

CITY OF BEVERLY

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PUBLIC MEETING MINUTES

2021 JUN 11 A 10:46

Committee: Charter Review Committee
DATE: June 3, 2021
LOCATION: Virtual Meeting
BOARD MEMBERS PRESENT: Timothy Flaherty (Chair), Stacy Ames, Hannah Bowen, Julie DeSilva, Richard Dinkin
BOARD MEMBERS ABSENT: Paul Guanci, Michael Pinciario
RECORDER: Sharlyne Woodbury
~~Others present: Marilyn Contreas~~

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 7:13 p.m.

2. Councilor Houseman

Councilor Houseman presents to the committee. Houseman discusses a few concerns and issues with the balance of power between the legislative and executive branches. Houseman objects with not adding a resource to the legislative branch in the form of a legal expert or solicitor. The reasons cited in prior discussion, per Houseman's opinion, are not sufficient to merit dismissing the suggestion. Dismissal reasons are 1) minimizing litigation between the branches; 2) dueling lawyers; and 3) the reason, "it's not done elsewhere".

Houseman addresses each point above. He reasons that litigation between the branches would not be an issue because the charter can define what can and cannot happen. The charter does not allow for a position to litigate on behalf of any entity or member separate from the city solicitor. For emphasis, make it clear this is an advisory position, who does not litigate any one or any city entity. Next, the phrase, "we've always done it that way" or "it's not done elsewhere" is not sufficient. Houseman references the budget analyst position. It was a new position but proved to be useful for Beverly and is now adapted to other communities. Lastly the notion of dueling lawyers. There is not constant disagreement between the Budget Analyst and the Finance Director. Perry and Ayles coordinate. Look to a coordinating effort between a council lawyer and city solicitor. The council lawyer would function in a similar manner/model to the Budget Analyst. Building off that rationale, Houseman reasons the position serves as a beneficial resource for councilors. The advisor can provide drafting assistance to councilors when an ordinance is being worked on; research; and help with the substance and wordsmithing to

make a well-crafted ordinance. Houseman advocates is it good to have a second opinion and fresh perspective.

Lastly, this review body convenes every 10 years, Houseman implores the member that they should look back 10 years and forward 10 years. The creation of such a role would not involve any of these positions in time. Look at the totality of the charter relative to the resources available to both branches, legislative and executive. The council should balance out the resources where the executive has added 5 new roles and the council has not added any new positions

Dinkin responds. Given Houseman's proposal would be restrictive from litigating and not issue a binding opinion he addressed the cost issue of the position. Houseman provides an example. There is an ordinance before the city. The intention of the ordinance it is problematically worded. There are ambiguities and holes the way the ordinance is written. Dinkin inquires if the council needs be satisfied by an assignee from the solicitor's office. Houseman believes a set of fresh eyes with their own opinion would be beneficial. Dinkin lightly remarks that attorneys make their money for obfuscation. Houseman respectfully disagrees and suggests a selection process to find the correct person with skills and experience to properly fulfill the role. Dinkin if the major concern is wordsmithing, would a relations editor be better served by the council. Houseman does not believe that individual would be satisfactory. Layperson defer to lawyers because they're lawyers. The position itself carries weight; in conveying information received and processed. As opposed to bureaucrats writing obtuse legislation.

Dinkin and Houseman discuss further. Ultimately, Houseman approaches the role from the level of resources available to the council to do their job. The executive branch added 5-7 positions that aid and assist the executive in being more effective in their role. Items are addressed that were not previously done because that branch did not have the resources to get through it. Houseman suggests a sunset law. Dinkin is convinced the council needs more resources, not sure if a lawyer is the answer. Bowen agrees that legislative support should be reviewed and enshrined in an appropriate capacity within the charter. Under administrative code, the executive capacity has expanded their resources. Ames concurs with Houseman and would like an independent opinion, trusted advisors or resource to assist city council. Ames asks the Collins Center if there is a reasonable way to move forward. Houseman, just because it's not done somewhere else, does not mean it's not a good idea. There is a need, and he encourages the members to be pioneers.

Flaherty informs Houseman this segment will be revisited by the committee.

