



Multnomah County Charter Review

Government Accountability Subcommittee

May 12, 5:30 – 7:00 pm

SUBCOMMITTEE MEETING 7

Purpose: Discuss Charter amendment proposals from 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
- Katherine Thomas (she/her), Assistant County Attorney

Invited Speaker:

- Jennifer McGuirk (she/her), County Auditor

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

Welcome

Kali went over Zoom logistics. Maja welcomed those in attendance and overviewed the agenda.

Invited Speaker: County Auditor McGuirk

Auditor McGuirk thanked the subcommittee for its work. She said that watching the presentation from her county colleagues at the last subcommittee meeting, she was struck by their concerns about changing the Charter. She appreciated that change was hard, but said that the changes she was proposing to her office were necessary for incorporating best practices and ensuring her office's independence.

The Auditor added that she wanted to withdraw the language she had previously proposed regarding her office's ability to ensure implementation of its recommendations.

The Auditor said that she modeled language for the Good Government Hotline on state law and for the ombudsperson on the City of Portland's Charter. She said that neither would infringe on the Chair's role, as neither tool for accountability would give the Auditor the ability to discipline county employees. The role of both the ombudsperson and the hotline would be to receive complaints, investigate them, and make recommend improvements or corrective actions. She quoted from public testimony submitted to the subcommittee by City of Portland Ombudsman Margie Sollinger, stating that the ombuds investigations are about issues not people. They assess the impact of administrative acts on community members and make recommendations about improving practice or correcting wrongs. There is no power to impose discipline.

Auditor McGuirk said that the hotline proposal she submitted to the subcommittee was modeled closely on state law. She was pleased that COO Cruz had said at the last meeting that county leadership would support adding the hotline to the Charter if properly scoped, and Auditor McGuirk thought the language she proposed did that.

Auditor McGuirk addressed her office's access to timely information and said that responses to her office's requests are made on a spectrum. Most were cooperative and she said her office would adjust timeframes in collaboration with departments, when needed. She said that if her office's access to information was spelled out in the Charter, changes in management personnel would be less likely to impact the Auditor's ability to timely access information. She said that while auditors generally get access to the information they need, it was not uncommon for requests to be delayed weeks or months, taking time away from auditors' work.

Auditor McGuirk also clarified that her proposal for access to information did not remove protections for sensitive data, like records protected by HIPPA. The auditor's staff would continue to comply with proper procedures, like extra background checks. They would also continue to receive training on the handling of sensitive information and data.

The Auditor said that her office had not kept pace as the county has grown in size and complexity. She pointed to increase in county funds, the growth of employees and addition of new departments. She said performance audits provide transparency to the public on how the county uses taxpayer dollars. She summarized the outcomes of some of her office's audits. She said that the U.S. Government Accountability Office, which sets the generally accepted auditing standards the Charter requires the Auditor's Office to follow, establishes the importance of auditor independence. Having an independently elected auditor in Multnomah County offers one form of independence. She said that it does not mitigate the threat of undue influence that includes restrictions on funds provided to the audit organization that adversely affects the auditor's ability to carry out their responsibilities. She said that this is the threat she is seeking to mitigate by removing the Chair from involvement in decisions about the Auditor's funding.

Auditor McGuirk said that a number of jurisdictions have used the budget percentage model she proposed to fund oversight and accountability functions. She said that in its model legislation, the Association of Local Government Auditors notes that some jurisdictions require that the audit function receive a minimum specific percentage of the annual budget. She also pointed out that the City of Portland's voter-approved police oversight board requires that no less than 5% of the Police Bureau's annual operational budget be dedicated to

the board's operations. She summarized a few other examples. She said that under current funding levels, her office was not able to deliver the audit services implied by the County Charter, which states that the Auditor is to conduct performance audits of all county operations and financial affairs. She said she had a skilled and dedicated team, but there was no way for seven staff auditors to meet this mandate.

