

## **CHARTER COMMISSION MEETING**

March 3, 2011 - Portland City Hall, Rose Room

### Commissioners Present:

Jan Campbell, Cassie Cohen, Ann Collins, Justin Delaney, Brian Heron, David Martinez, Hank Miggins, Lai-Lani Ovalles, Sue Pearce, Ayoob Ramjan, Steve Weiss, Mark White, Anita Yap.

### Commissioners Absent:

Jeff Bissonnette, Sue Dicile, Rebecca Kirk, Tricia Knoll, Bonny McKnight, Shelli Romero, Tricia Tillman.

### Staff:

Afifa Ahmed-Shafi (Office of Neighborhood Involvement); Milena Hermansky (Commissioner Fritz's Office); Ryan Kinsella (Office of the City Auditor); and Linly Rees (Office of the City Attorney).

Co-Chair Anita Yap called the meeting to order at 6:33 pm.

## **1. Welcome and Introductions**

Committee and audience members introduced themselves with a brief statement.

## **2. Approval of February 17 minutes**

Sue Pearce amended page 1 of the minutes to read: "Sue Pearce asked there be more consistency with regard to meeting ~~times~~ dates."

Justin Delany amended page 3 of the minutes to read: "Justin Delaney stated that it was better to discuss the issue tonight so that the people who did not agree with going over six months could ~~leave now~~ choose whether to stay."

MOTION: Mr. David Martinez moved, and Ms. Sue Pearce seconded, to approve the minutes as amended.

ACTION TAKEN: With 8 in favor (Campbell, Cohen, Collins, Delaney, Martinez, Pearce, Weiss, White) and 5 abstentions (Heron, Miggins, Ovalles, Ramjan, Yap) the motion passed.

The committee discussed whether abstentions count toward a "yes" vote. Ms. Pearce clarified that, according to standard meeting rules, abstentions do count as votes.

### **3. Public Testimony**

Jasun Wurster suggested that the Commission consider the following policy issues:

- Increase the number of Commissioners to better reflect population;
- Elect Commissioners on odd years to avoid politicking;
- City Council agendas should come out 2 weeks before meetings and there should be a limit on the number of Emergency and Consent items permitted.

In response to an earlier inquiry, Deputy City Attorney Linly Rees stated that Commission members are not subject to Citizen Lobbying Reporting. Members must report gifts, but need not submit quarterly lobbying reports.

### **4. Housekeeping Issues**

Co-Chair Mark White explained that the Charter Commission has been asked by City Council to review the Charter for noncontroversial housekeeping changes.

The Office of the City Attorney, together with Commissioner Amanda Fritz, submitted a list of recommended non-controversial “housekeeping” changes to the Charter. The Commission received two additional suggestions from the Office of the Ombudsman and the Revenue Bureau. Documents summarizing all suggested housekeeping items are attached to these minutes. Together these documents constitute the Housekeeping Issues Consent Agenda.

To maximize meeting time, Co-Chair White suggested Commissioners submit requests for items to be removed from the consent agenda, and remaining items be approved. Items which are removed will be vetted individually until consensus is reached to make them part of a future consent agenda

Co-Chair White asked if any members at the table would like something removed from the consent agenda for later consideration.

Co-Chair Anita Yap suggested the Commission vote to formally create subcommittees, and asked if there is there any input on housekeeping items.

Mr. David Martinez asked for clarification regarding where the additional housekeeping items came from. Co-chair White responded that they were introduced by the Revenue Bureau and the Office of the Ombudsman. Mr. Martinez also asked for clarification regarding the subcommittees. Co-Chair Yap responded that a subcommittee should be formed to look in detail at housekeeping items and then come back to the Commission with a report. Co-Chair White added that he and Co-Chair Yap intend to meet with all City Council members in the near future to ask if their bureaus have additional housekeeping items to consider.

MOTION: Ms. Pearce moved and Ms. Jan Campbell seconded, to establish a subcommittee to address potential housekeeping items introduced by Council and all other housekeeping items.

