



Multnomah County Charter Review

Government Accountability Subcommittee

April 28, 5:30 – 7:00 pm

SUBCOMMITTEE MEETING 6

Purpose: To hear county officials' responses to Charter amendments proposed by the County Auditor.

Attendees

Committee Members Present

- Marc Gonzales (he/him)
- Annie Kallen (she/her)
- Jude Perez (they/them)
- Maja Harris (she/her)
- Theresa Mai (she/her)

Staff:

- Kali Odell (she/her), Charter Review Committee Program Coordinator
- Jenny Madkour, County Attorney

- Allison Don, Strategic Initiatives Manager in the Office of the Chief Operating Officer

Invited Speakers:

- Deborah Kafoury, Multnomah County Chair
- Susheela Jayapal, District 2 County Commissioner
- Mike Reese, County Sheriff
- Serena Cruz, County Chief Operating Officer
- Christian Elkin, County Budget Director
- Jeff Renfro, County Economist

In addition, members of the public were welcome to observe the meeting as non-participatory attendees. Five members of the public observed over the course of the meeting.

Welcome

Kali welcomed everyone to the meeting and went over Zoom logistics.

County Officials' Responses to Amendments Proposed By Auditor

Commissioner Jayapal

Commissioner Jayapal observed that the county's form of government is essentially the opposite of the City of Portland's form of government. She noted that in the county there is a strong concentration of authority in the Chair of the Board of Commissioners, who is the chief executive officer and chief personnel office. That gives

the Chair authority over all administrative and management functions. She noted the Chair is also the presiding officer over the Board, with the power to create and approve agendas and votes on all matters that come before the Board. The Chair is also the chief budget officer, proposing and voting on the budget. She said she established this context because she saw the Auditor's proposals for increased independence as a structural question, not a budget question.

Commissioner Jayapal said that she agreed with the objective of the Auditor's proposal, ensuring the independence of the audit function and thought that function was essential to ensuring transparency and accountability. She agreed that from a governance perspective, it was not optimal to have a system in which the auditor was dependent on the entity it audits for its budget. She said that she had not seen any evidence of budget decisions made in retaliation for audit reports, but she did not think the government structure should allow for the possibility. That said, she had reservations about the mechanism proposed by the Auditor, which assigned a fixed percentage of the county's general fund as the Auditor's budget.

Commissioner Jayapal said she saw this as a structural issue rather than a budget issue, so the Auditor's solution did not get to the heart of the matter. She also expressed concerns about whether it was workable in terms of the budget impact. She did not think that it was always the case that a growth in the budget caused a one to one increase in administrative costs.

Commissioner Jayapal said she was not sure that 1% of the general fund was the appropriate amount and expressed concern about including a specific number in documents like the Charter since the appropriate number could change with time, and the Charter is not meant to change over time in that way. She also pointed out that while other audit offices in other jurisdictions might be funded at that level, every audit office had different responsibilities that could make funding needs different.

Annie asked if Commissioner Jayapal had any suggestions for how to ensure the budget independence of the Auditor.

Commissioner Jayapal said that for her it would be about examining where the Auditor's Office sits in relation to the rest of the county government. She said that if they tried to do it through the budget, maybe they could establish certain criteria, but she thought they would be hard put to find a formula that would work over the long term.

Maja asked if Commissioner Jayapal thought the amendments proposed by the Auditor without the 1% budget would address the structural issues.

Commissioner Jayapal said her understanding of the Auditor's proposal was that the 1% budget threshold was the mechanism for budget independence and was not sure there was anything else proposed that would get at the issue of independence.

Maja asked if there was an independent commission setting the Auditor's budget, would that address Commissioner Jayapal's structural concerns?

Commissioner Jayapal said that would be imperfect and set its own logistical problems.

Maja clarified that she was referring to the proposed community budget advisory committee, so it would not be a commissioner with independent power to pass things.

Commissioner Jayapal clarified that the county did have community budget advisory committees and she thought they played an important role in raising questions and provide opinions on the budgets proposed, so they could serve part of that function, but she did not see a community budget advisory committee entirely addressing the issue.

