

**PORTLAND CHARTER COMMISSION**  
**MINUTES of MAY 13, 2010**

**Agenda #1:** Chair Plumb called the meeting to order  
Comm's Mermin and Gooch absent  
Reviewed remaining process; preliminary report to be published May 21,  
then there will be a public hearing on it on June 10, with final report  
published on July 16, 2010.  
Reviewed agenda items for meeting.

**Agenda #2:** Public comment on agenda.

\*Steven Scharf

- Take out reference to "popularly" elected mayor in report
- Reference to residency requirement for wardens/ward clerks – double negative
- Should separate instant runoff provisions
- On recall – should allow affidavit to be done in same manner as petition re certification
- Article VII – Reports: say that they will be published "on-line"
- Budget hearing – should allow on day of appropriation action
- Approval of bonds – instead of referring to it as a percentage of the certified state evaluation; should just be a dollar amount.

\*Mark Usinger of Summit Street

- Problem is not absence of elected mayor but absence of competent management in city hall.
- Example of Cape Elizabeth and Falmouth as well-managed cities.
- Not going to solve problems of city with an elected mayor.
- Last thing we need is to increase the wages of school board, that they need to understand they don't work for Supt. Morse, vice versa.

\*Will Nelligan of West Street

- Support a stronger and bolder model for the city than recommended.
- Need bold and innovative leadership at the top to succeed – leadership with authority to get things done.
- We've had great city managers, but institution is deeply flawed.

\*Bob Haines

- Reviewed the schedule – 5/21 publication of preliminary and 7/16 of final
- All documents available on line, printed copies in city hall, library, legal office;
- Should put all debt of the city out to vote except for an emergency; the threshold has been manipulated.

\*Tim Honey

- No problem with having an elected mayor, but keep authority city manager has now, don't blur the lines;
- Have the mayor be the policy leader of the City;
- Commission needs to educate; not sell its recommendations; ballot questions are critical

-Review of mayor ballot question – should separate out two of the issues as separate questions

: Giving the mayor the authority over budget

Oversee implementation of city policy

-Values of good government are found in state of Maine

-City manager has always been expected to exercise professional judgment; but now will be mayor's budget and do not think that's clear in the ballot question.

-Split this mayoral item into 3 questions; then voters can go in and will understand the issues.

\*Esther Clenott

-Want to understand how we choose who is going to run for mayor?

-Will the mayor replace a councilor?

-Mayor is mayor and also chairman of the council?

-Who is preparing the budget?

-Why is mayor playing role with school budget?

-Why are we doing this if this is substantially the same as we have now?

-Choices: keep situation as is now but electorate needs to be more selective about who is elected to council or have a strong mayor.

-Separate legislative and executive (mayor) authority.

**Agenda #3:** Approval of 5/6/10 minutes passed unanimously 9-0 (O'Brien abstained)

**Agenda #4:** Announcements

\*Chair Plumb

-Next meeting is June 10 at 5 pm with round table discussion, at 7pm Commission will hold a more traditional public meeting. Both in Council Chambers.

-Receive comments tonight; Commission can see if it wants any changes to report or ballot questions; have documents available; public hearing on June 10;

Still can tweak language until final publication on July 16.

**Agenda #5:** Last questions, corrections on Charter change recommendations for preliminary report and final passage

\*Comm. Cohen

-My primary set of corrections is to order of issues within the mayoral question.

**Cohen -Motion to take the language beginning with second sentence: "The mayor's position.... votes cast" and move it after the set of bullet**

\*Comm. Ranaghan

-Oppose putting RCV after duties of mayor; it's part of the majority elected mayor

\*Comm. Spritz

-Think it's more important to have duties first, then how he/she is elected.

