



Multnomah County Charter Review

Equitable Representation Subcommittee

March 21, 2022, 7:00 – 8:30 pm

SUBCOMMITTEE MEETING 4

Purpose: To learn about legal analysis related to extending the right to vote in Multnomah County and about STAR voting.

Attendees

Committee Members Present:

- Samantha Gladu (she/they)
- Annie Kallen (she/her)
- Jude Perez (they/them)
- Timur Ender (he/him)

Absent:

- *Maja Harris (she/her)*
- *Meikelo Cabbage (he/him)*

Staff:

- Kali Odell (she/her), Charter Review Committee Program Coordinator
- Katherine Thomas (she/her), Assistant County Attorney

Invited Speakers:

- Sara Wolk, Equal Vote Coalition

In addition, members of the public were welcome to observe the meeting as non-participatory attendees. There were two observers at this meeting.

Welcome

Kali welcomed everyone and went over Zoom logistics.

Public Comment

One person, Mont Chris Hubbard, signed up for public comment in advance. Kali went over the guidelines for giving public comment and asked if any other attendees were interested in speaking to the subcommittee. No one else indicated interest.

Mont Chris Hubbard introduces himself: uses he/him pronouns, lives in NE Portland and is the Chair of the Oregon STAR Voting Chapter. His testimony detailed why he supports the use of STAR voting over instant runoff ranked choice voting. He expressed his dissatisfaction with the current voting system which often pressures him to vote for a candidate who is not his first choice but has a better chance at beating the

candidate(s) he least prefers. This led him to ranked choice voting initially, but he found that voting for a preferred candidate in a competitive three-way race could still allow his least favorite candidate to win even if that candidate is not the one with the widest support. He also spoke about concerns that ranked choice voting results are more complicated to understand and tabulate. He talked about how STAR ballots can be tabulated across precincts, show the level of support for each candidate, count the whole ballot, and are easy to use. He has used it effectively within several organizations he belongs to and hopes that Multnomah County will lead the way on adopting STAR voting.

Legal Analysis on Expanding the Franchise in Multnomah County

Katherine Thomas presented legal analysis in response to subcommittee questions about how the franchise might be extended in Multnomah County elections, specifically to individuals under the age of 18, noncitizens, and incarcerated individuals.

She reminded committee members of the role of the Charter in order to provide some guidance on the scope of what the committee might be interested in pursuing.

She explained that the existing Charter and county code do not say anything about voter qualifications or eligibility. The next step is to look at what state and federal laws say about voter qualifications and eligibility. State law is currently the primary source of authority related to the questions asked by the subcommittee and are more likely to present barriers to the subcommittee's proposals than federal law.

Katherine shared that Oregon used to allow noncitizens to vote. The Oregon Constitution and state statutes currently include sections that may provide legal barriers to granting noncitizens the right to vote in county elections, but this has not been tested in court.

Katherine also explained that both the Oregon Constitution and state statute include language about the age for voting eligibility being 18, which could be legal barriers to expanding the county franchise to people under the age of 18.

On the question of expanding incarcerated individuals' right to vote, Katherine explained that the Oregon Constitution has been interpreted to deprive the right to vote from people who have been convicted of a felony unless otherwise provided by law. State statute has modified that so people convicted of a felony cannot vote between sentencing and release. Expanding the right to vote in the County Charter might be considered as "otherwise provided by law."

Katherine summarized that these are all untested questions in Oregon, so while the laws she cited may present legal barriers to extending voting rights, there is uncertainty. She raised that while taking action might result in a change in law it could also lead to a lengthy court battle. She suggested the possibility of the subcommittee recommending a broad, high level amendment, such as expanding the franchise to the fullest extent permitted by law, so that if state laws change or there is more information about the county's authority on these issues or other opportunities to expand the franchise, the county can act.

Timur noted that incarcerated people referred to two groups in the county, one would be those incarcerated in county jails who do still have the right to vote since they have not been convicted of a felony. It is important that they be able to exercise their right. There are also those in state facilities located in Multnomah County, and perhaps there is not much that can be done to extend the franchise to them.

