

REVISING PORTLAND'S CITY CHARTER

Report Prepared by the Portland Community Chamber Charter Working Group - 5/8/09

Background

In November, 2008 Portland voters authorized the formation of a charter commission, which is described in numerous ways, from a “municipal version of a constitutional convention” to a “routine periodic tune-up.” In our 2007 “Looking Out for Portland” report, the Portland Community Chamber identified an “elected mayor” as a potentially positive step for the city. Our thinking was that policy is often made in a reactive fashion, and that Portland speaks with too many voices, making it difficult to address major issues and implement projects that require long-term commitments. Our recommendation was not an indictment of any individual public servant, but an observation of a good system with a weak link.

Anticipating the upcoming opportunity to make revisions to the city's charter, Chamber President Mark McAuliffe formed our task force, the *Portland Community Chamber Charter Working Group*, to examine our current mayor-manager-council system of government, and to make recommendations for how it might be improved.

While most of our attention in this exercise was devoted to the mayor topic, we realize the Charter Commissioners may decide to grapple with other issues. The Charter is not merely about the structure and functions of local government, but it must deal with complex issues associated with local governance which now must encompass:

- Strong political and policy leadership which must be able to set a policy agenda for dealing with opportunities confronting a complex and diverse urban community
- Increased involvement of the private and non-profit sectors in governance structures and service delivery
- Elected and appointed leadership that can work with multiple parties and interests.

The Working Group was guided by a number of important principles that shaped its recommendations. These principles can be summarized as follows:

The landscape of Portland government has changed dramatically since the last Charter Commission in 1984. Our group agreed that Portland has great community assets. Likewise we agreed that Portland's government structure performs well in many respects, but there is room for improvement. We agreed that Portland's is a sound and effective executive administration (manager), but that it lacks the political mandate that is often a necessary component of progress. We agreed that the executive

administration's structure enables it to exercise political power, dependent largely upon personalities and management styles. However the council's structure largely prevents even the mayor from exercising substantial political power, leaving it and the mayor without mandates. We further agreed that Portland's office of "Council Chairman" (mayor) is rendered less effective because it has under a year to implement any plans. We studied the systemic roles of councilors; how parochial district interests and constituent advocacy can impede sound citywide policy administration. This was a dominant topic in the 1986 report, and should be revisited. We agreed that a shift of power away from districts and back to at-large governance could help to mitigate this problem. Last, we agreed that Portland's system of governance makes no provision for a political leader whose ideas have been tested citywide, and who has the direct mandate of the city's majority.

Weak Mayor - Strong Mayor

We learned that "elected mayor" is not as simple as it sounds. City Charters bestow upon America's mayors a continuum of powers and duties, from "weak" to "strong." The distribution of power among mayor, manager, and council is an intricate and delicate series of balances. We considered recommending a strong mayor, but we have not embraced the notion. Instead we see administrative powers and duties in their rightful place, with the city manager. The balance of power in our model of mayor-manager-council leaves much of the status quo, however, in our quest to design a system for more effective leadership we offer more political power to the mayor -- power which is less apt to be misused in harmful ways. We seek to avoid a governance model in which the position of manager is stripped of power to the extent that it cannot effectively manage. We believe that would lead to bad policy outcomes, and it would be a deterrent to our being able to attract quality managerial candidates.

Readers should note that when the Working Group reported our draft recommendations to President McAuliffe and the Chamber Board of Directors, we encountered considerable disagreement with (and some disappointment in) our "less than strong" mayor. This reaction was expected, much as it should also be anticipated in the forthcoming civic debate. Consequently, this report cannot be presented as "the Chamber position." Indeed, to date there is no explicit Chamber position beyond our desire for a popularly elected mayor with a longer term in office, and which is appropriately empowered, highly visible, and accountable. We caution the community and the eventual members of the Charter Commission to engage in a rational academic examination of changes to the status quo. The balance of power among the council, mayor, and manager is immensely important, and must incite the highest levels of discourse. The 1985 Charter Commission devoted considerable time to the controversial issue: "Establish strong Mayor form of government." In their final report, they did not send for voter approval *any* mayor-specific questions. Beyond our 2009 conclusion that Portland would be worse-off with a truly strong mayor, our Working

Group felt that much of the vehement anti-strong mayor political sentiment that prevailed in 1985-1986 still exists today. As such, we concluded that a true strong mayor model in Portland is both practically undesirable and politically unlikely.

