



February 23, 2017
CITY OF SARATOGA SPRINGS
Charter Review Commission
City Hall Music Hall
7:00 PM

CALL TO ORDER

WELCOME AND ANNOUNCEMENTS

PUBLIC COMMENT

INTRODUCTORY REMARKS BY BOB TURNER

APPROVAL OF MINUTES

DISCUSSION OF PUBLIC OUTREACH

DISCUSSION OF CHARTER LANGUAGE

ADJOURN



February 23, 2017
CITY OF SARATOGA SPRINGS
Charter Review Commission
Music Hall – City Hall
7:00 PM

PRESENT: Jeff Altamari
Ann Casey Bullock
Gordon Boyd
Laura Chodos
Devin Dal Pos
Elio DelSette
Matt Jones
Pat Kane
BK Keramati
Robert Kuczynski
Mike Los
Minita Sanghvi
Barbara Thomas
Robert Turner
Beth Wurtmann

ABSENT: No one

STAFF: Tony Izzo

RECORDING OF PROCEEDING

The proceedings of this meeting were taped for the benefit of the secretary. Because the minutes are not a verbatim record of the proceedings, the minutes are not a word-for-word transcript.

CALL TO ORDER

Chairman Robert Turner called the meeting to order at 7:00 p.m.

PUBLIC COMMENT

Chair Robert Turner opened the meeting for public comment.

Joy King, Saratoga Springs, asked for the numbers regarding the cost of a special election and the numbers for the Commission that was read by Commissioner Madigan at the last City Council meeting.

Robert Turner responded that the budget for the Commission is \$20k for legal expenses, \$20k for Community outreach and education, and \$6k for the meeting clerks. He said the special election costs included 0 for the machines, \$5k for 1800 ballots, explaining that the number of ballots is to be decided by the City Clerk (John Franck). He said the cost of Inspectors is based on the number of polling places. They have been speaking with the Commissioners of elections William Fruci and Roger Schiera. The City has 25 election districts and each is manned by 4 election inspectors for a total of 100 and the polling hours are the City Clerk's decision and can be either primary election hours which are noon to 9 pm or general election hours which run from 6am to 9pm. The new pay rate for 2017 is \$110 per day for inspectors for a primary election which, premised on having four election inspectors at each of the 25 districts, would total \$11,000 and \$190 per day for inspectors for a general election, which amounts to \$19,000. He said he spoke with someone in the City who is involved in the election process and they said that since it is not a partisan election, there could be two election inspectors per polling place and that would cut savings by \$5,500 for primary election hours or \$9,500 for general election hours. He said another option is to reduce costs by having the voting in one place but he feels that would be a bad idea for the public and it is better to run it as a normal election. He advised that the County Board of Elections has Election Technicians that set up the machines and make sure they get to the right polling places and that costs about \$8,000 and the City has to rent trucks to move the voting machines and we should budget \$1,200 for that. The City needs to advertise the election, the polling places and the time of operation in designated local papers and \$2,000 should be budgeted for that. There should also be \$1,000 budgeted for absentee and affidavit ballots and for sample ballots to be placed at each polling place. Everything comes to about \$37,000.

Joy King said that sample ballots are placed around the room at each polling place for people to examine and this is important. She noted that if the election is modeled after the County general election, we would need door monitors at the schools that are polling places; one door monitor must be stationed at each school. She said there is always a greeter from each of the two major political parties if you go by the model of the County for a general election. She recommends going with three inspectors at each polling place to allow for one inspector to be on the floor to help voters and answer questions. She advised that Districts 11, 14 and 23 are the largest and there are usually six inspectors at each of those districts. She said that the Board of Elections would know the cost of door monitors. Jeff Altamari asked Joy to submit this information in writing. Robert Turner remarked that he reviewed the costs line by line with both Commissioners of Elections and neither mentioned greeters or door monitors.

John Safford, Saratoga Springs said he keeps coming back because he really respects what the Charter Commission is trying to do and that they are attempting to do what is best for the City. He strongly suggests getting the final report out as soon as possible because a lot of people are confused when things are changed. He understands the Commission sees the delay as being responsible to people but at the same time it seems as if you do not know what you want to do. A lot of people are reserving their opinion and their investigation based on the final product. He noted that the question of the date of the election has provoked some suspicion so moving this to November might be something to consider and it might show more credibility. He does not believe what is being said is true and he sincerely respects what the Commission is doing. He is also impressed with the way the Commission has been bringing out issues that are problematic with the current form of government and examining whether or not they can be resolved with the current Commission form or if a change to the form of government would lead toward solutions.

Seeing that no one else wished to speak, Robert Turner closed the public comment period.

APPROVAL OF MINUTES

Ann Casey Bullock reported that there are three sets of minutes to approve including February 6, February 13 and February 16. Barbara Thomas noted that each set has a few typos so they should be approved with minor corrections.

