



Multnomah County Charter Review Committee

MINUTES

July 18, 2016
Multnomah Building
501 SE Hawthorne Blvd., Room B14
Portland, OR 97214

Meeting: The Charter Review Committee was called to order at 5:30 p.m.

Members present: Kirsten Leonard, Carol Chesarek, Liz Trojan, Keith Mosman, Juan Carlos Ordonez, John Vandermosten, Victoria Purvine, Michael Cummings, Jeanna Hall (via phone), Moses Ross, Samantha Alloy

Members Absent: Dave Robertson, Mark Sturbois

Staff Present: Jacquie Weber, Cate Schneider, Katherine Thomas

Minutes: The minutes for May 18, 2016 were approved with edits.

Welcome: Chair Kirsten Leonard convened the meeting at 5:30 p.m.

She asked members of the audience to introduce themselves. Christian Gaston, Adam Renon, and Laura Westmeyer introduced themselves.

Approve minutes of May 18 and June 28, 2016 Committee Meetings: Kirsten called for a motion to approve the minutes of May 18 only. Victoria clarified that she was not present at the May 18 meeting. Carol indicated she had a few corrections. She asked if Kirsten found the note involving her on the third page awkward. Carol noted corrections including, 'best form of justice;' page 6 third full paragraph add 'appointment system;' on page 12 full paragraph at top, add note that, 'after 3 minutes the Chair ended discussion due to time constraints.'

The minutes were moved and seconded with friendly amendments. The committee voted to approve the May 18 minutes. Kirsten noted that the committee will have three set of minutes to approve on Wednesday.

Referencing the Oregonian's July 12 editorial, Kirsten pointed out that the committee received its first endorsement of one its proposed ballot measures.

Overview of Staff Report: Kirsten invited Jacquie to make her staff report.

Jacquie went over the issues list that are still open. She indicated that these are the issues that the committee needs to determine and vote on before the measures move forward. Included in that list are: who will appoint and remove the county manager; who will manage the county manager; what authority will the chair retain if the county manager has the authorities listed in the amendment; changes to findings and conclusions; who will appoint and remove the sheriff; who will manage the sheriff; and, the charter review committee appointment deadline of August 15. She clarified that the writing of the ballot titles is her responsibility as a county attorney. After they are drafted by staff, the elections division will publish them and any member of the public may challenge a ballot title. In her experience, challenges don't typically happen with charter amendments.

Kirsten reiterated that the committee has voted to send five issues to the November ballot. She believes that what remains open to the committee is the chance to add language, not subtract it, but to add it.

John asked for confirmation of his understanding that in order to reopen a previously passed measure for discussion, a member of the committee who previously voted in favor of the motion, must make a motion to reconsider.

Carol noted that she feels the committee is giving up the right to get smarter by being unwilling to reconsider.

John elaborated that the reason behind that requirement is to prevent the losing side from continuously reopening a matter. Jacquie confirmed that her reading of Robert's Rules is the same as John's explanation.

Moses asked Carol if her goals for the county manager could be achieved through addition. Kirsten stated that perhaps Carol's goals would not be the committee's goals.

Review and Provide Feedback to Staff, Measure A (County Manager): Kirsten asked for a motion on the first discussion item under County Manager. She indicated that the committee should go through the questions outlined in the issue list Jacquie provided. Answering them may require adding language to the measures.

Kirsten moved that the Board of Commissioners be given the right to appoint and remove the County Manager. Victoria seconded.

John asked if that meant the entire board by consensus. Kirsten indicated that it did not have to be unanimous. It could be a majority or a super majority. Jacquie indicated that the current proposal would simply require a majority.

Katherine clarified that the issue list in front of the committee was compiled with the input of the committee, some of the issues in front of them have already been voted on, but were raised by a member of the committee.

John asked what would happen in the event of a Board vacancy. Jacquie indicated that sometimes the full board is not in attendance at a meeting, but that in the event of a true vacancy, there's a method for appointing their interim replacement.

Keith suggested that another option would be to have the county manager appointed by the chair and confirmed by the board. Jeanna indicated that she is in agreement with Keith.

Carol stated that the downside of having the county manager appointed and removed by the Board as a whole is that it makes it very difficult to remove the manager. That makes for an awkward conversation and as soon as it becomes a topic among commissioners, it will get back to the county manager. She feels this system will make for a permanent county manager.

