ORDINANCE and CHARTER CHANGE JOINT COMMITTEE

Tuesday, October 3, 2023

Remote via Zoom

DRAFT MINUTES

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

Staff Present: Joseph Dempsey (City Attorney's Office Staff), Josh Diamond (Outside Counsel), Jordan Redell (Mayor's Chief of Staff)

Others in Attendance: Melo Grant (City Councilor), Shakuntala Rao (Police Commission), Mary Cox (Police Commission), Jake Schumann, Amy Malinowski, Sharon Bushor, Jaco Schiller

Meeting called to order at 7:05 PM.

1.0 Agenda

Motion to adopt/amend agenda

Motion to Adopt the Draft Agenda.
Motion by Councilor Carpenter, Seconded by Councilor Traverse
Final Resolution: Motion Passes
Yes: Unanimous

2.0 Adopt the Draft Minutes from September 25

Motion to Adopt Minutes with an amendment to indicate Councilor Bergman supports having high-level infractions be investigated by a part of the Police Commission.
Motion by Councilor Carpenter, Seconded by Councilor Traverse
Final Resolution: Motion Passes
Yes: Unanimous

3.0 Public Forum

Amy Malinowski: I want to make sure there is a lot of input from others affected by policing. Maybe there could be an NPA tour by councilors or something similar.

Sharon Bushor: I want to speak in support of the proposals from councilors Carpenter and Hightower. Having appeals go to the HR Committee makes a lot of sense to me. I feel that if there is a conflict around discipline between the Chief and the Commission then having the HR Committee be the mediator would be appropriate. Having a few members with HR expertise would be helpful for the whole Commission.

Jake Schumann: I sent some comments to the Committee via email. Our feedback mechanisms should be accessible to everyone. Officers should have paper forms that they can give to people to help make a complaint/offer feedback. A big question is how to hold appointed officials responsible if they don't follow all of the policies set in place.

Melo Grant: We are spending too much time on discussing the appeals process as it is very rare. We had one appeal and everyone thought it went well. We should spend more time on oversight and accountability.

Shakuntala Rao (Police Commission): Commissioners do have an interest in remaining the disciplinary appeals body. Commissioners generally wanted more concrete, developed proposals before they offer opinions on each.

Mary Cox (Police Commission): One of the issues that remains is that the current mediator between the Commission and the Chief if there is a disciplinary disagreement is the Mayor. This has not worked well. Given the rarity of deaths or grievous injury, I think it would be helpful to have an ad-hoc committee with professionals from the Howard Center or other outside organizations weigh in. The composition of this hypothetical committee could adjust based on the circumstances of the incident.

4.0 Councilor Discussion and Review of Vital Questions

Councilor Carpenter asked the Police Commissioners present what they think about having the Commission have the power and budgeting to investigate incidents on their own. Commissioner Rao said that the Commission wants a monitor to help with oversight, but would need more support to have any investigatory capacity. Commissioner Cox said after the Grenon incident there was an investigation and hearings. She also said that the BPD does a good job with its investigations and that, in her opinion, there is no reason for a separate investigation.

Councilor Bergman moved to discuss the matrix of proposals that was put together by Josh Diamond. Josh Diamond went through the sections of the matrix. This matrix to available on the CivicClerk agenda overview or packet. The rest of this meeting revolves around discussing this matrix and the individual councilors' proposals.

Councilor Traverse added that he thinks there should be a charter change to clarify a complaint/feedback process that goes to both the Commission and the Police Department. The Department would conduct the investigation as they have the resources and professional staff to do so. Councilor Hightower added that the charter change should include that the oversight body (the Commission or otherwise) should also review the complaints/feedback in parallel with the BPD. Councilor Shannon said that BPD should put together the facts and that the Commission can review the facts and don't have to investigate in parallel.

Councilor Bergman thinks the designation/categorization of complaints should rest with the Commission. He thinks that the charter change should include that categorization power should rest with the Commission. Jordan Redell (Mayor's Chief of Staff) said that the Mayor supports having BPD leadership make the initial determination and then have the Commission review their decision as BPD has the staff and expertise to do so.

Councilor Traverse added that under his proposal the Commission could investigate or review the BPD's initial designation of a complaint category. He also wanted more clarity from a legal perspective about how a charter change could work with regards to incident categories since the Council just approved the collective bargaining agreement (CBA) with the police union that includes language on this topic.

Councilor Bergman asked if there is consensus on whether the Police Commission should have the ability to independently determine the level of seriousness of complaints. Only Councilor Bergman supported the idea as proposed. Councilor Hightower agreed with the idea, but with BPD also making a determination.

Councilor Shannon asked if the commissioners present had any thoughts on expanding their role. Shakuntala Rao was apprehensive about the amount of work that would require on top of current work. The more pressing question for the Commission is what the process will be if there is a disagreement between the Commission and Chief on the determination.

Bergman asked if there is consensus about having the Commission and BPD make parallel determinations (the Carpenter/Hightower proposal). Only councilors Hightower and Carpenter supported this proposal.

The unanimous consensus on this issue is that the Commission has a role to play in the complaint process, but there is not consensus on whether that role is determinative, parallel to the BPD's process, or final. The Committee will come back to this issue.

Councilor Traverse proposed a charter change to have a Community Complaint/Feedback form that would allow the public to submit feedback on officer conduct, directives, or anything else. This feedback/complaint would go to both the Commission and BPD. Councilor Traverse clarified that this system would be both for external (from the public) and internal (from other officers, etc.). This would be a codification in charter of an August 2020 policy. There is unanimous consent on this proposal.

Councilor Traverse clarified that his proposal sections on investigations mostly mirror the August 2020 complaint policy and that most of the content should be in ordinance rather than just a policy. The difference in this proposal is that setting a firm timeline from when the BPD must notify the Commission of a high-level complaint or use of force incident and codifying rather than relying on policy.

Councilor Hightower proposed for charter change that the Commission has the right to investigate mid and high level incidents and that discipline will not happen before the Commission has a chance to review. The investigation will be done in a reasonable amount of time. Councilors Hightower, Bergman, Carpenter, and Traverse voted yes. Councilor Doherty voted no/abstained, Councilor Shannon abstained. All are in agreement that Attorney Diamond should wordsmith the themes into proper language.

5.0 Adjournment

Motion to adjourn.
Motion by Councilor Bergman, without objection.
Yes: Unanimous

The meeting was adjourned at 9:33 PM.

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