Building our Report

In forwarding our recommendations we used a number of important resources:

- The knowledge and experience from the members of the Working Group
- Best Practices from other communities around the country
- The Model City Charter – 8th edition – Defining Good Government in a New Millennium*

We believe that our recommendations will allow Portland to achieve the following goals:

- A continued commitment to a professional, progressive and ethical city government that has been a Portland hallmark since the early part of the 20th century
- A new commitment to enhancing the political and policy leadership of the city through an elected mayor with clearly defined duties and responsibilities
- A commitment to the City Manager as the Chief Executive officer of the city
- A rebalancing of the at large vs. district council seats
- A continuation of non-partisan ballots for mayor and city council elections

The following challenges were considered by the Working Group during a series of brainstorming sessions:

- Ability to get things done as a city, make big decisions
- Leadership to drive decisions and create action
- Efficiency in process
- Participation and inclusion (of people within decision making process)
- Accountability for actions of city leaders
- Advocacy to region, state, federal
- Potential for corruption/wrongdoing/abuse of power
- Partisanship
- Balancing district parochialism vs. the greater good
- Impact on economic development process, outcomes
- Professionalism of management, administration, and department heads, and our ability to attract/retain top talent

- Any changes to the configuration of Portland's five voting districts should be implemented before the 2014 elections, so that they can be easily coordinated with the next decennial statewide reapportionment in 2012

**The Model City Charter is developed by the National Civic League which emerged from the Progressive Era of government nearly 100 years ago. Copies of the Model City Charter can be obtained at: <http://ncl.org/publications/>*

Roles that we discussed for Councilors, Mayor and City Manager – The following represent broad areas of responsibility to consider when assigning powers and duties:

- Personnel (hire, fire, oversee)
- Committee appointments
- Policy leadership
- Political leadership
- Budget
- Constituent services
- Advocacy at regional, state and federal levels

Key Issues that we contemplated regarding possible charter revisions for Portland:

- Councilors elected at-large vs. by district vs. a hybrid
- Mayor elected by council or by citizens directly
- Term lengths for councilors and mayor
- Council responsibilities
- Mayor responsibilities and power of mayor - policy leadership vs. executive powers
- Mayor a council member?
- City Manager responsibilities

Various powers and duties considered by the task force that can be allocated among the mayor, manager, and council:

- Write budget
- Prepare/submit budget
- Prepare/submit budget after consulting with manager
- Veto budget
- Implement budget
- Management of city affairs
- Special voting status (i.e: tie-breaker, veto)
- Hire/fire/supervise city employees
- Hire/fire/supervise administrative officers
- Hire/fire/supervise manager only
- Direct and supervise departments, offices, agencies

- Ensure that all laws are faithfully executed
- Prepare and submit an annual report
- Provide staff/support to councilors, mayor
- Preside at meetings
- Leader of the council, which is city's policy making (legislative) team
- Appoint council committees
- Appoint members of citizen advisory boards
- Serve as ceremonial head of city government

Executive power vs. political power

The task force distilled most of its effort to the fundamental balance of power between mayor and manager. Many of us commenced this exercise with a desire to confer in the mayor a host of executive powers, such as hiring of personnel. But our examination of governance led us away from such a model. We considered the universe of systemic powers and duties that exist in Portland's current model, and finally determined that Portland's executive powers should remain seated in the manager's office. Because we seek enhanced policy leadership from the mayor's office, we designed a mayor which derives its power from the voters. The extensive rationale for this general separation of political power from executive/administrative power is well articulated in Appendix A, which contains excerpts from *The Model City Charter, A Publication of the National Civic League, 8th Edition*.

The task force considered moving various powers from the manager to the mayor, and in the end we decidedly left executive powers in the manager's office. Our mayoral model envisions a collaborator who will more readily be able to facilitate and lead the council's endeavors in policy making.

The one administrative power shift that we propose for consideration is mayoral veto authority over the budget. We deemed this a departure from the mayor-manager model, but we decided that our model of enhanced mayoral political power needed to contemplate a dash more fortitude. We recognize that Portland's budgets are rarely enacted with split votes, and we realize that granting veto power to the Mayor departs from the tradition of egalitarianism among Council members. However we suggest it is worth examination by the Charter Commission.

