

PORTLAND CHARTER COMMISSION MINUTES of FEBRUARY 25, 2010

Agenda #1: Chair Plumb called the meeting to order

- *Take up #6 before #5
- *Introduction of members

Agenda #2: Public comment on agenda.

- *Jack Woods of Congress Street:
 - I hope that the members will vote on Non citizen voting on basis that there is strong support for it in the city.
 - Issue deserves full vigorous debate and should be decided by citizens of Portland
- *Seth Berner of Clinton Street
 - It is a basic right; gives people a share in the community
 - Issue should go to the voters; will make more people part of Portland
- *Charles Bragdon of Munjoy South
 - Just restoring a right they had in the past
 - People have to wait up to 10 years to become a citizen
- *Atrud
 - All equal and should not discriminate; isolates the immigrants from fully participating
- *Wells Staley Mays
 - On behalf of Peace Action Maine
 - One group is people from Darfur
- *Abda Asam Awar
 - Would like to have the right to vote
- *Anthony Zelli
 - Would like to see the Commission send it to the voters and debate it
- *Abern
 - This is my home; by voting I would feel more accepted in the community.
- *Alexandra, student at USM, graduate of PHS; heads Multicultural Student Association
 - From Bosnia; Mother worked and paid taxes but had no chance to vote.
 - 35% of student population is from other countries; multicultural community is growing
- *Mohammed Dina of Portland
 - Grew up in the City and going to USM. People who come here come because they had to leave their home countries.
 - Can die for the country but cannot vote in the City.
 - Just because person doesn't know the language doesn't mean they cannot understand the political system.
 - They are "awaiting citizens"
 - Let the public decide this issue

Agenda #3: Minutes of 2/11/2010 meeting approved (10-0 Valleau, Cohen absent)

Agenda #4: Announcements

Agenda # 6: (Out of order)

*Comments from Joseph E. Gray, Jr.

-I wanted to comment on the pending “straw man” proposal for the elected mayor, particularly as to the relationship between the mayor, manager and the budget.

-Description of budget process: City Manager obtains budgets from each department in late January, goes through them line by line with the department head, then submits a budget to the Council and Council works through the Finance Committee sends the budget back to Council in May.

-Equally important to creating the budget is managing the budget throughout the year. The budget is a dynamic document; in past year, saw the economy tanking and seeing nonproperty tax revenues declining, we were going to be faced with a budget in deficit if we didn’t make mid-year adjustments. Again, I sit down with department heads to see what’s left in their budgets, where can we get savings, what can be delayed, etc. to make sure we have a balanced budget at the end of the year.

-I don’t know what the provision means in saying the Manager prepares the budget “at the direction of the Mayor”; can see built into the language some real problems in terms of who sits down early and goes through the budget line by line and makes decisions with respect to a final budget.

-It’s important to clarify how the division of responsibility is handled on a day-to-day basis, as well as management of the budget as the year goes on. Important to be clear on how mid-year adjustments would be made, with respect to the roles of manager and mayor.

-If there is to be a role for the elected mayor, then it should be in early goal setting and prioritization before the budget is put together. Mayor can lay out his or her goals, council somehow embraces them and then manager puts the budget together.

-Another issue: the Manager is to be chief administrator of the City but #4 in the proposal says the Mayor oversees policy, so some clarification would be helpful in that regard.

Questions from Commissioners

*Comm. Smith

-How much of the budget is discretionary?

*Joe Gray

-We have a \$149,000,000 budget and the council has moved about \$300,000 – 700,000 around in the past

*Comm. Smith

-So real budget decisions are made when union contracts are ratified; reorganizations, etc.

*Comm. Gooch

-If the budget is a policy document and there is very little room for moving around funds, what have you used to set your priorities?

*Joe Gray

-By discussion with the Council

-Get a budget from the departments with a certain increase; so weigh how much of that increase is acceptable to the elected officials

-Art, not science; constantly having informal discussions with members of the council as to where they want to see the budget end up.

*Comm. Chipman

-Any role or responsibility which could be shifted over to an elected mayor?

