

## **CHARTER COMMISSION MEETING**

December 21, 2011- Portland City Hall Rose Room

### **Commissioners Present:**

Mark White (Co-Chair), Sue Pearce (Co-Chair), Anita Yap, Ariella Odierna, Bill Gentile, Cassie Cohen, Damien Hall, Hank Miggins, Jo Ann Hardesty, Justin Delaney, Karl Rohde, Marion Haynes, Rich Rodgers, Sattie Clark, Shellie Romero, Steve Weiss, Tricia Knoll.

### **Commissioners Absent:**

Ms. Jan Campbell, Mr. Jeff Bissonnette, Ms. Vanessa Holguin.

Co-Chair Mark White called the meeting to order at 6:07 pm.

### **1. Welcome and Introductions**

Committee and audience members introduced themselves. Guests are Ben Walters sitting in for Linly Rees City Attorney, Ryan Kinsella with City Auditors Office; Ms. Shellie Romero called in for phone conference.

### **2. Public Testimony**

Ms. Regna Merrit made comment pertaining to Chapter 11 article 4: Water and Sewer Budgets and Rates of the Draft Charter Language dated December 19, 2011. Line four it states, “Least-cost and least-risk principles should guide decisions...” She wants the Charter to consider long- term or short- term costs and risks. She has been working on the LT2 issue with the Water Bureau. Initially, someone made the argument that they should just go ahead with the treatment plant with the Bull Run, and it would be the least-cost. Now there may be a variance by the State on the treatment of the Bull Run water source. On the long term it is looking like low-cost risk in treatment. She is pointing out a distinction and not sure how the language should be to correct it. She would like the Charter Commission to consider this language. Line eight the verbiage “advance long-term City watershed management goals” she would like at the very least to add the word “watershed protection” as one of the uses of Water Bureau’s money. This raises an important issue because the language is talking about two different bureaus with two different purviews. She feels this distinction should be made. The language is currently broad not certain as to which watershed, Willamette Watershed, Bull Run Watershed ect...As to the last sentence of page one “No employee, contractor or other person with such financial interest shall be qualified to serve on the Commission for a period of one year after termination of the employment, contract or other financial interest” she feels this is far too short and other people have suggested that other commissioners have never worked for city bureaus. She feels that there is a deep loyalty among those that have worked with various bureaus. She feels that one year is not acceptable.

### **3. Approval of Minutes**

November 28, 2011 minutes approved with an abstention by Co-Chair Mark White, Co-Chair Sue Pearce, Ms. Shellie Romero, Mr. Justin Delaney, Mr. Karl Rohde, and Ms. Marion Haynes.

#### **4. Vote on Proposed Housekeeping Amendments**

Co-Chair Mark White mentions that the Housekeeping Measures are clearly non-controversial. He suggests starting with the least controversial until Mr. Alexander Villarreal finishes copying the fifty pages of the Housekeeping Report for the Charter Commission.

Mr. Damien Hall said, “To start off with a little background, at the beginning of the process of the Charter Commission, the Portland City Attorney provided a list of Housekeeping Amendments that were proposed, I think earlier this year around March. We reconvened with a couple new members more recently in the last couple of months. Brought together these ten proposed amendments. I think its ten down from thirteen of fourteen. We decided not to bring forward the proposed amendments that we did not think were housekeeping and non-substantive. A couple had some policy ramifications. If anyone has concerns, I would love to hear about that. I think we are going to start the discussion based on the assumption that people have taken a look at these and do have an idea of what they are. We have also held a Public Hearing on this, which was sparsely attended and did not get any negative feedback as to content of these proposed Housekeeping Amendments.”

Mr. Justin Delaney asks, “The question is either for you or the City Attorney, I don’t have the number, is there one that removes the reference to cripples, which I agree we need to strike, but there is a second clause that talks about begging...my question is, did you look at the two different pieces of those and was it purposeful to strike the whole thing including the second reference of “begging.”

Mr. Damien Hall said, “Let me start of with the legal framework and then I would like it if you guys back filled as far as the discussion the committee had. As far as the framework for the charter as whole. Portland has a home rule charter, so there is a provision that says any powers not expressly given to the state by the constitution or state statutes are within the authority of the City of Portland that is a charter provision that is not being amended. If you see one of these sections 2-105, this is a section where a few of these amendments are located. I think the ones that you are asking about are located there. It is the specific authority section; from a legal point of view that is redundant. If we take it... any of these things that we are striking out 2-105 is not actually changing the overall authority of the city. It is just changing the language. Just taking the language of the Charter, this is outdated. There is no change to the authority that the city has to preclude begging and regulate anything related to pan handling and anything along those lines.”

Mr. Justin Delaney wanted to make sure they are looked at as separate items instead of striking the whole provision. He said, “When nine months ago we did our exercise as a full group about these housekeeping issues, I don’t recall that specific reference being in there at that point.”

Response from a few Charter Commissioners said that it was.

Mr. Justin Delaney said, “But it wasn’t one of the items that we voted on.”

Ms. Tricia Knoll said, “We listed the other one as cripples. We did discuss both as the language that was objectionable.”

Mr. Justin Delaney said he was talking about the second half of the pauper phrase about begging.

Ms. Sue Pearce said, “I think you may be referring to the part of it that David Martinez who was my committed partner and who is no longer on the board; we had some concerns that was a little bit more David’s than mine, we had hoped to discuss it a least run it through the full commission but in our second round of committees between Linley and Damien who understand legalese than I do. What you will here from Damien.... I think will fall into place.