Jude read Marc's comment in the chat that many entities have a cost recovery model that provides financial support to service department. They noted another comment that we also have the TSCC, and asked what that was.

Christian Elkin, County Budget Director, said that TSCC was the Tax Supervising and Conservation Commission, which is unique to Multnomah County and has been in statute since the early 1900s. It provides an extra set of eyes on the budget to help ensure the county is meeting all of the technical requirements of Oregon budget law and to make sure the county is spending taxpayer dollars in a way that is appropriate for county communities. It was originally developed to make sure that property taxes were being levied appropriately, and expanded to this larger function.

Theresa asked Commissioner Jayapal to speak more generally about her thoughts on the structural relationship between the county's executive and legislative branches.

Commissioner Jayapal said that no government structure is perfect. She said she did not think the county government had the same checks and balances as a structure that more clearly separated the executive and the legislative branches.

Marc defined what a cost recovery model is, which is when internal service departments like personnel or payroll figure out the cost of their objective and then have departments pay for their services in proportion to departments' usage. He mentioned that at the subcommittee's last meeting, the auditors that spoke to the subcommittee seemed to think that model could work for the County Auditor's budget if that is not already happening at Multnomah County.

Director Elkin said that the county does have indirect and cost recover models. She said that the county has determined that in some areas there are a set level of services that it wants to provide its departments. The county does not want to discourage departments from using those services, so they are paid through the general fund. She said the County Attorney's Office was an example of that, because if departments were billed for those services, they might decide not to use them. She clarified that because of this, the county uses a hybrid model, and the indirect collected from departments goes into the general fund to pay for services like the Auditor's Office.

Sheriff Reese

Sheriff Reese thanked the subcommittee members for their service and said he thought Commissioner Jayapal had spoken to some of his thoughts very eloquently. He said that as elected officials they had clear guidelines

and missions that they are responsible for, and constituencies they represent. He said that he had worked at the City of Portland as well as the county, so he was familiar with both budget processes. He said he thought the county system of government and budget process worked well. He noted that the commissioner provided oversight of the county budget, which he thought put in place appropriate checks and balances. He described the use of community budget advisory committees, as well, and said that they helped with equitable outcomes, fiscal responsibility, and created transparent budget processes.

Sheriff Reese also said he supported the Good Government Hotline and would like to see that continue if there are changes that need to be made to that in the Charter.

Sheriff Reese also spoke to the Auditor's proposal for mandated access to records and data that the Auditor needed to perform their duties. He said he wanted to support that, but expressed concern about some of the records, like medical records, or public safety information that only his office is permitted to access. He thought that locking this into the Charter would still present issues for the Auditor's access and that this information would still need to be provided through the offices that hold access to it. He did not have any issues about providing that information and did not think that there had been issues providing the Auditor's Office with public safety records.

Maja referred to language in the Auditor's proposed amendment about enforcing recommendations made by the Auditor. She asked Sheriff Reese for his insight on how that would happen.

Sheriff Reese answered that some of the recommendations can be very specific that could create challenges or come into conflict with other laws or mandates that an office has. He said he would be concerned about a bright line requiring implementation. He noted that in the current system, officials had to submit a written document stating whether they agreed with the recommendations in totality or had concerns. He thought that was open and transparent, and that the Board also had an independent oversight function.

Sheriff Reese also said that a recommendation could have significant budgetary implications and it might not be fiscally possible for the county to provide the funds in the fashion that would operationalize the Auditor's recommendation.

Panel Discussion

Jude introduced the panel of speakers: Chair Deborah Kafoury, Chief Operating Officer Serena Cruz, Budget Director Christian Elkin, and County Economist Jeff Renfro. County Attorney Jenny Madkour was also present to support the panelists.

Chair Kafoury thanked the subcommittee members for their service. She said the role of the Auditor was important and gave recommendations for how to improve the county and hold it accountable. She said she thought some of the specific Charter amendments proposed by the Auditor were highly problematic and the group would be going over each of those in its presentation.

