



**Wednesday, June 12, 2024, 5:00 PM, Bushor Conference Room 1st Floor, City Hall OR
REMOTELY via ZOOM**

**When: Jun 12, 2024 05:00 PM Eastern Time (US and Canada)
Topic: Charter Change Committee Meeting**

Please click the link below to join the webinar:

https://zoom.us/j/95455861713?pwd=Uorx_TwyW__3bPMt55iu7MUKL7IuZw.BJCnmZnGu5MqPdRr

Passcode: 671374

Or One tap mobile :

+13126266799,,95455861713#,,,,*671374# US (Chicago)

+16469313860,,95455861713#,,,,*671374# US

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

+1 312 626 6799 US (Chicago)

+1 646 931 3860 US

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Washington DC)

+1 305 224 1968 US

+1 309 205 3325 US

+1 669 900 6833 US (San Jose)

+1 689 278 1000 US

+1 719 359 4580 US

+1 253 205 0468 US

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 360 209 5623 US

+1 386 347 5053 US

+1 507 473 4847 US

+1 564 217 2000 US

+1 669 444 9171 US

Webinar ID: 954 5586 1713

Passcode: 671374

International numbers available: <https://zoom.us/j/95455861713>

1. Agenda

Subject	1.1. Motion to amend/adopt agenda
Meeting	June 12, 2024 - Charter Change Committee Meeting - Wednesday, June 12, 2024, 5:00 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	1. Agenda
Department	
Type	
Recommended Action	

2. Adopt Draft Minutes from 5/1

Subject	2.1. Adopt Draft Minutes from 5/1
Meeting	June 12, 2024 - Charter Change Committee Meeting - Wednesday, June 12, 2024, 5:00 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	2. Adopt Draft Minutes from 5/1
Department	Council and Board
Type	
Recommended Action	

3. Public Forum

Subject	3.1. Verbal Comments
Meeting	June 12, 2024 - Charter Change Committee Meeting - Wednesday, June 12, 2024, 5:00 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	3. Public Forum
Department	Council and Board
Type	

4. Review of Joint Committee Charter Changes

Subject	4.1. Review of Joint Committee Charter Changes
Meeting	June 12, 2024 - Charter Change Committee Meeting - Wednesday, June 12, 2024, 5:00 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	4. Review of Joint Committee Charter Changes
Department	Council and Board
Type	
Recommended Action	

5. Any Other Committee Business

Subject	5.1. Any Other Committee Business
Meeting	June 12, 2024 - Charter Change Committee Meeting - Wednesday, June 12, 2024, 5:00 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	5. Any Other Committee Business
Department	Council and Board
Type	
Recommended Action	

6. Adjournment

Subject	6.1. Motion to adjourn
----------------	-------------------------------

Meeting June 12, 2024 - Charter Change Committee Meeting - Wednesday, June 12, 2024, 5:00 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM

Category 6. Adjournment

Department Council and Board

Type

Recommended Action

CHARTER CHANGE COMMITTEE

Wednesday, May 1, 2024 at 10:00AM

Via Zoom (Remote)

DRAFT MINUTES

Members Present: Councilor Bergman (Chair), Councilor Carpenter

Staff Present: Kim Sturtevant (Acting City Attorney)

Others in Attendance: None

Meeting called to order at 10:03 AM.

1.0 Agenda

1.01 Motion to amend agenda

Motion by Councilor Carpenter, Seconded by Councilor Bergman

Final Resolution: Motion Passes

Yes: Unanimous

2.0 Public Forum

No members of the public present.

3.0 Discussion of Potential Upcoming Charter Changes

Councilor Bergman said the Committee has received comments from the Police Commission regarding police oversight charter changes and their memo will be on the list. A second issue from two years ago is councilor compensation. He think we should start with the framework for police oversight changes.

Councilor Carpenter said the previous Joint Committee ended its work after having a discussion with the Burlington Police Officers' Association (BPOA). She said the Committee still needs to parse out what language should be in charter versus ordinance or directives.

Councilor Bergman said the next conversation should be with the Police Commission and with the BPOA. The Committee should take testimony and only ask clarifying questions so we have every viewpoint before we move onto drafting the ordinance. Councilor Bergman thinks this shouldn't be part of a joint committee, but the members of the previous joint committee should be invited. The Attorney's Office should review the Commission's memo to ensure this Committee has all the necessary documents and policies that commissioners might have asked for.