**Cohen Motion approved 8-2 (Ranaghan, Valleau)**

**Cohen Motion to change “hire or fire” to “appoint or remove” and to identify the Council appointees (the city manager, corporation counsel and city clerk), passes unanimously**

\*Comm. Cohen

-Reorganization of bullet points

**Cohen Motion to move 1 to between 6 and 7; 2 between 4 and 5 passes unanimously**

\*Comm. Chipman

**Chipman - Motion to move 3 below 4 and 5**

\*Comm. Smith

-I have described this as going from an “ultra-lite” mayor to a “lite” mayor; it’s is a combination of change and status quo and like the way it is written.

**Chipman Motion fails 5-5 (No: Smith, Cohen, O’Brien, Plumb Davis)**

**Ranaghan -Motion to have a fiscal note: the initial additional annual cost connected with the popularly elected mayor is estimated to be \$100,000**

\*Comm. Ranaghan

-Like any fiscal note, it should be conservative; this is a fair figure taking into account salary, plus office expenses, plus benefits.

\*Comm. Cohen

-Is this required by state law for a charter commission question?

Ans. - No

-My concern is that we don’t know what the cost will be because don’t know what the city council will budget for this.

-Also support an elected mayor because I think that there will be a financial benefit to city, offsetting costs.

\*Comm. Chipman

-Don’t know what the council will pay for salary

-There will be financial benefits in having an elected mayor

\*Comm. Smith

-There will be plenty of opportunity for discussion of cost in coming months

\*Comm. Ranaghan

-Do know that we are going to pay a lot more than we’re paying now

-When you do a bond issue you do a fiscal note.

-Are we afraid of putting in the number?

-We know it will be \$75,000 at least; put that number in.

-There are other state and federal issues that have fiscal notes even though it’s not legally required.

\*Comm. Davis

-Difference between a bond and this issue

-Disservice to do a fiscal note because we hope the position will pay for itself.

\*Chair Plumb

-Could do a more thorough job on this in the report on potential costs and compensating balances.

-Would support amending the report but not putting it on ballot.

\*Comm. Smith

-If going to do it, then have to provide both sides, why the elected mayor can bring more money into the city and have that in the public discussion as well

**Ranaghan Motion to add fiscal note fails 2-7 (Ranaghan/Valleau; Cohen absent)**

\*Chair Plumb

-Gary Wood has to leave so if any questions need to be directed to him about ballot, council process, etc. let's do it now

\*Comm. Spritz

-Will Gary be available in June and July?

\*Gary Wood, Corporation Counsel

-Yes; my primary role will be to issue an opinion on legality and do not see any problem with that in your changes.

-Ballot question – must be content neutral and cannot be advocacy, yes or no.

-Council will take it up in early August and do have final decision on what to put on the ballot; but would like your recommendations on that.

\*Comm. Spritz

-Any problem of a lawsuit as suggested by a speaker over the “vagueness” of some of the mayoral duties?

-We intentionally framed the language to provide flexibility.

\*Gary Wood

-In context of that bullet, could only have a problem in the context of a specific set of facts. Do not believe that a member of the public would have standing to do a general challenge to the language.

\*Chair Plumb

-I would be happy to craft language for report on the fiscal note

\*Comm. Spritz

-Would have to include fiscal note for having parity between city council and school board; do not want to get into this

\*Comm. Ranaghan

-Reasonable case can be made it will be an increase since city council has never lowered its salaries.

-Not meaningful to most to refer to 1.5 times the median salary.

\*Chair Plumb

-The dollar amount is in the report as of today

\*Comm. Chipman

-Okay to have in but should have equal wording about cost and benefits

\*Comm. O'Brien

-Have put authority to set that cost with the council; would we be taking council power away to set it where they want to