Conclusion

Portland should not radically alter its governmental infrastructure. Indeed, much of it works well, particularly the professional management of city administration. But Portland needs a popularly-elected mayor who will be able to clearly articulate community goals, and who will have a political mandate from the community and the time to work with the city manager, the council and stakeholders to implement these

goals. After campaigning in all districts for what could be many months, and having tested positions and ideas with the public, a city-wide elected mayor will be expected to use its three year term to implement the mandate that a majority of voters will have issued. We believe this is the safest, most effective way to create a system in which the mayor can develop and exercise leadership on the council to implement the public's policy objectives.

Conclusion, continued.

In our discussion of endowing the mayor with budget writing power, the task force concluded that its version of a popularly elected mayor would build influence sufficient to inform the manager in the creation of the budget. Any manager, we concluded, would take instruction from - and the budget document would reflect - the election mandate. That mayoral influence, as manifest in the election results and perpetuated by the mayor's leadership, would also provide direction for the manager/administration in its implementation of policy initiatives.

We chose not to endow the mayor with *administrative* powers such as hiring/firing of personnel, department heads, or even the manager. Instead, we envisioned a mayor with enhanced *political* power: from an electorate who will vote for the mayor and his/her policy priorities; from a term in office that is sufficiently long enough to both develop a leadership style, and long enough to allow implementation of a mayoral agenda.

Draft Recommendation

Form of Government:

Mixed At-Large and Single Member District System; Mayor popularly-Elected At-Large

4 – councilors elected by district

4 – councilors elected at-large

1 – mayor popularly-elected at-large, serves also as at-large councilor

Mayor and councilors elected for three-year terms, with elections staggered three per year

Filing of candidate papers for mayor precedes filing for city council

Councilors who are mayoral candidates shall complete their term at the next city inauguration.

City Manager maintains executive powers and duties

Powers /Duties of Mayor

1. Elected citywide, instant run off method to achieve majority
2. Voting member of the city council
3. Attend and preside at meetings of the council

4. Represent the city in intergovernmental relationships, or delegate to the city manager or the council when appropriate
5. Appoint with the advice and consent of the council the members of citizen advisory boards and commissions
6. Present an annual State of the City message at the council's second January meeting
7. Appoint the members and officers of council committees
8. Chair the Appointments Committee, including annual review of city manager, city clerk, and corporation counsel
9. Assign, subject to the consent of the council, agenda items to committees, and perform other duties specified by the council
10. Serve as head of the city government for all ceremonial purposes and as authorized by the governor for purposes of military law, but shall have no administrative duties
11. Veto power over final budget, with a 6 vote majority of city council required to overturn veto. Mayor shall state reason(s) for veto
12. Compensation for mayor set by council, commensurate with city pay scale for full-time staff with highest responsibilities

Powers/Duties of Council

Status quo as the legislative body, except that council shall set compensation level for mayor, commensurate with city pay scale for full-time staff with high responsibilities, and except that council may override budget veto with 2/3 vote (6 votes)

Power/Duties of Manager

1. The city manager shall be the chief executive of the city, responsible to the council for the management of all city affairs placed in the manager's charge by or under this charter. The city manager shall:
2. Appoint and suspend or remove all city employees and appointive administrative officers provided for by or under this charter, except as otherwise provided by law, this charter or personnel rules adopted pursuant to this charter. The city manager may authorize any administrative officer subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;
3. Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law;
4. Attend all city council meetings. The city manager shall have the right to take part in discussion but shall not vote;
5. See that all laws, provisions of this charter and acts of the city council, subject to enforcement by the city manager or by officers subject to the manager's direction and supervision, are faithfully executed;
6. After the Mayor's State of the City address prepare and submit the annual budget and capital program to the city council, and implement the final budget approved by council to achieve the goals of the city;

7. Submit to the city council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;
8. Make such other reports as the city council may require concerning operations;
9. Keep the city council fully advised as to the financial condition and future needs of the city;
10. Make recommendations to the city council concerning the affairs of the city and facilitate the work of the city council in developing policy;
11. Provide staff support services for the mayor and council members;
12. Assist the council to develop long term goals for the city and strategies to implement these goals;
13. Encourage and provide staff support for regional and intergovernmental cooperation;
14. Promote partnerships among council, staff, and citizens in developing public policy and building a sense of community; and
15. Perform such other duties as are specified in this charter or may be required by the city council.