Councilor Bergman then moved on to Councilor compensation. This includes the question of pay as well as childcare and healthcare compensation.

Councilor Carpenter said another issue would be administrative support for the Council. It has been brought up many times.

Councilor Bergman added that this is all related to improving the ability of the Council to recruit a diverse range of people.

Councilor Carpenter asked that if the current method of having an exact number for Councilor compensation put into charter is necessary.

Councilor Bergman said that research into comparable pay structures would likely have to stretch beyond Vermont because the rest of the state's towns are so small. He requested that the City Attorney's Office discuss this with the Chief Administrative Officer to see what kind of support can be provided for the Council. He would like to have a report or preliminary findings about what can be done along with analysis of comparable municipalities.

4.0 Discussion of Next Meeting and Schedule

Councilor Bergman wants to avoid having a special election for charter changes unless absolutely necessary, so the Committee need to complete its work before the December deadline for the next Town Meeting Day.

Next meetings are set for June 12 at 5-7PM and June 18 at 5-7PM.

5.0 Adjournment

Motion to Adjourn.

Motion by Councilor Carpenter, Seconded by Councilor Bergman.

Final Resolution: Motion Passes

Yes: Unanimous

The meeting was adjourned at 10:50 AM.

Jake Schumann Public Comment

Charter Change Meeting 6/12

“Here are my quick takeaways:

184(d)

Line 46: following “all”, strike "civilian and internal"; e.g. in cases of mutual aid or inter-departmental collaboration (fire department personnel) where external, non-civilian complaint could arise

Line 49: following “of alleged misconduct” - strike “and” and start a new sentence. They’re different ideas and need to be decoupled

Line 50: following “from the Chief of Police and”, insert "shall be provided timely" here

Line 50: strike “or”, replace with “and”

Line 52: strike “is notified of”, replace with “is afforded an opportunity to deliberate upon”

Line 56: strike “within a time established by ordinance”, replace with “subject to the ordinances and orders of the city council”

Lines 59-60: strike “within a time established by ordinance”, replace with “subject to the ordinances and orders of the city council”

Lines 61-63: should be delineated separately, in a new subsection

184(e)

~Needs to be clarified to address timeframes

~Panel should be from a pool of previously vetted candidates to be confirmed by council (this is how things work at the state-level)

~Diversity language needs to be clarified to address different (political) biases

185

Title - does changing the title mean we have to change a bunch of other sections of the charter that reference this section?

190(a)

*******removes appeal language, which is not reconstituted anywhere!!!!**

190(b)

Line 102: following “Mayor”, add “or City Council or Board of Police Commissioners”

Line 102: following "Chief", add "of Police"

Line 103: two instances of "his or her" that warrant changing to non-gendered language

~what is the role of the PC in these affairs? Should the PC, CC, & M (20 people total) participate? Maybe Mayor (or designee), Council President, and PC Chair oversee the review and the other 17 people get to pose questions, etc.?

190(d)

~add language that says the Chief then needs to notify the PC chair, immediately thereafter

Police Commission Comments

Comment 1 - I agree in principle, but the final language is very important and I might ultimately disagree with the direction this conversation goes in

Comment 2 - We 100% need to see the internal investigation directives/SOP prior to voting on this charter change proposal

Comment 3 - "Civilian Review Board" should be added to the description of the Police Commission in order to clarify and align with language in VT Statutes. Otherwise it might be argued that such state laws do not apply in Burlington ("because we don't have a civilian review board here")

Additional Comments on Proposed Charter Change

The purpose of amending the City Charter, as explained in the October 18, 2021 Police Oversight and Accountability Resolution 7.09, is to address the “question of moving disciplinary authority from the Chief of Police to a body that is independent from the Burlington Police Department.” Oakland, CA and Portland, OR have established strong police oversight bodies that have removed disciplinary authority from the Chief of Police and provide helpful guidance.