-This issue will play out in the press

\*Comm. Smith

-Prefer not to get into it in the report

-Taken out of context, can scare people

-Can either let it play out in press, or do a lengthy explanation

- Those who care will play very close attention to this issue
- \*Chair Plumb
  - I sense no enthusiasm for this issue
- \*Comm. Valleau
  - I agree with Tim Honey's comments; and want to adopt his suggestions about separating out two of the duties issues for the ballot
- \*Comm. Chipman
  - Huge mistake to separate these two items; lots of work and thought have gone into these powers and duties and these are the two of the most important ;
  - Could end up with a mayor getting a good salary to make press statements;
- \*Comm. Smith
  - Current situation is what I would describe as an "ultralite" mayor; we are moving to a "lite" mayor;
  - Already discussed that only a small portion of budget is discretionary and it still goes to finance committee and to council for approval; have not changed fundamental responsibility of city council
  - Asking mayor to be responsible in the first cut when the budget is presented to the council;
  - Checks and balances are still there on what the mayor and manager are doing;
  - Puts a little more accountability on political side of government.
- \*Comm. Spritz
  - Did spend a lot of time on this;
  - Heartening to hear such disparity on what kind of a mayor we're proposing;
  - Not giving this mayor a big stick to run through city hall;
  - City manager will still run the budget and day to day operations of the City of Portland; Mayor is there to provide policy guidance;
  - Should have all of the mayoral issues together.
- \*Comm. Ranaghan
  - Totally wrong to say there is only a little bit of money to fool around with in the budget; every dollar is in play other than debt service and county contribution.
  - Word "direct" means that the mayor is going to tell the manager what to put into the budget; then hard to change it after mayor has been out selling it to the councilors and the public.
- \*Chair Plumb
  - Concerns me that Tim feels that it is unclear; would like to think about how to clarify the language;
  - If we need to be clearer about what the intent is then I would like to come back to it before final report;
  - Do not support putting them out as separate questions;
  - Not the intention to have the mayor developing a detailed budget or ordering the manager to do things without the approval of the council.

\*Comm. Davis

-Hear struggle between the old hierarchical style of leadership and command and the collaborative approach we have tried to put in for the mayor.

\*Comm. Smith

-When you look closely at the functioning, have you given mayor power to micromanage the process? What if it said “providing some policy guidelines within which the budget is prepared”.

-Moving the city in a certain direction but not micromanaging

**Motion to separate oversight of city policy and direct the city manager in preparation of the budget to put on ballot as separate questions, fails 2-7**

(Valleau/Ranaghan)

\*Comm. Smith

-Impression is that this will go out, get public input and won't take final votes until July, correct?

Ans. - yes

**Motion to amend the title of Mayoral question to add reference to “powers and duties” fails 1-7** (Spritz; Smith abstention)

\*Comm. Ranaghan

-Saw very low turnout on Tuesday for thumbs up or down on school budget;

-Perhaps school budget election should have to be in the June election;

-No magic to drop dead date of July 1 to have the school budget in place

-Would like to have the school election be on the June election

**Agenda #6. Review and approval of the revised Preliminary Report**

\*Chair Plumb

-Look at where language might go and bring in proposal before the final report;

-Let's vote on each of the 3 ballot question, then on total package that we're putting out for the preliminary report.

\*Comm. Spritz

-The overall vote is the only one that matters; don't think these are 4 equally weighted votes.

\*Chair Plumb

-Putting it forward in this manner because people may have different feelings about different pieces of this Report; opportunity to give people to speak to each question individually; then in end vote for whole report.

\*Comm. Spritz

-Can have discussion in advance but should only vote on the whole preliminary report.

\*Comm. Smith

-Only voting to put it out to the public; everyone not necessarily endorsing every thing in the report.

-Think this is about getting things out to the public but not more than that.

\*Comm. Ranaghan

-Job is simply to vote that we put out a preliminary report with its comments and minority reports.

\*Comm. Chipman

-Does any member of the commission want to vote on something separately?

\*Comm. Valleau

-Only element particularly important to me is that I am going to vote no on the mayor proposal as it is currently structured.

\*Comm. Smith

**Motion authorizing release of the preliminary report with the changes agreed upon tonight in order to obtain public input with recognition that it does not reflect unanimity, passes 8-1 (Valleau)**

\*Comm. Valleau

-Just want to be on the record that I do not support the mayor as constituted by the commission.

