

Charter Review Commission

Meeting Minutes

June 9, 2011

Members in Attendance:

Pauline Dillard

Brigidanne Flynn

Mary Ann Prokosch

Barbara J. Smith

Susan Smith

Tom Murphy

Members Absent:

Charles Woodard

Decora Sandiford

Jack Penney

Isaac Diggs

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

Acting Chairperson Brigidanne Flynn called the meeting to order at 7 p.m. and led the group in the Pledge of Allegiance. Minutes of the 4/28/11 and 5/26/11 meeting were amended as requested by Susan Smith and Lester Steinman respectively and approved with amendments.

AGENDA ITEMS:

Review of Revised Draft for Appointing & Removing City Manager:

Prior to presenting his revisions to the above referenced draft, Mr. Steinman told the group that as of the end of June he would have exhausted the grant allocation He said he hoped to finalize the revisions regarding appointment and removal of the City Manager at this meeting; and the redistricting proposals at the June 23rd meeting. He said he would continue to assist Corporation Counsel Michelle Kelson to get the proposals ready for the November referendum.

Following review, the proposal for revisions to C. 5.00 were approved by unanimous vote as noted below: (changes are in red)

Section C 5.00. Selection; qualifications; term; removal from office.

- A. Selection. The Council, by a majority plus one vote of its entire membership, shall appoint a City Manager who shall be the chief administrative and executive officer of the City.

The City Manager may be appointed:

- (1) for an indefinite period to serve at the will of the Council;
- (2) for a definite term not to exceed two years, at the expiration of which term the City Manager may be reappointed from time to time in the discretion of the Council, but in no event shall any one period of appointment be for more than two years; or
- (3) for a definite term not to exceed two years under a written contract of employment, which contract shall contain such terms and conditions as may be specified by the Council. Nothing in such contract of employment shall conflict with the provisions and

requirements of this Charter. In the event of any such conflict, the provisions and requirements of this Charter shall be controlling. Such contract of employment may be renewed from time to time in the discretion of the Council but no one renewal period shall be for a period in excess of two years.

- B. Qualifications. The City Manager shall be appointed solely on the basis of executive, administrative and professional qualifications. The City Manager shall have (1) a master's degree with a concentration in public administration, public affairs or public policy, or an equivalent graduate degree, and two years experience in an appointed managerial or administrative position in a local government or other related experience; or
- (2) a bachelor's degree with a concentration in public administration, public affairs or public policy, or an equivalent degree, and five years of experience in an appointed managerial or administrative position in a local government or other related experience.

No elected official of the city shall be eligible for the position of City Manager until the expiration of at least one year after separation from the city government.

- C. Residency. The City Manager shall be subject to the residency requirements set forth in Section 3.00 of the Charter provided, however, upon initial appointment, the City Manager shall be permitted to establish residency in the city within 120 days of appointment. The Council, where circumstances warrant, may grant one 60 day extension of this period.
- D. Removal. Notwithstanding whether the City Manager is appointed for an indefinite period or a definite term, and without any requirement that cause be demonstrated, the Council may remove the City Manager from office in accordance with the following procedures:

- (1) The Council shall adopt by affirmative vote of a majority plus one of all its members a preliminary resolution for removal, which must state the reasons for removal, and which may suspend the City Manager from duty for a period not to exceed 30 days. Such suspension shall not deprive the City Manager of salary for such period, but no reimbursable expenses may be charged to the city or to a city department by the suspended City Manager for the term of such suspension. A copy of the resolution shall be delivered to or served upon the City Manager personally or by leaving it at the office of the City Manager in the city within five days after its adoption.
- (2) The City Manager, within five days of the service or delivery of the preliminary removal resolution, shall have the right to file a written request with the Council for an opportunity to be heard at a public meeting of the Council. In the event that the City Manager makes such request, the opportunity to be heard shall be afforded at a regular or special meeting of the Council to be held within 15 days of the Council's receipt of such request. The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority plus one of all its members at any time after the City Manager is afforded the opportunity to be heard at a Council meeting or, if no opportunity to be heard is timely requested, after five days from the date when a copy of the preliminary resolution was delivered to or served upon the City Manager.
- (3) The City Manager shall continue to receive salary until the effective date of the final resolution of removal. The action of the Council in suspending or removing the City Manager shall be final and binding.