Kirsten indicated that Carol's characterization of how it would work is supposition.

Discussion ensued with Commissioner Smith's input.

Victoria indicated that part of the idea of having the whole board appoint and remove would be to prevent one person from removing the manager.

Michael asked how many board members made a quorum. Jacquie indicated that a quorum is three board members.

Moses clarified his understanding of the motion on the floor.

Juan Carlos asked how long the manager would serve under the amendment. Jacquie and Kirsten indicated they would serve until they resigned or were dismissed.

After further discussion on the motion on the floor, and a suggestion from Moses that adding text was an option, Carol moved to amend the motion to state, 'The County Manager shall serve at the pleasure of the board and shall be appointed and removed by "the chair with the approval of the" the board. The motion was seconded.

Jeanna Hall asked for clarification of the motion. She shared that she wants more authority for the position of the chair because this proposal eviscerates the chair's power.

John indicated that he sees this wording as a bit closer to what exists now with the COO being appointed by the chair.

Juan Carlos indicated that it's the chair who would bring names forward. It is a change.

Jacquie suggested possible language to achieve the Committee's intent.

Michael shared his understanding that the goal is to codify the structure that exists now. Kirsten indicated that the proposal previously adopted did not do that.

Carol accepted the addition of Jacquie's language and Moses concurred. Her additional language stated, "The chair shall have sole authority to remove the County Manager."

Carol asked for a discussion and a vote on whether or not the committee can change what was previously voted on.

Kirsten suspended the motions on the table for the committee to discuss the issue Carol raised.

Keith indicated that he feels it's too difficult add language without the ability to also subtract language.

John indicated that this new language substantially changes the proposal. This makes the county manager serve at the pleasure of the chair. Kirsten indicated that it's an amendment and he will be able to vote against it.

Michael sought clarification if this amendment codifies the current system. Kirsten indicated that the proposal is to put a manager in place who no longer serves at the whim of the chair.

Juan Carlos offered to suggest language that might solve the issue. Kirsten suggested the committee first deal with the issue Carol raised.

Moses discussed how he sees the benefit of both approaches. He suggested the best method would be to revisit the previously approved decisions with the idea of a refining the text rather than changing the proposals.

Victoria indicated that this change seems to defeat the previous votes since it changes it so dramatically.

Jeanna shared that she feels the committee previously voted on something with partial understanding. The chance to revisit it would allow better understanding. She characterized her understanding of Dave's comments to be that changes could be in keeping with his proposal.

Kirsten read from Dave's written comments.

Kirsten called for a vote on the amendment language: Two members of the committee voted in favor. Six committee members voted against it. The motion to amend failed.

Kirsten withdrew her original motion. Victoria concurred.

Cate indicated that a testimony letter had arrived from the Coalition of Communities of Color. Christian Gaston volunteered to print copies of the letter to share with the committee.

Jeanna moved to add language to state that 'the county chair shall supervise the county manager.' The motion was seconded.

John indicated that he sees a clear distinction between the two functions of policy setting and administration. He feels the manager should manage him or herself.

Michael clarified that only the language in the proposal will be included in the charter.

Jaquie indicated that one option to make the proposal more flexible would be to delegate to the Board of County Commissioners the ability to create the county manager's job description by ordinance.

Kirsten stated that doing so would significantly remove a great deal of what's already been approved.

John asked if this would prevent other members of the Board of County Commissioners from raising an issue with the county manager.

Jeanna indicated that she was referencing Bill Farver's letter and his personal experience managing at the county. He stated it was very difficult to report to multiple people.

Victoria referenced the model used in school boards and the reporting structure with the superintendent. John indicated that is how it works in Gresham.

Carol shared her feeling that the model Victoria referenced is not efficient. She believes that Jeanna's motion would be more efficient and effective.

Keith stated that he feels supervision is different for this position. Three commissioners could fire the manager.

Discussion ensued about policy versus operational decisions. Carol asked if the county manager should have to go to the full board or just the chair for operational decisions.

Victoria indicated that she would want the county manager to return to the full Board.

Kirsten brought up the final paragraph in Jacquie's proposed amendment language which prohibits Board members from influencing the Manager in matters of staff appointment or removal. Kirsten clarified and Jacquie confirmed that it was inspired by Gresham's charter.

