

Charter Review Commission

Meeting Minutes

April 14, 2011

7 p.m.

Attendees

Members in Attendance:

Charles Woodard (Chair)

Isaac Diggs

Pauline Dillard

Brigidanne Flynn

Jack Penney

Barbara Simon

Barbara J. Smith

Susan Smith

Members Absent:

Tom Murphy

Mary Ann Prokosch

Decora Sandiford

Consultants:

Jonathan Drapkin, Director, Pattern for Progress

Prof. Gerald Benjamin, SUNY New Paltz

Lester Steinman, Esq.

Staff:

Acting City Manager Richard F. Herbek

Corporation Counsel Michelle Kelson

Administrative Assistant Ann Kuzmik

Other Guests:

Lindsay (student)

Summary:

Co-Chair Brigidanne Flynn opened the meeting as Mr. Woodard was to be late. She led the group in the Pledge of Allegiance. The minutes of the 3/31/2011 meeting were approved as written.

AGENDA ITEMS:

Presentation by Prof. Gerald Benjamin “Decision Points: Manager Appointment and Removal, Council Size, Selection, Leadership” *(filed with minutes)*

Prof. Benjamin noted the Commission previously decided that the appointment of the City Manager should be by a majority of Council plus one, and that the term should follow the hiring provisions of the New Rochelle Charter (see slide 3)

He reviewed the presentation at the previous meeting, “Appointment and Removal of the City Manager,” particularly slides 14-17 regarding qualifications of the City Manager.

DISCUSSION ITEMS:

- Commission may decide to specify a certain level of education and/or experience or a combination of both.
- Whether a business background would qualify a candidate, or if a MPA should be required.

Prof. Benjamin reminded the group they had opted for a professional manager and cautioned against opening the door too wide regarding qualifications. Council may decide to bring someone in despite their qualifications, but should do so thoughtfully, he said.

Jack Penney said he would like the requirements to be less restrictive. Brigidanne Flynn suggested that the formula be a college degree plus a certain number of years experience in running a city, or a Master’s Degree and equivalent experience.

Barbara Smith moved that the group adopt the ICMA Minimum Manager Qualifications, as depicted on slide 17 on the previous presentation.

MOTION: The City Manager candidate must have a master’s degree with a concentration in public administration, public affairs or public policy and two years experience in an appointed managerial or administrative position in a local government or

a bachelor's degree and five years of such experience. The motion was seconded by Isaac Diggs and passed by unanimous vote.

DISCUSSION ITEM: Residency Requirements-

The Commission discussed whether or not to have residency requirements, if there should be a specific length of time before residency must be established; if the Manager should be a property owner/taxpayer or a tenant; and if requirements should apply to an Interim City Manager.

Ms. Kelson commented there was no line of succession in the Charter, and that the group may want to establish one.

MOTION: Isaac Diggs moved that the group finish the requirements for a City Manager then take up the requirements for an Interim or Acting City Manager. Jack Penney seconded, and the motion passed unanimously.

Further discussion continued on whether an extension could be given on the set time to establish residency.

MOTION: Isaac Diggs made a motion that the City Manager should be required to reside in the City within 90-120 days of hiring, with one extension by the Council of 60 days. Barbara Smith seconded. Mr. Steinman noted that the motion could not be drafted with a range of time, and suggested that it be 120 days with one extension of 60 days. The motion passed unanimously.

DISCUSSION ITEM: Waiting period before elected official can become City Manager

Prof. Benjamin said if someone on Council wanted to become City Manager, they could vote on their own choice, so there should be restrictions on when they can apply. Mr. Steinman said there are provisions in Charters that Council cannot appoint one of their

own, so members would have to resign in order to apply. There are also waiting periods specified in some Charters.

Isaac Diggs suggested that that the Commission adopt the language in the Peekskill Charter, which states that no elected official can be eligible for the position of City Manager until at least one year after their separation from City government. Discussion followed as to whether more time should be required.

