

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

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LEGAL AFFAIRS / CITY COUNCIL COMMITTEE OF THE WHOLE MEETING MINUTES

Tuesday, May 10, 2022, 6:00PM

City Council Chambers, 3rd Floor, Beverly City Hall, 191 Cabot St.

Rand called to order the Legal Affairs meeting and Committee of the Whole at 6:02pm.

Committee Members present: Todd Rotondo, Brendan Sweeney (arrived at 6:21pm), Estelle Rand

Other Councilors present: Hannah Bowen, Steven Crowley (left at 7:00pm), Kathleen Feldman (arrived at 6:09pm), Julie Flowers (left at 7:00pm), Scott Houseman, Matthew St. Hilaire (left at 7:00pm)

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

Article 8

City Solicitor Stephanie Williams noted that if only the numbering is changing, she does not think the committee needs to vote on it.

The motion to adopt Section 8-1 as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (2-0).

The motion to adopt Section 8-5 as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (2-0).

The motion to adopt Section 8-6 as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (2-0).

Marilyn Contreas from the Collins Center noted a change in 8-6(d) to make it compliant with state law.

The motion to adopt Section 8-8 as recommended by the Charter Review Committee and to change the word from "secular" to "calendar" was made and seconded. A vote was taken, and the motion carried (2-0).

Feldman joined the meeting at 6:09pm.

The motion to adopt Section 8-11 as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (2-0).

The motion to adopt Section 8-12 as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (2-0).

Rand asked Bowen to speak to some of the Charter Review Committee's discussions around the following sections.

Bowen stated this was to add clarity about the appropriate appointing authorities for filling/removing different kinds of vacancies.

Contreas stated in talking about 8-15, there are federal laws, state laws and regulations around this. The charter should provide a path that recognizes all these other conditions that exist and that can still be appropriately applied.

The motion to adopt Section 8-13 as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (2-0).

The motion to adopt Section 8-14 as recommended by the Charter Review Committee was made and seconded. A vote was taken, and the motion carried (2-0).

Sweeney arrived at 6:21pm.

Rand noted the requirement in 8-15 to share a cause for the reason for suspension/removal.

Williams stated that the Collins Center did not advise using the word “cause” and advised against using it because of state law implications. It would be a pretty significant change. The Collins Center did recommend updating this section and bringing all of these together from different sections of the charter.

Contreas agreed, stating the problem was that there were inconsistencies between the methods in sections 3-4, 2-8, and 8-15 as they existed; this is about being uniform.

Bowen stated this was a complicated section to pull together. A committee member wanted the language to be as strong as possible. Another section that defined cause ended up not being included in the redline voted by the Charter Review Committee. It definitely is worth looking at again.

Charter Review Committee Chair Tim Flaherty and City Council Budget/Management Analyst Gerry Perry both agreed with removing “cause” and inserting a different word.

Sweeney asked if the notice provided to the employee would be public record.

Williams stated that would be exempt under public records law.

St. Hilaire, Houseman, Flowers, and Feldman also expressed support for removal of the word.

Sweeney asked for clarification if it would just be replacing the word “cause” or if it would be removing the need for a written statement.

Contreas stated the process was in place but used the word “reason” instead of “cause” when originally approved by the Charter Review Committee. The word “cause” was added later on in the review process.

Williams agreed that changing the word back to “reason” would not change the process.

St. Hilaire and Feldman both expressed that they felt the section about providing a reason could be taken out entirely.

Rotondo asked about removing a larger section of text.

Rand suggested moving the replacement of the word “cause” now and having the bigger conversation at the council meeting.

The motion to adopt Section 8-15 as recommended by the Charter Review Committee and by replacing the word “cause” with the word “reasons” in Sections (a) and (b) was made and seconded. A vote was taken, and the motion carried (3-0).

Section 6-10

Williams noted there was proposed language from Ms. Contreas to change the first sentence into two sentences and read, “The City Council shall annually select a certified public accountant or firm of certified public accountants to conduct an outside audit of the books and accounts of the City. Such accountant or firm shall have no personal interest, direct or indirect...” then the language would continue on.

Rotondo discussed his conversation with the budget analyst and city finance director. Rotondo stated at the last meeting he had suggested removing the city accountant but after those conversations, it seems the accountant does a lot of the auditing selection now. Rotondo suggested instead having the school business manager removed and a city council president citizen appointee with accounting or audit experience added.

Flowers stated she appreciated this suggested amendment and hoped this could be a point of compromise.

St. Hilaire, Flowers, and Crowley left at 7:00pm.

Perry said his biggest concern had been to get agreement from the mayor. Perry stated he appreciated Councilor Rotondo’s work and supports it.

Sweeney stated he appreciated Councilor Rotondo’s work as well. This was something clearly desired from citizen comments.

Houseman agreed with the language change to add “select” in the beginning.

Bowen asked that the overall proposed language with “annually” would not conflict with contracts that may be for longer terms. The audit should happen annually, but the firm may not be selected annually if the previous contract was longer than one year.

Perry stated traditionally it is a three year minimum contract when engaging with an audit firm. Perry stated he did not think the committee would come before the council every year but the committee could help with scope of services every year.

Williams stated she would like to think more about the language and confirmed Bowen was asking about making sure the “provide” is annual and the “select” is not necessarily annual. It may be fine, but it may be worth the council discussion.

Bowen confirmed that is what she meant. Bowen noted she also liked the balance of having a school representative, which could also be something else to think more about before the council meeting.

The motion to adopt Section 6-10 as recommended by the Charter Review Committee and with the amended language to change the makeup of the audit committee as suggested by Councilor Rotondo and with the language read into the record by Solicitor Williams was made and seconded. A vote was taken, and the motion carried (3-0).

Feldman left at 7:15pm.

Article 3 (continued from May 9 meeting)

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

There was some discussion around 3-7(b) and the restrictions or responsibilities of an acting mayor.

Houseman asked about the thought process in 3-7(a) of going through councilors at large before the council decides amongst its membership for an acting mayor.

Bowen and Flaherty said the idea was to have someone who was elected city-wide and had the most votes so that it is closest to how the mayor is selected.

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

Sweeney and Houseman asked some clarifying questions on the timeframes and stages laid out in this section. Bowen stated this discussion got going in the Charter Review Committee because of the potential four-year term. The language would not change if the two-year term stays in effect. The committee was balancing wanting people to have a voice, the cost and low turnout of special elections, and making sure there was not an interruption to city services.

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

Article 9

There was some discussion on the function of the language in this article.

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

Rand stated that at the next meeting on May 12 at 6pm the main focus will be 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 8:00pm.