

CITY OF BEVERLY

PUBLIC MEETING MINUTES

CITY OF BEVERLY  
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2021 JUN -2 A 10:48

Committee: Charter Review Committee  
DATE: May 18, 2021  
LOCATION: Virtual Meeting  
BOARD MEMBERS PRESENT: Timothy Flaherty (Chair), Stacy Ames, Hannah Bowen, Julie DeSilva, Richard Dinkin, Michael Pinciario  
BOARD MEMBERS ABSENT: Paul Guanci  
RECORDER: Sharlyne Woodbury  
Others present: Libby Corbo; Marilyn Contreas; Brendan Sweeney, Scott Houseman, Lorinda Visnick

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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

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**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 7:00 p.m.

**2. Review and approval of prior meeting minutes**

**a. Approval of May 13, 2021 minutes**

Bowen moves to approve the minutes as presented. Ames seconds. The motion carries 6-0.

**3. Discussion with Collins Center: Matrix Outline Review**

Contreas and Perry review the timeline for the committee with Contreas focusing on the legalities for items that must go thru the state legislature and for items to be presented to the City Council. Perry informs the members their recommendation must be presented to the City Clerk by October 1, 2021. Perry encourages the members to begin taking votes on agenda items in order to maintain the timelines necessary for the ballot initiatives. Contreas points out there are things happening in the city and at the legislature level. DeSilva notes for the record that they have a clean Word document and corrects any perceptions about open meeting laws. Flaherty recommends focusing on substance and voting on items. Flaherty proposes DeSilva edit and fine tune grammar and content of discussed articles going forward. Corbo clarifies that the Collins Center does not provide a Word document, they review it and provide a PDF format. Corbo recommends reviewing the grammatical errors at the end. Please expect a review up to Article 5 by either Friday May 21, 2021 or Monday May 24, 2021. Contreas warns Article 7 will have several revisions and be dense for content and review. Corbo provides additional information for processing and reviewing the outline.

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

**4. Review of Articles 1-2:**

**a. Article 1**

i. A1 s. 1-7(c)

Dinkin moves that all references to city bulletin board include the city website. Pinciario seconds. The motion carries 6-0.

ii. A1 s. 1-7(e)(f)(g)

DeSilva moves to maintain "e" as is, and accept "f" and "g". Dinkin seconds. The motion carries 6-0.

iii. A1 s. 1-7(m)

Desilva moves to add "within the greater Beverly area". Pinciario seconds. Dinkin objects. Per Dinkin's objection and explanation Desilva withdraws motion. Flaherty confirms motion withdrawn.

iv. Definition of citizen

DeSilva and Bowen question adding a definition of "citizen". Members further discuss and suggest adding the term citizen section 1-7. Dinkin provides the definition of citizen for the members with the specific focus on the phrase "intent to remain".

Dinkin moves to define citizen as "someone of legal voting age residing in the city with the intent to remain". Pinciario seconds. The motion carries 6-0.

Desilva moves to accept the term citizen as defined by the previous motion. Bowen seconds. The motion carries 6-0.

**b. Article 2**

i. A s. 2-4(a)

Contreas suggests adding an index, but not changing the charter. Bowen asks Perry for further clarification on the options for salary increases.

DeSilva moves to accept the language as is with the addition of "or decreasing". Dinkin seconds. The motion carries 6-0.

ii. A2 s. 2-6(b)

DeSilva moves to strike the phrase "a smaller number may meet and adjourn from time to time". Dinkin interrupts and asks how this strike enhances the current section. Contreas and Flaherty have discourse further explaining the language effects of striking the phrase. Dinkin accepts the explanation. Pinciario seconds. The motion carries 6-0.

iii. A2 s. 2-6(c)

Dinkin moves to add at the end of the phrase, where a special committee notification to the city council is to be delivered, "or via electronic mail". Pinciario seconds. The motion carries 6-0.

iv. A2 s. 2-7(a)

DeSilva moves to strike the first part of the language as recommended by the Collins Center. Dinkin seconds. The motion carries 6-0.

v. A2 s. 2-7(b)

Contreas and members have active discourse about parsing the language. Ames recommends to keep language as is.

Ames moves to keep language as is. Flaherty seconds. The motion carries 6-0.

vi. A2 s. 2-7(c)

Flaherty recommends keeping language as is. Members concur with no additional comments.

vii. A2 s. 2-8(a)

Perry weighs in and believes the phrasing provides flexibility for the Analyst to either be an employee or be a consultant. Bowen and Dinkin support the flexibility. Bowen has additional questions for the language in section 2-8(a).

DeSilva moves to accept all the changes in s 2-8(a). Pinciario seconds. The motion carries 6-0.

viii. A2 s. 2-8(b)

Ames questions why recommending a 3-year term if the council does not mirror a 3-year term. DeSilva and Contreas confirm the term change better serves continuity for the clerk position. Dinkin points out the City Clerk is City Chief Election Officer. Every effort to de-politicize that position should be made. Members continue discussion.

Dinkin moves to change the term from 2 to 3 years for the City Clerk. Bowen seconds. The motion carries 6-0.

ix. A2 s. 2-8(c)

Dinkin moves to make the term from 2-3 years for Clerk of the Council. Ames seconds. The motion carries.

x. A2 s. 2-8(e) in cross reference to s. 8-15

Corbo strongly recommends to add the phrase "substantially the same". This language is preferred by legal entities interpreting the processes for the section. Dinkin suggests approving the language as long as the processes remain the same, providing the procedure is specified and not ambiguous. He suggests further review of section 8-15.