Mr. Justin Delaney said, “Simply that you guys looked at that on its own and made sure that it was not an unintentional inclusion in a referral to us.”

Mr. Damien Hall said, “Just to clarify for folks here who do not have the list of these in front of them, as well as the folks who are listening in at home, or through various media. I think the proposed amendment...issues to delete charter section 2-105 (a) (54): ‘To prohibit the exhibition of deformed or crippled persons, and to prohibit all persons from begging upon the streets or in public places.’ Is that correct?”

Mr. Justin Delaney said yes that is the correct section.

Mr. Rich Rodgers asks, “Is there any thought that there might be a reason not to repeal the language related to paupers or begging on the commission?”

Mr. Damien Hall said, “Just to reiterate that first part, it doesn’t actually limit the authority of the city to regulate begging; there are constitutional limitation on what type of regulations you can have for public locations. The specific provision of the charter removal of it does not limit the general authority of the city.”

Mr. Rich Rodgers said, “The sense that the language is obsolete and might be offensive.”

Ms. Tricia Knoll remarked that the Human Rights Commission and the Commission on Disabilities which both testified by letter at the Public Hearing that they wished the entire section be struck.”

Mr. Rich Rodgers said he is in full agreement with the decision for to be struck and feels the language is obsolete and offensive.

Co-Chair Mark White said, “If there is discussion on each one, then we can have it after the motion has been made and seconded.”

Mr. Damien Hall said, “Looks like we have nine of these amendments, if I am correct the Charter Commission at some point before I was appointed to the Charter Commission decided that we would only send five of these to each vote and is that correct?”

Co-Chair Mark White said that is a recommendation, not a requirement, and the commission could do what it wants in regards to this.

Mr. Damien Hall said, “I am proposing that we have nine of these amendments, we send five to the primary and four to the general election if people...should split it up. People don’t think that is a good idea I would love to hear why not. I am open to hear...”

Ms. Tricia Knoll responds with saying, “I know that the rationale for that was voter fatigue. I think it makes more sense when they are all Housekeeping to push them all as Housekeeping. It makes it easier to talk to media sources about it. These are all Housekeeping measures. I would propose that we send them all in the election and get that work done. This is a motion.”

Co-Chair Mark White said, “Motion made by Ms. Tricia Knoll seconded my Ms. Jo Ann Hardesty to send all of them to the primary.”

Mr. Karl Rohde asked if they have to appear on the ballot separately or if they can appear all nine in one vote.

Ms. Tricia Knoll said, “I want to clarify that the motion is to send any to the May election that we vote to send, not that we are saying that all nine will go, but as we vote one by one on any that we vote positively just send them all at the same time.”

Mr. Rich Rodgers speaks to support the motion.

Co-Chair Mark White said, “So folks know that when the motion is made it needs to specify that it’s going to go to the May primary. That’s the part that we are actually voting on; any motion that is made has to specifically state the May primary.”

Mr. Rich Rodgers said, “I think it makes sense to have all the conversations at once. I think there is a limited amount of time when we have the publics attention on the need to clean up the Charter. These are common sense measures. Let’s have the conversation one time and be done with it.”

Mr. Justin Delaney suggested the Charter Commission wait for Mr. Alexander Villarreal to come back with copies of the fifty page housekeeping amendments, for those that may need a copy while voting.

Co-Chair Mark White asks if there is any discussion of the motion that is currently on the table.

Ms. Sue Pearce calls to question with a unanimous vote yay with no abstention.

**MOTION:** Mr. Damien Hall moved that amendment to the charter section 1-106 be placed on the ballot for the May 2012 primary, seconded by Mr. Justin Delaney.

Vote for amendment charter section 1-106:

Co-Chair Mark White- yay  
Anita Yap- yay  
Ariella Odierna- yay  
Bill Gentile- yay  
Cassie Cohen- yay  
Damien Hall- yay  
Hank Miggins- yay  
Jan Campbell- absent  
Jeff Bissonnette- absent  
Jo Ann Hardesty- yay  
Justin Delaney- yay  
Karl Rohde- yay  
Marion Haynes- yay  
Rich Rodgers- yay  
Sattie Clark- yay  
Shellie Romero- yay  
Steve Weiss- yay  
Co-Chair Sue Pearce- yay  
Tricia Knoll- yay  
Vanessa Holguin- absent

**ACTION TAKEN:** So approved.

**MOTION:** Mr. Damien Hall moved to send the proposed Amend Section 2-105 (a) (14) of the charter to the May 2012 primary, seconded by Mr. Hank Miggins.

Co-Chair Mark White- yay  
Anita Yap- yay  
Ariella Odierna- yay  
Bill Gentile- yay  
Cassie Cohen- yay  
Damien Hall- yay  
Hank Miggins- yay  
Jan Campbell- absent  
Jeff Bissonnette- absent  
Jo Ann Hardesty- yay  
Justin Delaney- yay  
Karl Rohde- yay  
Marion Haynes- yay  
Rich Rodgers- yay  
Sattie Clark- yay  
Shellie Romero- yay  
Steve Weiss- yay  
Co-Chair Sue Pearce- yay  
Tricia Knoll- yay  
Vanessa Holguin- absent

**ACTION TAKEN:** So approved.

**MOTION:** Mr. Damien Hall moved to send the proposed deletion of Charter Section 2-105(a) (50) to the ballot of the May 2012 primary, Seconded by Mr. Rich Rodgers. Co-Chair Sue Pearce calls to question.