*Joe Gray

-I don't have any suggestions

*Comm. Spritz

-Are you comfortable working with an elected mayor?

*Joe Gray

-It's all going to be a function of the dynamic between those two individuals and hopefully it will be good. But when you get into the nitty-gritty of the budget, it gets down to who makes the decisions on the details of the budget and the day to day running of the city.

*Comm. Ranaghan

-Important to know that there is very little room to move money around and little to do for day to day management. If an elected mayor came in and had goals of increasing police, decreasing fire, and enhancing Parks and Recreation, what would you do?

*Joe Gray

-Manager would work with the mayor to see how the goals could be met or at least moved toward. I already do this type of thing with members of the Council. It's a matter of trying to work with them in that fashion. There could be conflicts that would end up ultimately in the hands of the council.

*Comm. Cohen

-First, you do an outstanding job with the budget. I just want to make sure that we're clear about where the discretion lies. On average, the Council might change the budget as much as \$700,000. Did you mean that is the only discretion the Council has?

*Joe Gray

-No, but unless you're going to make substantial changes in operations, that's about the amount historically the council has moved around.

*Comm. Cohen

-Could you work with a Mayor that provides direction to prepare a budget that you eliminate a department, freeze salaries etc.

*Joe Gray

-Still need to clarify the respective roles.

- Don't want to create a situation where there is such potential conflict that it attracts the attention of the rating agencies for bonding purposes; they look at the working relationships within the cities.
- I can return at a later meeting if you wish.

Agenda # 5:

*Chair Plumb – Let's open up discussion on non-citizen voting

*Comm. Spritz

-It is much more difficult and more expensive to become a citizen than it used to be.

-I will vote against for these reasons:

- a. I don't interpret the Charter Commission needing to put items to the voters just because there is public interest in the issue.
- b. I think it will fail on the ballot; there will be a political firestorm if the commission votes for it. It will endanger the other issues the Charter Commission recommends
- c. Issue of legality – it will be litigated. Do not want to approve something that we don't know whether it is legal
- d. I personally disagree with the notion that the inability to vote locks one out from affecting the system at all. Voting is only one way to change things.

*Comm. Chipman

-I support putting it out on the ballot; healthy debate over this.

-It has more support in the community than I thought when this started.

*Comm. Trevorrow

-I raised this issue because a number of members of immigrant community reached out to me.

-I have heard there is no outreach from City Hall. The overwhelming sentiment is that there is no process for city hall to come out and educate that demographic and that the reason is that they cannot vote.

-We were not elected to decide how to revise the charter; but to make recommendations to the voters.

-I don't think it will necessarily fail. Bringing this into the public debate allows for the public to realize the gravity of the issue.

-Legality is not for the Commission to decide. Corporation Counsel said there is a legal argument to be made and that he is willing to make it. Need to take it up on the merits.

*Comm. O'Brien

-I support it and think it's a debate Portland needs to have.

*Comm. Gooch

-I will also support putting it on the ballot. Does this proposed change improve democratic practice on the local level? If answer is yes, then I will put it out to the voters.

*Comm. Cohen

-I am leaning against this; not an easy decision and I learned a lot from the presentations we had.

-Have a sister who lives in England and she became an English citizen in order to vote.

-I don't think that it's a close call legally – do not think it is legal under Maine law.

*Chair Plumb

-I've learned a lot and heard some persuasive arguments on both sides

-I am leaning against it.

-We are all immigrants except native Americans.

-Over the last 30 years this community has been inviting to immigrants and benefited from the energy brought to the City of Portland

-Although voting is an important way to have a voice, it is not the only way. Getting together in groups and speaking in public forums, joining groups etc.

-Thought this was for legal permanent residents but all the presenters said that this is not realistic; really only threshold is their residency. None recommended that City be put in position to determine status of the person.

-Process of becoming a citizen or even getting a green card should be improved

-I am not convinced it's legal or that Portland should be on the cutting edge and do the litigation.