Chair Kafoury said she agreed with Commissioner Jayapal that there was no perfect form of government and she would be happy to discuss some of the different models out there. She recommended the subcommittee focus on what problems it was trying to solve. She said the county's government worked well.

Chair Kafoury addressed the Auditor's concerns about a conflict of interest in budget setting. Chair Kafoury said that they had reviewed the AGLA model legislation referred to by the Auditor and found current Multnomah County practices to be in line with those standards. She said the Board of Commissioners was the county's budget committee and approved the Auditor's budget. She shared an overview of the budget process: the Auditor drafts their budget and submits it to the Chair for consideration in the Executive/Proposed Budget, the budget is not approved by county administration, but by the Board of Commissioners, as the legislative body. Chair Kafoury acknowledged that she is responsible for county administration, but pointed out that she is only one member of the board, and that entire body has the power to approve the budget. She did not believe the Auditor's ability to conduct impartial or objective work had been limited. She said the system in place prevented retaliation in the budget process.

Christian Elkin introduced herself as the county's Budget Director and as the nondepartmental budget analyst, which meant she helped the Auditor in preparing her budget every year.

Director Elkin told the subcommittee that a budget was a reflection of the county's values, priorities, and vision for its community and every year the county has to evaluate those in conjunction with economic constraints. She said that unlike the federal government, the county cannot run a deficit, so it does not have the ability to spend beyond its means. As a result, the county has to prioritize funding and services. She added that as the largest service provider in the state, the county often saw needs for its services rise in challenging times when revenue was also decreasing.

Director Elkin shared that there was only one jurisdiction that received a fixed allocation, and that was the Tax Supervisor and Conservation Commission. Their budget authority was set by the state of Oregon. No other service or elected official in the county received a fixed portion of general fund expenditures. She said this would be to imprecise and simplistic a ways to budget, would deprive county policymakers of their mandate to determine county resources and priorities, and would be insensitive to the dynamic, year-over-year changes to county revenue.

Director Elkin informed the subcommittee that the Auditor is able to draft her budget every year within an understanding of the county's economic environment. The draft is submitted to the County Chair for consideration in her Executive/Proposed budget. It is then considered again in a public arena when the Auditor and elected officials present their budgets to the Board of Commissioners for deliberation. The Board makes the final budget decisions. Director Elkin said that over the last three years as the county faced significant budget reductions in general fund services, the Auditor had submitted proposed reductions in line with overall reductions and the Chair restored the Auditor's services to current levels in her proposed budgets. Director Elkin said the Auditor could ask for new resources in any budget year and that would be weighed against other service priorities.

Jeff Renfro, County Economist, walked the subcommittee through an estimate he prepared of the impacts the Auditor's proposal would have on the county's general fund expenditures. He compared that to projections based on the Auditor's current funding. He said the Auditor's proposal would increase her office's budget by \$4,889,499 or a 248% increase above projections for that office's funding in FY2024 under the current budget model. He pointed out that because the county must balance its budget and the Auditor's proposal did not come with a revenue source, if the MCCRC recommended this increase for the Auditor's office, funds would have to be cut for other services.

Chair Kafoury showed the subcommittee some examples of other county services that would be equivalent to a \$4.9 million increase in the Auditor's budget.

COO Cruz said the county supported the Good Government Hotline. They could support adding it to the Charter if properly scoped, or they believed there was a path forward to establishing it legislatively in County Code.

COO Cruz said they were concerned that placing an ombudsperson under the Auditor would give the Auditor a managerial and labor function as the ombudsperson would investigate county employees. She said county management thought this was not in line with auditing standards. She pointed out that the Charter gives the County Chair sole authority to appoint, order, direct, and discharge administrative officers and employees of the county except for the personal staff, employees or agents of elective county offices. She also said that the county already has practices and policies in place for responding to employee accountability. She said the Auditor had not demonstrated the need for the ombudsperson, although it could be a great opportunity for an audit.