Discussion:

- City Attorney Rees stated that the purpose of the subcommittee needs to be clarified.
- Mr. Justin Delaney stated that he is apprehensive about adding additional housekeeping items beyond what is on the current list, as it may create confusion about whether something should be considered “housekeeping” or not. He suggested that only the items initially introduced by Council, the Revenue Bureau, and the Office of the Ombudsman should be considered as “housekeeping items” and nothing new should be accepted by the Housekeeping Subcommittee.
- Mr. Delaney offered a friendly amendment to strike “and all other housekeeping items” from the original motion. Ms. Pearce accepted.
- Mr. Ayoob Ramjan expressed concern that excluding additional housekeeping items from the current motion might deter people from introducing new ideas.
- Mr. Delaney responded that since the committee under discussion would focus solely on housekeeping amendments, it wouldn’t shut people out of the process entirely.
- Ms. Pearce asked whether the Commission should also focus on grammar and punctuation error—of which there are many—in the City Charter.
- Co-Chair Yap noted that subcommittees will be subject to public record laws, including recording minutes and assuring meetings are accessible to the public. Additionally, experts could be invited to present to subcommittees. Some decisions can be made at subcommittee meetings and presented to the wider Commission at a later date.
- Co-Chair White stated that Metro Councilor Rex Burkholder has been invited to present at the next Commission meeting.
- Mr. Steve Weiss stated that the Commission needs to define “housekeeping” as opposed to bigger issues to be referred to voters.
- Mr. Martinez noted that the housekeeping items introduced by the Revenue Bureau and Office of the Ombudsman were not on the original list introduced by Council. The Commission needs to decide how to approach these and other items that are introduced in the future.
- Co-Chair Yap noted that the motion on the table is to consider all housekeeping issues together, including those introduced by the Revenue Bureau and Office of the Ombudsman.
- Mr. Martinez stated these two additional items are included only because they had the resources to contact the Commission in the early states of formation (i.e. before protocols were established); therefore it would be unfair to include these items on the housekeeping consent agenda.
- Ms. Campbell called for a vote on the motion.

ACTION TAKEN: With all opposed (Campbell, Cohen, Collins, Delaney, Heron, Martinez, Miggins, Ovalles, Pearce, Ramjan, Weiss, White, and Yap) the motion failed.

MOTION: Mr. Martinez moved, and Mr. Hank Miggins seconded, to create a subcommittee that will focus only on the housekeeping items that were originally submitted by the Auditor's Office and Commissioner Fritz.

ACTION TAKEN: With all in favor (Campbell, Cohen, Collins, Delaney, Heron, Martinez, Miggins, Ovalles, Pearce, Ramjan, Weiss, White, and Yap) the motion passed.

Co-Chair Yap asked if there were any volunteers to sit on the newly formed committee. Ms. Pearce asked if experts could be invited to committee meetings. Co-Chair Yap replied that yes, experts could be invited. The meetings would also be open to the public and ascribe to public meeting law. Mr. Delaney noted that if the committee is tasked only with studying housekeeping items, but not making official recommendations, then they can listen to unlimited expert testimony. Ms. Pearce and Mr. Ramjan asked for clarification regarding the purpose the committee: Will the committee vote on issues, or simply review, analyze, and make recommendations to the wider Commission? Co-Chair Yap replied that the committee will make recommendations to the wider Commission; all recommendations must be approved or denied by a full Commission vote.

Mr. Martinez and Ms. Pearce volunteered to sit on the Housekeeping Committee. Mr. Miggins noted that some members who are not present today may also want to join. Staff person Milena Hermansky noted that she is staffing the Commission on a limited, volunteer basis, and cannot provide staff support beyond one monthly Charter Commission meeting.

#### **4. Protocols**

A member asked if the Charter Commission is a commission or a committee, and whether subsets would be called committees or subcommittees, respectively? City Attorney Rees answered that the decision is up to members.

Co-Chair Yap asked if there were any comments on the document *First Draft Operating Protocols 2/27/11 Revision* (attached to these minutes).