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

3. Review and approval of prior meeting minutes

a. Approval of May 27, 2021 minutes

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

4. Review of Articles 6-7:

a. Article 6

i. A6 s. 6-2

The Collins center recommends inclusion of the section to assure that budgets are prepared with knowledge of present and future financial conditions. Bowen concern from the school committee they would like to build their budget up as opposed to going into the process with a set of perimeters. Bowen seeks assurance this advances discussion as opposed to circumcises discussion. Flaherty believes this language inclusion is a proactive approach. Bowen in not sure this language is sufficient. Ames provides

**denotes a return to the section for further review/clarification*

a comparative analysis of the Financial Forecast Committee and its functions relevant to how the addition of an Annual Budget Meeting can serve in the same capacity. DeSilva agrees with the language. Would like to add another phrase that includes multi-municipal body coordination.

There being no further comments.

DeSilva moves to accept the language as recommended with an edit after "mayor", "inviting comment and information". Bowen seconds. The motion carries 5-0.

ii. *A6 s. 6-3(a)*

Dinkin would like to strike the word "local" regarding newspaper. Would like to include local newspaper of general circulation. Contreas refers back to the list of definition as how local newspaper is defined. Dinkin concedes.

Dinkin moves to accept all the references to website. DeSilva seconds. The motion carries 5-0.

DeSilva moves to strike the phrase "all persons". Dinkin seconds. The motion carries 5-0.

iii. *A6 s. 6-6*

Dinkin moves to accept the Collins Center recommendation. DeSilva seconds. The motion carries 5-0.

iv. *A6 s. 6-6(a)(c)(d)*

DeSilva moves to accept changes by the Collins Center as recommended. Bowen seconds. The motion carries 5-0.

v. *A6 s. 6-7(c)**

Per Perry, state law does not allow for city council to increase budget. Contreas per Prop 2 ½ is a referendum with override capacity. It is not a final appropriation. Perry strongly advocates against allowing city council to increase the budget. The executive must balance the budget. Bowen raises concerns with school committee budget needs. Contreas deflects, this is not an area of expertise and she will need to further research the general law. Regarding M.G.L. c. 44 contains specific provisions describing circumstances when the budget may be increased. Flaherty suggests adopting the language with Perry and Contreas returning to the next meeting with more specifics the M.G.L. c. 44.

Ames moves to accept the Collins Center language as suggested. Dinkin moves. The motion carries 5-0.

vi. *A6. s. 6-10*

Perry reviews this section in detail strongly advocating the auditor should be rotated. Flaherty would like the city council to select the audit firm. The checks and balances of the finances the city council should be the final authority to select the outside city auditor. DeSilva inquires if this change is clear in the charter, does this affect any ordinances. Perry believes upon adoption this is a home rule petition and would circumvent the city solicitor opinion. Flaherty, the intent if for the council to have the checks and balances authority. Perry suggest an audit committee or subcommittee to the city council to present recommendations for an outside independent audit firm. The committee will have two functions 1) prepare the scope of services for the audit and 2) to make a recommendation to the council. The city council shall make a final decision. Perry outlines the potential subcommittee composition of individuals. The finance director, city auditor, the city council budget analyst, the school finance director, the subcommittee chair shall be the chair of city council property of finance, with the city

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council president appointing two citizens who have municipal finance experience; who possess general principal budget and accounting knowledge.

Ames concurs with Flaherty the city council as a checks and balance should chose the audit firm. Ames believes who writes the RFP is important. Perry points out the committee would have that task. The highest criteria should be individuals who know what their subject matter. Perry compares the financial forecast committee, where there's more subject matter teaching as opposed to subject matter knowledgeable specialists, people who understand finance and accounting. Ames would like assurance there are enough independent voices and checks and balances are present. The subcommittee composition as outlined could be compromised in her opinion. Dinkin concurs on the creation of an audit committee and advocates for 7 members as opposed to 5 members. Suggests appointing 2 private citizens. Perry and Dinkin both acknowledge 7-member committee is cumbersome, however; Perry could accept 7 members if the budget deadline is firm and adhered to as the charter dictates. DeSilva agrees with citizen representation with required skill set criteria. Contreas informs the members CPAs are exempt from procurement.

