

ORDINANCE and CHARTER CHANGE JOINT COMMITTEE

Wednesday, October 18, 2023

Remote via Zoom

DRAFT MINUTES

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

Staff Present: Joseph Dempsey (City Attorney's Office Staff), Josh Diamond (Outside Counsel)

Others in Attendance: Jordan Redell (Mayor's Chief of Staff), Sharon Bushor, Melo Grant

Meeting called to order at 7:03 PM.

1.0 Agenda

Motion to adopt/amend agenda

Motion to Adopt the Draft Agenda.

Motion by Councilor Hightower, Seconded by Councilor Doherty

Final Resolution: Motion Passes

Yes: Unanimous

2.0 Adopt the Draft Minutes from October 3

Motion to Adopt Minutes as is.

Motion by Councilor Traverse, Seconded by Councilor Carpenter

Final Resolution: Motion Passes

Yes: Unanimous

3.0 Public Forum

No verbal public comments for this item.

4.0 Councilor Discussion and Review of Vital Questions

Meeting discussion began with section 2b of Attorney Diamond's matrix (available on CivicClerk).

Councilor Carpenter corrected the matrix that the referral to the CJC will not come before the investigation, but that the referral to the CJC is a parallel activity depending on the context of the complaint.

Councilor Traverse laid out his proposal for a basic charter change. The Commission would be immediately notified about complaints and UOF incidents. The Chief would decide on whether to investigate and the Commission would receive updates and could provide feedback. The Chief would notify the Commission of the final decision and the Commission would receive that and can request more information. Then, by a super majority vote, the Commission could open an investigation using an outside investigator. Then the Commission would offer their recommendation. How to rectify any discrepancies is still yet undecided.

Counselor Shannon added on to Councilor Traverse's proposal that she thinks there should be a timing window where the Commission can choose to investigate.

Councilor Carpenter proposed a parallel investigation track. The Commission should be able to investigate a complaint or incident regardless of if BPD wants to do so. Councilor Hightower added that every high-level incident should be investigated. Hightower also added that there should be some systemic analysis incorporated into the charter change. Councilor Carpenter concurred that there should be authority vested in the Commission to address or cure systemic issues.

Melo Grant: I do not think time limits on complaints are appropriate. There are already many directives for most complaints and the CNA report offered a lot of solutions.

Jordan Redell: The complaint system established the low, medium, and high categories in the complaint policy of 2020. The categories correlate with the negotiated discipline section of the BPOA union agreement.

Councilor Hightower proposed having an initial level determination and then doing the investigation and potentially reassessing the level. She also added that the Commission should be reviewing data annually.

Councilor Bergman confirmed there is consensus on the Commission's access to evidence, authority to investigate, and would review complaints and make recommendations.

Jordan Redell and the Mayor's Office support having the Commission having the power to investigate, but it should be started by a super majority rather than a simple majority. The Administration is not sure about having anonymized complaint reports be published be part of a charter change.

Sharon Bushor: It should be written somewhere that we want the initial categorization of incidents to be able to be changed after the investigation. I also believe some entity needs to review the totality of the complaints.

Councilor Hightower disagreed with the Administration's position. She offered a compromise that the Chief could initiate an investigation on an incident and if they don't then the Commission, by simple majority, could conduct their own investigation. Parallel investigations seem unnecessary. At a minimum the Commission should be able to review the Chief's designation of incident level and their decision to investigate.

Melo Grant: I am against the super majority requirement. The Commission is a diverse group with different life experiences. I asked for data broken down by officer several times and it did not go anywhere.

Councilor Traverse offered that the Commission should be able to investigate an incident or complaint after the Chief has concluded their investigation if they want more information or disagree. There would be a difference between requesting additional information from BPD's investigation and actually conducting their own investigation. He does not think a super majority is necessary to request more information, but perhaps for an outside investigation. There should be some time limit where the Commission has to decide to conduct its own investigation. The Chief would then offer their decision and the Commission could agree or disagree.

Jordan Redell is unsure if the Administration could support having by-officer data breakdowns written into the charter.

Josh Diamond offered that subpoena authority and investigative powers should be written into charter. The other unresolved issue is the outcome if there is an impasse between the Commission and the Chief.

Councilor Hightower offered that situations that go to an impasse should go to the HR Director.

There is consensus that the threshold for the vote to begin an investigation should be in ordinance. The Administration disagrees with having this in ordinance and believes the threshold should be in the charter along with the authority. Councilor Shannon subsequently agreed with the Administration's view.

Councilor Carpenter proposed that if there is an impasse between the Chief and Commission then the HR Director could hear the complaint and then to the HR Committee if still unresolved.

Councilor Traverse suggested that officers should be treated no differently from other City employees. This would mean the final person would be the Mayor. He suggested removing from charter that the Chief has sole authority. If the Chief rejects the Commission's differing opinion then it would require the consent of the Mayor. The Administration agrees with this model.

The Administration added that the HR Director is the peer of the Chief and the HR Director has no current authority over discipline for other departments. Vesting the HR Director with this power also makes the Director a political person and would sour the confidentiality that the Director has.

Melo Grant: An important aspect of discipline is that the majority of issues are solved by additional trainings or changes to directives.

Councilor Shannon is uncomfortable with having political oversight of a profession such as the police. There is a State body that is not currently very functional. Professional officers deserve professional oversight.

Councilor Traverse brought up that professionals do have bodies in State government, but the officers are still employees of the City and we can discipline them if necessary; similarly to how lawyers or doctors can be disciplined by their employers without losing their license.

Councilor Bergman agreed, if there is no outside new oversight body, that the Mayor is the top official for the City and is responsible for the police department.

Councilor Traverse said he was not against having a second oversight body, but it would have to be different from current appointments.

5.0 Adjournment

Motion to adjourn.

Motion by Councilor Shannon, seconded by Councilor Traverse.

Yes: Unanimous

The meeting was adjourned at 9:10 PM.