The Oakland Police Commission is considered to be the nation’s strongest civilian oversight body, as well as an outlier. In 2020, the city proposed a ballot measure containing detailed and comprehensive changes to its charter (attached separately) that was approved by 81% of the city’s voters. Portland’s Office of Independent Police Review (IPR) is regulated by the city’s code [Chapter 3.21 Office of Independent Police Review | Portland.gov](#)

Both city’s laws contain clearly defined powers and duties describing where ultimate authority to discipline officers resides. They also describe each oversight body’s authority to implement a complaints adjudication process, including conducting investigations and issuing subpoenas. They define the bodies’ jurisdiction, types of complaints and provide procedures for adjudicating complaints and hearing appeals. They describe the bodies’ staffing requirements, and budget resources to effectively carry out their mandates. They describe the required professional skills, experience and attributes required to serve on the oversight bodies, and stringent selection processes. These provisions appear to provide for the due process and procedural justice required by civilian oversight bodies to have the power to discipline officers. There are, however, significant differences in the two city’s laws.

In its 2021 report, on *The Evolution and Growth of Civilian Oversight*, the National Association for Civilian Oversight of Law Enforcement (NACOLE) notes that when considering oversight reforms, it is important to ensure they “can be implemented sustainably, with the resources, staff, cooperation, and political support necessary to continue a practice into the future.” Recognizing that reforms are context specific, NACOLE recommends a “a mindset oriented towards a “best fit” approach” appropriate for the local context.

This is apparent in the divergent approaches included in the Oakland and Portland laws. The preamble to Oakland’s charter change measure outlines a history of transgressions, including human rights violations and corruption committed by its police department, that appear to have created a sense of urgency for reforms and may explain why voters overwhelmingly approved establishment of the nation’s strongest oversight body.

Oakland’s measure authorized the Commission to remove the city’s Police Chief, which it did shortly after the measure passed. This authority is not included in Portland’s code. Oakland’s Commission has ultimate authority to discipline officers, subject to their rights of due process. The measure specifically states that the “City Administrator shall not have the authority to reject or modify the Agency’s findings and proposed discipline.” Portland’s code provides specifically that the IPR’s Director and its Citizen Review Committee are not authorized to set the level of discipline for officers, granting this authority to city council. Oakland’ Commission can subpoena sworn officers, Portland’s IPR cannot. There are many differences between the city’s

laws and oversight bodies' structure, staffing and procedures that further demonstrate oversight should be tailored to the local context.

The proposed amendments to Burlington's charter do not appear to provide the same level of due process and procedural justice as the laws in Oakland and Portland and may not be sufficient to achieve Resolution 7.09's objective to move disciplinary authority from the Chief of Police to an independent civilian oversight body. To help move this process forward, it is suggested that the Charter Change Committee clarify the powers and duties that it envisions for an independent body to enable a more informed discussion of an oversight body appropriate for Burlington.

Resolution Relating to

MARCH 5, 2024 ANNUAL CITY MEETING--PROPOSED
CHARTER CHANGE RE POLICING

RESOLUTION 8.3

Sponsor(s): Joint Charter and
Ordinance Committee
Introduced: 12/11/23
Referred to: _____

Action: adopted
Date: 12/11/23
Signed by Mayor 12/18/23

CITY OF BURLINGTON

In the year Two Thousand Twenty-Three

Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, over the past several years, as part of its continued commitment to oversight and
2 accountability, the City Council and the Administration have continued to take steps to revise Burlington’s
3 police oversight, transparency, and accountability practices; and

4 WHEREAS, pursuant to a resolution adopted by the Council on February 6, 2023, the City Council
5 requested the Ordinance Committee and Charter Change Committee to hold joint meetings, allowing for
6 community and stakeholder input on the disciplinary authority of the Chief of Police, the oversight role of the
7 Police Commission, and the creation of a separate community oversight body independent from the
8 Burlington Police Department; and

9 WHEREAS, over a span of eight months, the Joint Ordinance and Charter Change Committee met
10 fourteen times, seeking and receiving community and stakeholder input on the issues; and

11 WHEREAS, the Joint Committee voted to move forward a proposed charter change for public
12 comment with the understanding it may be placed upon the ballot after a final vote of the Burlington City
13 Council; and

14 WHEREAS, in accordance with 17 V.S.A. § 2645, two public hearings shall be held on a proposed
15 amendment of the Burlington City Charter prior to it being placed upon the ballot of the Annual City Meeting;