Ann Casey Bullock moved and Pat Kane seconded to approve the Charter Commission meeting minutes of the February 6, 13, and 16 meetings with minor corrections. Ayes all

INTRODUCTORY REMARKS

Elio DelSette said that as a business point, outreach people have been visiting Commissioners and it is his understanding that the Commission agree to remain neutral from political activity. The City Council has put us in a different light. He understands that Chairman Turner came to a Democratic Committee meeting. Robert Turner said he was invited to the meeting because the Committee wanted to know the Commission's reasoning for wanting a special election and to answer questions about it. He had a similar offer to reach out to the Republican Party; he has heard nothing from the Independent Party but he will reach out to them.

Gordon Boyd said the legal requirement is that any City money we spend is to objectively inform and educate the voters on the proposal. This does not constrain any of us as individuals from speaking about the Charter in any way we choose. We did not give up on first amendment rights. We can have discussions of any kind as long as we are not asking taxpayers to pay for that experience.

Discussion followed about public perception, and the freedom of speech. Elio DelSette warned the Commission to be careful when it comes to informing the public as opposed to advocating for the new Charter.

FUNDS FOR SPECIAL ELECTION

Robert Turner said that reporters Ned Campbell and Joseph Phelan did a reasonable job interpreting the events of his appearance before the City Council. He said that the vote on the administrative costs passed unanimously, however the vote on having a special election for the Charter referendum on May 30 became very contentious. He said that both Commissioner Madigan and Commissioner Franck were concerned that there is not yet a final product and the lack of a document leaves the Council open to concerns. Both Commissioners agreed the lack of a document is an issue but it is not as big a concern as the issue of holding a special election.

Robert Turner explained that under New York Municipal Home Rule law Section 36, there are two ways we can obtain the right to hold a special election; one is that the City Council approves it and the funding and the second is that the Mayor can certify the funds.

Barbara Thomas said that everyone seems to feel there would be a lawsuit on one side or another. Do we want to get into a legal fight over that? Robert Turner responded that we do not want to get into a legal fight, what we need to do is to finish the Charter.

Beth Wurtmann asked if there is a good chance that the Mayor may opt to certify funds. Robert Turner said he submitted the budget on January 10 and it was sent to the City Council on January 11. Pat Kane said the City Council has made their decision, now Mayor Yepsen has the opportunity to certify funds. He said that the premise of the NY MHRL 36 is to make these commissions able to function as apolitical as possible and they created the alternative funding mechanisms to try to provide an opportunity for charter commissions.

Robert Turner said that Mayor Yepsen is fully aware of the process and she takes the independence thing very seriously. She will be in touch with us about how we want to proceed in light of the Council's vote.

Gordon Boyd said that the Council might have retained Attorney John Aspland; but he is not sure if he has been formally engaged or not. Mike Los said at this juncture, we are waiting for a response from the Mayor.

Robert Turner said it is not up to us, it is up to the Mayor; if she does not want to certify funds, then we talk and make a decision. Jeff Altamari is unclear about a lawsuit; he asked if they could bring a lawsuit based on a low turnout or the use of City funds.

Elio DelSette asked where the funds will come from if a cause of action is brought against the Commission. Gordon Boyd said the Council approved that the other night. Robert Turner said we will cross the bridges when we get to them. If there were to be a referendum, could we move it from May 30 to June 7?

DRAFT CHARTER

Robert Turner distributed a rough draft stating that the Commission members should have received it by email.

Jeff Altamari stated that there needs to be an internal audit piece included and he has recommended language accordingly. The City Council would be responsible to maintain an internal audit function and examine areas where it may have substantial impact. Discussion followed on the difference between internal and external audits. Jeff Altamari explained that a public auditor is looking for inefficiencies, not fraud or improprieties; they do not delve into an issue. Deficiencies can be operational, not just financial. The language regarding internal audits is separate and apart. The City Council may want to outsource an internal audit; they could specify where they perceive a problem and send for an internal auditor.

Jeff Altamari said the Commissioner of Finance has most of the functions now but does not do self-audit. Pat Kane said that most municipalities hire a firm that conducts an audit and reports directly to the City Council not to the City Manager or the Director of Finance or any other person.

Robert Turner said that they will re-work 2.15 and move stuff down; it all belongs under Financial Management.

There was discussion about not discussing items where decisions had already been made. Robert Turner suggested finishing reviewing the draft and then circulating it to officials and department heads. We have made decisions but there are things that we do not know that we don't know. We need to determine whether there are things that are not understood or things that just will not work. He asked the commission which parts are important.

Prohibitions: County supervisors cannot serve on both the Council and as a County supervisor.