Vote for deletion of Charter Section 2-105 (a) (50)

Co-Chair Mark White- yay  
Anita Yap- yay  
Ariella Odierna- yay  
Bill Gentile- yay  
Cassie Cohen- yay  
Damien Hall- yay  
Hank Miggins- yay  
Jan Campbell- absent  
Jeff Bissonnette- absent  
Jo Ann Hardesty- yay  
Justin Delaney- yay  
Karl Rohde- yay  
Marion Haynes- yay  
Rich Rodgers- yay  
Sattie Clark- yay  
Shellie Romero- yay  
Steve Weiss- yay  
Co-Chair Sue Pearce- yay  
Tricia Knoll- yay  
Vanessa Holguin- absent

**ACTION TAKEN:** So approved.

**MOTION:** Mr. Damien Hall moved to send the proposed deletion of Charter Section 2-105 (a) (51) to the ballot for the May 2012 primary, seconded by Ms. Sattie Clark. Co-Chair Sue Pearce calls to question.

Co-Chair Mark White- yay  
Anita Yap- yay  
Ariella Odierna- yay  
Bill Gentile- yay  
Cassie Cohen- yay  
Damien Hall- yay  
Hank Miggins- yay  
Jan Campbell- absent  
Jeff Bissonnette- absent  
Jo Ann Hardesty- yay

Justin Delaney- yay  
Karl Rohde- yay  
Marion Haynes- yay  
Rich Rodgers- yay  
Sattie Clark- yay  
Shellie Romero- yay  
Steve Weiss- yay  
Co-Chair Sue Pearce- yay  
Tricia Knoll- yay  
Vanessa Holguin- absent

**ACTION TAKEN:** So approved.

**MOTION:** Mr. Damien Hall moved to send the proposed deletion of Charter Section 2-105 (a) (54) to the ballot for the May 2012 primary, seconded by Ms. Tricia Knoll. Co-Chair Sue Pearce calls to question.

Co-Chair Mark White- yay  
Anita Yap- yay  
Ariella Odierna- yay  
Bill Gentile- yay  
Cassie Cohen- yay  
Damien Hall- yay  
Hank Miggins- yay  
Jan Campbell- absent  
Jeff Bissonnette- absent  
Jo Ann Hardesty- yay  
Justin Delaney- yay  
Karl Rohde- yay  
Marion Haynes- yay  
Rich Rodgers- yay  
Sattie Clark- yay  
Shellie Romero- yay  
Steve Weiss- yay  
Co-Chair Sue Pearce- yay  
Tricia Knoll- yay  
Vanessa Holguin- absent

**ACTION TAKEN:** So approved.

**MOTION:** Mr. Damien Hall moved to send the proposed amendment Charter Section 2-108 to the ballot for the May 2012 primary, seconded by Mr. Hank Miggins.

Co-Chair Mark White- yay  
Anita Yap- yay  
Ariella Odierna- yay

Bill Gentile- yay  
Cassie Cohen- yay  
Damien Hall- yay  
Hank Miggins- yay  
Jan Campbell- absent  
Jeff Bissonnette- absent  
Jo Ann Hardesty- yay  
Justin Delaney- yay  
Karl Rohde- yay  
Marion Haynes- yay  
Rich Rodgers- yay  
Sattie Clark- yay  
Shellie Romero- yay  
Steve Weiss- yay  
Co-Chair Sue Pearce- yay  
Tricia Knoll- yay  
Vanessa Holguin- absent

**ACTION TAKEN:** So Approved.

**MOTION:** Mr. Damien Hall moved to send the proposed amendment Charter Section 2-206 (b) to the ballot for the May 2012 primary, seconded by Mr. Justin Delaney.

Co-Chair Mark White- yay  
Anita Yap- yay  
Ariella Odierna- yay  
Bill Gentile- yay  
Cassie Cohen- yay  
Damien Hall- yay  
Hank Miggins- yay  
Jan Campbell- absent  
Jeff Bissonnette- absent  
Jo Ann Hardesty- yay  
Justin Delaney- yay  
Karl Rohde- yay  
Marion Haynes- yay  
Rich Rodgers- yay  
Sattie Clark- yay  
Shellie Romero- yay  
Steve Weiss- yay  
Co-Chair Sue Pearce- yay  
Tricia Knoll- yay  
Vanessa Holguin- absent

**ACTION TAKEN:** So approved.

**MOTION:** Mr. Damien Hall moved to send the proposed amendment Charter Section 13-301 to the ballot for the May 2012 primary, seconded by Ms. Anita Yap.

Co-Chair Mark White- yay  
Anita Yap- yay  
Ariella Odierna- yay  
Bill Gentile- yay  
Cassie Cohen- yay  
Damien Hall- yay  
Hank Miggins- yay  
Jan Campbell- absent  
Jeff Bissonnette- absent  
Jo Ann Hardesty- absent  
Justin Delaney- yay  
Karl Rohde- yay  
Marion Haynes- yay  
Rich Rodgers- yay  
Sattie Clark- yay  
Shellie Romero- yay  
Steve Weiss- yay  
Co-Chair Sue Pearce- yay  
Tricia Knoll- yay  
Vanessa Holguin- absent

**ACTION TAKEN:** So approved.

**MOTION:** Mr. Damien Hall moved to send the proposed deletion of chapter 14 of the charter to the ballot for the May 2012 primary, seconded by Mr. Bill Gentile. Ms. Sue Pearce calls to question.