Jacquie shared her understanding of the intent behind the language. She cautioned that it's not particularly artful and could be problematic. The issue it seeks to address is also covered by State law.

John offered a clarification for the language to add the words "other issues" to the sentence, "Nothing in this section prohibits, however, the board, in open session from freely and fully discussing with or suggesting to the manager anything pertaining to county affairs or the interests of the county."

Jacquie clarified that one of the issues still before the committee is what powers will be retained by the chair.

Kirsten stated her belief that quite a few powers are still retained by the chair. For example, the chair does not actually prepare the budget. The chair could direct the county manager to prepare the budget as he or she wished.

Carol and Sami cautioned that they see this proposal as removing this power from the Chair and transferring it to the county manager.

Jeanna asked how what Kirsten stated works.

John indicated that there's a difference between the responsibility for the budget and the authority for the budget. He sees the responsibility as resting with the manager and the authority with the Board. Development of the budget is a responsibility. Enactment of the budget is the ultimate authority of the Board.

Carol indicated there is a lot of discretion and power in the creation of the budget.

Commissioner Smith indicated the Board has the power to make any change to the budget. Jacquie concurred that there is that latitude in State budget law the Board to make changes.

Sami stated that had she been present for the county manager vote, she would have been a 'no' vote. She explained that she disagrees with Kirsten's assessment that the manager would be accountable to the chair, because lacking that specific language, they report to the whole Board.

Moses asked Sami if adding language to state that the chair shall supervise the County Manager allays her concerns. She indicated that she's opposed to the whole proposal

but that adding this language to strengthen the chair does come closer to her allaying her concerns.

John shared his understanding of how a manager-council system works. In his experience, there's a lot of communication and the manager and elected officials work together constantly.

Commissioner Smith stated that the Board does not do that.

Keith indicated this language does not clarify the proposal. He feels at best it does nothing and at worst, it obfuscates.

Kirsten restated the motion and called for a vote. Six committee members voted in favor of the motion and 3 members voted in opposition. The motion passed.

Moses asked Jacquie to clarify what she meant by allowing the commissioners to detail the job description by ordinance. Jacquie indicated that a more flexible way to handle adding this proposal would be to allow the board to establish the manager's responsibilities by ordinance.

Carol indicated her preference would be to take out the detailed job description and instead have the Board establish it by ordinance. She asked if the committee could add another clause to give the Board the authority to add to the responsibilities by ordinance.

Jacquie indicated that doing so would not work within the current proposal.

Juan Carlos referenced Dave's written comments indicating that the responsibilities of the County Manager could be established by ordinance or charter. Kirsten agreed and referenced the language David first used in the May proposal: that this is an attempt to codify the hybrid system.

Moses moved to add a sentence directing the Commissioners to regulate the county manager position by ordinance." Kirsten indicated that would necessitate removing all of 6.3 and the final paragraph regarding non-interference. She stated this motion would reduce all the specific responsibilities and give the authority to the Board of Commissioners. Carol seconded.

Keith suggested it would be intellectually more honest to hold a vote to overturn the previous vote on the county manager. This amendment essentially says there will be a county manager and the Board will define their job status.

Jacquie clarified that upon election, it's up to the discretion of the chair to decide if they hire or appoint someone to run the county or do it themselves. This proposal would create a new position in the Charter. It would require the Board of County

Commissioners to appoint a manager. This would require that the position exist and be filled and the Board would vote on it and set the duties by ordinance.

Katherine requested the committee provide clarity on the language that had been stricken from the Chair's authority.

Michael shared that he had previously tried to clarify this.

John indicated that this change before the committee changes the entire concept of the county manager. It's no longer a county manager position but rather a position created by the Board of County Commissioners. This is not what the original proposal was about.

Carol disagreed with John's assessment. She sees this as establishing the county manager's responsibility to administer the county but reserving the right to the Board to decide how that should be done.

Sami disagreed with John. She sees this proposal as accomplishes the problems identified by the Commissioners who originally brought it to the committee. She believes it's still a substantial change to the charter.

Kirsten restated the motion and called for a vote. Seven committee members voted in favor, three members voted in opposition. The motion passed.

Kirsten reiterated her understanding that all the italicized language should be removed.

