

ORDINANCE and CHARTER CHANGE JOINT COMMITTEE

Thursday, May 4, 2023

Public Works Conference Room and Via Zoom (Remote)

DRAFT MINUTES

Members Present: Councilor Traverse (Ordinance Committee Chair), Gene Bergman (Charter Change Committee Chair), Councilor Hightower, Councilor Shannon, Councilor Carpenter, Councilor Doherty

Staff Present: Kim Sturtevant (Acting City Attorney), Joseph Dempsey (City Attorney's Office Staff)

Others in Attendance: Council President Paul, Councilor Magee, Councilor Grant, Acting Chief Murad, Chief of Staff Jordan Redell, Dave Maher, Amy Malinowski, Shakuntala Rao, Andy Blanchet, Jessica Oski, Mary Cox

Meeting called to order at 6:07 PM.

1.0 Agenda

Motion to adopt/amend agenda

Motion to Adopt Agenda as is.

Motion by Councilor Carpenter, Seconded by Councilor Shannon

Final Resolution: Motion Passes

Yes: Unanimous

2.0 Review of Committee Materials and Initial Councilor Comments

Carpenter: There has been a lot of discussion over the last two and a half years about the potential charter change. I am less familiar with the other conversations happening and I am hoping to get more familiar with the other work that is still being done on this topic.

Hightower: I am hoping to clarify what specific changes we are looking to cover before getting into the details so we can cover this in an efficient way.

Shannon: I want to examine our current system and identify what we want to change going forward. I was on a committee in 2019 that looked at policies and practices. It will be helpful to see how the current system is not working and how we can address the issues. We also need to think about how these policies will affect the police officers themselves. Maybe the Chief and the union can facilitate getting feedback from the officers themselves.

Bergman: I am looking at the resolution that created this joint committee and I believe that the end date of June 1 is simply too soon and we should move it back. I agree with Joan that we need to have a city-specific solution that addresses both officers and others. I think September is a better end date. There will need to be transparency for any potential new body as well as addressing due process. There is a lot of work to be done, whether we change the role of the Police Commission or create some new body to do the work.

Carpenter: I am also curious how discipline works in the City at-large? How does the HR Department and HR Committee role compare to that of the police?

Traverse: Yes, I believe that we need to create a list of people that we might want to have weigh in on this issue. I know the Police Commission has been working on this and would like to give a presentation on their work. I do have more substantive thoughts, but I would like to allow others from the public to speak. I am hopeful that this committee will find some solutions since there is so much interest in our community right now. From a charter change perspective, I think the two areas that could change would be the sole role of the Chief in disciplining officers and the role of the Police Commission as an appellate body for officers. Other than that, I believe there is a lot of room for ordinance or other changes.

Hightower: I think starting with the issue of disciplinary authority first would be smart as that will likely require a charter change. I am wondering what the best way to get feedback from police officers is and how we can do so quickly. I think we need a policy change that will be clear and still give us flexibility. If we do a charter change, I think it needs to be flexible enough so that we can adjust the policy in the future if the City wants to. In short, I think disciplinary authority should be with the Police Commission, but the charter change should be flexible enough to change in the future.

3.0 Public Comment

Councilor Grant: I will be sending out a link to some trainings from NACOLE. The trainings go through the best practices and the purpose of oversight. As a police commissioner, I was concerned about incorrect information getting out to the public about police oversight. There are no two oversight bodies that are the same, but there are some general principles for us to look at. A good example is the commission in New Haven, Connecticut. I hope we can review this NACOLE trainings as we go forward.

Jordan Redell (Mayor's Chief of Staff): The Mayor plans to share a memo with the committees and commission on these points. First, we should codify the current policies of the Police Commission to accurately reflect what they do right now. We also need to codify the justice procedures so that officers are treated fairly. Finally, we need to address the current issues with the charter regarding the role of the Mayor as the chief executive of the City. Currently, the Chief has the sole authority over the police department and the Mayor believes that is problematic.

Acting Chief of Police Murad: I don't want to take up too much time with all of the documents available online. Use-of-force is a significant concern, but it is not the lion's share of the complaints. We receive about 30 valid citizen complaints a year and all of them are reviewed by the Police Commission. *Note: These documents are available on BPD's website or as attachments to the BoardDocs meeting agenda.* As far as engaging with the police officers goes, I think it is a great idea to engage with the officers directly and not just me and the BPOA. We need to craft good questions before we put out any survey and I don't think we are there yet. Thank you.

Shannon: When we are talking oversight, are speaking only of sworn officers or of all the employees at BPD?