Perry asks the members if they like the concept. Contreas and Perry will return to the council with crafted language to capture the desired intent.

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

b. Article 7

i. *A7 s. 7-1*

Contreas provides historical data on the state's election date. Language left alone. No action required.

ii. *A7 s. 7-3(c)*

Bowen moves to adopt the language as amended. Ames seconds. The motion carries 5-0.

iii. *A7 s. 7-3(d)*

Dinkin moves to accept the Collins center recommendation of proposed language clarification. DeSilva seconds. The motion carries 5-0.

iv. *A7 s. 7-5*

Dinkin raises the concern of gerrymandering. Contreas confirms this is standard language in most communities. DeSilva, asks if this process is contentious. Flaherty assures the members he does not have any concerns with this section.

v. *A7. s. 7-7*

Bowen moves to accept the changes as presented by the Collins Center. DeSilva seconds. The motion carries 5-0.

vi. *A7 s. 7-8(a)(b)(c)(d)(e)(f)(g)(h)*

Collins Center recommends proposed language is highly technical and adopted by many city charters. The memo outlines the technicalities of each section. Presents clear guidance and language for the section.

Ames moves to accept the Collins Center provision recommendations. Dinkin seconds. The motion carries 5-0.

vii. A7 s. 7-13*

Contreas informs the members the state constitution has a similar provision requiring 33% to vote on the question in order for the results to be valid. There is an initiative because state law allows for a voter initiative. Contreas explains the measure is looking for community commitment in order to prevent special circumstances or special interests high jacking democratic processes and ballot measures. Dinkin seeks clarification on the definition of voters. Contreas provides the definition. Contreas inquires if they as a committee like to add a turn out provision for the recall section.

Ames moves to accept the proposed new section by the Collins Center. Bowen seconds. The motion carries 5-0.

viii. A7 s. 7-14*

Dinkin raises concerns and uses the CA recall model as an example. Contreas questions why is the person subject to recall on the ballot, they are on the ballot in question one. If the vote is no, the person is still in office. Cites Fall River as a recent example. Contreas would like some sense of direction from the committee about their specific concerns. Contreas refers to the memo for common practices, specifically referring to 20% of voter signatures and an increase from 21 days to 28 days for voter signature collection. Dinkin is not a fan of making the recall easy. He believes government officials should be recalled for gross incompetence or extreme corruption.

DeSilva moves to accept the proposal signature requirement of 20% and voter signatures collected in 28 days. Bowen seconds. The motion carries 5-0.

ix. A7 s. 7-14(g)

DeSilva moves to accept the proposed changes as suggested by the Collins Center. Dinkin seconds. The motion carries 5-0.

5. Meeting Schedule

Next meeting is scheduled for June 10, 2021. Articles 8 and 9 will be reviewed. Flaherty proposes reviewing any articles that need additional examination or clarification. Perry suggests sending the recommendation draft to the city solicitor first before sending a draft to city council. Contreas said based on majority council vote, they send the draft to the mayor. Then the mayor has to approve the draft. There is no veto override.

Bowen emphasized the cover note explaining the thought processes behind the suggestions and recommendations. Bowen will begin drafting the cover note. Flaherty feels confident the mayor will coordinate with the council. There will be a public hearing before the city council takes a final vote sending to the mayor. DeSilva notes the city solicitor would like a red line document. DeSilva feels contrary to providing the solicitor with a red line document in order to avoid any confusion. Contreas agrees with having both a final and red line document. Contreas, they will indicate what is new and what is remaining. Dinkin fully supports a red line document in order to avoid too much cross referencing and confusion.

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Contreas has a few remarks for the members. She ask they revisit the topic for the consideration on giving an employee or board member the option of a hearing before the appointing authority or to come to the city council. Keep in mind the people using the suspension and removal procedure would be board members, the 3 members of city council and department heads. Please think on these areas. Collins Center concluded the committee should want everyone to go before the city council.

6. New/Old Business

None, no further action required at this time.

7. Adjournment

Flaherty adjourned meeting at 9:17 p.m.

Charter Review meeting June 10, 2021 at 7 p.m.