COO Cruz said the county supported the Auditor's access to timely information, and that when the Auditor asked for information, the county provided it, which made adding language to the Charter unnecessary. She said they did not see what challenges this clause was trying to fix, and explained that an example of a delay in the Auditor's access to Workday information was a result of technical issues and could not have been resolved more quickly.

Chair Kafoury addressed an additional concern she had about language the Auditor had proposed to "ensure the implementation of their office's recommendations." She said that she agreed with the Sheriff's earlier statements about this, that there was already a thorough response to recommendations by the Auditor. She also said she disagreed with the notion that there was a lack of accountability. She said that accountability happens through elections. She was concerned that making this change in the Charter would conflict with other sections of the Charter establishing the duties of other elected officials.

Maja said that the Auditor's 1% budget number was intended to fund an ombudsperson and the Good Government Hotline. She asked whether including the ombudsperson in the Charter meant that would be automatically funded in the budget even if the subcommittee did not recommend adding the Auditor's budget to the Charter.

Chair Kafoury said the Auditor would make a proposal about what an ombuds office would encompass; number of staff and costs for example. The Auditor would present that proposal and move it through the budget process.

Theresa asked County Attorney Madkour to address a point of confusion for the subcommittee; they had heard from the Auditor that the County Attorney had advised that the Board could not pass code governing the Auditor, presenting a conundrum for how the hotline complies with state law.

County Attorney Madkour stated that the county already operates a hotline. She said state law required that the governing body create the hotline, which never happened, but the Auditor could request it. She said that because of the county's separate of powers, the Board of Commissioners can establish the framework for the hotline, but it cannot require the Auditor to operate; the Auditor can volunteer to operate it, though. County Attorney Madkour said she did not know why this had not happened yet, but that everyone supported the hotline and it would be relatively simple to do.

Maja asked whether the community budget advisory committee that the Auditor requested including in the Charter already existed in some form for that office.

County Attorney Madkour explained that community budget advisory committees were established in County Code. Like the County Attorney's Office, the Auditor is under the nondepartmental community budget advisory committee. She said it would be unnecessary to add a community budget advisory committee for the Auditor or another department since that function was already happening.

Maja asked if any of the other elected offices had a community budget advisory committee.

County Attorney Madkour said it would be new and singular to the Auditor.

Theresa said that she was interested in Sheriff Reese's earlier point about potential issues with the Auditor's timely access to protected information. She asked County Attorney Madkour if there were other types of protected information that could be impacted.

County Attorney Madkour said that data governance and management was an ongoing issue in all government agencies. She said defining whether access to information meant raw data or information systems could be extremely challenging from a security standpoint. She pointed to HIPPA and other privacy laws, as well as proprietary information where people need licenses or authority for access.

Director Elkin said that she wanted to clarify a matter brought up at a previous subcommittee meeting. She said that all of the elected officials, including the Auditor, had staff assistants (non-unionized) and were able to set their salaries, as well as hire and fire them at will. The only limitation on those salaries was compliance with Oregon's pay equity requirements.

Chair Kafoury told the subcommittee that they would be happy to respond to additional questions from the subcommittee or MCCRC in the future.

Research Plan

Jude shared that the subcommittee's next steps were to focus on research and that its next few meetings would be focused on discussion.

Maja suggested that subcommittee members could sign up to focus on a research topic and perhaps partner up to discuss them.

Annie suggested adding the additional topic the Chair had brought up related to the expansion of the Auditor's power to the subcommittee's research list.

Theresa said she would volunteer to focus on member selection for the Charter Review Committee. She said she was also willing to look at the Auditor's proposals, but would want a buddy for that.

Jude suggested breaking up the Auditor's proposals.

Maja said she was thinking about this as a narrowing process rather than adding since members needed to figure out where they stood individually on these proposals. She suggested going through the reflection questions she and Jude had previously drafted for the subcommittee with a buddy.

Annie wondered if it would be useful to have a survey for subcommittee members to indicate their current strength of support for each change being considered. That would help the group gauge where there is support to move forward.

Marc agreed that it made sense to break up the Auditor's proposals and consider which pieces had support.