Ms. Pearce noted that under the "Committee Formation" section of the document, item number 3 ("*Committee meetings are open to the public and outside members and encouraged to participate and provide expertise.*") conflicts with item number 7 ("*Committees may elect to meet via email or telephone conference and are subject to all Public Records and Public Meeting Law.*")

City Attorney Rees stated that it is permissible to meet by teleconference as long as there is a designated room available for the public to listen in. However she is unsure of the legal aspects of meeting by email. Public meeting laws are likely to change this legislation in favor of stricter rules; she advised not allowing members to meet via email.

Ms. Pearce asked whether one person may participate by conference call if the meeting is held in a room. Linly responded that the decision is up to the Commission. City Council members, she noted, are allowed to call in only in cases of emergency. If the Commission members are busy and feel that a rule allowing teleconferencing would be helpful, that is fine. Ms. Pearce and Ms. Campbell indicated that they would appreciate such a rule.

Mr. Martinez requested to amend item number 5 under the section titled "Rules of Engagement" to read: *"All cell phones ringers shall be turned off during meetings."*

Mr. Ramjan requested to amend item number 2 under the section titled "Meeting Procedures" to read: *"Meeting agendas, minutes, and material will sent out at least five days in advance to members for review."*

Members agreed to amend item number 2 under the section titled "Committee Formation" to read: *"A Committee may be formed at any time, but requires ~~at least 3-5~~ 2-3 members to agree to participate and one member to chair the meeting."*

Co-Chair Yap called attention to item number 3 under the section titled "Participation" which reads: *"In the event a Commissioner needs to resign, new members will be appointed to the Commission, per Charter Section 13-301 of the Charter."*

City Attorney Rees explained that the City Charter is extremely ambiguous on how the Commission ends. One could read that the convener (i.e. City Council in this case) has the power to dissolve the Commission, but it is not explicit. From a legal perspective, it is unclear. However, the Commission certainly cannot meet indefinitely.

Mr. Weiss noted that the Commission has received \$20,000 in funding from the City. If the Commission chooses to continue to work past the six-month timeframe, he guesses there is no guarantee that the Commission would get additional funding to do so.

Mr. Delaney suggested that Commission members not worry about the money. He would be happy to visit the *Oregonian* editorial board and tell them the group is being starved of money. Mr. Weiss stated that he would gladly accompany Mr. Delaney.

Co-Chair Yap stated that the item under discussion is meant to illustrate an agreement of Commission members' understanding of the protocol. The Commission must at least

come to their own agreement of how to operate. She asked members if the language accurately describes their own understanding of the issue.

Mr. Miggins stated the content of this entire section is largely out of the Commissions' hands.

Co-Chair Yap stated that those who are committed only to six months have a right to resign.

Ms. Pearce stated that she is conflicted about going beyond what Council recommended. She is not convinced the Commission can complete its business in six months. Ms. Pearce wants to be respectful of members who considered this only a six-month time commitment when they agreed to participate.

Co-Chair Yap asked the Commission if there are any protocols they disagree with.

Ms. Pearce stated that the issue regarding teleconferencing and teleconferencing is the only issue that needed to be amended. The Commission agreed.

Mr. Weiss called attention to the section titled "Reaching Agreement." Item number 3 states: *"Unless otherwise indicated in Chapter 13, Article 3 of the City Charter or Oregon's Public Meetings Law or in other provisions of these protocols, decisions of the Charter Commission shall be made by a majority vote of those members present after a quorum has been established."* Mr. Weiss noted that this item is not consistent with item number 5 of the same section, which reads *"Items such as approval of minutes shall be by a quorum of the Commission."* Moreover, item number 1, which reads *"Decisions will be by a minimum of a quorum of appointed members for general direction of items, as determined by the members,"* is confusing. The Commission agreed to remove items number 1 and 3 from this section.

Ms. Pearce suggested the Commission not be required to vote on minutes. City Attorney Rees explained that the Commission is required to do so, but not by roll call. She suggested that the minutes go on the consent agenda.

MOTION: Mr. Heron moved, and Mr. Delaney seconded, to approve the *Operating Protocols*, as amended. With all in favor (Campbell, Cohen, Collins, Delaney, Heron, Martinez, Miggins, Ovalles, Pearce, Ramjan, Weiss, White, and Yap) the motion passed.