Section 2.12 is Investigations, **Section 2.14, 2.15** is Jeff's language. **Section 2.16 through 2.24** is standard stuff.

Section 2.25 is language from the model City Charter. R. Turner said if there was a terrorist attack and the top leaders were unable to function, this is the provision to use. It was developed after the 9/11 attacks on New York City. A lot of smart people realized this is an issue. This is the language created by representatives from the National League of Cities, a collective group of City Managers, Mayors and municipal policy makers and they tapped into the 9/11 experience and came up with this language which is something we would never come up with on our own.

Robert Turner asked the Commission members to review carefully the section on the City Manager Qualifications on page 7, Article III that lists the appointment, the type of degree and qualifications and experience the City Manager should have and the language includes provisions on how the person is hired and how they should be removed and all of these things are worth our review. He said the language also includes 16 powers and duties of the City Manager; it is important to go through these. He also asked them to review Section 3.04 on page 8 because it is important and it is comprised of language from the model City Charter, Canandaigua, Oneonta verbatim.

Jeff Altamari asked about previous discussions on the date for the capital budget. Robert Turner said that Commissioner Madigan felt the date of the capital budget currently is too late; it would be helpful to have it earlier and he also spoke with some former Commissioners of Finance and some of the City Managers that were interviewed and everyone agreed that it was a valid suggestion and the date for the submission of the capital budget should be changed.

Section 4.03A: Matt Jones said we have had several healthy discussions regarding the City Attorney and he said that the language presented in this section seems to be the result of those discussions when we finally settled on the appointment process. It is a job well done.

Section 4:01 Departments: Robert Turner asked for the Commission's feedback on the inclusion of positions in the Charter such as the POSH Position and Human Resources. He wants to give it to the City Clerk and the City Attorney and the Personnel office. It is a minimalist version of what we have been espousing.

Pat Kane said that whether we need an addendum or an attachment we need to call out the fact that specifics such as job descriptions should be in the City Code, not in the City Charter. He reminded the Commission that the original concept was that the Charter is the general structure of the government, specifics are in the Code; for the City Council, business as usual can be changed easily when it is in the Code.

Tony Izzo said the Commission has held a lot of discussions about pieces in the Charter that after a change would be transferred to one or more sections of the City Code. If the Commission sticks to its' original concept to keep the charter to a document that talks about a plan, and describes the structure of the government itself, the administrative day to day procedures of government could be moved separate sections of the City Code. There is always going to need to be an administrative code.

Section 4.05: Robert Turner said Supervisors must have a two-year term; it is New York State Law. Gordon Boyd said there are County Supervisors within this County that have four-year terms. Pat Kane said it relates to Cities versus towns or villages. Robert Turner read from Section 2 of General City Law that "The term of office of each supervisor hereafter elected in a

City shall, notwithstanding the provisions of such city charter, be two years, and a supervisor shall only be elected in such City each second year thereafter, except to fill vacancies.”

Tony Izzo said that he is not familiar with this law but up to a point if Supervisors had four year terms they could continue serving the four year terms but when this particular law took effect, thereafter it was only to be two year terms. He will look into this; he is not familiar with that law. Pat Kane suggested that it might be specific to the City. Tony Izzo said it might be located in County law, General Municipal Law or General City Law; he will research it and let the Commission know next Tuesday.

Financial Management: Robert Turner said that the Financial Management Section has been lifted directly verbatim from the current Charter, but he wants to ask Mark Lawton if there is anything he would add, change or reduce; it is very long, it is about 25% of the Charter.

Terms of office: Robert Turner noted that the Commission should look at the staggered terms and determine that we have lines a, b, c. we had talked about and agreed to the top three vote getters.

Article VII: Regarding Inside and outside tax districts, Robert Turner said this is important to highway maintenance and plowing. He stated that the limitation on the amount of local indebtedness is much lower than the state average and we would like to leave it at 2% and this is also in the current Charter. Gordon Boyd asked if this is existing Charter language or is it re-drafted and Pat Kane confirmed that it is the same. He did point out that page 20-21 sets a new effective date.

Matt Jones asked if it was determined if there must be a statutory City Clerk. Gordon Boyd stated that the City Council appoints a City Clerk.

Section 8:02 and Transition - Gordon Boyd asked if we need language in there regarding the 2019 elections and the 2020 date. He noted that some journalists have gotten confused on the language of elections in 2019. He said in order to have the new charter go into effect in 2020, there has to be an election in 2019. They would have to budget to the new charter but the 2018 Council would create the budget. The form of government would not be changed until 2020 so elections will take place in 2019 under the old form.

Matt Jones pointed out that the budget for 2020 must be in a totally different format but the 2019 Council creates that budget under the old Charter.