Co-Chair Mark White- yay  
Anita Yap- yay  
Ariella Odierna- yay  
Bill Gentile- yay  
Cassie Cohen- yay  
Damien Hall- yay  
Hank Miggins- yay  
Jan Campbell- absent  
Jeff Bissonnette- absent  
Jo Ann Hardesty- yay  
Justin Delaney- yay  
Karl Rohde- yay  
Marion Haynes- yay  
Rich Rodgers- yay  
Sattie Clark- yay  
Shellie Romero- yay

Steve Weiss- yay  
Co-Chair Sue Pearce- yay  
Tricia Knoll- yay  
Vanessa Holguin- absent

**ACTION TAKEN:** So approved.

**Co-Chair Mark White said nine Housekeeping Measures are going to the voters at the May primary.**

### **5. Ms. Jo Ann Hardesty's Presentation to Council**

On September 21, 2011, I was sworn in as a new member of Portland's Charter Review Commission. Anyone who knows me knows that I take appointment to policy bodies very seriously and was pleased to join other community members who would be reviewing Portland's constitution. At that time two new commissioners were sworn in with me.

I found out that in August 4-new members were sworn in, making almost half of our Commission new appointees.

On November 14, 2011 I testified in front of this body on an ordinance that laid out the process for public hearings for the work of the charter review commission. At that time I stated that I would be remiss if I didn't object to the timeline we were currently on since even the issues that the Commission has worked on for a while, the majority of the Commission does not have the deep knowledge on the topics necessary to push a vote at this time nor have we effectively engaged a broad segment of the Portland community to seek their wisdom, understanding and recommendations.

At this public hearing both Mayor Adams and Commission Saltzman publicly expressed appreciation for the work of the commission and promised to follow up with a meeting within a few weeks to determine how best to support the work of the commission.

On December 7, 2011, I met with Mayor Adams and Commission Saltzman in Commissioner Salzmänn's office with Mark White. Mayor Adams asked for an update of the work of the Charter Review Commission. At that time, I (and Mark White Co-chair of Commission) stated that the Human Rights Commission had rescinded their request for a Charter amendment, and we have agreed to schedule two public hearings for the Independent Utility Commission in January without taking a vote. Meanwhile we have just started a Police Accountability Committee; Instant Runoff Voting has been meeting for a few months, making the Ombudsman's Office independent of the city of Portland.

Mayor Adams stated that he would not fund any issue the Charter Review Commission took on that he didn't support. I said, 'Sam, this is not about you, and it is about the people in the community who are coming to the charter review commission who want us to take on these

issues.” I thought that was the purview of the public and the charter review commissioners to determine not the city council.

The Mayor’s proposal which is in front of you today seeks to silence the voices of not just the charter review commissioners but the general public who have shown up in force in this chamber over the last few weeks seeking redress on issues of police accountability.

Commission Leonard on Nov 11, 11 you asked if the City Council were creating barriers to the Charter Review Commission completing their work. Today I can honestly answer yes to this question. If you pass the Mayor’s ordinance as plan

### **Section 13-301 Charter Commission.** - Printable Version

From time to time, but no less frequently than every 10 years, the Council shall convene a Charter review commission (“Charter Commission”) to review and recommend amendments to this Charter provided, however, that the first Charter Commission shall be convened no later than two (2) years after the effective date of this Article. The Charter Commission shall be reflective of the City in terms of its racial and ethnic diversity, age and geography. It shall be comprised of twenty (20) residents of the City. Each member of the Council shall nominate four (4) Charter Commission members who shall be subject to confirmation by the Council. The Charter Commission shall determine its own rules of procedure. No member of the Charter Commission shall serve as an elective officer of the City during his or her service on the Charter Commission. **The Mayor or Council may request that the Charter Commission review specific sections of the Charter, but the work and recommendations of the Charter Commission shall not be limited to such specific sections.** The Commission shall provide a written report of its findings to the City Council. [New Section May 15, 2007, effective January 1, 2009.]

Co-Chair Mark White clarifies for the Charter Commission the terms of service extension are for those who have come in after the original appointees. The original Commissioners, the eleven that have been there from the beginning there is no limitation on those terms of service. He feels it may be intentional but regardless, it does not really matter. The second rounds are the ones whose terms of service ends March third.

Mr. Rich Rodgers would like clarification.

Co-Chair Mark White said that the Council put limitation on terms of service on some of the commissioners. It is possible although unlikely that if someone wanted to later on, if they continued and passed something beyond the point of those Commissioners term of service has passed that someone could put up a legal challenge to anything that is voted on.

Mr. Rich Rodgers said, “So the Commissioners that were brought in later, have limitations on their terms of service?”

Co-Chair Mark White said that is correct.

Ms. Sattie Clark said, “This has now been extended till March third. After March third we will not have twenty commissioners unless City Council agrees to extend those terms again?”

Co-Chair Mark White responds saying, “The original request was for City Council to extend the terms of service till the end of June. Giving folks a reasonable amount of time to finish up the work that they were doing.”

Mr. Rich Rodgers asks if the original commissioners have an indefinite term.

Co-Chair Mark White responds with there was just no term of service set forth with the resolution that created them. He said when he spoke to City Attorney Linly Rees that she said that if council did a carry over amendment for money, that it was implied the terms of service were extended. She said that she felt there was a legal reason and if they did not have any authority do what they are doing, the City Attorney’s Office would have shut down the Charter Commission at that point.