*Chair Smith

-It's a closer call than I originally thought. I think this is an issue about fundamental democracy

-The primary issue before us is that of an elected mayor;

-Leaning pretty strongly that we need a strong debate on this issue, but not top down from the Commission.

-Should bring the issue forward on its own legs – by a new Commission perhaps – moving it onto fast track now it could put it back for a long time if it is defeated.

-Not concerned about the language issue or the education of voters issue; a little concerned about the uncertainty issue.

-I think the issue needs to mature and would have a broad base of support perhaps in a few years.

*Comm. Davis

-I have changed my mind

-Voting is where the “rubber meets the road”. When I ran, I was seeking votes and did not go where there were no voters.

-Peaks Island gets to weigh in even if they cannot outvote Munjoy Hill.

-I have learned about burdensome and lengthy process to become a citizen. We have gotten rid of poll tax and literacy test and pushed them over as part of the citizenship process.

-What does Portland need to be successful in the future? Not a healthy position to have many residents who cannot vote but have kids in the school system. Need to invite people to participate.

*Comm. Mermin

- Appreciative of having this brought to Commission because it was a tremendous learning experience.
 - Charter Commission put in place to create a better governmental structure
 - Wonder if we could craft an item that is a workable proposition to identify those who are committed to being here and becoming a citizen and only allow them to vote, i.e. legal residents of the community.
- *Comm. Ranaghan
- I don't know how hard it is to get a green card, but after that it is not that difficult to become a citizen.
 - Troubled by Ms. Stickney's statement where many of the folks choose not to become citizens because they will lose property in their home country and plan to go back to their country. You either come here or you don't. Troubled that some people want the right to vote but do not want to become citizens.
- *Comm. Gooch
- If this were a question of whether legal non-citizens should vote in state or national elections, I would be saying something very different.
 - This is just the chance to participate in local government – potholes, parks, schools etc.
 - I am not concerned about whether people stay; we don't ask that of students.
 - I don't think this is a top down issue; having voted the Commission in, this issue was number 2 and has received the most public interest.
 - Because it is so intensely debated in the community, we should put this out to the voters.
 - Do not think we should be afraid of the issue; it both improves local government and it is workable.
- *Comm. Chipman
- Elected mayor is not the only reason we are here. We have the opportunity to take up other issues of interest to the community.
 - Even if not difficult, citizenship does take a long time to achieve.
 - With same day registration, someone can move here and know nothing about local politics but can vote in all elections.
 - Have a great opportunity to put it on the ballot and continue the debate.
- *Comm. Cohen
- This is a very difficult issue
 - As a city councilor, I did not research whether someone was a citizen or not; I listened and responded to them as a person
 - It matters who is entitled to vote and who is not. Whether the line is drawn at citizenship is difficult.
 - In state have a constitution that says you have to be a resident, 18, and citizen. Title 21-A adopts those standards too. Home rule says you can do what you want, unless it conflicts with state law. Means under home rule you can let those who are under 18 or non-residents be allowed to vote under local charter provisions.

-We cannot change state law by charter. I don't want to go through the process of passing a charter provision that is not legal. If we want to express an opinion on the issue we should do it another way.

*Comm. Smith

-When I learned how difficult it is to become a citizen, it was an eye-opener. I think there is an assumption it is not that big a deal. That is one of the most compelling arguments for it.

-Lots of people pay taxes to Portland but cannot vote in Portland (e.g. own real estate).

-We don't think about whether someone is a citizen, don't even usually think about whether they are residents, just the quality of their ideas and input. There are many ways of participating to influence the community.

*Comm. Treverrow

-Legal issue: as a body, it's not our job to determine whether this could be upheld in court. We should decide it on the merits.

-Timeliness of the issue: this has been discussed in Portland since 2004; had members of school committee trying to get something passed at the state level. It was voted down soundly, so can address at municipal level and wait for legislature to catch up.

-Ability to participate: running 7 or 8 to 1 in favor of this in my e-mails. If we are not going to listen to them on this issue, then they are not being heard.