16 NOW, THEREFORE, BE IT RESOLVED that the City Council moves forward for the public’s
17 consideration the proposed amendment to the Burlington City Charter, and asks that the City Clerk set public
18 hearings on the proposed in accordance with 17 V.S.A. § 2645 on whether the Charter of the City of
19 Burlington, Acts of 1949, No. 298 as amended be further amended to amend Article 62, Police Department;
20 Article 63, Chief of Police and Captain; and Article 65, Removal or Suspension, thereto to read as follows:

ARTICLE 62. POLICE DEPARTMENT

183 Board of Police commissioners; composition; terms.

* * * * *

DISTRIBUTION:

I hereby certify that this resolution has been sent to the following department(s) on

ORIGINAL

RESOLUTION RELATING TO

.....
.....
.....

Adopted by the City Council

....., 20

..... Clerk

Approved....., 20

..... Mayor

Vol. Page

Attest:

* * * * *

23 The Board of Police Commissioners shall consist of seven legal voters and should represent the diverse nature of said
24 City's constituents, including those from historically marginalized communities, to be appointed by the City Council
25 with Mayor presiding to serve for three years and until their successors are appointed and qualified.

26 **184 Same-powers and duties.**

27 (a) The City Council shall make rules and regulations for the government of the entire pPolice foree Department
28 and shall fix the qualifications of applicants for positions and service on said foree Department and, to the extent
29 permitted by applicable law, the Chief of Police shall furnish the City Council with any information they may require
30 concerning the finances of the Police Department. The Chief of Police shall be responsible for all expenditures made
31 by the Police Department and no expenditures shall be made by the Department except in conformity with the
32 standards promulgated by the City Council.

33 (b) The Board of Police Commissioners shall have such authority and responsibility relating to the management,
34 auditing, or monitoring of the Police Department, its services, and facilities as may be delegated from time to time by
35 resolution- the ordinances and orders of the City Council. Said Board shall notify the Mayor and the Chief
36 Administrative Officer, in writing, of any and all changes, modifications, or additions to the rules and regulations of
37 the Department.

38
39 (c) Without limitation to the foregoing, the Board of Police Commissioners and the Chief of Police may propose
40 rules and regulations for the government of the entire Police Department in a manner not inconsistent with those
41 established by the City Council. Adoption of such proposed rules and regulations requires joint approval by the
42 Board of Police Commissioners and the Chief of Police. In the event joint approval is not provided by the Board of
43 Police Commissioners and the Chief of Police, either party may bring forward to the City Council the proposed rule
44 or regulation for the City Council's consideration.

45
46 (d) The Board of Police Commissioners shall have the authority to receive and review all civilian and internal
47 allegations of misconduct by members of the Police Department. To the greatest extent permitted by law, the Chief
48 of Police shall provide the Board of Police Commissioners timely updates of any review, investigation, or disposition
49 of alleged misconduct, and the Board of Police Commissioners shall have the ability to request additional information
50 from the Chief of Police and access to all documents or other evidence relied upon by the Chief of Police in
51 reviewing allegations of misconduct. For higher level complaints of alleged misconduct, the complaint may not be
52 disposed until the Board of Police Commissioners is notified of the proposed disposition.

53
54 After receiving notice from the Chief of Police of the recommended or actual disposition relating to the review of
55 alleged misconduct, the Board of Police Commissioners shall have the authority to:

- 56 (i) recommend an alternative disposition to the Chief of Police within a time established by ordinance; or
57 (ii) independently investigate any allegation of misconduct by members of the Police Department upon a 2/3
58 majority vote. Such investigation or review shall be conducted by an independent investigator hired by the
59 Board of Police Commissioners, and approved by the City Attorney's Office, and completed within a time
60 established by ordinance. Upon the conclusion of such an investigation, the Board of Police Commissioners
61 may make a recommendation per subsection (i). The Board of Police Commissioners shall not have the authority
62 to investigate or impose discipline upon the Chief of Police. Matters regarding the alleged misconduct of the
63 Chief of Police shall be addressed in conformity with section 190(b) of this Charter.