Kirsten moved to retain all the responsibilities currently afforded the county chair and only add to "shall supervise the County Manager." The motion was seconded.

John raised a point of order: can the chair make a motion. Kirsten indicated that she is a member of the committee.

Jeanna asked why this motion was necessary. Kirsten indicated that because the specific responsibilities were given to the county manager, which have now been removed because of the decision to have the Board establish them by ordinance, they should be restored to the chair.

Keith stated that he feels this amendment is contradictory. He suggested that the committee stop suggesting changes and hold a vote to rescind the county manager proposal. He described the current proposal as amorphous.

Katherine indicated that she and Jacquie were debating the issue of "May delegate his or her administrative powers but shall retain full responsibility for the acts of his or her subordinates" and how that would interact with the Board creating responsibilities by ordinance.

Discussion ensued on the issue of whether or not the chair was now supervising the county manger and if the chair or the Board had the authority to delegate responsibility to the county manager.

Keith suggested that the only hope of having a coherent system is the adopt the changes staff suggested, leave the chair with the chief spokesperson responsibility, and leave the Board to decide what the county manager's responsibilities would be. This would create every problem everyone has ever worried about.

Commissioner Smith indicated that this proposal would mean the manager's responsibilities would change with each board.

Discussion continued about the meaning and origin of chair being the 'chief spokesperson for the board.'

Jeanna indicated that she would be more comfortable being silent on the specific responsibilities of the chair.

Carol shared her concern that without enumerating the responsibilities, the board could constantly change the responsibilities for the chair and the county manager.

Michael asked for clarification on what the charter language would be. Kirsten indicated that the current charter language for the chair's responsibilities would be retained and the supervision of the county manager would be added.

Victoria voiced her concern that there is now no reason to create a county manager. The changes made have completely filled the county manager proposal.

Moses shared that he wished he had not made the motion that got the committee to its current position.

Keith called the question.

Kirsten restated the motion that 'the chair retain all responsibilities given in the current charter with the addition of the responsibility to supervise the county manager' and called for the vote. Six members of the committee voted in favor and three members voted in opposition. The motion passed.

Michael indicated that he is frustrated because he and Carol tried to raise this very issue a month ago and were voted down.

Keith moved to remove the entire proposal from consideration for referral to the ballot. The motion was seconded.

Keith reviewed that one of the committee's concerns from the beginning was not sending measures to the ballot that will fail. While he thinks the county manager proposal was very likely to fail, the changed proposal is poorly understood by the committee members themselves and may be dangerous to refer.

Moses described the committee's hesitation has always been around the issue of the chair's responsibility. The committee had consensus on the original proposal. He will vote in favor of this motion and then make a motion to approve the original proposal. He indicated that his previous motion was made only to make things easier for staff.

John indicated that he feels he has a good understanding of both the original and current proposals. He does not understand why the current proposal came about.

Carol referenced her suggested proposal for a smaller county manager position as an alternative.

Sami cautioned that consensus is a strong word; she and Mark never agreed with the proposal. Since passing the original proposal, the committee has received significant pushback on the concept.

Kirsten called for the vote on Keith's motion. Six committee members voted in favor and three voted in opposition. The motion passed.

Kirsten clarified that no county manager proposal exists.

Moses moved to readopt the county manager proposal as it previously existed before the meeting began. John seconded.

Moses indicated that this is a rabbit hole and that the committee should stop digging.

Keith shared that this proposal is not high on his list of priorities, both because of the pushback received and because of the oxygen it will take up during the election.

Michael indicated that he does not feel it's necessary to revisit this.

John stated his belief that the voters should decide.

Jeanna shared that she has too many concerns about diminishing the role of the chair. The system is not broken and she does not see a problem.

Victoria indicated that the committee heard from commissioners that the current system is not working. She does not feel there's been enough push-back to warrant not doing it.

Kirsten restated the motion and called for the vote. Four members voted in favor and five voted in opposition. The motion failed.

Kirsten congratulated the committee on a good process. It was moved and seconded and approved to extend the meeting to 7:45 p.m.

[The committee took a break from 7:22 – 7:24 p.m. and Jeanna ended her participation via phone at 7:23 pm.]

Review and Provide Feedback to Staff, Measure B (County Sheriff): Kirsten referred the committee to the remaining questions before them: who should appoint the sheriff and if there should be an August deadline for the charter review appointments.