Kali said the subcommittee could use a survey to assess committee support for different proposals and that she and the co-chairs could refer to the results to help with agenda planning, but that the results would need to be shared with the subcommittee and the public in a subcommittee meeting. The survey results could be used as a temperature check and tool to guide committee discussion, but would not be considered a vote or determinative of a decision on any of the topics. Kali said it was also important to tie survey responses to the name of the respondent.

Maja suggested some broader topics in the chat (Appendix A) that the subcommittee could temperature check in a survey.

Marc said he wanted to consider the information presented to the subcommittee that evening and was not ready to say what he wanted to do. He was most interested in the Auditor's proposals.

Theresa said that with only two more meetings scheduled she would like more direction on what to research to make sure she was prepared for discussions.

Maja proposed that the homework for the next meeting was to complete the reflection questions and be prepared to do a fist of five temperature check on the topics Maja included in the chat.

The subcommittee members thought they might be able to vote on the Auditor's proposals at its next meeting.

APPENDIX A: ZOOM CHAT

00:24:17 Marc Gonzales: Many entities have a cost recovery model that provide financial support to internal service departments.

00:27:29 Deborah Kafoury: We also have the TSCC

00:28:27 Deborah Kafoury: Sorry - we also have the TSCC. Taxing Supervising and Conservation Commission

00:28:40 Jude (they/them): Thank you!

00:35:39 Theresa Mai (she/her): Thank you!

00:35:40 Maja Harris (she/her): Thank you, Commissioner!

00:44:59 Allison Don (she/her): Kali, I apologize, I cannot figure out how to share the slides. Are you able to?

00:45:16 Kali Odell (she/her): Yes, do you want me to start sharing now?

00:46:06 Allison Don (she/her): Please, yes, thanks!

00:59:23 Marc Gonzales: How many budget amendments or changes generally occur in a single budget period at MultCo?

01:03:13 Marc Gonzales: Thank you.

01:04:58 Annie Kallen she/ her: Could we have these slides sent to us as well?

01:05:58 Deborah Kafoury (she/her): Yes, we will send the slides!

01:06:10 Annie Kallen she/ her: thanks!

01:11:24 Kali Odell (she/her): I have the slides and will send them to the subcommittee.

01:24:38 Maja Harris (she/her): Thank you all so much for taking the time!

01:24:49 Theresa Mai (she/her): Thank you all!

01:25:11 Jeff Renfro (He/Him): Thanks for having me. Happy to answer any other questions that come up.

01:25:11 Marc Gonzales: Thanks to all of you for your time, and work to generate information for us.

01:25:17 Serena Cruz [she, her]: Thank you all!

01:25:23 Annie Kallen she/ her: Thanks everyone!

01:37:02 Kali Odell (she/her): I have something to add about the logistics of a survey if you go that route

01:40:01 Maja Harris (she/her): Charter Review

Extend the charter review process

Provide a general process for filling vacancies

Eliminate the committee's residency requirement and replace with work/live/play/worship in MultCo

Auditor

Establish the Good Government Hotline in the Charter

Establish the Auditor's budgetary independence from the Chair.

- 01:40:49 Annie Kallen she/ her: Do we want to do a temperature check on these topics right now?
- 01:42:34 Kali Odell (she/her): You can also decide to move forward with the auditor's general proposals and not use the actual language she's proposed
- 01:43:38 Maja Harris (she/her): Do you mean to ask Katherine to draft something different, Kali? Something in the spirit of the auditor's Odesa?
- 01:43:50 Kali Odell (she/her): That's right, Maja.
- 01:44:03 Maja Harris (she/her): *amendments, not Odesa :-D
- 01:47:49 Marc Gonzales: I feel that re: Auditor's requests I could vote by next meeting after digesting today's information
- 01:48:44 Theresa Mai (she/her): I would be ready. When we do the survey and get results, I'm happy to get assigned or get in a research group in the meantime.
- 01:50:26 Maja Harris (she/her): Great! Let's buddy up in duos and help each other think it through!
- 01:51:00 Kali Odell (she/her): I'll get you the video recording from tonight ASAP