The Auditor took issue with statements made to the subcommittee at its April 28th meeting, which had suggested that potential tradeoffs for funding the Auditor's Office would lead to decreases in key areas, such as eliminating the Elections Division, reducing the number of available jail beds, or cutting 400 emergency shelter beds. She said these were provocative and alarming examples and not what she believed would actually happen. She acknowledged that there were always tradeoffs in budgeting, but pointed to other areas where funds might be available, such as unfilled positions, dollars shifted around departments, the county choosing to discontinue or reduce programs. She also cited unspent general fund expenditures at the end of the year, saying that in FY20 expenditures were \$15 million less than budgeted. For FY21, general fund expenditures were \$62 million less than budgeted.

Auditor McGuirk said that she had submitted more information in written comment to the subcommittee that detailed her experiences with the budget process in the past. She said that if the Chair supported her proposed budget for the upcoming fiscal year, she would be able to add four auditors to her staff and her budget would increase from .0.29% of the general fund to 0.39%. This would be an improvement, but still not enough to deliver the oversight the county deserved.

Auditor McGuirk said that the proposal for a budget of 1% of a five-year rolling average of the general fund was not arbitrary, but the result of her team's analysis on what it would need to deliver the best accountability service to the public. She said funding at this level would allow for 21 staff auditors able to focus on specific service areas; two hotline investigators; two ombudsmen; two community engagement staff; one administrative staff; and the elected Auditor. This would be a staff of fewer than 30 people, which would put it on par with the County Attorney's Office, which has 26 employees with 19 attorneys. She said that if the subcommittee did not feel comfortable providing funding at that level, she had submitted information about other levels of funding in her written testimony, which would still help her office achieve its primary goal of independence from undue influence and ensure that her office can continue growing proportionally with the county. She argued that voters should have the opportunity to weigh in on this.

Marc asked whether reserves were kept in the general fund and what percent Auditor McGuirk thought they measured of the general fund as a whole.

Auditor McGuirk said she did not know the percentage off the top of her head, this year there was \$29.7 million in contingency for the county. The year before it was \$32.9 million. She thought half of that was reserved for capital projects and the other half for emergencies or discretionary needs.

Public Comment

Carol Chesarek indicated that she would like to give verbal comment. Kali overviewed the verbal comment process.

Carol said she was impressed by the informative presentations the subcommittee had at its past couple of meetings. She pointed out the increase in homelessness and issues connected to the pandemic over the past few years as examples of why the Board of Commissioners needed budget flexibility and why it might be dangerous to put the Auditor's budget in the Charter. She said that she would personally have had trouble increasing the Auditor's budget in the past couple of years. Carol added that she thought the examples of cuts provided at the subcommittee's last meeting were meant to convey scale and not specific offsets that were being proposed. She pointed out that adding staff in one area often meant cuts in another area, and spoke to her experience on the Portland Parks budget advisory committee.

Carol raised the written proposal she had submitted to the subcommittee that would enshrine the Chief Operating Officer (COO) role in the Charter. She acknowledged that may have been submitted too late and was not an emergency.

Carol said that County Code was more flexible than the Charter, so if the Good Government Hotline was not at risk, that might be a better home for it. She pointed out that changes would still require the support of the majority if the Board, so it would still take weight to undo.

Kali summarized the two written comments received by the subcommittee: one with general support for the Auditor's proposals and one from the Portland City Ombudsman about the establishment of an ombudsperson in the County Charter.

Maja said that the subcommittee would review the written proposal Carol submitted about adding the COO to the Charter and discuss it at a future meeting.

Temperature Check of Proposals

Maja said that the subcommittee would review the high level proposals before the subcommittee and temperature check them using a fist of five (five fingers indicating enthusiastic support; three fingers indicating uncertainty or neutrality; one finger indicating strong opposition). Proposals that did not receive much support would be left behind. She said subcommittee members would have opportunity to elaborate or offer alternative solutions. She also made it clear that it was okay for subcommittee members to choose not to move things forward if they did not feel comfortable. She encouraged members to be honest if there were things they did not understand.

Katherine recommended that as the subcommittee moved toward recommendations for the full committee, the group focus on identifying its policy objective. Her office would draft specific language to amend the Charter, but it was important for her to understand their intent to make sure the language matched.