#### **4. Communications**

Co-Chair White reminded the Commission that members approved a Communication Plan at the last meeting.

Mr. Delaney agreed to join Jeffrey Bissonnette in forming a Communications Committee.

Co-Chair Yap stated that Commission members who attended the recent Portland Plan Fair were in need of some materials describing the Commission to hand out to the public. She would like a Frequently Asked Questions sheet and a news sheet for neighborhood newsletters and for the website. Ms. Pearce agreed.

Ms. Pearce stated that she would be willing to attend the upcoming Portland Plan Fair on March 5<sup>th</sup>. Ms. Hermansky agreed to print materials for the Fair.

Ms. Cohen requested that documents are sent out to neighborhood newsletters between meetings they also be sent via email to all members.

Co-Chair White suggested that the Commission order 1,000 business cards and provide 25 to each member plus an additional 500 for events.

Mr. Delaney clarified that the 2-person Communications Committee will present all materials created to the Commission before distribution to the public at large.

Ms. Campbell asked if the website would be operated by the City and would if it be accessible to persons with physical disabilities? Co-Chair White responded affirmatively, and added that there will also be a phone triage for those without internet access.

Co-Chair White summarized cost estimates for a telephone triage. Ms. Campbell suggested equipping the system with TTY capabilities for people who are hard of hearing. Mr. Martinez suggested including an option for multiple languages. Mr. Martinez also stated that setting an official launch date for communications materials, phone system, and website, would be helpful.

The Commission discussed methods of public notice. Milena Hermansky stated that she sends an email about upcoming meetings to the media contact list provided by the Auditor's Office and to any interested parties.

## **5. Steering**

Mr. Weiss asked if there exists a process for members to introduce Charter amendments. Co-Chair Yap responded that currently the Commission is simply accepting recommendations as they are introduced; there is no formal process.

Co-Chair White informed the Commission that the deadline has passed to introduce amendments to the May 2011 election ballot. The next elections are November 2011 and May 2012. He asked members whether items should be placed on the ballot individually, or whether

the Commission should have a rule that items be packaged together and place only on the general election ballot.

Ryan Kinsella from the Auditor's Office noted that it costs the City about \$200,000 to place a single item on the November ballot.

Mr. Martinez questioned whether the Commission should consider everything that has been proposed so far, and create an explicit process for items introduced thereafter.

Mr. Miggins proposed the Commission introduce items to the ballot when there is the largest voter turnout.

Ms. Pearce stated that she understood that this Commission was supposed to create a list of potential Charter changes to be considered by a future Charter Commission. She believes items should be introduced as a package rather than one-at-a-time to avoid the possibility that amendments conflict with one another.

Mr. Wurster (member of the public) announced that he had misspoken at the last meeting when he said the May 2012 election would have the highest voter turnout. He had not been considering elections past that date; in fact November 2012 would have the highest turnout of all.

Ms. Campbell stated that she agrees with Ms. Pearce. This Commission was asked to create a list of items for the next Commission to consider. This Commission is currently headed in a very different direction from that.

Mr. Martinez suggested members create a very basic form for the public to use to propose ideas. This would ensure consistency in recommendations and ideas coming from the public. Mr. Martinez is very interested in a clear, fair process. He stated that what the Commission chooses to do with the information is a later discussion.

Ms. Pearce noted that the Charter Commission was tasked with three things: take care of housekeeping amendments; advise the Council on how to encourage participation for the next Commission; and one more thing. Ms. Pearce suggests focusing on these first two items, and then determining whether there is capacity for lengthier discussion.

Mr. Delaney recalled the presentation at the first Commission meeting by former Mayor Tom Potter and Mr. Bob Ball. He was surprised that many members had been told that this would be a simple process focused on housekeeping changes. Mr. Delaney stated that the Commission should listen to the City Charter, not to Council. He compared this with listening to Congress instead of the Constitution. Mr. Delaney is not comfortable limiting the purview to what Council has asked for.

Mr. Martinez suggested that the Commission come up with a process for collecting information, as it would make the Commission more credible.

Mr. Heron asked whether the Commission is going to make decisions on the basis of a six-month Commission or longer. That decision needs to be made very soon, as it will shape what the Commission does.

