

CITY OF BEVERLY

PUBLIC MEETING MINUTES

CITY OF BEVERLY
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2021 MAY 20 A 10: 04

Committee: Charter Review Committee
DATE: May 13, 2021
LOCATION: Virtual Meeting
BOARD MEMBERS PRESENT: Timothy Flaherty (Chair), Hannah Bowen, Julie DeSilva, Richard Dinkin, Michael Pinciario
BOARD MEMBERS ABSENT: Paul Guanci, Stacy Ames
RECORDER: Sharlyne Woodbury
Others present: Libby Corbo; Marilyn Contreas; Stephen McGoldrick; Lisa Kent, City Clerk; Stephanie Williams, City Solicitor; Bryant Ayles,

Director of Municipal Finance

City Council Appointee(s): Chairperson and City Councilor-at-Large Timothy Flaherty; Ward Councilor Stacy Ames

Mayoral Appointee(s): Paul Guanci, City Council President-at-large

By Ordinance:

Ex Officio: Gerard Perry

1. Opening Remarks

This meeting is held in accordance to special meeting format as required to honor Governor Baker's State of Emergency declared due to the national crisis of COVID-19.

Chair Flaherty calls the meeting to order at 7:06 p.m. Flaherty addresses the technical difficulties and incorrect meeting information posted to the city website for May 6, 2021. Flaherty apologizes and thanks Solicitor Williams for guiding the committee to correct the issues and city website information postings.

2. Review and approval of prior meeting minutes

a. Approval of April 29, 2021 minutes

Motion: DeSilva moves to approve the minutes as presented. Dinkin seconds. The motion carries 5-0.

b. Approval of May 6, 2021 minutes

Per Flaherty, in accordance with open meeting laws and guidance from Solicitor Williams, suggests members vote to approve Section 3 from the May 6, 2021 minutes. Members will continue from that point with overlap information to the May 13, 2021 meeting and minutes.

Motion: Bowen moves to approve the language from May 6, 2021 Section 3 as written. Dinkin seconds. The motion carries 5-0.

Additional comments:

Bowen notes the April 15, 2021 Public Hearing minutes are posted, however; the supplemental attachments were not posted. Woodbury will follow up with Kent for further information on the attachment postings.

3. Discussion with Collins Center: Matrix Outline Review

Members comment on the matrix provided, and upon further review, DeSilva points out the many typos from the matrix. In its current state, DeSilva cannot agree to the language; also, could not focus on the suggested changes because she cannot agree to them as written. Other members weigh in and concur with DeSilva. Dinkin agrees they cannot adopt language that is ungrammatical with typos. Flaherty suggests discussing the content of what they are trying to accomplish and taking a formal vote on any changes at the next meeting. Members agree with Flaherty's suggestion. Williams requests copies of the matrix for herself and for Ayles.

In the interest of time, Dinkin proposes the committee review articles 1 and 2. Also objects to making the document public until the language is cleaned up and reflects exactly what the committee wants the language to read and express. Members concur to a delay in posting. DeSilva will review the matrix and clean up the language.

There being no additional comments or discussion. No further action required at this time.

4. Review of Articles 1-9:

a. A1 s. 1.2: short title

Contreas asks what is meant by changing the short title. Perry clarifies, Contreas recommends keeping the short title as is. There are no significant or major changes to note that would merit a new title. Members agree and have no comments.

b. A1 s. 1-7

i. City website definition in reference to updated city bulletin board:

Members desire to modernize and update the language when referring to the "bulletin board". Modes of electronic communication are prevalent now. Members also desire to keep a physical posting for the public. There is still a need for the public to have a place of reference where they are electronically disinclined. DeSilva feels other committees legitimately refer to the public library as the official bulletin board for public notices. Dinkin suggests addressing every unique place public information is posted.

Bowen to DeSilva, should the definition of bulletin board be defined to the posted location. DeSilva suggests maintaining vague definitions. Members discuss the particulars and ask Williams to weigh in. Williams advocates for keeping the notifications simple referencing open meeting laws, and broad for charter level review. Members move on to address social media accounts. Dinkin strongly objects and informs the members no state entities treat social media as official postings. Williams concurs and suggests to keep the postings to the official city website and defined bulletin board locations such as the public library. Members have no further comments.

ii. Replace definitions of city agency and city office:

Collins Center recommends updating the definition of city agency and office. Dinkin is not comfortable using an inanimate noun replacing the terms. Dinkin maintains the city office and city officer are not identical agencies. Contreas would like a definition to capture and define department head. Members

agree with Dinkin's comments. City officers have statutory authority, per Contreas, department heads do not necessarily have statutory authority. Williams weighs and would need to review the language if a language change is desired. There is case law that defines the sovereign authority. Williams does not recommend making the change lightly. DeSilva recommends taking out the word that causes the ambiguity. Flaherty suggests returning to the definition. Desires the language and definition to be clear for the general public and not confusing. Members have no further comments.

