

# Memo

To: Mayor Ethan Strimling

From: Danielle P. West-Chuhta, Corporation Counsel

DW-C

Date: March 1, 2016

Re: **Mayor's Powers and Duties**

---

This memo is written in response to a request by you for specifics regarding the Mayor's powers and duties as described in the City Charter. The following is a summary of my findings:

## **I. Mayor's Powers and Duties**

The City Charter specifies that the "mayor shall be the official head of the city, responsible for providing leadership, and shall have the following powers and duties:

- (a) To articulate the city's vision and goals and build coalitions to further such vision and goals. The mayor shall give an annual state of the city address during a special meeting of the city council called for that purpose;
- (b) To convene and lead an annual workshop session of the city council to discuss and identify the city's goals and priorities in order to provide guidance for the city manager and to inform the public. The city manager shall attend this workshop session, and a summary of the session shall be made available to the public;
- (c) To represent the city with other municipalities, levels of government, community and neighborhood groups, and the business community;
- (d) To preside as chair of the city council, and vote upon all matters in the same manner as other members of the city council, except as provided in article VII, section 8. The mayor shall direct the city manager in the preparation of the council meeting agendas;
- (e) To facilitate<sup>1</sup> the implementation of city policies through the office of city manager;
- (f) To consult<sup>2</sup> with and provide guidance to the city manager in the preparation of all city budgets and to provide comments on such budgets at the time they are presented by the city manager to the city council for approval<sup>3</sup>;

---

<sup>1</sup> This term is used several times throughout this section of the City Charter. The term "facilitate" is generally defined to mean "[t]o make easier or less difficult; help forward." Random House Webster's College Dictionary, 1996 Edition, at p. 477.

- (g) To consult with and provide guidance to the city manager in the preparation of the annual capital improvement program plan described in article VI, section 5, paragraph (i), and to provide comments on such program plan at the time it is presented by the city manager to the city council;
- (h) To facilitate among the city manager, city council, board of public education and the public to secure passage by the city council of the annual city and school budgets;
- (i) To exercise veto power over the annual city appropriation as provided in article VII, section 8;
- (j) To establish performance guidelines in conjunction with the other members of the city council for regular evaluations, no less than annually, by the city council of the performance of the city manager, corporation counsel and city clerk, such evaluations to be based upon those guidelines. Such performance guidelines shall have measurable goals and objectives, taking into consideration, as applicable, the achievement of city policies and priorities;
- (k) To chair and subcommittee with at least two (2) other city councilors to recommend the appointment or removal of the city manager, corporation counsel or the city clerk, but the full city council shall have the final decision in regard to such appointment or removal by a vote of at least five (5) members of the council; and
- (l) To appoint the members and chairs of the city council committees and various ad hoc committees and communicate such appointments to the city council, which may override such appointments by a vote of at least six (6) council members.

City of Portland Charter, Article II, section 5.

The City Charter further specifies in this same section, however, that “[n]otwithstanding the foregoing, the city manager shall be in charge of the day to day operations of the city and administration of the city budgets approved by the council.” City of Portland Charter, Article II, section 5.

## **II. The City Charter Commission’s Report**

By way of reference, the Charter Commission’s final report provides the following guidance as to what its intent and thought-process was when it recommended the above Charter

---

<sup>2</sup> This term is also used several times throughout this section of the City Charter. The term “consult” is generally defined to mean “[t]o seek guidance or information from.” Random House Webster’s College Dictionary, 1996 edition, at p. 292.

<sup>3</sup> The City Charter also specifically provides that “[t]he mayor shall submit comments on the proposed city budget, along with any proposed modifications, concurrently with the manager’s submission.” City Charter, Article VII, section 5.

provisions that ultimately resulted in a popularly elected mayor. The Commission specifically indicates in its report that it felt that:

- Portland needs a popularly elected leader who speaks for the people and who can unify the disparate views of the City Council;
- Portland needs a fulltime leader whose term of office (four years) is sufficient to introduce and implement policies and programs that respond to the voters' wishes and further the city's progress;
- Portland needs a popularly elected leader who can work with the Council to ensure that the budgets prepared by the city manager accurately reflect the city's priorities;
- Portland needs a popularly elected leader who can represent our city in our interactions with other municipalities, the state and Federal governments, business interest and the many entities that look for a unified voice speaking as the public face of local government;
- Portland still needs a City Council representing the various constituencies in the city;
- Portland still needs a professional City Manager running the City's day-to-day operations; and
- Portland needs a popularly elected mayor who can speak for the people, represent the city, and help to focus our common desire to see Portland grow and propose for all of her residents.

Portland Charter Commission Final Report at pp. 4-5.

The Charter Commission's report also states that it was "striving for a balance between directly elected political leadership for the City and the virtues of professional city management." Portland Charter Commission Final Report at p. 5.

Importantly the position [the Commission] drafted is not an executive mayor, but rather is a 'policy' mayor who remains a member of the Council and has substantial influence over the policy direction of the City. As crafted by the Commission, Portland's future mayor would be a "strong policy mayor" able to speak for the City, represent the City both internally and externally, and would have authority to participate actively in the budget process, oversee the hiring and review process of the City Manager, City Clerk and Corporation Counsel, facilitate the implementation of City policies through the office of the City Manager, and manage the processes of the City Council. Under this system, the City Manager remains the chief administrator of the city, and the Council remains responsible for developing City policy, but the Mayor would have a range of powers to help advance city policies in cooperation with the City Council and the City Manager.

Portland Charter Commission Final Report at p. 6.