Mr. Weiss stated that the issue of what direction the Commission decides to take is really the crux of the matter. City Council gave the Commission a series of requests. The Charter essentially mandates what the Commission can do. If the Commission decides to bring something to the ballot that upsets Commissioners, that really does not matter to him. What Mr. Weiss was not aware of, but now is, is that this Commission is one of the most powerful bodies in the city. They have been given the power to address shortcomings in the City Charter. It is currently March, and the Commission has until June. If they have been given the opportunity to do something, it seems an awful shame to give it away in the hope that the next Commission will have the moxie to complete the task. There is criticism that this Commission is not diverse, but in his opinion the Council chose very well.

Ms. Campbell expressed concern that the current Commission was handpicked, and that was not the intent of the Charter.

Mr. Weiss countered that the next Commission would also be handpicked.

Ms. Campbell stated that the wider community would have the option to participate.

Mr. Miggins stated that if the intent is to get people more involved, members should apply broad outreach to this current Commission.

Ms. Pearce stated that her understanding was that this Commission was handpicked due to the provision that it had to be formed by January 2011, and also because of the awkward timing with the Portland Plan. Current members were handpicked because they already have an understanding of how the City works. She would not want to put forth any issues that were not fully vetted. Ms. Pearce is confident that the next Commission will form in two years and that funding will be available. The current Commission can create and send for election both housekeeping issues and a timeline for the next Commission.

Mr. Martinez stated that the Commission should work with the idea that they are here until the work is done. Whether it's done in one year or two years, part of the process will be considering outreach and a method to include new members. Mr. Martinez is no longer viewing this as a six-month commitment. He would rather not feel inhibited by budget and time. If

members have to drop off due to commitment, the Commission can use that as an opportunity to include new people in an open process.

Co-Chair White noted that Council cannot appoint a new Commission until this Commission gives them a process for how to do so. When he and Co-Chair Yap meet with Council members, they will propose that if the Commission is frugal, would Council allow them to go longer? If Council intends to set aside \$50,000 each year for future Commissions, could the current Commission use those resources if they need to continue working past six months? Co-Chair White expressed that he does not feel like he has power; rather, he is here as a vessel to provide power to the citizens of Portland. It is very encouraging for him that members take this Commission so seriously.

Co-Chair Yap asked if any other members would like to participate on the Steering Committee. Ms. Campbell, Ms. Cohen, Mr. Miggins, Ms. Pearce, Mr. Weiss, Co-Chair White, and Co-Chair Yap agreed to volunteer.

Mr. Delaney asked what kind of support can be provided to members who need help drafting amendments. City Attorney Rees stated that that is partly the role of the Attorney's Office. However, they may not have time to draft every citizen proposal that come forth.

Co-Chair White stated that there is a difference between citizens introducing items, and the commission vetting those items.

## **6. Future Commissioner Selection Parameters**

The Commission agreed to table this item until the next meeting due to time constraint.

## **7. Wrap Up and Final Words**

Co-Chair Yap announced that Metro Councilor Rex Burkholder has offered to come to the next Commission meeting to talk about form of government and specifically about his experience with Metro's transition to a Manager and President form.

The Commission also discussed possible venues for the April meeting as the Rose Room is unavailable. Members discussed the pros and cons of holding a meeting in East Portland.

The meeting was adjourned at 8:28 pm.

Respectfully submitted,

Milena Hermansky  
Recording Secretary

ATTACHMENTS TO THE RECORD:

Document: *Charter Commission Meeting Minutes 2.17.2011* (prepared by Vanessa Holguin)

Document: *First run of Non-Controversial Charter Amendment possibilities* (prepared the Office of the City Attorney and Commissioner Amanda Fritz)

Document: *Housekeeping changes proposed by Revenue Bureau and Office of the Ombudsman*

Document: *Policy Issues: suggested policy changes to the Charter suggested by Commissioners and the public to date*

Document: *City of Portland Charter Review Commission 2011 - Final Draft Operating Protocols 2/15/11- Revised 2/27/11* (prepared by Charter Commission Protocols Committee)