iii. Definition of cause

Williams said cause is defined in section A8 s.15. Dinkin reserves comment until later in the discussion.

c. A1 s. 1-7(i): general laws

The citation of general law appearing is correct. Members are comfortable with the Collins Center recommendation and have no comments.

d. A2 s. 2-1(b): Council Terms

Members discuss the recommendation. Flaherty opines the 2-year terms should not be adjusted and is comfortable with the current terms. Bowen appreciates the explanation in the matrix. Dinkin expands upon Flaherty's comment. The reason for the 2-year term is to keep the elected representative as close to the voter as possible. Dinkin recognizes the burden with constant campaigning. Members have no further comments.

e. A2 s. 2-1(c): Voter vs. Citizen

DeSilva had objections to the term voter. All voters should be referred to as citizens. Dinkin weighs in. An individual need not be a voter to stand for election eligibility, can be unregistered to vote and still stand election for office. Dinkin would not want any terms to limit or inhibit a citizen's eligibility if they meet all other candidate requirements. Dinkin also suggests defining the minimum age requirement to vote as 18, unless, they as a municipality allow under 18 to vote in certain special elections as other municipalities have. Williams is curious to what defines citizen per the members standards. Bowen weighs in with citizen versus resident. Dinkin weighs in that citizen is defined as, "of the United States; of the Commonwealth of Massachusetts; residing in the city of Beverly; with the intent to remain". Members have no further comments.

f. A2 s. 2-4(a)

i. Council salary

Perry weighs in on the salaries for the council. As of 2020 the city council unanimously voted to not raise their salaries. Perry confirms Collins Center assisted in the past with the mayor's salary. Perry believes there should be modifications to the school committee and city council salary. Refers back to history and notes in about 20 years there has been no increase. Suggests discussing the legalities of having an automatic pay increase to the salary. The increase would be similar and consistent with cost of living of senior citizens to social security increases. The COLA would be minimal between 1-2% annually. Perry appreciates councilors not giving themselves a raise during difficult times, however; from a policy perspective going 20 years without a raise is not acceptable.

Members agree it is difficult to vote for one's own salary for political reasons. In order to resolve the politics of salary increases, Dinkin recommends to index the city council salary to the mayor's salary.

Could also do the same index for the school committee. This would potentially avoid unnecessary legislation and political problems. Bowen finds that an interesting approach, would like more details. Bowen is not a fan of automatic increases directly in the charter feels that they have a responsibility to make sure reasonable measures are in place. Members would like to explore Dinkin's suggestion. Dinkin also notes under his plan the council salary could be cut by cutting the mayor's salary; no non-union public salary is sacrosanct and cannot be cut. Dinkin reads the charter language uses "shall set" the mayor's salary. Constructed from that language, the council salary shall be set based off a percentage of the mayor's salary, and a percentage of that shall be set for the school council.

DeSilva inquires if such a change would require a ballot measure. Contreas and Williams discuss Section 39 of state law with Williams concluding she will need to research the idea more. Williams requests an annotation with this change. Most likely this change will have to go before the state legislature. Members have no more comments.

g. A2 s. 2-6(b)

The state law does not allow a meeting to continue once a quorum is absent. The meeting must adjourn. Members agree and have no comments.

h. A2 s. 2-7(b), (c), (d)

Members review the matrix recommendations by the consultants. Perry reminds members of the original concerns expressed by Councilor Ames and President Guanci in terms of making it easier for people to come before the council. Flaherty provides perspective on the informality of having members called before the city council and their right to appear or decline. Williams and Flaherty discuss the off Monday department subcommittee meetings. Both found these meetings to be extremely useful for the efficiency of conducting city hall business.

Bowen seeks clarification from the consultants. Why they recommend increasing the time requirement from 5 days to 7; and for consistency on why certain notifications count weekends and week days. Contreas responds and reviews section 8.8. Flaherty and Williams weigh in on the procedures for department heads. Williams believes people should be allowed to be properly prepared for meetings when the city council requests information. DeSilva asks Williams what number of days she recommends. Williams said it depends, and she does not have a strong opinion, but would rather have more time in order to prepare. Flaherty and Williams cannot imagine a scenario where more time is needed that it would not be granted. Dinkin reminds the committee that department heads have the responsibility to run their respective agencies, 5-7 days is perfectly reasonable for a response to summons or inquiry. Bowen points out there is a reason to not shorten the time, but does not hear a compelling argument to lengthen the time. Suggests at this time not changing the language. Flaherty concurs and recommends reinstating the off Monday meetings to assist with the issue.