Mr. Steve Weiss asks if anyone knows if there will be any new reappointment from Council for the Charter Commission.

Co-Chair Mark White said, “At the City Council meeting that I attended a week or so ago, when I gave an update on the work of the Charter Commission, I was informed that Commissioner Saltzman was the person who was going to do the terms of service. When I pulled him aside he said there was one City Commissioner that was not going to reappoint.”

Ms. Anita Yap will be leaving the Charter Commission as well as Ms. Vanessa Holguin.

Co-Chair Mark White has asked if Bryan Heron could be reappointed who has been on the commission. He left for a period of time and is familiar with the Charter Commission.

Co-Chair Mark White asks Ms. Anita Yap if he would like to again be on the Charter Commission. He also said his term will continue till February.

Mr. Rich Rodgers said, “If the implication that we should wrap up our work by March means we should take action on the Independent Utility Commission, that’s a piece that I am particularly concerned about. I appreciate all the work that everyone has done. I think there are wrinkles in this proposal that are significant. Couple things that come to mind are, can we fund the fountains and can we fund the Benson Bubblers? What is the status of the low income discount program? What happens to the city’s role that it has played historically in maintaining the aesthetic value of our reservoirs in the event which I hope does not happen that we are required to cover them. To what extent are we able to proactively restore habitat in the name of the endanger species recovery; even if it is not strictly required by law? Endangered Species Act for those of you

unfamiliar with it says that you cannot kill or endanger or threatened animals' species but it does not require you to restore them. It has been the City's historical practice to go beyond that minimum in order to bring our creeks back and rivers back... I know that there is a lot at stake here. I am concerned about the language of the current charter. If someone can assure me legally, the current charter allows the low- income discount program to exist as it currently exists, I would feel a lot more comfortable. If there is something in the charter that is a threat to the low-income discount program, I want us to make sure that we protect that. I am very concerned about the deadline that one or two months away that we are to solve all these problems.”

Co-Chair Mark White would like the IUC sub-committee to address this later.

Ms. Anita Yap is willing to go to Commissioner Fish to reappoint somebody. She would like also to see if Commissioner Fritz is willing to reappoint.

Ms. Anita Yap made a motion that the Charter Commission request for Commissioner Fritz reappoint to fill Ms. Vanessa Holguin position.

Motion made by Ms. Anita Yap seconded by Ms. Sue Pearce.

Co-Chair Mark White said the amendment is to ask both of them and have the chairs do it with a full vote from the commission.

Mr. Justin Delaney said, “I am going to offer a friendly amendment to the friendly amendment to knock off the treating individual commissioners like they have the authority over this body and send a vote from this commission that we need reappointments at the next Council meeting or asap thereafter from City Council. It does not matter if it is from Commissioner Fritz. Frankly if she refuses we want the Mayor to step in and say I am the Mayor I am going to appoint. We told these people to wrap up by March so let's fill it. My amendment to the amendment would be let's ask council to immediately reappoint, period.

Ms. Sattie Clark asks if the Charter Commission has legal representation.

The response is yes due to the fact that it is apart of city as well the sub-committees of the Charter Commission.

Ms. Jo Ann Hardesty would like Mr. Justin Delaney's request be in writing to all commissioners and to the press. She feels that is very important to support the work of the committee.

Ms. Sue Pearce would like to make sure that the tone of the letter be such that it is in cooperation. She also gave an update of the Mayor in support of the Charter Commissions work during the council session. She sent out a thank you email to the City Commissioners.

Mr. Rich Rodgers asks Ms. Jo Ann Hardesty questions pertaining to her meeting with the Mayor December 7<sup>th</sup>. He wanted to know if he was in support of the IUC and if the Police Accountability Sub-committee had caused resistant's towards the Charter Commission.

Ms. Jo Ann Hardesty said, “After the December 7<sup>th</sup> meeting the Mayor said he is not interested in anything I am not in support of such as the Police Accountability and Instant Run-Off. They are however in support of the IUC.”

Ms. Sattie Clark reminds the Charter Commission that the sub-committees are simply exploratory and not to shove anything before the Council.

Mr. Steve Weiss is adamant about getting the work done of the IUC before March 3<sup>rd</sup>. He feels that they have enough solid work done that they could get it finished before the March deadline.

Co-Chair Mark White said, “We are voting on requesting Council to reappoint two seats that are going to be open within the next thirty days.”

Ms. Tricia Knoll yay, Ms. Sue Pearce yay, Mr. Steve Weiss yay, Ms. Shelli Romero yay, Ms. Sattie Clark yay, Mr. Rich Rodgers yay, Ms. Marion Haynes yay, Mr. Karl Rohde yay, Mr. Justin Delaney yay, Ms. Jo Ann Hardesty yay, Mr. Hank Miggins yay, Mr. Damien Hall yay, Ms. Cassie Cohen yay, Mr. Bill Gentile yay, Ms. Ariella Odierna yay, Ms. Anita Yap yay, Co-Chair Mark White yay.

Co-Chair Mark White asks Mr. Justin Delaney to draft the letter.

His response is in one sentence yes.

Ms. Sattie Clark asks if they could see it before it goes out.

Co-Chair Mark White reminds the Charter Commission that they have passed nine Housekeeping measures, protocols, approved a process for appointing commissioners in the future, and essentially has done everything council has asked them to do.