Finally, the Charter Commission's report provides a table (which is attached for your reference) that compares the "expressly stated powers and duties of the appointed mayor under" the former language of the City Charter, "and the expressly stated powers and duties of the mayor under the Charter as proposed by the Commission. This table is helpful because it

illustrates the Mayor's role, powers and duties before and after the amendments to the City Charter (which, among other things, put in place the popularly elected Mayor position).

### **III. City Manager's Powers and Duties**

Additionally, it is also important to describe the City Manager's powers and duties when discussing the Mayor's role in Portland city government. The Manager's powers and duties are articulated primarily in Article VI of the City Charter. That Article provides as follows:

- To see that the laws and ordinances are enforced, but shall delegate to the chief of police department the active duties connected therewith regarding criminal conduct.
- To exercise control<sup>4</sup> over all departments, divisions, agencies, and offices created herein or that may hereafter be created.
- To implement<sup>5</sup> the policy decisions of the city council.
- To coordinate<sup>6</sup> city programs and operations and recommend improvements in such programs and operations to the council.
- To prepare<sup>7</sup> city budgets, in consultation with and incorporating policy guidance of the mayor, and to present such budgets to the council.
- To make appointments as provided in this charter. The charter specifically provides that the Manager shall make the following appointments: “[a]ll department heads . . . subject to confirmation by the city council[,]” and “[a]ll other employees . . . upon recommendation of the heads of their departments.” City Charter, Article VI, section 1(b) and (d).
- To attend meetings of the city council, except when his or her removal is being considered, and recommend for adoption such measures as he or she may deem expedient.
- To keep the city council fully advised as to the business and financial condition and future needs of the city and to furnish the city council with all available facts, figures, and data connected therewith when requested.

---

<sup>4</sup> The term “control” is generally defined to mean “to exercise restrain or direction over; dominate, regulate, or command.” Random House Webster’s College Dictionary, 1996 Edition, at p. 297.

<sup>5</sup> The term “implement” is generally defined to mean “to fulfill; carry out.” Random House Webster’s College Dictionary, 1996 Edition, at p. 676.

<sup>6</sup> The term “coordinate” is generally defined to mean “of the same order or degree . . . [and] to place or arrange in proper order or position.” Random House Webster’s College Dictionary, 1996 Edition, at p. 300.

<sup>7</sup> The term “prepare” is used several times through-out this section of the City Charter. This term is generally defined to mean “to put in proper condition or readiness . . . [and] to manufacture, compound, or compose.” Random House Webster’s College Dictionary, 1996 Edition, at p. 1065.

- To prepare a five (5) year rolling capital improvement plan for annual presentation to the city council, which plan includes the following:
  1. A one (1) year plan of specific projects and their cost;
  2. A two (2) through five (5) year plan of specific projects and general categories, and amounts of proposed spending and funding sources; and
  3. A discussion of the basis for the plan and the factors which went into its development or amendments.
- To prepare and submit to the city council such reports as are requested or he or she deems advisable; and
- To perform<sup>8</sup> such other duties as may be prescribed by this charter or required by ordinance of the city council.

City Charter, Article VI, section 5.

Finally, the Charter makes it clear that the Manager “is in charge<sup>9</sup> of the day-to-day operations of the City”, and that “[n]either the mayor nor members of the city council shall direct, request or interfere with the appointment or removal of any of the officers or employees of the city for whom the city manager is responsible, nor shall any of them give an order, publicly or privately, to any such city officer or employee relating to any matter in the line of that officer’s or employee’s city employment.” City Charter, Article II, section 5 and Article VI, section 5.

#### **IV. Conclusion**

In sum, to me the applicable City Charter provisions above (and even the Charter Commission’s report which outlines the reasoning for those provisions) describe a cooperative relationship between the Mayor and the City Manager wherein the Mayor formulates and articulates the City Council’s policy directives both on behalf of and in cooperation with the full Council, and the Manager implements those policies. Although the Charter contains relatively specific guidance in terms of which responsibilities lie with which leader, it is, fundamentally, a general policy document that is neither intended to nor, arguably, capable of enumerating every possible task to be completed by the Manager and Mayor. For that reason, as with all professional relationships and employment positions, when navigating the interaction of each of their roles, it seems clear that the Manager and the Mayor will need to communicate and work cooperatively (along with the full City Council, if necessary) as to, how they will each accomplish their duties as outlined in the Charter. This communication will also be necessary to, for example, help them to determine the number of meetings necessary for the Mayor to provide policy guidance in the Manager’s preparation of the city’s budgets, and how the Mayor will

---

<sup>8</sup> The term “perform” is generally defined to mean “to carry out; execute; do.” Random House Webster’s College Dictionary, 1996 Edition, at p. 1003.

<sup>9</sup> The term “in charge” is generally defined to mean “in command; having the care or supervision.” Random House Webster’s College Dictionary, 1996 Edition, at p. 228.

assist in ensuring that the City Council's policies are implemented by and through the Manager's office. Each Mayor-City Manager relationship will most likely come to a different conclusion as to how to achieve and meet the City Charter requirements, and it seems clear that such a conclusion will be acceptable as long as the roles of each person remain consistent with the general guidelines provided in the Charter. To the extent that the Manager and Mayor are unable to agree on each of their roles or perceive some ambiguity in the application of the language of the Charter, it seems appropriate to seek further guidance from the full Council as to its understanding as a collective body, of the respective roles of each. If resolution of any ambiguity by the Council is not possible, then it may also be necessary to explore an amendment of the Charter through the Charter Commission in order to avoid future confusion or conflict.