

CHARTER COMMISSION MEETING

April 20, 2011 - Portland City Hall, Rose Room

Commissioners Present:

Jeff Bissonnette, Jan Campbell, Ann Collins, Justin Delaney, Brian Heron, Tricia Knoll, David Martinez, Hank Miggins, Lai-Lani Ovalles, Sue Pearce, Shelli Romero, Steve Weiss, Mark White, Anita Yap.

Commissioners Absent:

Cassie Cohen, Sue Dicile, Rebecca Kirk, Bonny McKnight, Ayoob Ramjan, Tricia Tillman.

Co-Chair Anita Yap called the meeting to order at 6:38 pm.

1. Welcome and Introductions

Committee and audience members introduced themselves with a brief statement.

2. Approval of March 3 minutes

The Commission was unable to approve the minutes due to lack of quorum.

3. Public Testimony

Mr. Bernie Bottomly of the Portland Business Alliance (PBA) requested that the Commission explore the issue of whether the Charter should be amended to provide a structure for independent oversight of the utility ratemaking process. Given Portland's unique commission form of government, there may be a need for a separate body to oversee ratemaking responsibilities. The Business Alliance has not reached a conclusion as to whether a mechanism for oversight needs to be in the Charter, but Mr. Bottomly's personal instinct is that it ought to be. Mr. Bottomly used to work for a utility company, and he understands first-hand the value of oversight. The Portland Business Alliance would be very interested in joining the Charter Commission in this discussion.

Mr. Dave Johnson is a former member of the Portland Utility Review Board (PURB). He was on the PURB sub-team that recommended an audit of utility spending. The results from the audit were released in March in a report titled *Spending Utility Ratepayer Money: Not Always Linked to Services, Decision Process Inconsistent*. The problem as Mr. Johnson sees it is that oversight of utility rate spending is very weak, leading to abuse of rate revenue by City Council and low confidence among citizens. Utility spending has become the poster child for bad governance. Mr. Johnson requests the Charter Commission to put a mechanism for utility oversight into the City Charter. He believes it is a timely issue for this Commission because of the Auditor's report. In addition, the Bureau of Environmental Services is just completing work on the "Big Pipe" and the Water Bureau is just beginning a large capital program to replace reservoirs.

Mr. Johnson provided a written document detailing his comments, as well as a copy of the Auditor's report.

Mr. Bob Ball recently read an article in the *Portland Tribune* in which Co-Chair Mark White says the Charter Commission won't be able take on substantive issues due to lack of funding. Mr. Ball encourages Commission members to stay on task. Further, he encourages members to listen to testimony; it will become very clear which issues should be considered for the Charter. Utility rate oversight is an issue that came to the previous Charter Commission as well.

Mr. Justin Delaney asked whether the previous Charter Commission used outside resources or the City Attorney when they drafted proposed amendments. Mr. Ball said they used both. Also, one Commission member was a lawyer. Mr. Ball encouraged the Commission to find people to help them.

Approval of minutes

Co-Chair Yap announced that enough members were now present to vote.

MOTION: Ms. Shelli Romero moved, and Ms. Tricia Tillman seconded, to approve the minutes.

Discussion: Mr. Justin Delaney struck his name from "Commissioners Present."

ACTION TAKEN: With all in favor, the motion passed as amended.

4. Human Rights Commission – presentation by Donita Sue Fry

Human Rights Commission (HRC) presenters introduced themselves. Mr. Damon Isaiah Turner is on the Community and Police Relations Committee; Mr. Alan Lazo works on budgeting and communications; Ms. Arwen Bird also serves on the Committee for Intergroup Understanding; Ms. Donita Frye is Chair of the HRC, and also serves on the Community and Police Relations Committee and the Committee for Intergroup Dialogue; and Mr. Moley Good is on the Nominating Committee. In addition, two Charter Commission members sit on the HRC: Ms. Tricia Knoll and Mr. David Martinez.

Ms. Bird explained that the HRC would like to develop a relationship with the Charter Commission. They would like to affirm though the Charter the City's faith and commitment to fundamental human rights.