Ms. Jo Ann Hardesty would like to know if the Charter Commission would like to continue with the Police Accountability, and Instant Run -off Voting sub-committees.

Mr. Steve Weiss said that they can put anything on the ballot with a fifteen affirmative member vote. He also agrees that the Police Accountability and Instant Run –Off Voting made the City Council nervous.

Co-Chair Mark White asks, “The resolution that created the Charter Commission that included a second round that was to be appointed. In the election that is coming up if Commissioner Fritz is not re- elected, that means a majority of council will not have approved that original resolution. The new folks coming in, are they bound by that resolution to do the second round of the Charter Commission?”

Mr. Ben Walter of the City Attorneys office said he is not prepared to answer that question and to send a written request to City Attorney Linly Rees.

Mr. Damien Hall said, “In response to that, can I ... painting in broad terms, we have a charter authorization that is very sparse. We have a hand full of resolutions which some of them are conflicting. It is safe to say we are in a legal gray area. I don’t think that asking pointed questions to the City Attorney and having them write answer is going to pin down council in any one position. All these resolutions are subject to change and very much a moving target. I do not know that this exercise of listing questions and trying to get answer to them is good. I think if we should probably do some goal setting, figure out what we want to achieve, and out how to get there, as apposed to trying to define parameters of what are the legal rights vs Council and taking that adversarial tacked. With that being said I do not think we should be writing down lists and asking the City Attorney what are rights are. I do not think that gets us to where we want to go. We need to be a little more strategic about how we coexist with council and define how we want to get to where we want to go.”

Mr. Rich Rodgers would like to set goals that articulate to the community and to the Council that they have some ideas about what they would like to do that comes from a place that speaks on behalf of the public.

Ms. Sattie Clark states that it is difficult to co-exist with someone that wants you dead. At the same time she wants to note that all of them have been reappointed by City Council. If they just wanted them to do Housekeeping, they have put activist on the Charter Commission which tells her that they actually wanted a body that would dig in. She said their role is to not work for City Council but to work for the citizens of Portland. She feels they are not giving them time to finish their work that they loose too and that they do want something out of this as well. She would like to use that as a common denominator to work something out that is going to allow them to do the work they were appointed to do.

Ms. Shellie Romero had to leave the phone conference due to a cold.

Ms. Sue Pearce would like the three sub-committees: Independent Utility Commission Committee (IUCC), Police Accountability Committee (PAC), and Instant Run-Off Voting (IRV) to continue their work until proven otherwise. This will help the next Charter Commission to be up to date in regards to what the citizens of Portland requests. She also felt a measure of support from both the City Commissioners and the public while at Council.

Co-Chair Mark White is adamant about making sure the end of June is in their best interest. He has been told that the Human Rights Commission has withdrawn its proposal for Charter amendment to the Human Rights Commission. (HRC). The Ombudsman office is simple, as it just wants to have the city support it. He would like IRV and PAC to have ground work done for the next Charter Commission.

Co- Chair Mark White said, “I will go on public record by saying this, that every single thing that City Council told us that they wanted the Charter Commission rather the reason that they set the Charter Commission up the way they did is not true. You do not... it’s just my personal opinion, having us wait till the Portland Plan is done, is not a cool thing. Simply because the Portland Plan is strategy. The charter is policy; you do not have strategy inform policy, it is just wrong. The charter also does not say anything about having a broad application process. It gives

the City Council members the ability to choose the mechanism in which they appoint Charter Commissioners. There is nothing in there about a broad application process. They can use one if they want, they don't have to if they so wish."

Mr. Damien Hall wanted to thank Mr. Alexander Villarreal for doing a good job.

Ms. Sattie Clark would like to see the Charter Commission focus the limited time it has left on proposals that increase democracy and control for the citizens of Portland.

Co-Chair Mark White said, "Do we want to jump right into the Independent Utility Commission and have a discussion about that, because it could potentially inform some of the other things; because it is really going to be their only option and that if anything else goes to the ballot it is going to have to piggy back on to the Public Hearings of the IUC. Mayor Adams did not say that we could not do that so I am going to suggest that we do that if we feel that it is appropriate to do so."

Mr. Rich Rodgers said, "You mentioned earlier that you felt like the standard for the PAC, IRV should be that we don't send out any unintended consequences. I assume that is the same standard for the IUC?"

Co-Chair Mark White said for all them and of course.

Mr. Rich Rodgers said we are not assuming that we are sending something out.

Co-Chair Mark White said, "No of course not. I do not think that we are assuming that we are going to vote on anything. I think that it is really fluid and will evolve. Having talked with the IUC, I am pretty confident in their confidence of what they have worked on thus far. They seem to feel they are getting to something close. They will be able to share with us something that we could potentially vote on in time to meet that March 3<sup>rd</sup> deadline. Really it comes as a question of IRV and for PAC and how we want to deal with those things. Does anyone have suggestions of how we want to proceed?"

Ms. Jo Ann Hardesty would like to know if two Public Hearing will be scheduled for January.

Mr. Steve Weiss said that would be brought up during the IUC presentation.

Ms. Sattie Clark wants to question if it will be worth the continued effort of the IRV sub-committee due to the possible cut off date of the Charter Commission March 3<sup>rd</sup>.

