



Multnomah County Charter Review

Subcommittee 2

January 31, 2022, 4:30 – 5:30 pm

SUBCOMMITTEE MEETING 1

Purpose: Discuss subcommittee logistics, elect co-chairs, and learn about the legal landscape for the Multnomah County Sheriff and District Attorney.

Attendees

Committee Members Present

- Donovan Scribes
- Nina Khanjan
- Ana del Rocío
- Salma Sheikh
- J'reyesha (Jay) Brannon

Absent:

Danica Leung (she/her)

Staff:

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

In addition, members of the public were welcome to observe the meeting as non-participatory attendees. There were no observers at this meeting.

Welcome

Kali Odell opened the meeting with a brief overview of Zoom logistics and the agenda.

Committee co-chairs

Kali summarized some of the roles the chair or co-chairs could play: collaborating on subcommittee agenda setting, facilitating or helping to facilitate meetings, contributing to a research plan with other subcommittee chairs/co-chairs, and taking leadership on reporting on the subcommittee's work. Kali asked if anyone was willing to take on this role. She shared that Donovan was the member who had previously expressed some interest in serving in this role, but that he was unsure he had the bandwidth, which he confirmed.

Kali had asked Danica (who was unable to attend the meeting) whether she would be interested in serving, and Danica had indicated a preference not to serve in this role.

Nina expressed openness to serving, but was also concerned about her bandwidth. She asked if someone would be willing to co-chair with her.

Jay expressed that she might be willing to serve, but had concerns about her time since she is also serving on the Public Engagement Subcommittee.

Katherine clarified that the most important part of the role was providing input on the agenda, which Kali confirmed.

Donovan said that he would be willing to serve as a co-chair, and Jay supported that.

Salma and Ana expressed their desire to support co-chairs, but did not feel they had the capacity to serve in those roles themselves.

All subcommittee members present voted to approve Donovan and Nina as co-chairs.

Standing meeting time discussion

Daytime meetings were not an option for this subcommittee.

Kali asked Ana if a later evening time would work for her, since early evenings are challenging. Ana said the window from 7:00 to 9:00 or 8:00 to 10:00 would work better than weekends.

Kali suggested a Monday evening meeting and subcommittee members generally expressed support.

Jay shared in the chat that she had a commitment on the first Mondays of each month.

Salma supported the idea of shorter but more frequent meetings.

Subcommittee members were not ready to decide about the length and frequency of meetings. Kali committed to surveying members to confirm availability for standing meetings on Mondays and assessing subcommittee members' preferences for length and frequency of meetings so they could start establishing a schedule. She clarified that the subcommittee can make changes to length and frequency as they move through their work, but that she wanted to make sure there was some time already reserved on members' calendars since they are busy people.

Legal authorities governing the sheriff and district attorney offices

Katherine Thomas presented to the group on the different legal authorities relating to the Multnomah County Sheriff and the District Attorney offices ([copy of presentation linked here](#)).

The Sheriff and the DA perform some state functions that are provided for in state law. This means that potential Charter amendments may be limited by state law. Specific Charter amendment proposals will require individual legal analysis since there was no way to summarize all aspects of the law related to these offices tonight. Focus for this meeting was to provide some high level orientation on where in the law these offices are discussed and what are some authorities for subcommittee members to be aware of as they start their fact-finding research.

Katherine recommended the subcommittee start with fact-finding to learn more about what these offices do and how they function, and then generate some ideas about what kind of proposals the subcommittee might be interested in bringing forward. She suggested having the Sheriff and the DA share information with the subcommittee about their offices. She recommended identifying the problem they are trying to solve or policy objective that underlies the subcommittee's proposals so that the County Attorney's Office can then help them identify options. Once some objectives are identified, there can be a back and forth process offering legal analysis on how to move forward. Katherine may pose some clarifying questions before performing a legal analysis.

Ana asked who can the subcommittee access at the County on the policy development side?

Katherine answered that if she was asking about on the fact-finding side, the subcommittee can invite testimony from people in those offices since those are the people who know best what is happening under their own authority.

Ana clarified, asking if the subcommittee has a question about health in the County jails, could they ask health policy staff at the County Health Department about that? Or are they restricted to having those policy conversations among themselves?

Katherine replied that the subcommittee is welcome to invite people from the Health Department or any other department at the County to provide information or testimony. Kali could help the subcommittee identify who would be appropriate staff to reach out to at the County.

Ana asked if it would have to be in the form of testimony.

Katherine responded: not necessarily. The subcommittee members can reach out in other ways, for example if they decide as a subcommittee that one person is going to look into health in the County jails, that person could work with Kali to identify who at the County they could talk to and then bring information back to the subcommittee.

District Attorney

The District Attorney is only mentioned once in the Multnomah County Charter, in the section discussing the setting of salaries for County officials and the DA. The DA is not listed in the Charter as a County Officer. That role is a hybrid one and more often acts as a State Officer. The County and the State split the salary of the DA.

Defining Home Rule: Multnomah County derives its powers from the Oregon Constitution, which gives counties all the powers granted to them in their charters, except those reserved by state and federal governments.