About noncitizen voting, Timur asked why not just put that requirement in the Charter? The legal landscape changes through court rulings. If the Charter is amended to require noncitizen voting, wouldn't the county be required to defend it in court? So the worst case scenario would be that a judge rules this isn't allowed? Is that bad? Is that how it would play out?

Katherine pointed to the steps the county took in relation to the 2016 Charter amendment on campaign finance. If the county knows there are likely to be legal challenges, it can decide whether to proceed with implementation or initiate a validation action and have a court tell the county whether it is constitutional to proceed. She raised that extending the franchise to noncitizens might require the development of a new registration process, for example, so immediate implementation would likely require the commitment of significant resources. If the amendment is challenged, it could get caught up in litigation and not actually be implementable.

Samantha asked about case law related to noncitizen voting in other jurisdictions.

Katherine did not look at other jurisdictions because a court would be looking to the Oregon Constitution and state statutes, which would provide a different legal framework than jurisdictions in other states. Other jurisdictions around the U.S. have allowed for noncitizen voting. They have a variety of definitions for "noncitizen". Katherine was not sure if some of those laws had been challenged in court.

Katherine also clarified that she would be able to provide more information in response to more specific proposals from the subcommittee. She recommended speaking to Tim Scott, the County Elections Director, about election process questions.

Presentation on STAR Voting

Sara Wolk, the Executive Director of Equal Vote Coalition, a group that advocates for the use of STAR Voting, presented to the subcommittee.

Sara discussed the importance of ensuring that people's votes carry equal weight in elections. An issue she sees with the county's current voting system is that people often feel the need to vote for a "lesser evil" candidate rather than their first-choice candidate because they are afraid splitting the vote between more preferable candidates will allow the candidate they think is the worst to win.

Sara explained that this kind of strategic voting can lead people to support candidates they believe are most electable based on factors like incumbency, name recognition, and fundraising, which tends to uphold disparities in representation. She shared statistics showing the overrepresentation of white men in different political offices.

Equal Vote Coalition wants a voting method that is simple, honest, expressive, accurate, and equal. The organization evaluated these categories and believes STAR best balances all of these values. Other voting methods can more effectively encompass one or two of their values, but only at the expense of others.

Sara explained how STAR Voting works: Voters can score each candidate on a scale of 0 to 5, with the option to give multiple candidates the same score. The two candidates who receive the highest score go to an automatic runoff and an individual's vote automatically goes to the finalist that they scored higher. The finalist preferred by the majority wins.

Sara summarized how ranked choice voting works. She posited that instant runoff ranked choice voting does prevent “spoiler” candidates when only two of the candidates running are actually viable, but that when there are more than two viable candidates, the system does not always elect the candidate who is preferred by the most voters.

Then Sara explained that while STAR and ranked choice voting ballots are similar, an issue her group is concerned about is how tabulation works. In ranked choice voting, ballots can be “exhausted” and not counted in the final round. She argued that because STAR voting shows each voter’s support for each candidate, tabulated results can show a more detailed picture of what level of support each candidate received and potentially change perceptions about how viable losing candidates could be in future elections.

Sara acknowledged that STAR voting is relatively new, but that it has been used in organizational elections, including within state political parties. She referred to a study by Jameson Quinn, Ph.D. in Statistics, which supports STAR as the voting method with the best outcomes and said this was in line with other studies she has seen.

Equal Vote Coalition has evaluated whether different voting methods eliminate vote splitting. STAR, ranked robin, and approval voting do; current system (choose-one plurality), instant runoff ranked choice, and single transferable voting do not meet their criteria.

Samantha asked how many candidates are needed for STAR voting.

Sara answered that there isn’t a maximum number of candidates. If write-ins are allowed, STAR voting is still useful with two candidates in the race. If there are only two candidates and no write-ins, STAR would work the same as the current system.

Timur asked why STAR is not as wide-spread.

Sara explained that similar methods have been around thousands of years, but STAR voting was created in 2015. She said that it’s the first method that fully disincentivizes strategic voting in favor of voting honestly for preferred candidates. She also shared that there are studies showing that people replicate their choices more consistently with STAR voting than with other voting methods.

Samantha asked if Sara if she has an opinion about having all county officials elected at the same time.