Chair Frye explained that the packet provided to members will help them understand the history of the Human Rights Commission. Included are:

- The Human Right's Commission's Needs Assessment, submitted to Council March 24th 2011;

- A March 23rd 2011 letter to Commissioner Fritz and Members of City Council;
- The Human Rights Commission February 2011 report to Council;
- Ordinance No. 181670 which created the Human Rights Commission;
- “The Framework for Action that created a Human Relations Entity for the City of Portland, submitted to Council January 3, 2007; and
- Article #21 of the Universal Declaration of Human Rights.

Mr. Turner explained that the relationships that have been created on the HRC’s Committee on Community and Police Relations have been very positive for the community. The committee has resulted in mutual trust and respect between Police, HRC members, and members of the community who sit on the committee. The next step is to transfer that sense of goodwill to the wider community and to translate it into policy.

Ms. Bird explained that there is a history behind the HRC’s request for inclusion in the Charter. Ms. Bird explained that the *Framework for Action* documents the history behind the creation of the Commission, and the importance of independence and autonomy. From 1978 to 2003, the City sponsored three human rights and human relations entities that disappeared due to politics and budget constraints. The Human Rights Commission must be included in the Charter in order to protect it from political whims and budget constraints. Without this protection, the Commission cannot perform its work.

Chair Frye explained that the role of the director is to serve the Human Rights Commission. Ordinance 181.670 states that the Director can only be removed after consultation with the Human Rights Commission. Recently Commissioner Fritz (the Commissioner-in-Charge of the Office of Human Relations) requested the resignation of the Bureau Director without consulting the Human Rights Commission. In addition, Mayor Adams and Commissioner Fritz are developing a new Office of Equity, but the Human Rights Commission has not played any role in its formation. The HRC does not know who will staff them going forward, or whether they will have any protections for autonomy. Further, human rights are broader than the concept of equity; the HRC knows its mission, but they have not seen a mission statement for the Office of Equity: Chair Frye finds it extremely important to be included in the Charter and to have the protections that come along with it, in order to avoid being placed in this sort of position.

Mr. Lazo explained that a tension exists at the bureaucratic level, and there is no consistency in how City officials will interpret what the Ordinance says, or how the HRC is funded. Mr. Lazo is not entirely sure how the Charter works and how exactly to use the Charter as a vehicle to give the HRC the independence it needs, but he feels that they came on a good night because Mr. Bottomly, Mr. Johnson, and Mr. Ball each came to request for oversight and independence, and that’s exactly what the HRC needs too.

Ms. Bird continued: It is clear the members of Council interpret the Ordinance differently than members of the Human Rights Commission. This sort of political maneuvering is antithetical to

the mission of the HRC. They must be able to advise City government without fear of reprisal. Commissioner Fritz informed the HRC that the Office of Human Relations staff is being moved to the new Office of Equity. This presents a conflict should the Commission wish to make a recommendation on the bureau in the future. Commissioner Fritz has ensured the Human Rights Commission that they will be allowed to expand and move forward, but the HRC does not see itself narrowing its focus just to equity. To be housed in the Office of Equity may constrain their work.

Discussion:

Ms. Sue Pearce asked presenters to elaborate on the concept of human rights above and beyond equity.

Mr. Good explained that equity is a subset of human rights. For example, an *equity* lens may look at the distribution of police presence throughout the city, whereas a *human rights* lens would consider the use of force. The use of force would not necessarily go under the Office of Equity. The HRC's mandate comes from the United Nations Declaration of Human Rights, and that goes far beyond equity.

Mr. Turner stated that equity is extremely important. Traditionally, equity addresses communities and individuals who have been historically disenfranchised, whereas human rights encompass all groups.

Ms. Tricia Knoll stated that the Human Rights Commission is in an extremely perilous place. They have no idea at what level they will be staffed and what sort of support will be provided.

Co-Chair Yap asked, if the Office of Equity isn't the right place for the Human Rights Commission, then where should it be housed?