Proposed revisions to **Section C.5.01** (see below) were then reviewed, and following a motion by Barbara Smith and second by Mary Ann Prokosch, approved unanimously as written.

Section C 5.01. Acting or Interim City Manager.

The City Manager may designate any appointed officer of the city to act as City Manager during the absence or disability of the City Manager, and the person so designated, during the continuance of such absence or disability, shall perform all the duties and have all the powers of the City Manager. In the absence of a designation by the City Manager, the Council may make such designation.

In the event that a vacancy occurs in the office of City Manager due to death, resignation or otherwise, the Council shall immediately commence the process for selecting a new City Manager in accordance with the requirements of Section C 5.00 of the Charter. Within ten (10) days of the occurrence of the vacancy, the City Council shall designate an appointed officer of the city to serve as Interim City Manager. The Interim City Manager shall serve in that position until a new City Manager is appointed, provided, however the Interim City Manager may not serve more than six months unless the Council, by resolution, certifies the necessity for the continuation of the Interim City Manager and sets forth the reasons why a new City Manager has not been appointed. Upon the adoption of such resolution, the Interim City Manager may continue to serve for no more than an additional six months.

Presentation of First Draft of Redistricting Commission: Lester Steinman

Mr. Steinman noted the model he used was the model prepared by Prof. Benjamin and ultimately adopted by Ulster County.

The proposal provides for the creation of a Districting Commission within 180 days after the November election, assuming that the referendum for Charter Revision is approved by the voters. It further provides for the convening of a Districting Commission every 10

years, after Census information becomes available. The proposal outlines the procedure for reviewing qualifications of possible members, how they will be appointed, and the terms of office of Mayor and Council members once the new ward system is established.

The Commission also discussed the effects of a new ward system on the Citizen Advisory Committee (CAC) which currently consists of members from election districts within nine wards. It was noted that the Chair, who was unable to attend this meeting, had asked that the description of the duties of the CAC be revised to reflect reviewing qualifications of possible members of the redistricting committee.

If the CAC makeup needs to be changed, Ms. Kelson pointed out that it could be changed by ordinance, and it would not be necessary to change the Charter. The CAC would not have to be linked to wards at all, but it should be representative of the City.

Members asked whether the current election districts would still be in existence at the County level, and if CAC members could still be selected from them. Prof. Benjamin said that the CAC would have to be constituted as necessary to accommodate the system the Commission created, and the County will have to adjust to administer the elections accordingly.

Mr. Drapkin said he had concerns about setting up a process that required an action of the City Council to change it- i.e., appointing the CAC. He questioned what would happen if the Council decided not to act? Ms. Kelson said that Council could still appoint members of the CAC from descriptions of the old wards, which are still identifiable regions. Prof. Benjamin noted it is in the Council's best interests to fully staff the advisory committee because it becomes consequential in the process of the election.

Mr. Steinman said he is still thinking about the last provision which provides for the Redistricting Commission to go out of existence once the map is presented- that something may need to be added to provide for the Commission to be reconstituted in the event the map is challenged legally.

Discussion followed on how terms would be staggered with the new system, and a vote on term limits was proposed. Ms. Kelson said there would have to be an affirmative vote of the entire quorum in order to approve the motion, and it did not appear that everyone was in agreement.

Other discussion: Ms. Prokosch asked whether the title of Mayor should be eliminated and whether having Council elect a President from at-large members might provide for a better working relationship. She also said she would like to change the term limits of the judges. Ms. Kelson said this can't be done because the terms, salary, and number of judges are set by the New York State Judiciary law and the Uniform City Court Act.

Mr. Murphy said he thought there should be a residency requirement for members of the police and fire department, and he had hoped that the Charter could be amended to require this. Mr. Steinman said that such a proposal could expose the City to a lawsuit and jeopardize the other measures being proposed.

NEXT STEPS:

Mr. Steinman will prepare the approved revisions to C. 5.00; and will further revise the redistricting plan. The Commission was asked to review the current draft with the goal of finalizing it at the June 23 meeting, and to email Mr. Steinman with any comments prior to then. Prof. Benjamin will prepare some information on term limits. Brigidanne Flynn will prepare a "visual" depiction of how staggered terms will work with the new ward system and distribute it to members.

. The meeting adjourned at 8:50 p.m.