*Comm. Spritz

-I want to come back to what Comm. Mermin hinted at – is this something that is an all or nothing proposition. Heard from Linda Cohen that the clerk is very uncomfortable with trying to apply some other standards to the immigrant population.

-I think it is an all or nothing situation.

*Comm. Ranaghan

-At least 100 people have told me they do not support non citizen voting.

-It would be shameful to put into the charter without knowing it was legal.

-I asked for, but have not received estimate of costs for translators – doing some rough math, have 11 polling places, 5 at every poll because of diversity languages. Probably looking at \$50,000 number.

-Need to have a fiscal note on this issue.

-Do not think it has to take 10 years for citizenship.

*Comm. Davis

-We do bear some responsibility for 3 year waiting list to get into English classes; perhaps if they could vote, it would be a shorter waiting list.

-Agree with Comm. Gooch that local government deals with fairly mundane things in our daily lives and everyone should be able to participate.

-It should be based on residency.

-The vote really does represent power even on the local level.

*Comm. Smith

- On the voting card you represent that you are a U.S. citizen, so clerk's office could use a card that gives various status choices.
- *Comm. Gooch
 - I'm concerned about the legal opinion. I did not look into this myself, but I should have.
 - If Comm. Cohen is correct, then it would be irresponsible to put it on the ballot.
 - Without settling the legal question I cannot vote on this issue.
- *Comm. Smith
 - This could pass and be challenged and get a court decision
 - There could be an AG's opinion
 - There could be an advisory opinion
- *Comm. Gooch
 - Want the legal question more fully aired
- *Comm. Cohen
 - Agree we won't get a formal opinion unless a court decides it.
 - Do not think this is a close call; will not be a winning case.
 - What is it that shows you are committed enough to have the right to vote-citizenship provides a line.
 - My sense is that the real problem is how one becomes a citizen
 - Also troubled by drawing distinction between local election and state and national election. Local issues are very important. Think we should be consistent
- *Comm. Chipman
 - Gary Wood said it would be a coin toss which sounds like 50/50.
 - We can only address the issue in regard to local elections
- *Comm. Davis
 - In terms of legal answer, it would either be from legislature or court decision; think we should deal with the merits of the issue in part because I don't think there is anyway to decide legal issue without going forward.
 - Citizenship is citizenship in U.S.; really different than residency in a community. Citizenship doesn't say anything about relationship to Portland.
 - Should not wait for a call for another charter commission.
- *Comm. Mermin
 - I don't think that residency is the threshold I would apply to voting.
 - We don't have the capacity in the Charter to solve the issue of participation
- *Comm. Plumb
 - More information on two issues that might yield more clarity
 - Legal issue – is it a coin flip or not a close issue
 - Whether you can define the various issues of status
 - More compelling argument for those who are in a process to become a citizen, how feasible to limit to those persons?
- *Comm. Ranaghan
 - Would like to know what additional costs communities have incurred

- *Comm. Spritz
 - Can we define the population and is it possible to accurately monitor at the polling booth; can it be verified?
- *Comm. Chipman
 - Don't think we should ask about costs since Linda has already said there are no more costs
- *Comm. Smith
 - Should table this and get some more information; No decision is final until it is finally final.
- *Comm. Ranaghan
 - Who are we going to pursue the legal opinion through?
 - Costs do enter into it
 - Want to know from other municipalities whether there are any additional costs.
- *Comm. Cohen
 - Skeptical that we can get a definitive opinion
- *Comm. Spritz
 - Prefer to do this tonight, but willing to table it. We need to have everyone here on this.
- *Comm. O'Brien
 - Suggest Cab Howard on this
- *Comm. Smith
 - Lawyers make judgment calls on things just like this. Would like to hear from an independent person on this.
- *Chair Plumb
 - Are you comfortable having the Executive Committee work on getting more information on these issues and reporting back.
- *Chair Plumb
 - Comm. O'Brien's censure/removal issue
- *Comm. O'Brien
 - Would like to have it brought up at another time.

Agenda #7 – New Issues for Consideration – postponed.

Adjourned.