

ORDINANCE and CHARTER CHANGE JOINT COMMITTEE

Wednesday, August 2, 2023

Fletcher Room and Remote via Zoom

DRAFT MINUTES

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

Staff Present: Kim Sturtevant (Acting City Attorney), Josh Diamond (Outside Counsel), Jon Murad (Chief of Police), Jordan Redell (Mayor's Chief of Staff)

Others in Attendance: Councilor Grant, Shakuntala Rao (Police Commission), FaRied Munarsyah, Lee Morrigan, Amy Malinowski, Jake Schumann, Dave Maher, Eric Dallamura, Daniel Munteanu, Mike Hoey (ABC22 and Fox44)

Meeting called to order at 5:30 PM.

1.0 Agenda

Motion to adopt/amend agenda

Motion to Adopt Agenda as is.

Motion by Councilor Bergman, Seconded by Councilor Carpenter.

Final Resolution: Motion Passes

Yes: Unanimous

2.0 Adopt the Draft Minutes from July 6, 2023

Motion to Adopt Minutes with typos corrected.

Motion by Councilor Bergman, Seconded by Councilor Carpenter

Final Resolution: Motion Passes

Yes: Unanimous

3.0 Public Forum

Amy Malinowski: First, one person should not have disciplinary authority for significant misconduct matters. Oversight body should have authority for these while the Chief handles lower level issues. Second, let the Commission identify the level of complaint. Complaints should be public and anonymized like in Boulder, Colorado or New Haven, Connecticut. Third, there should be an independent investigator in serious alleged offenses.

Lee Morrigan: We should share video of BPD officers doing a great job. How do we take this masterful work and share with other officers? Is there a place where an oversight body can identify skills and behaviors that will serve the community?

Jake Schumann: Let's try and heal the relationship with the community and the BPD and de-escalate the situation our community is in.

4.0 Update from the Police Commission and Discussion

Commissioner Rao shared a report written by Commissioner Seguíno. The Commission want to be a bridge and work collaboratively to get better outcomes. The Commission is not recommending a charter change. The Commission is unresolved on the idea that Commission should be an appellate body. The Commission will have a clearer sense of what its members want later in August.

Commissioner Keefe looks at all the complaints and there are no issues with access to information as far as the complaints are concerned. The majority does not seek disciplinary power, except in exceptional cases. They would prefer the ability to refer such matters to a different body.

The Commission wants access to body worn cameras for all use of force incidents. The City Attorney's Office recommends against the Commission having access to all of this footage. The Commission also would like to hire an independent investigator and monitor. Currently, Commissioners Keefe and Oski are doing all the investigatory work themselves. Hiring such a staff person brings up other issues such as who would supervise them and establishing a budget for their work.

Councilor Carpenter brought up the December 2020 charter change from the administration and how this fits into the goals of the Commission. Are there conflicts? HR already hears appeals and that is part of the disciplinary policy.

Councilor Hightower asked how the Commission reconciles its desire to not review discipline while also not advocating for a charter change.

Councilor Bergman asked about the Commission's exception for exceptional cases and how that process would work.

Councilor Carpenter noted that the general consensus of the City Council is that a charter change is necessary.

Melo Grant was surprised that the consensus of the Commission is for no charter change. This consensus is inconsistent with historic position of the Commission. A historical concern of the Commission is the flow of information and delays from BPD. Grant also expressed concerns about how the level of complaints are assigned.

Councilor Carpenter would like to have a minority opinion of the Commission to also be reported on the issue of a charter change.

Commissioner Rao said the deliberations on this within the Commission would be done by late August or September. They will deliberate on the issues raised by the Joint Committee.

5.0 Discussion of Councilor Questions

Councilor Traverse stated he does not think a change is needed, but some changes should be codified in ordinance.

Councilor Bergman would like to hear more from the Commission on its process for community complaints. Commissioner Rao stated that the system does not work as efficiently as it could and could be improved in ordinance by laying out timelines and processes explicitly.

Chief Murad stated that complaints are predominantly external and they all go to the Commission. In 2022 there were 44 complaints and 22 were substantive (as opposed to misdirected criminal complaints, parking complaints, etc.). Of those, one went to internal affairs and three were sustained. One involved an officer-involved shooting, one was internal and sustained, and the third was externally generated and exonerated.

Councilor Bergman would like to greater detail on what the complaint form looks like and what information is collected.

Councilor Doherty stated that having all of the information in one place helps with transparency. It is currently opaque. Codify at some level where a member of the public can reasonably see what happens when something comes forward.

Councilor Bergman agrees with improving transparency. This can be a directive adopted by the City Council, but it doesn't need to be an ordinance. Coherent structure is most critical however it is situated. Councilor Bergman wants a breakdown of the advantages and disadvantages of having this in a Department Directive versus an ordinance. Councilor Hightower wants an ordinance change. Councilor Shannon doesn't necessarily see an ordinance change as necessary, but does want the process to be codified.

Councilor Hightower stated that all complaints should be reported to an oversight body and have a set time frame for when the incident report goes to the body. The oversight body should be the one that categorize type and severity. The body could then provide their recommendations to the Chief and then the Chief will make a decision or report back to the oversight body his thoughts. There also needs to be an appeal process if there is a difference in opinion.

Councilor Traverse stated that there is already a mayoral directive that all use-of-force incidents with an injury resulting are automatically referred to the Commission and relayed to the Mayor.

Councilor Bergman stated he would like to hear from the police union (BPOA) about their view on the auditing of body worn camera footage. It would be helpful to have the union's perspective on this issue. The Commission and their counsel may also have thoughts on this.

6.0 Any Other Committee Business

The Joint Committee will be continuing these discussions on August 3.

7.0 Adjournment

Motion to recess until August 3.

Motion by Councilor Bergman, Seconded by Councilor Traverse.

Final Resolution: Motion Passes

Yes: Unanimous

The meeting was recessed at 7:43PM.