Bowen moves to accept the changes as defined by the Collins Center edits. Dinkin seconds. The motion carries 6-0.

xi. A2 s. 2-9(b)

DeSilva moves to clarify the language that there is an end date, "no later than the next scheduled council meeting". Ames seconds. The motion carries 6-0.

xii. A2 s. 2-9(c)

Members have several comments and questions for the vague language. Bowen suggests further review of this section to ensure checks and balances. The Collins Center will provide recommendations for the next meeting. Members have no further comments and will discuss at the next meeting May 27, 2021.

xiii. A2 s. 2-9 transmittal to the mayor

Contreas and Corbo explains the language change refers back to the council procedure in effect defaults to the original charter language. Dinkin agrees the deleted language is duplicative and the new language recognizes the council's ability subject to their own regulation.

Dinkin moves to accept the language change. DeSilva seconds. The motion carries 6-0.

xiv. A2 s. 2-10

The language from the current charter:

"City officers, members of City agencies, employees - The City Council or any committee or subcommittee thereof may require any City officer, member of a City agency or City employee to appear before it to give such information as the City Council may require in relation to the municipal services, functions, powers, or duties which are within the scope of responsibility of such person and within the jurisdiction of the City Council".

"Any person appointed or elected by the City Council may be removed or suspended by the City Council by the use of the procedures contained in SECTION 8-15".

"Rejection by the City Council shall require a majority vote of the full Council. STRIKE THE REST HERE: except that an appointment to a multiple 5-member body may be rejected by a majority vote of the full Council".

Ames recommends the language change within the section to "a simple majority of votes". Ames refers to the section phrase "Any person appointed or elected by the City Council may be removed or suspended by the City Council by the use of the procedures as contained in Section 8-15".

Ames moves to change the language from "two-thirds majority votes" to "a simple majority of votes". De Silva seconds. The motion carries 6-0.

xv. 2-11

Contreas recommends cleaning up the language in this section since it is vague and dense. Ames gives perspective on the council's recent need to follow this procedure finding it chaotic. DeSilva suggests if the language dictates the individual is appointed, then language should be included that the appointee should be precluded from running for office in the next election cycle. DeSilva does not believe that appointee should have the benefits of being an incumbent without doing the campaign work. Flaherty asks could the time frame be changed, as long as a counselor moved within the city changing wards, allow the individual to fulfill their term to which they were elected. Dinkin weighs in on the infrequent occurrence where the city council had to fulfill a vacancy. Dinkin believes even as long as 6 months is too long a time for a ward to go without representation. He points out serving is an elected privilege. Not a guarantee.

Litigation between the mayor and the council, reduce it to a minimum. Contreas weighs in and is concerned about a charter with dual councilors. Corbo offers comments with scenarios where this would be disadvantageous in serving the city. The city, the mayor, and the council would not want to be open to untoward litigation. Bowen appreciates the explanations and asks if any charters have dual council in the state. Corbo replies it is not common. Bowen inquires if there would be a suggestion for the consultants to address the underlying question about the clear authority between the executive and

legislative branches. Flaherty expresses there are other methods to curb the issue. The city council can have a vote of no confidence or chose not to reappoint the appointee in question. Ames raises concerns about the language for the audit and the council's authority in that language. Ames notes recent times where the city solicitor perhaps did not interpret the language fully in appreciation of the city council's authority. Corbo responds with addressing bias between dual council. Corbo strongly suggests holding the city solicitor to their opinions and asking the necessary questions to refute any city council doubts or uncertainties. Corbo mentions on occasion special council are utilized where there are specialty practice areas as opposed to general municipal questions. On those limited occasions the solicitor will defer to the special council.

Dinkin would like to see a self-organizing council. He believes it is normal today, provides extra level of accountability for each member of the council, provides a greater voice in the wards, and is simply more democratic. Ames thinks self-organizing would be more helpful. Ames would like to hear more about best practices having a ward council as president. Contreas weights in, the vast majority of councils in MA self-organize. Some of it is tradition, some guarantee the ward councilors have a chance to be president if they so choose. Flaherty and Dinkin parley between the power in the chair, setting the agenda, etc. Dinkin admits is creates a different dynamic in legislating. Strongly believes the process is more democratic. In needing maintain the support of 5 members, the president must promote compromise. Bowen would appreciate more time and research, and further analysis on the issue. Dinkin believes if there is a practice that works everywhere, the question should not be "why do we need to change", but "why are we doing things differently"? Dinkin urges members to not be complacent and not accept the excuse, "because we've always done it this way".

Dinkin moves to adopt a self-organizing city council with both the president and vice president of the council elected by simple majority vote of the council itself. Ames seconds. The motion carries 4-2. Desilva, Pinciaro dissent.

#### **5. Meeting Schedule**

Members agree the next meeting is May 27, 2021 at 7 p.m. Flaherty will confirm for the members at the next meeting whether they will continue to meeting virtually or at City Hall Chambers. Flaherty confirms the Collins Center will review sections 3-5 for the last virtual meeting. Flaherty also requests physical copies of the documents by the Collins Center. DeSilva inquires if the consultants could include sections 8 and 9 to have on hand prior to discussion and review. Since section 7 is dense the members would like as many articles as the consultants can prepare in advance to continue discussion. Contreas recommends a preview of attractions for sections 6-8, informing the members they will do their best to have as many sections available with their time constraints.

#### **6. New/Old Business**

None, no further action required at this time.

#### **7. Adjournment**

Flaherty adjourned meeting at 9:45 p.m.

**Charter Review meeting May 27, 2021 at 7 p.m.**