Ms. Jo Ann Hardesty said, "Police Accountability is a really complex issue. I have been working on this issue twelve to fourteen years solid. I do not know what will come out of the work of Police Accountability Committee. What we are going to do is invite people who have expertise around PA. We are going to work to figure out what are the pieces we can bite off now. I do not think that any proposal we come up with would totally fix what is wrong with Portland Police. It could stop the process. If we came up with two small proposals that should start moving us towards more accountability, I would be giddy."

Mr. Rich Rodgers said, “At the last meeting, I believe we agreed to two Public Hearings on the IUC proposal with the provisional that we would not take a vote. I heard something different tonight that said that in the event if we are asked to end in March that you propose that we do take a vote. That is not what I agreed to.”

Mr. Steve Weiss said, “The motion that was passed according the minutes of the meeting said a vote would not be taken immediately after the two hearing were held. The word immediately is not defined. The question here is whether the commission regards the possibility of a vote taken on our February meeting as constituting an immediate vote.”

Ms. Cassie Cohen wanted to know the background story and obstacles of the Police Accountably Committee. She is concerned about getting something done in regards to the committee due to the time crunch.

Ms. Jo Ann Hardesty feels if they can get a couple of core proposals that provide the public with how Police engage with them would be in their favor.

Instant Run-Off Voting sub-committee (IRV) and Police Accountability Committee (PAC) want to continue to June 30, 2012.

Co-Chair Mark White said in response to Ms. Sattie Clark questions to the deadline of the Charter Commission, “What Mayor Adams said is that this rolling commission needs to end.”

Ms. Sue Pearce has a meeting scheduled with Mayor Adams for Feb 3<sup>rd</sup>. She wants to discuss IUC, the end date and other issues.

## **6. Independent Utility Commission Committee**

Mr. Steve Weiss said, “First I want to thank Mark for reminding me there are problems going on beyond June 30<sup>th</sup> because he is right. The IUCC was formed pretty much at the same time as the Housekeeping Committee somewhere around Feb., of this year. In the time that we existed we have had presentations with Commissioner Saltzman on his ordinance to the city council to create an IUCC. We have had input from a Dave Johnston former member to PURB who has had his own proposal to do this. We have had presentations from David Shaff of the Water Bureau, Dean Marriott of the Bureau Environmental Services; from the City Attorney La Vonne Griffin-Valade on her view of this, as it is essentially centered in the auditor’s office. We have heard a great deal of information which we have tried to put together in an understandable form. I agree that this is a very complex area. I will say that my main area of interest, I am certainly not a “policy wonk” on this issue, a much any where near as I am on issues regarding Human Services. Some of you may have seen my letter in today’s Oregonian, note that. I think what I want to do is to have my colleague Mr. Justin Delaney give a brief overview of what has gone on in regards to some of the specifics in the latest draft amendment. My contribution, I will say to start with, has been solely in regards to the Water and Sewer Discount Program. The language that is in there which is only one sentence, is actually been getting some play. Some of you may have read Steve Laws article in the Portland Tribune which has disturbed me greatly. What I am

going to do is give it to Mr. Justin Delaney now and I will talk about the Water and Sewer Discount Program.

Mr. Justin Delaney said, “It is a large committee, there are eight of us officially on it, almost half of the Charter Commission. We have had testimony from multiple sources such as sewer and water Bureaus, CUB, PURB, PUC, and Friend of the Reservoir, Budget Advisory Committee, and Coalition of Water Users which is in litigating now against City Council, Ms. Floy Jones of Water Accountability and citizens. We have had discussions about a number of different models and really why we have had all these groups coming in to giving us testimony to help us to decide if any of the models on the table are better than another. The different models are IUCC, PUC, and Public Utility District model. We did not go deep into the PUD model as it seemed to be the far end of spectrum and bigger than what we were aiming for. My colleague Marion is probably the most knowledgeable about the PUC process, if anybody has individual questions about why we went towards the IUC as apposed to the State wide PUC type process. Why did we head down this road? Everybody has seen in the media over the last year... we had citizens coming in from day one to the Charter Commission asking us to address the misuse of sewer and water rate money. I do not think there was anybody on this commission from day one, which was interested in looking at sewer and water rates, I sure was not. We heard it loud and clear from the citizens and from these groups that came to our meetings. We have embarked on this journey to try and draft something that we think might work. We are at the stage now of getting some serious inputs from the folks who have helped in the committee shape this. What we are presenting you today is draft two from the City Attorneys Office and is asking you to give us your formal comments now, so we can go back, talk about them, incorporate them, and come back at some point with the new version nothing more than that. Will we get to a vote? We hope so; we have spent a lot of time on it. If we don’t, I frankly do not care, I am not invested in water and sewer rates. I think that what we have in front of us is a very good start. I am going to very quickly walk through this section hopefully you all have copies. In-between Damien, Sue, Steve, myself, Marion, and Karl will try to answer any questions.

Section 11- 401 and 11- 402 is going together.

**Section 11-401. General Policy.** Mr. Justin Delaney said, “Basically says rates shall be fair and equitable should only include cost associated with providing water and sewer services. Rates should be set to generate sufficient revenue to fund annual budgets, and calculated using generally accepted ratemaking practices. Least-cost and least-risk principles should guide decisions on capital investment.” Another area of least- cost and least –risk are... I recommend you talk to Marion on the committee if you have questions about what that means in particular. Towards the end of section 401 you will see that we have written in to the proposed Charter Amendment the preservation of the Low Income Assistance. We had a discussion about what does that mean if we do not put a number in there. We talked a lot about how the city might have a budget crisis down the road, so we want to be cognizant of the fact that discount might need to flex up or down. We put a floor of 10% which has to be at least a 10% rate reduction.

