

**Estelle M. Rand-Chair**  
**Todd C. Rotondo**  
**Brendan S. Sweeney**

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**LEGAL AFFAIRS / CITY COUNCIL COMMITTEE OF THE WHOLE MEETING MINUTES**

Monday, May 9, 2022, 6:00PM

City Council Chambers, 3<sup>rd</sup> Floor, Beverly City Hall, 191 Cabot St.

Rand called to order the Legal Affairs meeting and Committee of the Whole at 6:03pm.

Committee Members present: Todd Rotondo, Brendan Sweeney, Estelle Rand

Other Councilors present: Hannah Bowen, Steven Crowley, Kathleen Feldman, Julie Flowers, Scott Houseman, Matthew St. Hilaire

Order Number	Date to Committee	Description	Action Taken
#075	3/7/2022	Tim Flaherty, Charter Review Committee Final Report	

Rand reviewed where the Council is in the process, stating that the goal for tonight is to get through Articles 1, 2, parts of 3, and Articles 5 and 6 if there is time.

**Article 1**

Sweeney stated it seems like most of these are technical and modernizing changes. Sweeney asked how the "district" addition should be approached if the section it references does not get approved by the voters.

Marilyn Contreas, representative from the Collins Center, stated any provision of the charter that is affected by any of the referendum questions would be moot because they would be of no effect, so nothing would need to be done to remove this if the question does not pass.

The motion to adopt the recommended changes to Article 1 as proposed by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (3-0).

**Article 2**

Rand noted that in Section 2-1(c) there is a proposed changed that if a ward councilor moves during the first 18 months, they could continue to serve the balance of the term. Rand stated this would go to a referendum.

St. Hilaire asked about the word "may" in the phrase "the Councilor may continue to serve for the balance of the term to which elected" and whose choice that would be.

Contreas and City Solicitor Stephanie Williams confirmed it would be the councilor's choice.

Houseman suggested inserting more specific language such as "at the Councilor's election" after "may" in that sentence.

Contreas suggested the alternate of "as the Councilor may determine" so as to not have the word "election" confused in a section that references elections.

Feldman and Flowers expressed general support for clarifying language but that it does not feel necessary in this situation.

The motion to adopt the recommended changes to Section 2-1 as proposed by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (3-0).

The motion to adopt Section 2-2 as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (3-0).

The motion to adopt Sections 2-3, 2-4, and 2-5 as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (3-0).

The motion to adopt Section 2-6 as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (3-0).

The motion to adopt Section 2-7 as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (3-0).

Williams noted that in Section 2-8(a) in the second full paragraph there is the proposed addition of a sentence that states, "the Budget/Management Analyst shall have those duties and responsibilities as determined by ordinance" which effectively already exists as the last sentence of that paragraph, where it says, "the Budget/Management Analyst shall have such other powers and duties as may be provided by Charter, by ordinance or by other vote of the City Council" so that additional sentence is redundant.

The motion to remove the redundant sentence and adopt the rest of Section 2-8(a) as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (3-0).

The motion to adopt Section 2-8(b) through Section 2-8(e) as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (3-0).

The motion to adopt Sections 2-9(a) and 2-9(b) as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (3-0).

Williams suggested striking the paragraph as it is in Section 2-9(c) and rewriting it as new. It would be the same changes as approved by the committee, just more clearly written. For clarity, Williams read the new section for 2-9(c) as proposed by the Charter Review Committee.

The motion to adopt Section 2-9(c) as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (3-0).

Contreas noted in 2-9(d) that the phrase "subject to council rules" can be removed because it was left from a prior version.

Williams clarified that it was not in the original charter and was not approved by the Charter Review Committee, so this is not an amendment. It is essentially a typo and should not be there.

The motion to adopt Section 2-9(d) as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (3-0).

The motion to adopt Section 2-10 as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (3-0).

Contreas noted the major change in Section 2-11 is how the vacancy gets filled.

Sweeney asked about the language in Section 2-11(d).

Contreas stated it should be clarified to include "is not presently serving" in the requirements.

Rand read the amended language as proposed, which was provided by Solicitor Williams.

The motion to adopt Section 2-11 as recommended by the Charter Review Committee and as amended was made and seconded. A vote was taken, and the motion carried (3-0).

### Article 3

Rand asked Contreas to speak to the changes in the chief procurement section (3-2).

Contreas stated this is in a few charters but not many, and mostly older ones.

Bowen stated her understanding when this was before the Charter Review Committee was that the oversight of that function is already in the executive branch description, so this was not so much removing of any power as it was a removal of redundant language that could conflict with state regulations.

Rand noted that another major change in Article 3 would be the change of term for mayor from a two-year term to a four-year term, which would also be a referendum.

Sweeney stated he is comfortable approving this recommendation because it would ultimately be reviewed by voters. Sweeney noted that Mr. Perry had previously stated that a lot of municipalities are moving in this direction.

Houseman agreed with the rationale but stated he would be interested in the council giving their own points of view. Hearing what other municipalities have done is interesting but not persuasive. Houseman stated there are two matters to consider; one is the power of incumbency, and the other is the distribution of power between council and mayor. Houseman expressed concern about the ability of the voters to have accountability in the

office in a manner that is timely enough to address the situation. Houseman stated that if the mayor's term is longer, it certainly redistributes power since the mayor will have more longevity. Houseman asked if there would be any redistribution of resources.

Charter Review Committee Chair Tim Flaherty stated in 1995 the committee looked at a four-year term. The idea was a little controversial then. Those are valid points; the idea is trying to keep the politics out of it and to attract several candidates. The mayor can focus on the job and not every year or year and half have to focus on an election.

