

CITY OF BEVERLY

PUBLIC MEETING MINUTES

CITY OF BEVERLY
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2022 JAN 28 A 9:48

Committee: Charter Review Committee
DATE: January 20, 2022
LOCATION: City Hall Council Chambers
BOARD MEMBERS PRESENT: Timothy Flaherty (Chair), Stacy Ames, Hannah Bowen, Julie DeSilva, Richard Dinkin
BOARD MEMBERS ABSENT: Michael Pinciario
RECORDER: Sharlyne Woodbury
Others present: Marilyn Contreas (Collins Center); Julie Flowers, Councilor-At-Large, City Council President; Dylan Benson, Paralegal to Beverly City Solicitor

City Council Appointee(s): Timothy Flaherty, Chairperson and City Councilor-At-Large; Hannah Bowen, City Councilor-At-Large; Stacy Ames, Former Ward 3 Councilor
Mayoral Appointee(s): Julie Flowers, Councilor-At-Large, City Council President
By Ordinance:
Ex Officio: Gerard Perry

1. Opening Remarks

Chair Flaherty calls the meeting to order at 6:38 p.m.

2. Review and approval of prior meeting minutes

a. Approval of July 8, 2021 minutes

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

3. Review the Mayor's Feedback on Charter Issues

Mayor's feedback:

2-1(c): Concern was expressed that ward voters would be "disenfranchised" and not have someone who lives in their ward advocating for them. Open to hearing more about why this approach would be preferable to the existing language.

Contreas provides counterpoints, most notably, the councilor still serves the ward. Contreas objects to the use of "disenfranchise" by the mayor's office. It is too strong a word to express concern where the proposed changes are not disenfranchising voters. Contreas also notes this is a rare occurrence. Members agree the councilor, while not residing in the ward, is quite capable of completing an elected term continuing to serve in the best interests of the residents. This is so long as the councilor remains within the city. The councilor is already familiar with the ward, its composition, and issues. DeSilva suggests reviewing the time frame. Bowen recalls from prior debates that the committee weighed options choosing the "least-worst" of suggestions. Members, and those presently serving as city representatives, were not comfortable with the city council appointing an individual to temporarily fill in who was not elected by the voters. Dinkin points out the most efficient way, what the review committee

has proposed, is the most efficient method in a rare option. Flaherty does not believe the mayor is adamant about this particular issue. What the council proposed is the least disruptive way to continue operating government.

Flaherty will further review with the mayor. The committee agrees to maintain their recommendation as proposed.

Mayor's feedback:

2-2(a): Concern was expressed regarding the proposed change to the manner in which the council President is elected, especially if it were done without voter ratification. Open to hearing more about why this approach would be preferable to the existing language.

The mayor believes the council president should be elected by the electorate. The group deliberates. Dinkin believes the proposed change should be ratified by the voters. This is something proposed outside the usual construct in rare circumstances. A self-organizing council creates greater accountability. Ames inquires if the top vote getter, who's never served before, could opt out of being council president. Per Contreas and Dinkin, not as the charter is currently written. Ames points out the bias of serving the ward specifically as opposed to focusing on the city needs as a whole. Dinkin and Ames weigh the pros and cons of ward councilors versus councilors-at-large serving as council president. Members continue deliberating finite points regarding councilor's experience and city knowledge. Councilor Flowers offers comments. Flowers points out the charter links the roles of the mayor and the councilor-at-large must run with approval from the whole city voting as opposed to ward councilors focusing on their specific constituency. However; Flowers notes that the charter has wisdom in the current wording linking the roles and correlating them to the voters. Despite that, it is not to say a ward councilor with many years of experience, cannot broadly service the city as whole on the rare occasion if the need arises. Dinkin reiterates a self-organizing council strengthens the council. Dinkin and DeSilva express viewpoints and deliberate. Flaherty reviews the opinions together and notes either way the charter revisions of a self-organizing city council would not be detrimental to the city.

Flaherty will further review with the mayor. The committee agrees to maintain their recommendation as proposed.

Mayor's feedback:

2-9(d): Concern was expressed about removing the timeline for reconsideration from the charter because such removal would eliminate the certainty around the finality of measures that currently exists. Open to a discussion about increasing the amount of time allowed for reconsideration if needed, but would like language to remain in the charter.

Flaherty presents the mayor's viewpoint. Concern was expressed about removing the timeline for reconsideration from the charter because such removal would eliminate the certainty around the finality of measures that currently exists. Dinkin agrees the timeline should not be open-ended and that 24 hours is too short. Members agree that 72 hours is fine. Contreas notes the proposal would address the changes in council rules, not in the charter. Members agree to increase the timeline to 72 hours. Flaherty recommends keeping the language the same but increasing the time to 72 hours from 24.

Dinkin moves to keep the charter language as written, with the change to 72 hours. Discussion on the motion. Ames does not want any power weakened of the council. DeSilva seconds. The motion carries 5-0.