Sara said that when elections are staggered, officials end up getting elected by different electorates. During a presidential election cycle, turnout is higher but it is harder to breakthrough with information about local candidates. Equal Vote does not have a position on this issue.

Priorities & Next Steps

Annie raised that the subcommittee is limited on time and needed to assess which topics it should prioritize and pursue.

Samantha summarized key topic areas the subcommittee had surfaced in its early meetings: voting methods, number of commissioners, campaign finance, and expanding the vote. The subcommittee had drafted a calendar of speakers and topics based on that. Samantha initiated a fist of five asking whether subcommittee members remained interested in changing the way Multnomah County votes.

Annie, Samantha, and Jude held up five fingers (strong support) and Timur held up three (okay with this).

Timur said he was fine with it but was not leading the charge. He supported having check-ins like this at each of their meetings in the future.

Annie mentioned that in the future they might have fewer presentation to allow for more focus on discussion time. Subcommittee members could do outside research and bring it back to the subcommittee to discuss.

Jude was excited that there was energy on the topic of voting methods. They missed the prior meeting's presentation on ranked choice voting and were catching up on that, but thought STAR voting sounded attractive.

Annie shared that she has been a STAR voting advocate for years.

Samantha is interested in changing the method of voting. She has leaned toward ranked choice voting because it's practiced in other jurisdictions, but found Sara's presentation compelling, especially her points about exhausted ballots. She expressed that she would like the county's voting method to match the City of Portland's method [which the Portland Charter Commission was considering changing].

Annie said that the ballot structure definitely should match, but that she did not think that tabulation necessarily had to be the same.

Annie asked subcommittee members to weigh in on other priorities. Samantha shared the calendar that the subcommittee had drafted, reminding members that it was just a guide and not set in stone.

Kali said the subcommittee was welcome to invite Tim Scott, Elections Director, to speak at a meeting since some members raised questions for him. She clarified that they could use other methods to gather information, such as response to written questions or individual committee members interviewing people.

Annie asked whether increasing the number of commissioners and adopting proportional representation were still priorities and how the subcommittee wanted to handle its work going forward.

Timur said those were his top two priorities.

Annie noted that they were planning to have More Equitable Democracy speak about proportional representation at a future meeting.

Timur raised questions about how they would figure out the size of the Board of Commissioners if they decided to recommend an increase and what mechanisms (e.g. redistricting) needed to be considered.

Samantha asked the other subcommittee members to do a fist of five on expanding the right to vote for noncitizens.

Timur held up five fingers and said that it did not sound to him like there was much opportunity under existing law to extend the vote for incarcerated people and people under 18.

Annie held up three fingers. She was concerned about spending time on something potentially not viable, but did not feel strongly one way or the other.

Timur said he was a three on campaign finance reform. Annie agreed.

Samantha said that she was interested to see how the new rules played out in the May 2022 primary election to evaluate what reforms are needed, which meant perhaps addressing the topic later in the subcommittee's process. Other subcommittee members indicated agreement.

Sara offered to speak to the group in the future about proportional representation. She pointed out that Multnomah County already has great representation on its Board of Commissioners for historically marginalized people.

APPENDIX A: ZOOM CHAT

19:03:17 From Kali Odell (she/her) to Everyone:

<https://www.multco.us/crc/mccrc-equitable-representation-subcommittee-meeting-records>

19:05:00 From Samantha Gladu to Everyone:

Kali, can you please resend the meeting draft calendar?

19:05:43 From Sara Wolk to Hosts and panelists:

Hi, just confirming I'm not on till 7:30, right?

19:05:50 From Samantha Gladu to Everyone:

Correct! Thanks for coming

19:10:29 From Annie Kallen to Hosts and panelists:

<https://multco-web7-psh-files-usw2.s3-us-west-2.amazonaws.com/s3fs-public/Equitable%20Representation%20Subcommittee%20Agenda%2003.21.22.pdf>

19:10:36 From Annie Kallen to Hosts and panelists:

Meeting agenda linked above.

19:10:46 From Jude Perez to Everyone:

Thank you Annie!

19:17:20 From Kali Odell (she/her) to Everyone:

3 minutes

19:17:36 From Samantha Gladu (she/they) to Everyone:

Thank you, Mont Chris Hubbard. I have no questions.