Sweeney asked if this was a unanimous vote by the committee.

Flaherty stated it might have been one or two against, but everybody voted to get it out there and put it before the voters.

Bowen stated that could be checked in the minutes from the Charter Review Committee. It is one of the topics that was discussed a lot. Bowen stated she feels that there are great arguments either way; neither one feels like it will jeopardize the city's future. Bowen stated that with steps like making the recall procedure appropriate to the term, there are safeguards in the charter.

St. Hilaire agreed there are benefits to both sides and expressed concern for turnout in off-years when the mayor is not up for election.

The motion to adopt Section 3-1 as recommended by the Charter Review Committee was made and seconded.

A vote was taken, and the motion carried (3-0).

The motion to adopt Section 3-2 as recommended by the Charter Review Committee was made and seconded.

A vote was taken, and the motion carried (3-0).

Rand skipped the rest of Article 3 and all of Article 4 to return to at another Legal Affairs meeting.

#### Article 5

Bowen stated that from what she remembers at Charter Review Committee meetings, it looks like a big change to remove the option to reorganize or establish agencies by ordinance by the City Council, technically in some ways it might be, but in reality this provides clarity and leaving this provision in may open the door for confusion. This is more of a housekeeping change than a policy change.

Contreas stated that the mayor can propose changes, but as far as adopting the code itself, that is still up to a vote of the council.

The motion to adopt Section 5-1 as recommended by the Charter Review Committee was made and seconded.

A vote was taken, and the motion carried (3-0).

The motion to adopt Section 5-2 as recommended by the Charter Review Committee was made and seconded.

A vote was taken, and the motion carried (3-0).

The motion to adopt Section 5-3 as recommended by the Charter Review Committee was made and seconded.

A vote was taken, and the motion carried (3-0).

The motion to adopt Section 5-4 as recommended by the Charter Review Committee was made and seconded.

A vote was taken, and the motion carried (3-0).

The motion to adopt Section 5-5 as recommended by the Charter Review Committee was made and seconded.

A vote was taken, and the motion carried (3-0).

The motion to adopt Section 5-6 as recommended by the Charter Review Committee was made and seconded.

A vote was taken, and the motion carried (3-0).

The motion to adopt Section 5-7 as recommended by the Charter Review Committee was made and seconded.

A vote was taken, and the motion carried (3-0).

The motion to adopt Section 5-8 as recommended by the Charter Review Committee was made and seconded.

A vote was taken, and the motion carried (3-0).

#### Article 6

Sweeney stated he would be curious to hear Mr. Perry's thoughts on Article 6 because this would be a notable change. Sweeney stated he is comfortable taking that opportunity at a full council meeting and moving forward tonight.

Rand noted that Section 6-2 formalizes an annual budget meeting.

The motion to adopt Section 6-1 as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (3-0).

Rotondo asked if it is necessary to have the addition of Section 6-2, stating that it seems as if this is already being done. Rotondo stated it seems like the mayor is not really in favor of this, so it could possibly be vetoed. Bowen stated this is a good example of something that is already happening that the Charter Review Committee was looking to codify. It is a safeguard that is even more important if changes are made to the length of the mayor's term and/or to the amount of members on the school committee. Bowen stated that it is worth including here.

Contreas noted a handful of other communities do this as well.

The motion to adopt Section 6-2 as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (2-1, Rotondo opposed).

Flowers left the meeting at 7:34pm.

Rand skipped Section 6-3 (formerly Section 6-2) to return to later on.

The motion to adopt Section 6-4 (formerly Section 6-3) as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (3-0).

The motion to adopt Section 6-5 (formerly Section 6-4) as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (3-0).

The motion to adopt Section 6-6 (formerly Section 6-5) as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (3-0).

Sweeney asked about the removal of 60 days in Section 6-7 and what the state time frame is.

Contreas stated that Chapter 44 Section 32 sets the time frame, and this change is to match it to the statute.

The motion to adopt Section 6-7 (formerly Section 6-6) as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (3-0).

The motion to adopt Section 6-8 (formerly Section 6-7) as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (3-0).

The motion to adopt Section 6-9 (formerly Section 6-8) as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (3-0).

Rotondo suggested in Section 6-10 striking one of the appointments from the mayor, the city accountant, and instead adding a citizen representative with finance experience appointed by the city council president. Rotondo stated he had discussed this with the mayor today and the mayor seemed possibly on board. Rotondo noted the importance of the council appointee having financial experience.

Contreas followed up on a suggestion from last week to change "provide" to "select" in the first sentence.

Flaherty stated this is one of the major reasons he decided to be on the Charter Review Committee. Flaherty stated he wanted to see the language stronger for the city council to make that decision. There is ambiguity as the charter is now.

Houseman stated he thinks the language that has been recommended is stronger than if no change is made, but it would be more clear if it stated, "shall annually select an independent auditor and provide for an outside audit" and a similar change in the section at the bottom that is not as important.

Williams and Contreas requested time to look at it before the meeting tomorrow.

Rand stated for the meeting tomorrow at 6pm they would start with Section 6-10, then move to Article 8 and Section 3-3. Rand also recommended the Committee review and be prepared to discuss Article 9.

Rand stated the School Committee is meeting on Wednesday and will review changes relating to their committee then. Then the Committee on Legal Affairs will meet Thursday, May 12, at 6pm to discuss Article 4 and Article 7.

The motion was made and seconded to adjourn Committee of the Whole. A vote was taken, and the motion carried (7-0).

The motion was made and seconded to adjourn Committee on Legal Affairs. A vote was taken, and the motion carried (3-0). The meeting adjourned at 7:58pm.