Finally, while the Working Group was unanimous in most of its recommendations, there were some concerns expressed regarding the following issues:

- *Should the mayor have the limited veto over the final budget as presented in the recommendations?*
- *While district council members must live in their district, should they be required to run at large?*

Portland Community Chamber Charter Working Group

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Appendix A

Excerpts from *The Model City Charter, A Publication of the National Civic League, 8th Edition*

Mayor: Elections, Representation, Roles, and Responsibilities

The Model provides that the mayor, however elected, shall be the presiding officer and a voting member of the council and shall perform certain specific duties which will enhance the mayor's role as policy leader.

This edition of the model charter emphasizes the need to further clarify the role of the mayor. It specifies certain duties of the non-executive mayor that are entirely consistent with the basic concept of the council-manager plan. The office is quite different from that of the elected chief executive in a system that separates executive and legislative powers. Rather, the mayor in the council-manager form is the chief legislator, the leader of the policy making team. This mayor can be a "strong" mayor who, not having to overcome the offsetting power of the council or not being bogged down with the details of managing the city's staff can focus on facilitative leadership. The mayor is effective by helping the council and staff perform better. High involvement by the council and the manager and constructive relationships among officials are indicators of successful leadership by the mayor. Effectiveness does not mean charting an independent path or taking over tasks from the manager.

The new Model also specifically addresses the importance of strong political leadership and the potential for such leadership by the mayor in council-manager cities. This is based on three premises. First, relationships among officials in council-manager cities are cooperative rather than contentious because powers are not divided among officials. Second, this approach to mayoral leadership stresses the contributions of all officials rather than focusing on the mayor as the driving force in city government. Third, the potential for mayoral leadership is inherent in the council-manager form so long as the office is not actually hamstrung by arbitrary limitations.

The mayor occupies a strategic location shaped by his or her close relationship with the council, manager, and individual citizens and groups in the community. The mayor is able to promote communications among officials and with the public. Unusual powers are not needed for leadership and may actually curtail leadership by separating the mayor from other officials. Any augmentation of the role of the mayor must not be construed as reducing the power of the council but rather as a way to provide focus and leadership in the development of city policy. Nor should the role of the mayor intrude on the management of the city's operations by the manager.

The *Model* presents two alternative methods for choosing the mayor without stating preference: direct election by the voters and election by and from the council. Communities are advised to consider the local situation in choosing between the two alternatives, determining which would be most conducive to the development of strong political leadership and effective professional administration.

Powers and Duties.

The mayor shall be a voting member of the city council and shall attend and preside at meetings of the council, represent the city in intergovernmental relationships, appoint

with the advice and consent of the council the members of citizen advisory boards and commissions, present an annual state of the city message, appoint the members and officers of council committees, assign subject to the consent of council agenda items to committees, and perform other duties specified by the council. The mayor shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative duties.

While the mayor of a council-manager city is not an executive as in the mayor-council form, he or she is uniquely positioned to be the political and policy leader of the city. As the presiding officer of the council and ceremonial head of the city, the mayor is the most conspicuous official of the city. Freedom from executive responsibilities for the day-to-day municipal operations allows the mayor to focus attention on major policy issues and important facilitative activities.

The mayor fills three facilitative roles that offer enormous leadership opportunities. First, the mayor may coordinate the activities of other officials by providing liaison between the city manager and the council, fostering a sense of cohesion among council members, and educating the public about the needs and prospects of the city. Second, the mayor may facilitate policy guidance through setting goals for the council and advocating the adoption of policies that address the city's problems. Third, the mayor is an ambassador who promotes the city and represents it in dealing with other government as well as the public. The specific responsibilities of the mayor listed in the Model enhance the mayor's leadership position. The traditional responsibility of presiding at council meetings allows the mayor to set the tone for city government and help the council make decisions. Designation of the mayor as intergovernmental representative reflects the increased importance of relationships with other local governments as well as with the state and federal governments. Mayoral appointment of boards and commissions with council advice and consent, and the membership of council committees, creates the opportunity for purposeful balanced representation and can be used to forge coalitions and tap into networks of community activity. Finally, the mayor delivers the state of the city message. When the state of the city message includes the setting out of needs and goals for the city, it should reflect the thinking of the council and information provided by the staff, as well as the mayor's own priorities. In presenting the state of the message, the mayor acts as spokesperson, educator, team leader, goal setter, and policy advocate. To avoid confusion, the time of delivery of the message should be sufficiently distanced from the presentation of the budget by the manager.