Ms. Bird said that she would go back and look at the Ordinance that created the HRC.

Ms. Knoll stated that both the Ordinance and the Framework for Action state the Bureau Director would staff the Commission. Having the director at the discussion table was very helpful during meetings.

Mr. Good explained that although the Office of Human Relations staffed the HRC, they weren't "housed" within.

Mr. Steve Weiss stated that when he agreed to be on the Commission, he did not suspect that independence and autonomy of existing Commissions would become an issue. To his surprise and consternation, it has become a major issue. Mr. Weiss asked HRC members if they would like to say anything more to the Charter Commission about that issue.

Mr. Lazo stated that he found it interesting that Mr. Ball said the Charter Commission could choose its own mandate.

Mr. Justin Delaney noted: if the HRC becomes a separate entity from the City, yet is funded the City, wouldn't it still be subject to City Council?

Mr. Lazo suggested that it may be as simple as writing in the Charter: “The City shall fund the Human Rights Commission (for example) with two full-time staffers”

Mr. Delaney asked if it may be a good idea to house the HRC within the City Auditor.

Ms. Bird said it is not a bad idea; the HRC has certainly talked about it.

Mr. Hank Miggins suggested that, in a worst case scenario, the Human Rights Commission may not exist by the time a Charter amendment comes to vote.

Mr. Lazo said that, to be fair, there is no intention to disband or remove the HRC.

However, it has become clear that such a possibility exists.

Chair Frye stated that the challenges the HRC is currently facing kind of snuck up on them. Although they do not know how they will come out on the other side, they are committed to their work and will continue. The HRC needs guidance from the Charter Commission on how to become part of the Charter, and how they can work together to support one another’s work.

5. Committee Reports

5a. Housekeeping committee:

The Housekeeping committee met on this day and got through all of the items on their list. City Attorney Linly Rees is still researching a few more issues, but the Committee has made decisions on everything else in terms of whether and how to take action, etcetera.

Both the State of Oregon and Multnomah County recommend that issues be presented on the ballot as individual items, rather than “bundling” housekeeping issues into one single item. If all items in the bundle are on the same subject or theme it is better, but can still create legal problems and is not recommended.

Co-Chair Yap asked for a written summary recommendation from the committee; Mr. Martinez said they will work on that. There is one item that will certainly need to have a full discussion by the Commission.

Ms. Shelli Romero suggested the Commission decide which issues to focus on to avoid crowding the ballot.

Ms. Knoll stated she would hope that any item would get 15 Commission votes and go straight to the ballot rather than through Council. However, she doesn’t think there have been 15 people at any single meeting except the first one. She wondered the strategy is.

Mr. Weiss suggested Co-Chair White and Yap tell members specifically when there will be an important vote in order to maximize attendance.

Mr. Martinez said, as a member of the Housekeeping Committee, he would like to create a report rather than a recommendation. At this point any decision would first require a discussion.

Co-Chair White noted that since Council mandated the Commission to take care of Housekeeping Issue, they would probably be more than happy to forward any item that doesn't have 15 votes.

5b. Communications Committee

Mr. Delaney reminded members that they looked at two documents at the March 28th meeting. The Communications Committee thinks that once the wider Commission is comfortable with the language, they could use the key message to populate everything else, e.g. the website, phone system, documents, etc. However, there is no point in doing any of this if the group is disbanding in June. The Commission is stuck in an awkward point because they have missed citizen input over these last four months. Mr. Delaney hopes the Commission comes to a resolution on this issue soon.

Co-Chair White explained that the Charter Commission has a phone number now. The Commission discussed how a phone tree might look, how many lines would be needed, and so forth. Milena Hermansky (note-taker) summarized the costs associated with setting up separate lines and voicemail boxes. Ms. Romero suggested the Commission shouldn't spend money on phone lines if they are sitting there idle. The Commission also discussed options for language translation.