**Chipman -Motion that when we take final vote we do it by separate items and then a complete vote on overall report, passes 8-1 (O'Brien)**

\*Comm. Spritz

-Find this a very confusing process

\*Chair Plumb

-Similar to people offering amendments, losing on amendment, but then voting for the overall bill

\*Comm. Smith

-Think that the minority report is clear about where you stand.

**Consensus that Mayor –Schools -Technical as the order of the ballot questions.**

**Agenda #7. Finalize plans for the public outreach and engagement**

\*Comm. Spritz

-We can do a one page fact sheet

-Editorial board – when came to proper moment, to have as many short articles as we had issues to cover – we could do articles and publish them in the paper.

At least 3, maybe more

\*Comm. Ranaghan

-Is rest of commission going to have a chance to review before they go out?

\*Chair Plumb

-Commission is going to speak for the majority but this doesn't prohibit any individual member from putting out his/her own opinion personally.

\*Comm. Ranaghan

-Just concerned that materials might say things that are not entirely true; or are too slanted.

\*Comm. O'Brien

-I propose we have executive committee be smaller editing group

\*Comm. Chipman

-Trust others to do the editing

- Would help John with neighborhood groups
- \*Comm. Smith
  - Could see a show in public t.v. where you get different perspectives
  - The one pager should be very factual
- \*Comm. Spritz
  - Majority of this commission voted for the three recommendations; have approved the release of the preliminary report.
  - Appropriate to say that the Commission is making these recommendations and why we did it.
- \*Chair Plumb
  - Role of other groups to set up the pro and con debates, not the Commission
- \*Comm. Chipman
  - Would like to take fact sheet and encourage people to come to the June 10 public meeting and hearing.
- \*Comm. Spritz
  - Think it would be good to have people keep some notation on comments made to them about the recommendations.
  - Comments can be sent directly to commissioners, or through Elizabeth Boynton to the Commission. ([liz@portlandmaine.gov](mailto:liz@portlandmaine.gov); Room 211, Portland City Hall, 389 Congress Street, Portland, ME 04101).
  - Copies will be available in Room 211 of City Hall and at the library.
- \*Comm. Valleau
  - I don't understand the idea of keeping track of comments people have made; why?
- \*Comm. Spritz
  - Idea is that on June 10, we can talk about what public input has been to commission members.
- \*Comm. O'Brien
  - Public conversation starts with the Press Herald
  - Need to have leadership committee sit down with editorial board
- \*Comm. Spritz
  - Would be good to have a conversation with them soon
  - Do we want to have public comment at the end tonight?
- \*Chair Plumb

**Motion that this meeting be open for comment by those who did not have a chance to speak in beginning, passes unanimously 9-0**

- \*Chris O'Neill, Portland Chamber of Commerce
  - Thanks for great work to date
  - Have report from Chamber on how the Charter Commission could proceed; Tim Honey was a co-chair of that task force. He was not speaking for chamber in what he submitted tonight
  - Could approach the concern about the powers and duties of mayor by tweaking language about powers and duties of city manager to compile a budget in consultation with the mayor.
  - Intent of what happens once you release the report

- Have to consider how it will play with commission advocating for its report;
- Potential for appearance that so and so wants to be mayor, self-serving motivations;
- “Why” should be in narrative;
- Run risk of having this look like a sales pitch.

Motion to adjourn passes unanimously.

Schedule remaining:

Friday, May 21: Publication of Preliminary Report

Thursday, June 10: public meeting and hearing on the Preliminary Report  
5 p.m. and 7 p.m. Portland City Hall – Council Chambers

Thursday, June 24: discussion of any changes based on public input

Thursday, July 1: agreement on any changes to the Preliminary Report

Thursday, July 8: final passage of the Preliminary report

Friday, July 16: Publication of Final Report