Mayor's feedback:

2-10: There does not seem to be a compelling reason to change the quantum of vote needed from two-thirds to majority, for rejecting non-multiple-member body mayoral appointments. This would not receive Mayoral approval.

Members recall their original discussion points. The mayor felt the current structure works fine as is and should remain two-thirds majority votes. Essentially the committee recommendation was to promote language consistency. Ames discusses the possibility of a wildly adversarial relationship between the council and the mayor inhibiting the two-thirds majority vote. Dinkin points out if the mayor makes a bad appointee choice, it will be reflected presumably in the electorate vote and the appointee's performance. Members have no major objection to the original charter language.

DeSilva moves to maintain the original charter language. Dinkin seconds. the motion carries 5-0.

Mayor's feedback:

3-1(b): Four-year term. Supportive, subject to voter ratification.

Members agree with the feedback. Their recommendation remains unchanged. They recommend to increase the executive term to four years by ballot initiative.

Mayor's feedback:

3-2: There does not seem to be a compelling reason to remove the chief procurement officer language. This would not receive Mayoral approval.

Members begins discussion recalling that what can be accomplished via ordinance is not necessary to include in the charter. Contreas explains the difference between the mayor assuming the title by way of being elected mayor; as opposed to an individual who is appointed to serve in the capacity as chief procurement officer. This is supported under MA law. Dinkin notes the mayor is the signatory on behalf of the city, not to be confused with the chief procurement officer. Summary of prior meeting minutes was a vote of 5-1 in favor of accepting proposed language change and deleting the first sentence of section 3-2.

Flaherty will return to the mayor's office and the city solicitor for further clarification.

Mayor's feedback:

3-8 (b): While there is Mayoral support for transitioning to a four-year mayoral term subject to voter ratification, section 3-8, pertaining to filling a vacancy in the office of mayor, was not discussed at the meeting. It is conceivable that changes to this provision will be suggested when the draft is before the City Council.

Members believe the solicitor's office requires clarification and elaboration on this topic; confirming if this is for the named section or for 3-9. Flaherty and the committee will receive clarification and have Williams attend the next meeting.

Mayor's feedback:

4-1(a): Open to further discussion about adding two "district" school committee members, but the need for such is not clear at this time.

Members discuss in depth the school committee needs for 2 additional members. Members are sensitive to school committee requests for help due to the current workload and the existing subcommittees. Main points covered by the discussion include: the school committee specifically requesting help; trying to fill existing vacancies; the additional burden of two new slots; the politicization of education policies in forceful opposing viewpoints; the suggestion of appointing or hiring the two new members based on criteria and expertise; the mayor as school committee chair. Bowen notes this is still a hot topic and recommends keeping the proposed changes. Dinkin weighs in. Education has become increasingly politicized. Setting policy is non-trivial and controversial.

Ames advocates for adding the 2 members. Ames reiterates there is a lot of work and the school committee members requested help. She reminds members this change is here due to the expressed concerns of the school committee members. DeSilva also agrees with Ames; however, notes that filling the existing slots is difficult; let alone adding 2 members. Ames notes it is important to figure out at this juncture how they can best help the school committee and have government function better.

Flaherty expresses concerns about micromanagement and the nature of the school committee role changing as a result of the 1993 reforms. Flaherty suggests if they are to add two members that they should consider hiring /appointing professionals. He believes professionals that have the qualifications and expertise are more efficient to assist the school committee. Flaherty also cautions on creating too large a committee in that the process could become cumbersome. Ames counterpoints the school committee requested help and that 7 members fall short of meeting all the needs, where 9 is preferable.

Ames also would like a more equitable balance of power between the school committee and the mayor. Flaherty notes reducing power of the mayor reduces accountability. A smaller committee is easier to work with. Dinkin notes increasing community involvement is important. Flaherty discusses how well-intentioned school committee members are, however; navigating today's increased educational needs within a municipality are more complex. Therefore, professional members with strong expertise would serve more efficiently in the capacity of their role. Dinkin notes when Boston changed from elected to appointed, the committee was not less political. Local control is a strong hold and giving more representation to the people is better. Politics will not be staved off. Sometimes more local control is detrimental to public education. Provide increased representation and community involvement. Bowen recommends strengthening the arguments presented with the recommendations by the committee.

Contreas provides comments and suggests the mayor as chair of the school committee. Dinkin believes that's an unnecessary burden on the mayor's office. Contreas notes the majority of MA mayors are chairs of their school committees, Perry concurs.

Flaherty maintains his preference and the committee will keep the changes as recommended. Bowen will provide additional content to strengthen and support their proposed changes.

Mayor's feedback:

4-1(b): Same concern as expressed with respect to 2-1(c) regarding a member continuing to serve a ward that they do not reside in.

Members already discussed this under 2-1(c). No change.

