structure that defines the relationship? Any ideas from either that would structure the behavior and culture of what is being done now voluntarily?

*Atty Pringle – what makes a difference is the respect. I don't think it's charter differences.

*Supt. Morse– It takes 3-5 years to root institutional change and if this team stays together for 5 years, then think it will be part of the culture.

Comm. Spritz – what I'm hearing is we do not need to change the charter in regard to the School Committee. 2007 was an aberration, do not need to focus on altering the charter.

*Supt Morse – agree that it's not a charter issue.

*Comm. Cohen – think 2007 reflected practices in place for a long period of time. What institutional things are occurring now that are putting us on right path. If we started bringing school budget to council earlier we could institutionalize collaboration with City. Should there be a requirement for more financial expertise on school committee?

*Atty Pringle – when the budget is sent over and steps in the process are within realm of charter. Don't know if you could require that school committee members have financial experience. When leadership skills are

high, you get a good performing institution; when not, then it doesn't work well. How do you create a culture where you do not run for school committee unless you're willing to dig into finances?

Comm. Cohen – general powers of school boards – care and management of schools. Could you put into charter that one of responsibilities is finances?

*Atty Pringle – yes, consistent with state law.

Comm. Mermin – should we have a contract with the City Manager? Has it been a positive for superintendents to have contracts?

*Atty Pringle – under Maine law cannot have a contract of more than 5 years for superintendent; must make a decision to re-employ at least every 5 years. The more often it has to be reviewed, the better, but have to balance time frame with ability to get best candidates.

Comm. Mermin – City Council sets School Committee members pay and right now it is less than City Council. Would moving to parity create some of culture of collaboration?

*Atty Pringle – maybe in abstract parity would be good, but no one runs for school committee for the money.

Comm. Valleau – Want to ask Atty Pringle about his opinion on supermajority requirement to reduce school budget,

*Atty. Pringle - don't know history of why it went from majority to supermajority but clear as matter of law that it could be a majority.

Comm. Valleau – impression that it is hard to get school committee member to run for more than one term. Any opinion on that?

*Atty Pringle – schools in Maine over the course of the last 10 years are under greater stress than in the last 35 with governor saying we have way too many administrators and too many schools. Legal system has imposed burdens on schools. We are expecting too much of the schools. One idea might be to lengthen the terms.

Comm. Gooch – Is it still possible to have a budget committee that oversees both city and school budgets?

*Atty Pringle – I don't know. Have an entirely new school finance law which requires uniformity, may be some intermediate steps which can be taken. State law on budgets very uniform now as opposed to when York case was decided.

*Supt. Morse – had a third body working on the budget in Limestone, and it became even more divisive. Not a good idea in my experience.

In regard to evaluations, the comprehensive annual review is critical to me.

Comm. Smith – interpret the supermajority requirement as a tilt in favor of School Committee’s work, recognizing that council does not have same level of knowledge of school budget as city budget. Opposed to line item veto for similar reasons. On evaluations – not sure it is as rigorous as it might be. Is there a way to better institutionalize the concept?

Comments from School Committee members

Justin Costa – always have a giant asterisk about how much money we will get from the State until the very end of budget process. Urge you to look at state side of things and mandates from state and federal law. All of these things affect school committee policies; make sure that issues you are trying to address are issues relating to the charter. On school committee elections, think it’s very important that it remain an entirely elected body. Going to be facing very tough budgetary decisions and these are issues of community values reflected in elective process.

Peter Eglinton –Have started working with city council as soon as have superintendent’s proposed budget, with joint finance committee meetings. Supt has begun talks with SP and Westbrook on regionalizing transportation, and other issues. Don’t think stipend would make a difference. Performance based expectations might work in the charter.

Questions from Commissioners

Comm. Davis – concern with having an elected mayor with a vision which might be different from school committee and superintendent’s vision. What do you think impact would be?

*Supt Morse –Hope that an elected mayor would use a similar inclusive visioning process and that new mayor would include school personnel. Cannot have a single person’s vision.

Comm. O’Brien – looking at technical changes, right now have school committee; could it be school board?

*Atty Pringle – yes, definition of single municipality is a school committee, but in 2307 refer to school committees or school boards

Comm. Cohen – what about aspirational language in charter about schools?

Supt Morse – think that’s a good idea, makes sense to me

*Atty. Pringle – nothing illegal about it.

Comm. Ranaghan – would like information relative to size of school finance, IT, HR, Maintenance so that we could see if we want to look at consolidation of functions. Want total personnel and costs on both city and school side for these departments.

Concluding remarks

*Chair Plumb – thank you. Last of informational and background meeting on schools. Any other information people need to be able to come to conclusions?

Comm. Davis – would like more information on free school lunches and ESL.

Comm. O'Brien – anything more wanted from the School Planning subcommittee?

Comm. Smith – can we get a grid of representative Maine communities as to how they structure the council and school committee relationship?

Comm. O'Brien – School Committee as an organization has not taken up the charter issue and wonder if they might have a workshop on it and ask if they have any recommendations.

Peter Eglinton – early in December would be earliest we could do it.

Comm. Cohen

- Change date budget is delivered to council
- Spelling out framework whereby there is collaboration
- Adding language about SC having responsibility around developing budget and oversight of finances.

Comm. Mermin – issue of clarification of who's in charge of school buildings and community centers and who do you go to? Would like Planning subcommittee to clarify this though would not be dealt with in charter.

Chair Plumb –brainstorm list of issues of potential charter changes:

- Change date budget is delivered to council
- Spelling out framework for collaboration
- Add language about School Committee having responsibility around developing budget and oversight of finances.
- Supermajority versus majority vote by Council on budget
- Centralized finance (broad definition of finance)
- Councilor/mayor on school committee
- Appointment of non-voting members.
- Aspirational language regarding education
- Parity of pay for school committee members
- Put timeline in charter now in place for current budget joint meetings
- Appointment of school board member
- Retention of School Committee members
- Change to school "board"

Motion to adjourn at 8:30 p.m.

Attached summary of school issues
Charter Commission meeting 10-22-09
List of School related charter issues for consideration

Whether or not to:

- reduce the required super-majority vote requirement for the Council to change the School Committee's budget
- centralize the finance functions
- have a councilor or the Mayor serve on the School Committee
- include aspirational language around education
- require parity in School Committee and Council stipends
- put in the current budget joint meetings and timeline, in powers and duties section
- appoint some School Committee members as either voting or non-voting members
- ways to encourage retention of School Committee members
- change the name to School Board
- specify or change the date for delivering the School Budget
- specify the joint budget process
- add to the duties of the School Committee the responsibility for the budget and finances of the schools

From Pam's notes: Whether or not to:

- allow the Council authority to change the bottom lines of the twelve cost centers within the school budget as well as the bottom line of the whole budget
- make a change that would drive collaboration between the city and the schools to eliminate duplication and reduce cost
- create a committee with oversight of both city and school budgets

Pam's summary of issues to consider

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.