Charter Review Timeline

Maja proposed a temperature check on extending the Charter review timeline. She summarized that the subcommittee had previously discussed extending it by six months, three months, or a hybrid of allowing up to six months of additional work time.

Kali said that she would recommend framing this change as moving the committee's required first meeting date earlier in the calendar year, rather than specifying in the Charter that the committee should meet for 18 months. There would still be a hard deadline in the Charter for when the committee's work must be completed, but moving the start date earlier would allow flexibility for how long the Charter Review Committee chose to meet.

In response to a question by Theresa, Maja clarified that they would have separate temperature checks for each major part of the proposals.

Maja initiated a fist of five on a longer Charter review process. Maja, Annie, and Marc held up five fingers. Jude and Theresa held up four. That represented general consensus on extending the timeline. Maja suggested seeing if the group could come to quick consensus on what a reasonable amount of time would be or if they should return to this later.

Annie said part of her was inclined to recommend two years, but she was conscious of burnout, so maybe one and half years was right, with the possibility of extending. She pointed out that if it was written in the Charter that the committee would meet by a certain date, that would not prohibit them from starting earlier.

Jude asked for a reminder about the current length of the process in the Charter and whether the one and a half years would include member recruitment or if that would start earlier.

Kali said that currently the Charter requires the Charter Review Committee start its work in September and finish at the beginning of August. She pointed out that since the current committee started meeting at the end of September, that meant their process was 10 months. The Charter allowed for 10-11 months of work. She added that the current Charter had very specific dates about the committee's recruitment timeline and that the Office of Community Involvement (OCI) was not recommending recruitment be include in the 18 months of the committee work time. Kali said the subcommittee could be specific about the recruitment timeline in the Charter if it wanted, but they could also leave it up to OCI's discretion to determine how much time it needed for recruitment and application review.

Maja asked the subcommittee for another temperature check on allowing for 18 months of charter review work, with the removal of specific dates so that the timeline is general and flexible.

All subcommittee members held up four fingers.

Maja asked if anyone had a different idea they supported or if there was further need for discussion on this topic.

Jude asked whether the subcommittee thought a year and a half would be sufficient in the event of another future emergency like the COVID pandemic.

Annie said that she thought was how the flexibility came in. If the Charter said the committee had to start meeting "by" a certain date, OCI could convene the committee earlier. She said that in the age of Zoom there was not a lot that would slow the committee down too much.

Marc asked if the proposal was still taking into account an end date that would allow the Board and Elections Office to take the necessary steps to get proposed amendments on the ballot.

Maja said she thought the proposal was to remove specific dates, but would leave in place time at the end to take those steps.

Katherine said that the Charter currently required the committee to have its first meeting in September, so the change they were proposing could say that the next Charter Committee would have its first meeting in March 2027.

Maja asked subcommittee members to vote “thumbs up” or “thumbs down” to demonstrate whether they supported moving ahead with the recommendation to extend the process to a year and a half with general dates that stayed within the intent to get things to voters in a timely manner.

All subcommittee members gave a thumbs up to moving forward with the recommendation.

Kali said that she could take the subcommittee’s discussion and draft a statement reflecting its policy intentions for the next meeting, and members could formally vote on that.

Maja said she thought that was unnecessary.

Charter Review Committee Member Appointment Process

Maja reminded subcommittee members that OCI had submitted a proposal that would appoint Charter Review Committee members based on residency in county districts. However, the subcommittee would first do a temperature check on eliminating a residency requirement altogether, based on a suggestion made by committee member Donovan Scribes. She said this was intended to be more equitable by allowing people who had ties to Multnomah County but did not live there to serve on the Charter Review Committee. The subcommittee had previously discussed the possibility that people who “live, work, play” in Multnomah County would be eligible to serve on the committee. She clarified that the initial temperature check would be to remove the residency requirement for service currently included in the Charter.

Jude and Maja held up four fingers; Theresa held up three fingers; Marc and Annie held up two fingers.

Marc said he thought it was important to have skin in the game and having people who did not live in Multnomah County being able to influence things did not feel like a line he was comfortable crossing.