Bergman: I don't see our charge as being limited to only sworn officers.

Shannon: I bring it up because not all BPD employees are in the police union.

Chief Murad: Yes, we have an increasing number of professional, non-sworn staff. Currently, all of the employees of the department, sworn or not, are under the Chief for disciplinary matters. We send all citizen complaints regarding BPD employees to the Police Commission regardless of position. The document on the role of the Police Commission is also available on BPD's website.

Andy Blanchet (AFSCME Local 1674 President): I am glad to see we are looking for change and that is what our members are looking for. I represent the union members at the Howard Center. I want to reiterate what Melo Grant said about making sure the public gets accurate information. I am hopeful for future collaboration going forward on this.

Councilor Grant: The Police Commission reviews complaints, but the Commission does not always agree with BPD determinations. I think that issue is an important one and an opportunity to improve training, policies, and community engagement.

Amy Malinowski: I am here from the People for Police Accountability. I am wondering how we are going to make these forums more accessible and engage everyone. I know it has been said, but I think the Chief should not have sole authority on discipline matters.

Dave Maher: I've lived in the Burlington area for about 50 years. I suggest to create a peer review board within the police department. The board could consist of several senior officers, HR, and maybe a union representative. Appeals from this board could then go on to an oversight board. This would allow people familiar with police work to review complaints and make a discipline recommendation. This would also reduce the number of complaints going to the oversight board.

Hightower: I want to bring up the CNA report recommendations regarding internal affairs. I think it might be best to have HR Director Kerin Durfee speak to how other City departments handle such issues.

Andy Blanchett: Workers at the Howard Center feel like we have a lot of oversight. Our members feel that strong oversight and accountability is very important when our members are interacting with police.

Shakuntala Rao (Police Commission): I suggest having one or several police commissioners be invited regularly to these committee meetings. Also keep in mind the matter of resources as we discuss the role and responsibilities of the Police Commission.

Carpenter: I view the Police Commission as an independent oversight body. I know some people feel that it is not. In 2020-2021 we spent a lot of time on the CNA report. I think it would be helpful to see what that report says about discipline. I am not sure we will have the time or resources to do the same outreach we did a few years ago.

4.0 Councilor Discussion on Next Steps and Meeting

Bergman: Councilor Hightower posited that we should start with discipline. Any further thoughts on that?

Hightower: I think I can share or present on the CNA report findings on this. I also think we should have HR Director Kerin Durfee present on how discipline works for the rest of the City. Then we can decide on whether we want to focus on just sworn officers or all of BPD.

Councilor Grant: We can work on that together. I went to every public engagement at that time and presented CNA findings to the Council when I was a commissioner.

Shannon: I can't attend the next meeting. I would prefer if the next meeting was more informational and outreach-oriented. This topic is evolving and not everyone's view is the same as it was a few years ago.

Traverse: I agree, I think the next meeting should be focused on information gathering. I also agree with Shakuntala that the Police Commission should be an integral part of the process. Are there any other things we should address?

Shannon: We should create a website to host all of the relevant documents and videos of meetings.

Carpenter: Perhaps the Police Commission could have a discussion and appoint one or more people to represent the Commission in these discussions.

Bergman: We have a large number of documents related to discipline that would be good to have included in our information gathering. We have two proposals for police oversight, both that did not succeed, that we could draw from and see what those ideas were.

Hightower: The CNA report pointed out some policies that were not best practice and I think HR Director Durfee has a good idea of best practices for the City and how they might relate to BPD.

Bergman: I have two points to bring up. For outreach, we had success with the All Resident Voting issue and to do something like that again we will need some money. We will need outreach services and translation services. In terms of discipline, the question of qualified immunity is a cloud over the use-of-force discussion. It has had a dramatic impact on policing in the U.S. on a whole and we should keep it in mind.

Hightower: I prefer to not touch qualified immunity, as that is a large issue that we should save for the end given the complexity. I really want to get a good policy done and that is a huge issue.

Doherty: I just want to mention that the Vermont State Police has an internal affairs office and it might be useful to review how their office handles such issues. I also think we should look at how the Fire Department handles disciplinary issues as well.

Shannon: It might be helpful to hear from the Vermont Criminal Justice Council and hear what they have to say on this issue.

Traverse: So for our next meeting: a presentation from Kerin Durfee, a review of the CNA report recommendations, outreach and engagement, and anything else people might think of before then.

5.0 Adjournment

Motion to Adjourn.

Motion by Council Traverse, Seconded by Councilor Bergman

Final Resolution: Motion Passes

Yes: Unanimous

The meeting was adjourned at 7:32 PM.