64 (e) Upon receiving a recommendation by the Board of Police Commissioners in subsection (d), the Chief of
65 Police may accept the recommendation subject to the notice and hearing provisions in Article 62, section 190(a) or
66 reject the recommendation. In the event the Chief of Police rejects the recommendation, the Chief of Police shall

* * * * *

DISTRIBUTION:

I hereby certify that this resolution has been sent to the following department(s) on

ORIGINAL

RESOLUTION RELATING TO
.....
.....
.....
.....

Adopted by the City Council

....., 20

..... Clerk

Approved....., 20

..... Mayor

Vol. Page

Attest:

* * * * *

67 immediately the notify Board of Police Commissioners. Upon receiving notice of the rejection, the Board of Police
68 Commissions may, upon a 2/3 majority vote, request that an independent panel decide the disposition of the matter,
69 subject to the notice and hearing provisions set forth in in Article 62, section 190(a).
70

71 This independent panel shall consist of three (3) persons appointed on a case by case basis by the Mayor.
72 Members of the independent panel shall include at least two persons with experience in law enforcement, human
73 resources or labor and employment law, or other similar experience, and one member from the general public.
74

75 **ARTICLE 63. CHIEF OF POLICE AND CAPTAIN**

76 **185 Officers of pPolice ~~foree~~ Department designated.**

77 (a) The direction and control of the entire pPolice ~~foree~~ Department, except as herein otherwise provided, shall be
78 vested in a police officer who shall be called the Chief of Police, and such other ranking police officers as the City
79 Council shall authorize, subject to the authority of the mayor as chief executive officer and the ordinances and orders
80 of the City Council. The order of rank and succession within the Police Department shall be as designated by the
81 City Council by regulation.

82 (b) Except as herein otherwise provided, such officers shall have the powers and duties granted to police officers by
83 Vermont law and assigned to them by regulations adopted under section 184 of this Charter.

84
85 **ARTICLE 65. REMOVAL OR SUSPENSION**

86 **190 Chief of Police may remove member for cause; hearing.**

87 (a) Whenever it shall appear to the Chief of Police that any member of said ~~foree~~ Police Department has become
88 incompetent, inefficient or incapable from any cause, or is or has been negligent or derelict in his or her official duty,
89 or is guilty of any misconduct in his or her private or official life, or whenever any well-grounded complaints or
90 charges to such effect are made in writing to the Chief of Police by a responsible person against such member, the
91 Chief of Police may investigate and, after appropriate notice and hearing, dismiss such member from the ~~foree~~ Police
92 Department, order a demotion in rank, or suspend the member without pay for a specified time period in excess of 14
93 days. In connection with any possible dismissal, demotion, or suspension for more than 14 days, the Chief of Police's
94 notice to the member shall be given at least 48 hours prior to any hearing and shall include a description of the
95 charges being considered. In connection therewith, the Chief of Police shall have the power to subpoena documents
96 and witnesses and to administer the oath to such witnesses. Such a subpoena will be subject to enforcement or
97 modification in conformity with the procedures set forth in 3 V.S.A. §§ 809a and 809b. The Board of Police
98 Commissioners shall hear any appeal filed in a timely manner with respect to such actions of the Police Chief. The
99 time of filing an appeal and the nature of the appellate process shall be as determined by such Board of Regulation.
100 Following its consideration of any such appeal, the Board may affirm, modify, or vacate the decision made by the
101 Chief of Police.

102 (b) Whenever it shall appear to the Mayor that the Chief has become incompetent, inefficient, or incapable from any
103 cause, or has been negligent or derelict in his or her official duty, or is guilty of any misconduct in his or her private
104 or official life, or whenever any well-grounded complaints or charges to such effect are made in writing to the Mayor

* * * * *

ORIGINAL

=====

RESOLUTION RELATING TO

.....
.....
.....

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

=====

Adopted by the City Council

....., 20

..... Clerk

Approved....., 20

Attest:

..... Mayor

=====

Vol. Page

* * * * *

105 by a responsible person, the Mayor may suspend the Chief of Police from duty pending a hearing thereon by the City
106 Council. The City Council shall forthwith notify the Chief of Police of the charges preferred by them, or of the
107 complaints or charges presented by such responsible person in writing, and shall thereupon proceed to consider and
108 investigate the same. It shall appoint a time and place for the hearing of such complaints and charges so made, shall
109 give the Chief of Police reasonable notice of the same, not less than 48 hours, and the City Council shall have the
110 power to subpoena documents and witnesses and to administer the oath to such witnesses. Such a subpoena will be
111 subject to enforcement or modification in conformity with the procedures set forth in 3 V.S.A. §§ 809a and 809b.