Mr. Steve Weiss said, “I will add a couple of things to that. To the best of my knowledge, the City Charter does not mention the water and sewer discount program at all. It is not in there. The reason why I wanted to put it in the amendment was to get the program in the City Charter to

make it more difficult to get rid of. As things stand now, the water and sewer discount program is regarded as non mission critical and the PURB has emphasized that and is my understanding to the City Council without saying anything specific in regards to either reducing the discount or eliminating the program. The fact that it has been brought up as non-critical in my judgment puts the program at risk. I do not want to see it go away. Granted, I have a personal stake in this. I have been on the program since July 2003. Right now it saves me four hundred dollars a year. I live on eight hundred fifty dollars a month. If this program goes away, I am in serious financial difficulty and so I suspect are many of the over nine thousand households many of them headed by seniors like myself who would be in serious financial difficulty if the program went away or if the discount which is now fifty percent, very generous; would be reduced to the ten percent floor. I put the ten percent floor in there because I thought it was important to have a numerical bottom line for the discount. I had some hesitation about doing that. I am not adverse to adding stronger language that is in this amendment to protect the water and sewer discount program. I wanted to start somewhere so that is the language I put in. Given Steve Law's column a week to two weeks ago and given at least the possibility and others know more about this than I do of weather the law suit that has been launched could end this program. I think it is very important for the program to be included in the City Charter, because then the Council would not be able to get rid of this. Only a charter change would be able to eliminate the program. That is my view of it. I see the program as being extremely useful even if it is the most generous program of its kind in the country. That does not bother me in the least. I see the economy headed for very difficult times.

Mr. Rich Rodgers said, "One of the motives for putting this before the voters in changing the charter was the...the sense from the public is that there has been inappropriate water and sewer funds. The auditors report highlights that. Can you quantify the effects on capital and operating budgets from everything that you deem inappropriate?"

Mr. Justin Delaney said he would have to do an entire accounting of both bureaus and a full list of projects. He has a very rough sense based on probably unsubstantiated statements from bureau heads. He is talking about a couple of percentage points. The issue is that through the Charter Commissions process, through the City Auditors report, and through the litigation, more and more... they are not bad projects, these are policy choices, which Council has made to fund. The issue that this is designed to get at is to ask Council to spend money on non-sewer and water projects from the general fund instead of the ratepayer money.

Mr. Rich Rodgers feels that the burden of proof needs to be on those that want to change the charter.

Ms. Tricia Knoll would like to ask questions during the meeting rather than through e-mail.

Ms. Sue Pearce makes a motion to have a minimum of three Public Hearings and possibly four, with at least two of them outside of City Hall.

Ms. Sattie Clark would like to do the scheduling. Also, would like to hear an overview of the big picture today would help her to develop the questions.

Ms. Jo Ann Hardesty also is concerned about the time crunch.

Ms. Sue Pearce again requests and explains her motion. The motion is in regards to the IUCC.

Mr. Bill Gentile wants the people of the City of Portland to be comfortable with what they will be voting on. He sent out a Red Oak Report and would like the Charter Commission to read it.

Ms. Cassie Cohen would like to come up with a couple of scenarios if there is a time limitation. She would like to show attention towards issues that the public would be interested in such as saving the Low Income Program.

**MOTION:** Co-Chair Mark White restates the motion, “We are voting on having a minimum of three possibly four public hearings with at least two of them outside of City Hall.”

Co-Chair Mark White- no

Anita Yap- no

Ariella Odierna- no

Bill Gentile- yay

Cassie Cohen- no

Damien Hall- no

Hank Miggins- yay

Jan Campbell- absent

Jeff Bissonnette- absent

Jo Ann Hardesty- no

Justin Delaney- no

Karl Rohde- no

Marion Haynes- no

Rich Rodgers- yay

Sattie Clark- no

Shellie Romero- absent

Steve Weiss- no

Co-Chair Sue Pearce- yay

Tricia Knoll- abstain

Vanessa Holguin- absent

**ACTION TAKEN:** Does not pass.

Mr. Damien Hall asks, “If we have two Public Hearings and this March 3<sup>rd</sup> deadline does get extended, you can make another motion to have more public hearing?”

Response is yes.

Co-Chair Mark White would like to set the Public Hearing dates. He said, “As far as the Public Hearings are concerned, the Ombudsman requirements from City Council is that one of them be

held during the week after 6 p.m. and one of them be held on the weekend between 9-4 pm. One of them needs to be outside of City Hall.

Tuesday, January 3, 2012 from 6-8pm will be the next full Charter Commission Meeting at City Hall.

Monday, January 23, 2012 from 6-8 pm will be the next full Charter Commission Meeting at City Hall.

Saturday, January 28, 2012 from 12-3 pm will be the next Public Hearing at Portland Public Media.

Ms. Anita Yap said it has been an honor working with the Charter Commission. She acknowledges the hard work they have put in on such hard issues. She will no longer be on the charter after today.

Time end 9:11 pm.

**ATTACHMENTS TO THE RECORD**

*Charter Commission meeting minutes 10.28.2011* (prepared by Alexander Villarreal).

Draft Charter Language from City of Portland Attorney's Office- December 19, 2011 in regards to the Independent Utility Commission Committee.