5c. Steering Committee

Co-Chair White explained that he and Co-Chair Yap were able to get a carryover amendment so the Commission can continue to use funds into the next fiscal year. Co-Chair Yap noted that they do have to give Commissioner Fritz's office a timeline and plan for the future. The Commission can use its remaining funds to get through housekeeping issues and make a recommendation on the appointment of future Commission members. She noted that the Commission will have little credibility if it does not engage the public. Furthermore, public engagement may help the Charter Commission secure more funding in the future. Additional money may help pay for a website and telephone triage. Holding public meetings should be relatively easy because the Commission has a few sources for free venues. Public discussions will make the ultimate decisions easier for the Commission to make.

Co-Chair white commented on the need for independent legal counsel, especially in light of the testimony heard today

At its April 17th meeting, the Steering Committee discussed ideas for appointing future members to the Charter Commission: Resume, personal interviews, selection committee, and creating a job description and qualifications. The Committee also discussed the option of hiring a consultant, which would cost about \$10,000.

Co-Chair Yap noted that current Commission members originally committed to volunteering their time until June 30th, so having enough people to continue is of concern. She asked how many members present feel their commitment will end in June. Mr. Heron stated that he is leaving on July 10th for three months.

Mr. Delaney suggested the Commission establish an attendance requirement of members.

Mr. Heron suggested there may be a political risk that Council would be reluctant to appoint new members since this Commission is going against their original request.

Co-Chair White responded since Council is approving a carryover amendment they are implying that the Commission has permission to continue its work.

Mr. Weiss noted that according to Brad Schmidt's article in the *Oregonian*, Commissioner Saltzman has made a request of the Commission to consider an independent rate commission. Mr. Weiss would like the Commissioner or a staff representative to attend the May 16th meeting.

Mr. Delaney stated that he has spoken with Commissioner Saltzman, and the Commissioner does not have a specific request; he simply wanted to encourage the Charter Commission to look into the issue.

Mr. Weiss commented that it would be helpful if Commissioner Saltzman dedicated staff to this issue to help give the Charter Commission more direction.

Mr. Delaney noted that Commissioner Saltzman may be hesitant to take a greater role for reasons related to the upcoming election season.

Mr. Weiss stated it would be very nice to consider that Council will allow the Charter Commission to go longer, but they should consider the possibility of a legal challenge.

Co-Chair White announced that the next Steering Committee will be held on Sunday May 1st at the same time and same place (i.e. noon at Independent Living Resources).

6. Wrap Up and Final Words

Mr. Miggins announced The Citizens Review Committee (CRC) will hold a community public forum on Thursday, May 19th from 6:00 to 8:30 p.m. to hear concerns about police accountability. The forum will be held in the Portland Community College Portland Metropolitan Workforce Training Center at 5600 NE 42nd Avenue.

The meeting was adjourned at 8:34 pm.

Respectfully submitted,

Milena Hermansky
Recording Secretary

ATTACHMENTS TO THE RECORD:

Document: *Mr. Dave Johnson's written testimony* (prepared by Dave Johnson)

Report: *Spending Utility Ratepayer Money: Not Always Linked to Services, Decision Process Inconsistent* March 2011 (prepared by the Office of the City Auditor, Portland Oregon)

Document: *Charter Commission meeting minutes 03.28.11* (prepared by Milena Hermansky)

Document: *Report to the Community* February 2011 (prepared by City of Portland Human Right's Commission)

Document: *Ordinance No. 181670* (City of Portland)

Document: *March 23, 2011 letter to Commissioner Fritz and Members of City Council* (prepared by City of Portland Human Right's Commission)

Document: *Human Rights Commission Needs Assessment*, submitted to Portland City Council March 24, 2011 (prepared by City of Portland Human Right's Commission)

Document: *A Framework for Action: Findings and Recommendations*, submitted January 3, 2007 by Frances Portillo, Portillo Consultant International and Lew Frederick, Northwest Ideas, LLC

Document: *Article 21 of the Universal Declaration of Human Rights*

(Please contact Milena Hermansky, 503-823-4124 or milena.hermansky@portlandoregon.gov for copies of any of the above documents)