112 (c) If, upon hearing, the City Council shall find such complaints or charges to be well founded, it may dismiss the
113 Chief of Police from the ~~foree~~ Police Department, demote him or her in rank, or suspend him or her without pay for a
114 period not to exceed 60 days. The procedures outlined in this section shall control in the event of any conflict with
115 section 129 of this charter as pertains to the removal of the Chief of Police.

116 (d) The Chief of Police may, without notice or hearing for any infraction, violation, or disobedience of any of the
117 rules and regulations of the Police Department that may seem to the Chief of Police sufficient, suspend from duty
118 without pay any member of the Police ~~foree~~ Department for a period not to exceed 14 days.

119
120 BE IT FURTHER RESOLVED that after the public hearings and any revisions to the language, the
121 City Council may take a vote that the proposed amendment be **placed on the ballot of the Annual City Meeting**
122 **to be held on March 5, 2024.**

123

124

125 *Material underlined added

126 **Material stricken out deleted

127

128

129 KS/Resolutions 2023/ March 5, 2024 Annual City Meeting Proposed Charter Change re Policing

130 12/8/23

* * * * *

ORIGINAL

DISTRIBUTION:

I hereby certify that this resolution has been sent to the following department(s) on

RESOLUTION RELATING TO

March 5, 2024 Annual City Meeting--Proposed Charter Change Re Policing

.....
.....

Adopted by the City Council

December 11, 20 23

 Clerk

Approved December 18, 20 23

Attest:

..... Mayor

Vol. Page

* * * * *

Recommendations/Suggestions to the Charter Change Committee on Police Oversight by Burlington Police Commissioners

Prepared and Collated by: Shakuntala Rao, Chair

1. Retaining Commission's appellate authority

Quoted from Commissioner Keefe: "Section 190 (a). Regarding the proposed deletion of the Commission's appellate authority, it should be kept in mind that when Resolution 7.09 was approved, it was contemplated that the Commission might serve as the independent disciplinary body and its appellate functions would raise due process concerns. These concerns no longer appear relevant.

It is now clear that the Commission will not function as the independent body as reflected in the proposed language contained in 185 (e). Notably, Det. Corrow confirmed that the BPOA explicitly negotiated to retain the Commission as the appeals body to hear officer's grievances against discipline handed down by the Chief in the terms of the last contract it negotiated with the city. He explained that the BPOA believed the Commission's hearing of grievances provided officers with an effective and efficient remedy. This was after the Commission began to review complaints of officer misconduct under the Complaint Policy the Commission approved in August 2020. Additionally, the Commission's independent legal counsel also conducted analysis and identified precedent indicating that the Commission's appellate function in hearing officers' grievances does not compromise due process.

It is also noted that Section 184 (d) provides that the Commission shall have the authority to receive and review all civilian and internal allegations of misconduct by members of the Police Department. Officer's grievances against discipline often arise from internal allegations of misconduct. Commission's hearing of these grievances is an important review function that, like reviewing civilian complaints of police misconduct, strengthens the Commission' monitoring role, helping to improve police performance and public safety. The adage "if it's not broke don't fix it" applies and it is recommended that amendments to the Charter do not eliminate the Commission's duty to hear officer's grievances."

Commissioner Rao, Cox and Garrison agree that the appellate authority of the Commission ought to be retained.

2. Use of a complaints monitor to help Commission with administrative work on all complaints (essentially the role of Commissioner Keefe); Commission retains the responsibilities of reviewing complaints.