DISCUSSION ITEM: Removal of the City Manager (Prof Benjamin)

- Charters are universal in that the Council removes the Manager
- Most Charters specify an initial removal vote followed by a notification process, then a specified period of time when the Manager can request a public hearing
- The Manager is suspended pending the public hearing and final vote
- If a public hearing is held, action can be taken at the same meeting
- Salary during the suspension time can be outlined in the Charter, or in the contract
- Since the Charter creates the Council, and the Council negotiates the contract, the Charter should be written so that a contract cannot circumvent it
- Number of votes needed to remove a City Manager- whether it should be a supermajority or a majority plus one

MOTION:

Isaac Diggs made a motion that the Commission ask the consultants to draft removal requirements using Section 3.02 of the ICMA Model City Charter (Slide 29 of the 3/31/11 presentation) as a blueprint with language regarding time frames, adding that a majority plus one is required to remove the Manager, and referencing the Council's ability to call a special meeting in order to go through the steps of the process. The motion was seconded by Susan Smith and passed unanimously

The ICMA Model City Charter states that the Council offers the opportunity to resign. If the Manager does not resign a majority of Council members must approve a resolution to suspend the Manager setting forth reasons. The resolution goes to the Manager who has 15 days to reply. A public hearing on request must be held on sooner than 15 days from the date of the request. A second vote is required to remove the Manager. Full salary is paid until the effective date of the removal.

AGENDA COMMENTS FROM MARY ANN PROKOSCH:

Barbara Smith presented comments on the agenda emailed from Mary Ann Prokosch. They include: requiring a majority plus one for appointment; maintaining residency requirements; obtaining an opinion on the legality of an employment contract, and if so, making the initial contract period two years, with continuance on a per year basis. If the City cannot be protected from lawsuits stemming from employment contracts then she is not in favor of a contract.

Regarding removal, Ms. Prokosch recommended the process outlined in the Model City Charter, with parameters set if the opportunity to resign is offered; suspension by a majority plus one, setting forth reasons; an interim manager during the suspension period, a 15 day period for the Manager to reply to the suspension resolution; a public hearing within 15 days from the City Manager's request to hold one; a second vote by a majority plus one to remove, and full salary paid until the effective date of removal. The process could take a minimum of 15 days without a public hearing, and a maximum of 30 days; and there should be this cooling-off period between the vote to suspend and the vote to remove to allow for the public to weigh in.

AGENDA ITEM : CONSULTANT STATUS REPORT-

Jonathan Drapkin noted that the group has decided to keep the Council/Manager form of government, and they have made progress on the appointment and removal process. The next step is to decide whether to have a ward system vs. an at-large system.

He said they need to build a timeline for the November election; that the grant is not infinite and the consultants will not be able to stay on past a certain point. He said the group needs to decide how the consultants use their time. Mr. Steinman said they would need time just to get to the point of signing off on the question for ballot purposes. Mr. Drapkin reminded the group that once the referendum goes to ballot, the Commission is dissolved.

The Commission continued discussion on whether they should be ready to put a referendum up for vote in the upcoming election, whether redistricting could be a part of that, and if they could do the redistricting without the consultants.

The consultants pointed out that the redistricting could be a two phase process; that this Commission could determine the size of the Council, and number of wards, but another Commission would be appointed to create the actual boundaries. The present Commission could also decide whether the Council should be made up of members elected at-large or by ward, or a hybrid of both.

MOTION:

Susan Smith made a motion that the Commission should have an answer for Mr. Drapkin about how far they want to proceed on the next agenda. Isaac Diggs seconded it and the motion passed unanimously.

NEXT STEPS:

- 1- Continue Agenda Item #5 from this meeting regarding size of City Council, election of Council members, and at-large vs ward election
- 2- Discuss interim City Manager succession
- 3- Provide an answer to the consultants on how to proceed.

The meeting adjourned at 9:20 p.m.