19:17:45 From Mont Chris Hubbard (he/him) to Hosts and panelists:

Future dispatch: <https://docs.google.com/document/d/1NIFZga7vPOH7IHkD-rEsC1ZaPp-wvNVw3G5QxFCIh2I/edit>

19:18:12 From Samantha Gladu (she/they) to Everyone:

Again, here is the agenda for tonight: <https://multco-web7-psh-files-usw2.s3-us-west-2.amazonaws.com/s3fs-public/Equitable%20Representation%20Subcommittee%20Agenda%2003.21.22.pdf>

19:30:25 From Annie Kallen she/her to Hosts and panelists:

Not wanting to rush you Katherine, but we have 5 minutes left on this part of the agenda.

19:31:21 From Kali Odell (she/her) to Annie Kallen she/her(Direct Message):

Annie, can you switch to sending your messages to everyone? Also, we can be a little bit flexible with time if you want.

19:31:56 From Annie Kallen she/her to Kali Odell (she/her)(Direct Message):

Will do, thanks for the reminder!

19:33:13 From Kali Odell (she/her) to Everyone:

My internet is unstable, so I will keep my camera off, but I am still here to support all of you.

19:34:19 From Samantha Gladu (she/they) to Everyone:

There were also bills in 2021!

19:37:12 From Kali Odell (she/her) to Everyone:

I will send it out

19:38:15 From Kali Odell (she/her) to Everyone:

If you have follow up questions after tonight, send them to me, and I will gather them and send them on to Katherine.

19:38:26 From Annie Kallen she/her to Everyone:

Thanks Kali!

19:45:41 From Sara Wolk - Equal Vote (She/her) to Everyone:

Equal Vote Coalition - equal.vote

19:45:48 From Sara Wolk - Equal Vote (She/her) to Everyone:

STAR Voting - starvoting.us

19:54:36 From Katherine Thomas (she/her), Assistant County Attorney to Everyone:

I have to take off, thank you for having me tonight.

19:54:42 From Samantha Gladu (she/they) to Everyone:

thank you!

19:54:48 From Annie Kallen she/her to Everyone:

Thanks Katherine!

19:54:50 From Timur Ender (he/him) to Everyone:

Thank you! Loved the presentation

20:05:24 From Annie Kallen she/her to Everyone:

10 minutes left in this part of the agenda

20:05:55 From Samantha Gladu (she/they) to Everyone:

Off video to make a new cup of tea, but have you with me :)

20:11:50 From Samantha Gladu (she/they) to Everyone:

Thank you!

20:16:59 From Kali Odell (she/her) to Everyone:

Sure

20:17:08 From Kali Odell (she/her) to Everyone:

If Sara is willing to answer!

20:18:29 From Sara Wolk - Equal Vote (She/her) to Everyone:

equal.vote/pr

20:20:00 From Samantha Gladu (she/they) to Everyone:

Thank you!

20:20:05 From Jude Perez to Everyone:

Thanks so much, Sara! This was super informative.

20:20:12 From Sara Wolk - Equal Vote (She/her) to Everyone:

Sara@equal.vote

20:20:36 From Sara Wolk - Equal Vote (She/her) to Everyone:

<https://docs.google.com/presentation/d/1xvsdpDmNSijSOujsmWeRcbRuTyAmaQlxK3G0-GKwktE/edit?usp=sharing>

20:20:48 From Kali Odell (she/her) to Everyone:

Either way

20:21:01 From Kali Odell (she/her) to Everyone:

Thank you!

20:22:36 From Samantha Gladu (she/they) to Everyone:

- voting methods
- number of commissioners
- expanding the vote
- campaign finance

20:23:16 From Sara Wolk - Equal Vote (She/her) to Everyone:

The slideshow extra slides don't have a ton on PR and Districting considerations, but we do have a whole other presentation on that that I'd be happy to give if you're about to schedule another slot.

20:26:46 From Sara Wolk - Equal Vote (She/her) to Everyone:

I did see the presentation from George Cheung last week and he did a great job of making the case for PR. I'm not sure if you've heard the cons for it yet or the pros and cons for the single winner system county already has.