Quote from Commissioner Hanson: "The charter change proposes that the independent panel would have the power to conduct an independent investigation. This change was

made to reflect that the police commission does not want to have this power and I agree. The Commission is an all-volunteer board and does not have the resources and background to hire and supervise an independent investigator. This is just as likely to be true of the independent panel. In order to decide if another investigator is necessary, the charter change committee needs to first understand what currently exists to investigate wrongdoing and I do not think this has been thoroughly explored. There are two areas that need to be reviewed and understood: I would like to review the department's internal affairs investigation policy and I am unable to find a directive about that on the BPD website of key directives. In order to develop transparency and trust, it is important for the public to understand how the department ensures how the investigation it undertakes is impartial and independent. It should explain when another agency will be asked to conduct an investigation and how the commission can request additional follow-up as needed."

Or

3. **Quoted from Commissioner Keefe: "Section 184 (d) (ii).** Regarding the Commission's authority to conduct investigations, Councilor Bergman clarified the Commission is not required to conduct investigations, just that it is authorized to do so. Councilor Travers likened the authority to "break glass in case of emergency." I believe providing the Commission with authority to respond to extraordinary events strengthens the Commission's oversight functions and could be effectively exercised by the Commission with guidance from the City Attorney's office and the Commission's independent counsel.

Additionally, Vermont state statute in Title 20: Internal Security and Public Safety Chapter 151: Vermont Criminal Justice Council § 2403. Law enforcement agencies; duty to report provides that:

"(a)(1) The executive officer of a law enforcement agency or the chair of the agency's civilian review board shall report to the Council within 10 business days if any of the following occur in regard to a law enforcement officer of the agency: ... (B) Category B. (i) The agency receives a credible complaint against the officer that alleges that the officer committed Category B conduct."

This includes allegations of Category B misconduct alleged against the Chief. The duty to report misconduct to the Vermont Criminal Justice Council is mandated by statute and does not provide discretion to the Commission. As such, it is recommended that the amendments contain language to the effect that matters of alleged misconduct of the Chief be addressed in conformity with Section 190 (b) of this Charter and relevant Vermont state statutes."

General Questions/Suggestions for the Joint Committee City Council.

1. **Commissioner Keefe: Section 184 (d).** The purpose and effect of the provision that higher level complaints may not be disposed until the Commission is notified of the proposed disposition is not apparent. Does this mean that the Chief's disposition is not final unless the Commission agrees? Or if it does not, final disposition of the complaint rests with the independent body? It appears the answers to these questions depend on clarifying the powers and duties of the independent panel in disciplining officers.
2. **Commissioner Hanson:** The charter change encourages appointing members of historically-marginalized communities to better reflect the diversity of our community which is a great and important step. The charter change should also speak to the need for the commission to be non-political. As I understand it the city council tries to have geographic diversity, should the charter change encourage this? Some cities have provisions that police commissioners should not hold any political position, have lived in the community for a certain number of years or be a certain age for example.
3. **Commissioner Hanson:** Having a timeline for when the process will be resolved is important because Detective Corrow expressed concern about the stress that this places on officers. He also expressed that the officers would like the independent panel, if this idea moves forward, to have more than 3 people. He suggested 5 and that they be required to have at least 10 years experience for the LE members and 5 years for the HR representative. He also commented that officers did not think it was appropriate for the mayor to play a role in discipline, that is the chief's role, and could inject politics in the process. It is important that officers feel that any changes to the system provide fairness so that we do not adversely affect the department's critical recruitment efforts.
4. **Commissioner Cox:** The review panel would be a professional panel consisting of 3 members. Two of the members would be current or former police officers with a minimum of ten years policing experience. The third member would be an individual with professional experience in diversity, equity, and inclusion work and/or mental health policy or direct services. This panel would be appointed by [whom? Mayor, City Council?] for fixed terms of ?? years and members could only be removed for cause, as determined by [mayor, city council?]. Panel members would be entitled to per diem compensation for all hours worked in investigating complaints and reviewing discipline. The Panel would have subpoena power and an ample budget to retain investigators. Panel members need not be Burlington residents. Appropriate experience and temperament are more important. Would the Police Commission would be responsible for working with the Department to make any changes to Department policy or procedure suggested [mandated?] by the Special Panel."

Response from Detective Corrow (as representing BPOA) at the Commission:

General agreement with the suggestions being made by various Commissioners. Added comments were:

1. The review panel is to consist of 5 members with at least one with experience in labor/management issues; and
2. To include a fixed and quick timeline for resolution/decision regarding any disciplinary matters.