Many communities feel that local policy leadership can best function when a cohesive team of council members chooses its leader as mayor. These cities use Alternative I, election of the mayor by and from the council, and thus avoid the possibility of conflict between the mayor and council majority. Such an approach may be best suited for cities with at-large council elections. In cities with councils elected from districts, council selection of the mayor presents the mayor with conflicting roles – district and citywide.

Cities that provide for council selection of the mayor should avoid two practices which diminish the prospect of effective leadership. First is rotation of the office of mayor

among members. This approach may hinder the emergence of a respected leader by preventing any one member from acquiring experience and increasing competence in the exercise of leadership skills. It can also mean that the true leader of the council is not the mayor, which may create a misconception of inside dealing and secret manipulation. The second practice is to automatically designate as mayor the council member who receives the largest number of votes. This awkward approach prevents the council from choosing its leader and does not give voters full knowledge of which office – council member or mayor – they were casting votes.

More than half of the cities operating with the council-manager form use the direct election at-large alternative (Alternative II). Many cities, particularly larger ones, believe that this method increases the potential for mayoral leadership by giving the mayor a citywide popular support base. This is particularly important when all or most of the council members are elected from districts. A potential disadvantage of this method is that the mayor may have views that diverge widely from those of a majority of the council on some important issues.

Whatever the method of election or the strength of the mayor's leadership role, the mayor is preeminently a legislator, a member, and leader of the council; the mayor is not an executive. However, the office may require some special staff support.

Whatever arrangements are made for support either through the city manager or staff in the mayor's office should be consistent with two premises. First, the mayor should not encroach on the executive responsibilities of the manager. Second, the mayor and council collectively, as a body, oversee the operations of the city by the manager. Communities should avoid granting special voting status to the mayor (e.g., vote on council only to make or break a tie). Such power will likely impede rather than enhance the mayor's capacity to lead. Similarly, giving the mayor veto power in a council-manager city cannot help but confuse his or her role with that of the executive mayor in a mayor-council city. No structural arrangement for government will insure effective mayoral leadership. The person who occupies the office must understand the nature of the job – its possibilities, interdependencies, and limitations – and have the personal inclination, energy, and talent to exercise necessary leadership. Without that, no amount of structural support will produce a leader. However, the method of selection and the statement of responsibilities provided in the charter should help insure the selection of a capable person with recognized leadership abilities who will make a significant contribution to the operation of the city.

City Manager: Relationships, Roles, and Responsibilities

In the council-manager plan, the city manager is continuously responsible to the city, the elected representatives of the people.

The city manager shall be the chief executive officer of the city, responsible to the council for the management of all city affairs placed in the manager's charge by or under this charter. The city manager shall:

- (1) Appoint and suspend or remove all city employees and appointive administrative officers provided for by or under this charter, except as otherwise provided by law, this charter or personnel rules adopted pursuant to this charter. The city manager may authorize any administrative officer subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;
- (2) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law;
- (3) Attend all city council meetings. The city manager shall have the right to take part in discussion but shall not vote;
- (4) See that all laws, provisions of this charter and acts of the city council, subject to enforcement by the city manager or by officers subject to the manager's direction and supervision, are faithfully executed;
- (5) Prepare and submit the annual budget and capital program to the city council, and implement the final budget approved by council to achieve the goals of the city;
- (6) Submit to the city council and make available to the public a complete report of the finances and administrative activities of the city as of the end of each fiscal year;
- (7) Make such other reports as the city council may require concerning operations;
- (8) Keep the city council fully advised as to the financial condition and future needs of the city;
- (9) Make recommendations to the city council concerning the affairs of the city and facilitate the work of the city council in developing policy;
- (10) Provide staff support services for the mayor and council members;
- (11) Assist the council to develop long term goals for the city and strategies to implement these goals;
- (12) Encourage and provide staff support for regional and intergovernmental cooperation;
- (13) Promote partnerships among council, staff, and citizens in developing public policy and building a sense of community; and
- (14) Perform such other duties as are specified in this charter or may be required by the city council.