Mayor's feedback:

6-10: Generally supportive of the concept, subject to language changes that Bryant Ayles will provide. Those changes pertain to reducing the number of members on the committee, adding language requiring the committee to evaluate the audit firm's work, and removing the prohibition on a firm serving more than two consecutive terms. There seemed to be a consensus that these changes would be acceptable.

Perry addresses the committee and provides the updates. The function of this committee will be an evaluation process providing recommendations to the city council who will select the audit firm. Perry strongly believes recommending an audit committee is good practice. Bryant Ayles, current Finance Director, supports this change. Ames inquires how many firms will be suggested. Ames wants to understand how the council is choosing the audit firm. This is a critical point for checks and balance. It is very important for the city council to have options. Perry explains the audit committee will do their best to provide recommendations, but let the members know on occasion sometimes only one firm may be suitable. Members do not agree with this. Perry suggests the audit committee could put forth and rank multiple firms with criteria to make the best selection. Ames believe if this committee returns only one firm, this is undoing what the charter has written. Ames does not want to undue the existing intent. Dinkin calls attention to state law where it recommends two minority owned firms. Contreas and Perry are not aware of that but will review it.

Perry discusses the committee composition. Originally, the members were to be: 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 council president appointing two citizens who have municipal finance experience; who possess general principal budget and accounting knowledge. The members are decreased to 5 from the suggested 7.

Members immediately express concerns with having an independent committee entirely comprised of city appointees. DeSilva provides notes that everyone already working for the city appointed to this council does not solve the transparency issue presented to the charter review committee. Bowen concurs. Bowen would like to put forward the idea for two citizen representatives with finance background. On the rotation point, Bowen is open to changing the rotation schedule. Suggests a longer time period or a different partner of the firm. The concept of rotation is important. I responds and assures members the very nature of the composition promotes independence.

Perry responds to members concerns. He does not agree with Ayles that only one audit firm will bid on the audit. The city can most likely get multiple. This is why the committee composition is critical. The concept of people who know the business is a way to instruct the committee and have the ability to interact with the audit firm. Private citizens would not be able to get that same response from audit firms. Ames remains concerned and would like in writing, language insisting the audit committee recommend more than one firm. Perry counters this could be an obstacle if the city does not elicit more than one firm responding to bid. The city cannot opt out of an audit if there are no other firms besides one, bidding on the audit. Dinkin interjects. Public finance runs on a different set of rules than

conventional public accounting. Public finance is highly specialized. People who live in the city with this specialty either work in some capacity for another municipality or the state or they are bidders. Bidders on the committee are not optimal.

Bowen and DeSilva note there must be some private citizen, (retired) that is able to serve on this committee in that capacity. DeSilva notes there are other people bank presidents, etc., that could be interested in this process. DeSilva does not like that this was stricken from the process without the reminder of why this was there in the first place. DeSilva overall agrees with Perry that the suggested construct of the proposed committee is best for compromise and keeping the city council with power to select the audit firm. Flaherty thinks less is better, pointing out the reality of a private citizen able to serve in this capacity is rare. Flaherty is very comfortable with the language and the checks and balances presented. Dinkin notes because this clause was discussed and debated with the mayor, the language is strong. Ames wants to make sure the intent is preserved, not subverted. Ames worries it becomes the place where the audit firm is selected and the council power is diminished.

Ames praises the committee. Members are thoughtful, hard-working, even handed, and deliberative. These recommendations are purposeful. Ames wants to make sure the city council does not lose its power with this compromise. Bowen acknowledges this is one of the charter pieces being the most challenged. This compromised solution was negotiated without all members of the review committee present, which members are not comfortable with. Bowen is not comfortable with accepting these solutions and compromises without all charter review committee members present. Bowen wants the suggested reasons and intents clearly and firmly declared for with further explanation. Flaherty suggests moving this along with additional clarification by the city solicitor for the next meeting.

Flaherty agrees the more controversial items should be on ballot for the voters to decide.

4. Discussion: Final Report & Summary

Perry reviews the process of the clean documents to be submitted.

5. Discussion: Presentation to the City Council

Perry reviews the timeline for presentation to the City Council, public hearing, legal subcommittee review, and the return to the charter review committee. The committee will assess all components and make their final recommendations. Dinkin notes the public hearing should not be the same night as the presentation. Ames inquires if it is preference for members to attend the subcommittee meeting of legal affairs. Perry reviews the open meeting law requirements for joint meetings. Flowers affirmatively answers the members may attend at their discretion. Members discuss future availability and additional meetings in order to finalize the process. Dinkin inquires if the document can be separable in order for he mayor to have line item veto as opposed to an all or nothing approach.

6. Old Business

None at this time.

7. Adjournment

Dinkin moves to adjourn. Ames seconds. The motion carries 5-0.

Meeting adjourned at 8:47 p.m.

Next meeting is January 27, 2022 at 7:00 p.m.