Annie said she understand where Donovan was coming from, but thought that most people were being displaced to East County, so she was not following the reasoning on that front. She agreed with Marc about the importance of having skin in the game. She said that if they removed the residency requirement she would like there to be some other criteria making sure people serving were engaged with the county. She was concerned about someone who did not live in the county wanting to serve on the committee for whatever political reasons because they wanted to fix the Portland area.

Theresa said she thought the story of displacement was complicated: some people went to East County, some to Washington County. She was from North Portland but now lived in East County. She said she thought there

were people with skin in the game who did not live in the county, but she was not sure how to capture that tie in case someone comes in with nefarious intent, who does not live in the county but wanted to do xyz there. She thought it was important to consider possible ramifications.

Jude felt “live, work, play” felt squishy. They felt uncertain about the phrasing and saw the upside of including people who had been displaced and the downside of someone without skin in the game trying to get involved.

Maja said that she thought the residency requirement was symbolic. She saw the best case scenario of more people getting involved in government, perhaps people who were displaced against their will. She pointed out that it can be hard to get diverse people serving in these types of roles and that historically the same people cycled through these types of roles. Maja said she thought the worst case scenario people had mentioned was likely, but she did recognize the weight of the symbolism of the residency requirement. She said it did not appear there was sufficient support to move ahead with eliminating the residency requirement. She proposed moving on to a temperature check on OCI’s original proposal.

Kali summarized that proposal, which would remove state legislators from appointing Charter Review Committee members. She explained that OCI had run an application process this last cycle with county employees doing an initial review of applications and sharing with legislators which applicants they viewed as the strongest. She said that most of the people appointed came out at the top of OCI’s evaluations system. She said that this was not a process state legislators typically knew much about, and the appointment process took a lot of time and resources from the County’s Government Relations team.

Kali said that OCI had proposed to appoint future Charter Review Committees. She said the subcommittee could decide how much to include in the Charter, but that OCI’s practice had been to involve county employees from other departments who had experience with equity work in the application evaluation process. They had an evaluation form to guide how they marked the strength of applicants’ answers. Each application was reviewed by multiple people. She said that this was the process OCI envisioned using in the future.

Kali said that OCI’s original proposal included appointing four committee members from each commissioner district. She added that she did not have other exact formulas if the subcommittee was not in favor of using commissioner districts, but it could set the number of total people to serve on the committee and have all members be chosen at large from around the county, or it could require at least one member serve in each county district with the rest to be chosen at large. She said the subcommittee could include a general requirement that geographic diversity be part of evaluation, if that was important to members.

Maja initiated a temperature check on the OCI proposal as written: removing state legislators from the appointment process; having four committee members appointed from each county commissioner district, for a total of 16 members; have OCI responsible for recruitment, evaluation, and appointment of committee members.

Marc asked what would happen if the county could not get enough applicants from a district to meet the requirements.

Kali said that currently it was not required for committee members to be appointed from the applicant pool, so state legislators could reach out to people in their community and ask someone to serve.

Maja said that they could give county commissioners the ability to appoint members from their districts if there were not enough applicants.

Marc felt that would introduce more politics into the process, which he thought should be as muted as possible.

Kali told the subcommittee that she had reviewed how some other jurisdictions appoint charter review committees and noted that Multnomah County's current process was very unusual. In most cases she saw, charter review committee members were either appointed by the legislative body (the Board of County Commissioners) or elected by voters. She said that electing members might seem more democratic on its face, but that barriers to getting on the ballot and the limited information provided to voters to help them make a choice could result in less representative outcomes.

Maja noted that the Portland Charter Commission had been appointed by City Commissioners. She initiated a temperature check on OCI's proposal.

Jude, Marc, Maja and Theresa gave it four fingers; Annie gave it two.

Annie said she was concerned with the conflict of interest created by having county employees select the people who would review the County Charter. She appreciated Kali's point about what was standard, but just because it was standard did not make it the best way to go. She said she trusted current staff, but did not know who would be serving in those roles in the future. She liked the separation in the current process. She was not as concerned about whether members were selected from county or senate districts, but did not favor at large selection since she was concerned everyone would be appointed from inner east or west Portland.