The County Home Rule Amendment in the Oregon Constitution says that unless expressly provided otherwise in general law, counties' charters shall not affect the selection, tenure, compensation, powers or duties of district attorneys. This limits what the County can do in relation to this office. If the subcommittee has proposals they want to explore in relation to the DA, there can be a fact-specific inquiry into whether it is allowed by law. But generally, selection, tenure, compensation, powers, and duties are carved out for the State to determine.

Katherine shared some of the Oregon Revised Statutes that focus on the powers and duties of the DA. The DA is primarily focused on prosecuting on behalf of the State. The County Attorney's Office most frequently interacts with the DA in matters related to public records law.

Sheriff

The County Charter establishes the position of the Sheriff, the method for the Sheriff's selection, and sets the core duties of the office. The Sheriff's duties are those set by State law, as well as having the sole administration of County jails and correctional institutions located in Multnomah County. The Sheriff is a County Officer and is subject to Charter provisions outlining qualifications, terms of office, compensation, and vacancies.

The County Home Rule Amendment does not specifically address the office of the Sheriff. It does say the Charter shall provide "for the number, election or appointment, qualifications, tenure, compensation, powers and duties" of the officers that a county deems necessary. This supersedes an earlier article in the Oregon Constitution and has been interpreted as allowing a county to decide to appoint rather than elect a Sheriff. Multnomah County has had an appointed Sheriff in the past, although this has been an elected position for the past several decades. An appointed Sheriff was recommended to voters by the 2016 Charter Review Committee. Katherine's understanding is that, at this time, all Oregon counties have an elected Sheriff.

There are some duties assigned to the Sheriff by State law, so the ability of the County to change duties may be limited; that would be determined on a case by case basis. Chapter 206 of the Oregon Revised Statutes details some of the State requirements for duties and qualifications of Oregon sheriffs.

Donovan asked, when is the Oregon Constitution reviewed?

Katherine answered that there is not a review of the Oregon Constitution like there is of the County Charter. The Oregon Constitution can be amended by the legislature referring bills out to the voters or voters can amend the Constitution through a ballot initiative.

Donovan asked about the topic of removing the Sheriff's office from evictions processes and whether that could be something the Charter prevents or if State law already precludes that because the Sheriff has to carry out certain court orders.

Katherine responded they would need to look at the State's statutes, as that is likely a statutory question as opposed to a constitutional one. She can look into that if the subcommittee is interested.

Ana expressed interest in Donovan's focus on the involvement of the Sheriff's Office in housing. She also wanted to know more about the County's role as the public health authority.

Katherine responded that that's a separate issue from the Sheriff and the DA, but can be explored.

Ana clarified that she is curious whether there's anything that can be done in relation to the Sheriff or the DA that comes from the County's role as the public health authority as opposed to its Home Rule authority.

Katherine explained that usually the Board of Commissioners enacts its public health authority through ordinance, and enshrining something in the Charter based on that would depend on what the proposal is.

Ana asked about the Auditor's office.

Katherine can provide more information at a later meeting on the Auditor.

Nina brought up that the Sheriff's Office has started supervising more local police departments in East County. She would like information about how the Sheriff's Office is changing its model to better supervise those local police departments.

Katherine suggested asking the Sheriff questions about that. Her understanding from the legal perspective is that the Sheriff's Office is providing contract policing in those jurisdictions.

Next steps

Kali introduced the idea that the next steps for the subcommittee would be designing their approach to researching some of these questions while Katherine can provide legal analysis as those types of questions arise. This includes identifying what questions the subcommittee has and who at the County or in the community might be able to answer them. She also clarified that they could get information by inviting verbal testimony, having individual conversations with people that are reported back to the subcommittee, or asking for written testimony or information to be provided to the subcommittee.

Kali proposed scheduling their next meeting and focusing on a discussion of the subcommittee's core values and goals to help them decide what topics they would like to focus on.

Salma shared that she has finals coming up and that a meeting at the end of February would be preferable to her.

Jay asked if it was possible to survey the subcommittee members in advance about their interests and questions and make it so everyone can view the results.

Kali responded that there could be a survey to help inform the subcommittee's next meeting agenda, but that communicating among subcommittee members about the results outside of the meeting isn't allowed.

If subcommittee members have individual interests related to these topics that they want to start researching on their own or want to bring forward at the next subcommittee meeting, they can do that.

Donovan endorsed a conversation about values and interests at the next subcommittee meeting and coming up with some questions to move forward with then, if time allows. That would ideally lead to more questions for Katherine and ideas about invited speakers for the subcommittee.

Nina supported Donovan's thinking.

Katherine again recommended starting with some fact finding, as it is harder for her to provide legal analysis around the question "what can we do?" as opposed to a more specific ask, like "we're interested in a proposal that would..."

Kali committed to sending out a survey to establish a standing meeting time. She suggested that ahead of the next meeting, members might spend some time looking at the websites or publicly available information about the DA and Sheriff's Offices if they have not done so before and are looking to become more familiar with those services. This may also help members identify what they're most interested in researching or learning more about.