i. A2 s. 2-8(a): Budget/Management Analyst

Perry reviews the history of the position and refutes public comments from the April 15, 2021 Public Hearing. The first analyst performed the job as a consultant for 20 years and was not a city employee. Solicitor Williams wrote an opinion and recommended the budget analyst should be a city employee. Perry suggests leaving the language as is referencing Williams written opinion. Perry analyzes the pros and cons of a city employee versus a consultant. Only slightly edging that an employee is preferable to a

consultant. Perry confirms in his role he reports to the city council. Perry reviews the language as written in the charter with Bowen. Bowen, Contreas and Perry discuss the salary language in A9, and should there be comparable language for the provisions in 2-8(a). Members discuss cross referencing the two sections. Perry and Flaherty review and clarify the history of the salary. In the interest of the budget analyst acting independent manner, this protects the position due to the confrontational nature of the position on occasion. Dinkin suggests the council have the flexibility to decide whether the analyst is an employee or consultant. There may be an occasion where an individual need to be a consultant as opposed to an employee. Members have no additional comments.

j. A2 s. 2-8(b): City Clerk

Consultants recommend the city clerk term increase to 3 years. 2-year terms potentially impedes the continuity as council membership changes. Members agree with no further comments.

k. A2 s. 2-8(c): Clerk of Council

The consultants suggest discussing if the charter should include a provision addressing the possibility that the Clerk may not always serve as Clerk of the Council. Dinkin does not believe this is a charter matter. This is a legislative matter. Proposes an option for clerk of the council other than the city clerk. Dinkin suggests reviewing which portion pays for the city clerk and clerk for the council. Contreas advises the clerk of the council is rarely seen in most modern charters as the same person. They are separate. DeSilva would like to remove ambiguity. Contreas, current charter language did not account for someone else. Contreas said language should be clear to specify, could be the city clerk or someone other than the city clerk be clerk of council. Members discuss language ambiguity and specificity. Dinkin believes the city council should choose their own clerk and favors the city council electing that individual. That person can be the city clerk, a person of the clerk's office, or another individual. Dinkin observes, after competence, the next most important quality is; can we work with this person. Dinkin believes the council should have that same privilege of selecting a clerk of their choosing. The members have no further comments.

l. A2 s. 2-8(d): Salaries for council appointees

Perry provides perspective on employees who are currently not union protected. The city clerk and the assistant clerk report to the council, but the appropriation process for merit increases comes from the mayor's office. In Perry's opinion, this appropriation should be from the city council. Dinkin and Perry parley the budget line item appropriation functions respectively to the executive and the legislative branches. Any spending authority there is a traditional line item for nonexempt employees based on merit which includes the clerk and assistant clerk. Per Perry, the mayor should not determine the salary of those two employees. The appointing authority should appropriate the funds for their appointees. Not the mayor. Members deliberate the interpretation of your boss should set your salary.

Williams reviews sections 2-8(d). Williams never looked at the issue, the language appears that salaries should be set by ordinance. DeSilva reviews the confusing language change. DeSilva agrees with Perry, however; if it is by ordinance and not within the charter's purview, keep the language as vague as possible. Bowen agrees and weighs in with comments. Dinkin questions Williams for her interpretation of "set by ordinance". Williams assumes the ordinance would work in similar fashion for the salary set for the mayor. The practice is the mayor put into the budget. Dinkin does not want an arbitrary number set into the budget, Williams agrees.

Perry clarifies the line item is a pot of money in the budget set aside used solely for pay raises for non-union employees. Specifically, a line item to be used for merit pay. Perry describes the percentage discrepancies by the mayor. In this instance, he does not believe where the appointing authority is not the mayor, that the mayor should decide the merit increase for those two positions. The appointing authority should have the ability to decide the merit increase of their budget. The city council should decide the merit increase for those two positions. Flaherty provides the history of budget practices and the changes that allowed the mayor to have a sum of money to determine the percentage of merit increase for the appointees. Before the mayor would go before the council and the council would sometimes disagree and not grant the merit increase per the individual based off the mayor's recommendations. Perry, it is built into the salary it is not a bonus. Flaherty suggests moving on with more discussion later.

There being no additional comments or discussion. No further action required at this time.

5. Meeting Schedule

DeSilva inquires if members may conduct independent charter work outside the public meetings. Dinkin reminds the committee they can do their own homework, but it is important to not discuss amongst themselves outside the public meeting laws. DeSilva volunteers to make editorial comments and submit to the members for their approval. Feels the pace is slow and some topic discussion redundant. DeSilva asks if the consultants can provide a redline copy of their charter recommendations. Flaherty suggests the Collins Charter move on to make recommendations for sections 3 and 4, while the committee will discuss remaining topics in article 2 and take votes where appropriate. McGoldrick confirms they have the document in Word.

Flaherty asks for a change in schedule. Asks to meet Tuesday May 18, 2021 instead of Thursday May 20, 2021. Members and the consultants are amenable to the schedule change. McGoldrick informs the committee he cannot attend Tuesday. Contreas and Cordo can meet Tuesday, however; the red line copy would only be available Monday. Flaherty and members accept those terms.

There being no additional comments or discussion. No further action required at this time.

6. New/Old Business

None, there being no additional comments or discussion. No further action required at this time.

7. Adjournment

Flaherty adjourned meeting at 9:08 p.m.

Charter Review meeting May 18, 2021 at 7 p.m.