Theresa pointed out that with the longer Charter review process timeline, legislators would be asked to make appointments around February, which was around the start of the legislative session. She was concerned about the impact that timing would have on appointment. She said that she was somewhat flexible on having some people appointed at large. She appreciated Annie's concerns about a potential conflict of interest with county employees appointing committee members, but thought that Kali's description of DEI experts from different departments reviewing applications spread that out a bit.

Marc said he felt that this was a clearer, simpler way of finding volunteers. He felt favorable about taking out the political involvement as much as possible.

Jude said they appreciated equitable representation between the county districts. They also said that state legislators were great people, but that they were busy and Jude kept wondering where this would fall on their priority list. They felt it made sense to have people from the county who have more of a stake in the process make appointments. They agreed with Theresa that the process Kali described sounded like a good one.

Maja said she liked the language they discussed earlier (removing residency requirement) better because she was in favor of removing barriers, but she was comfortable with OCI's proposal. She did not see county involvement in appointments as a conflict of interest; she said this was common in other appointments and it

made more sense to have people who were closer to the process make appointments. She saw drawbacks to having people removed from the process make appointments just because they had to.

Maja suggested having a formal vote on this proposal: four committee members appointed from each county district for a total of 16 members; removing state legislators from the appointment process and instead tasking the Office of Community Involvement with outreach, application evaluation, and appointment.

It was established that four members needed to support the recommendation to move it to the full committee.

Marc, Maja, Theresa, and Jude voted yes. Annie voted no.

Maja said that they would make space for Annie to share her reservations with the full committee.

Annie said they had made compelling arguments and now she was closer to a three on the recommendation, so she did not feel a need to talk about it.

Kali flagged that given the direction the subcommittee was headed, members might want to consider OCI's recommendation that they address whether committee members would still be eligible to serve on the Charter Review Committee if they moved between commissioner districts during the Charter review process. She said the Charter does not currently address this issue directly.

Annie said she wanted to be clear that she did not have as many concerns about someone moving out of the county after appointment continuing to serve on the committee.

The subcommittee agreed to address this at its next meeting.

APPENDIX A: ZOOM CHAT

- 00:15:58 Kali Odell (she/her): Auditor McGuirk wrote this letter to the subcommittee to accompany her statement:
- 00:32:47 Theresa Mai (she/her): Thank you, Auditor!
- 00:37:34 Kali Odell (she/her): 3 minute mark
- 00:38:26 Marc Gonzales (he, him): We appreciate your remarks , Carol; thanks.
- 00:42:03 Annie Kallen she/ her: That's a good point Maja, thanks.
- 00:43:29 Maja Harris (she/her): Charter Review
1. Extending the charter review process
 2. Providing a general process for filling vacancies
 3. Eliminating the committee's residency requirement and replacing it with work/live/play/worship in MultCo
- Auditor
1. Establishing the Good Government Hotline in the Charter
 2. Establishing the Auditor's budgetary independence from the Chair
 3. Establishing the Ombudsman office
- 00:51:26 Marc Gonzales (he, him): Wold the year and a half include the outreach for volunteers?
- 01:02:25 Kali Odell (she/her): I can draft general (not legal) language for you to vote next meeting
- 01:19:03 Annie Kallen she/ her: A refresher would be helpful
- 01:24:45 Kali Odell (she/her):
- Select MCCRC members based on County district, requiring four members who reside in each district for a total of 16 MCCRC members, and task the Office of Community Involvement with application outreach, evaluation and member appointment
- 01:32:38 Kali Odell (she/her): We did ask Government Relations when a good time of year would be and it is never a good time in their work schedule.
- 01:33:40 Theresa Mai (she/her): Rubrics are always good to have!
- 01:41:21 Annie Kallen she/ her: Either is fine for mem
- 01:41:24 Theresa Mai (she/her): I would say wait
- 01:41:24 Annie Kallen she/ her: me
- 01:41:34 Marc Gonzales (he, him): I do think the Auditor's additional comments helped clarify some issues.