Keith asked for clarification on how the appointment would work.

Jacquie and Katherine shared that the language before them was drafted by staff as a suggestion for one method to accomplish the committee's intent. This proposed language would treat the sheriff as a department head which would mean the sheriff would be appointed by the chair with the consent of the Board.

Sami moved to accept the language before them. Carol seconded.

Moses asked for an explanation of the January 1, 2019 effective date. Jacquie explained that it would be the first day of the next elective term of office for the sheriff.

Victoria shared her concern that the proposed structure leaves the appointment to the chair and that means she won't have representation from her commissioner in the selection. She wants input from all commissioners representing the entire county.

Keith indicated that he does want the chair to make this decision. He wants the accountability of making the decision to rest with a particular elected official to build accountability into the system.

Kirsten indicated that this proposal does not preclude involvement from any member of the board.

Victoria reiterated that she would like the Board of Commissioners to select the sheriff.

Carol cautioned that making the selection rest with the Board as a whole does not guarantee that every district will be represented. The chair with the two urban commissioners could make a selection not supported by District 1 and District 4.

Moses suggested that the committee is again second guessing their decisions. Various committee members disagreed.

Sami voiced her support for the proposal.

Kirsten called for a vote on the motion. Six members of the committee voted in favor and two members voted in opposition. The motion passed.

Carol moved to add language, 'be a department head.' The motion was seconded.

John stated that he does not agree with the concept, but he does agree with making it consistent.

Commissioner Smith indicated that the proposal is not clear.

Carol amended her motion to include: 'The county sheriff shall be the appointed head of the Sheriff's department and perform the function of said office as prescribed by state law and he or she shall have sole administration of all county jails and correctional institutions located in Multnomah County. As of January 1, 2019, the sheriff shall be a department head and shall be appointed in the same manner as all other department heads.'

Discussion ensued about the language and what would appear before voters. Jacquie explained that the explanatory statement will provide more detail.

Kirsten called for a vote. Six members of the committee voted in favor and two voted in opposition. The motion passed.

Moses asked if more clarify needed to be provided about who would appoint.

Commissioner Smith indicated that the proposal is not clear and is disingenuous.

Review and Provide Feedback to Staff, Measure C (Term Limits) and Measure D (Charter Review Committee): Kirsten asked for a motion on clarifying who appoints members of the Charter Review Committee in the event no appointment is made by August 15.

Juan Carlos reviewed the original proposal and the compromise changes that were made in response to the committee's feedback. The stipulation -- to have the Office of Citizen Involvement make appointments if state legislators fail to do so -- was removed in response to the committee's discussion.

Michael shared that he raised the issue. He wonders if something specific needs to be detailed.

Carol asked what happens now. Jacquie indicated that county staff continue to urge legislators to make appointments. Carol indicated that the proposal leaves the process as it exists now.

Michael indicated that he wanted to ensure that the geographical distribution was retained. Juan Carlos indicated that it is.

After more discussion, the committee agreed that no change was necessary and therefore no motion was necessary.

Juan Carlos addressed the question of having specific dates included in the proposal. The committee previously decided to remove specific dates from the proposal except for that of August 15.

Carol moved to bar all currently serving elected officials from serving on the Charter Review Committee. The motion died for lack of a second.

Kirsten asked if there were specific questions related to the remaining proposals.

The committee voted to extend the meeting to 8:00 p.m.

Carol shared her concern that Jacquie's proposed language combines the two proposals related to term limits and county commissioners being allowed to run for chair. She wants them to be separated and go before the voters independently.

Jacquie noted that the charter amendment language needs to be approved by the committee but they can direct her to prepare two ballot titles for submission to the voters.

Carol also noted that she prefers the word 'increasing' term limits not be used. She would prefer that it read 'establishing a term limit.'

Invitation to Attend the August 4 Board Meeting: Kirsten invited the committee to attend the August 4 Board meeting to present to the measures to the Board of Commissioners.

Jacquie reminded the committee that they had one more meeting on Wednesday and they will approve their final report.

Kirsten requested that on Wednesday there would be no reconsideration of any proposals.

Victoria clarified that the approval would be for the final report not individual measures.

Adjourn Meeting: The meeting was adjourned at 7:56 p.m.