Gordon Boyd said they would have to budget to the new Charter, but the existing Council, the existing five people would have to create that budget to be effective 1/1/2020 that shows the existing departments and they would have to adopt their budget according to the existing Charter but the elections would be in 2019. Robert Turner said that is the nature of the change.

Matt Jones said the transition of the budget process is tricky. He said the existing Charter constrains the Commissioner of Finance in that process.

BK Keramati asked if it is possible within our charter language to have a paragraph that states that it is the responsibility of the officials that are in office prior to 2019 to prepare the budget that will work if the new Charter is approved.

Robert Turner said there should be some transition plans in the Charter. Gordon Boyd said there may have to be two separate documents. Robert Turner advised that this is an issue for the Commission to discuss thoroughly. Matt Jones said we may find otherwise; they are constrained by the current Charter to a process that would not work well on January 1, 2020, so transitional language is what is needed.

Gordon Boyd said that a paragraph regarding the budget process of the new Charter and transitional language could be included. Robert Turner said he would ask Robert Batson for some suggestions for language on this.

Jeff Altamari said there will be a situation where you have essentially a lame duck structure trying to create a very important budget for another structure whose leadership is not in place, so transitional language is necessary yet it will be a temporary solution.

Pat Kane mentioned that when there is a transition plan or goal, some communities have brought in a temporary City Manager as part of the transition. It could be done here in the late fall of 2019 to assist in laying the groundwork for the changes. It could be inserted into the charter as a transitional document. He said a well written transition plan is very effective. The transition committee takes the ball and runs with it; there should be a transition team and a transition plan and it is important to remember that it has an expiration date. The Charter will hopefully be around for many years, the transition will expire. He said not only does a transition plan explain how a transition group can be formed, whether it is appointed by the City Council or not, it is the group that will take the ball and run with it and work with the next Council to plan the process and conduct a search for the City Manager. There must be a transition plan; we have to put one together.

Devin Dal Pos said for clarification that in 2019, the City Council will put together a transition team. Pat Kane said the language could state that a transition team would be formed January 1, 2019 and lists the goals, responsibilities and objectives accordingly because on January 1, 2020, it will be business as usual.

Laura Chodos said that since parts like the transition team, the schedule and goals and similar items will only be done once, it should all be together around pages 20-22.

Section 2.06: Committees. Robert Turner stated that the Commission agreed that the Mayor would create and appoint ad hoc committees. Gordon Boyd agreed that the Mayor is presiding officer and should be given those powers; if the City Council has those powers it will be chaos. Pat Kane wants Section 2.06 to be labeled as Ad hoc Committees

Discussion ensued regarding which standing committees are ad hoc. Robert Turner said this seems to be an important issue. Matt Jones reminded the Charter Commission that there are Authorities, and the Recreation Commission is in the existing charter. Gordon Boyd interpreted ad hoc as meaning committees appointed by the Council; it needs to be distinguished. Jeff Altamari said the appointment of a Charter Review Commission is explicit in the current Charter; it specifically states there should be one every 10 years. Pat Kane said it is highly recommended in municipal law but it is not State law. Robert Turner said we should look into this further.

Section 2.18- Public Hearings: Shall be published in one of the City's official newspapers and on the City's website and they are required for such things as ordinances, changes in

ordinances, local laws, and capital budget amendments. BK Keramati said that under **section 2.11** it refers to publication in local newspaper and on the City website.

Rob Kuczynski said he wants to talk about this and reiterate what he said before about trying to future proof this specifically when you talk about technology; it is a very slippery slope. If you read a quarter of the nightmarish internet security stuff that gets passed to him, you would question if we will have internet in five years. He thinks we might want to make the language stronger and maybe include or mention the web page but put in something that states "all available, necessary public relations media and mechanisms". He will draft the language.

Beth Wurtmann commented that the Commission came up with another piece that the Council members would have to be present, in person. Robert Turner said we have discussed skyping. Beth Wurtmann said we have no idea what capabilities there will be in 8 to 10 years for being remotely present. We should be forward-thinking about this. Rob Kuczynski said that physical presence is a nice touch; if Congress could pass roll call votes without physically being there, it would be just wall to wall fund raisers. He said other states have had this problem. Beth Wurtmann said there are definitions in other areas.

Devin Dal Pos said the land use boards make use of that tool and sometimes you will see a land use board member on a screen participating in the meeting and voting. Pat Kane said that this is done to comply with the attendance requirement; if the board members do not attend a certain amount of meetings, the Mayor has a right to remove them from the Board, so to make the attendance requirements skyping and phone conferencing has been allowed. Pat Kane said one land use board member was allowed to skype in for seven meetings in a row. Devin Dal Pos said that should not be allowed; he wants to mandate physical presence in the Charter for the Council and the land use boards. It is fair to people that are requiring service. He said skyping or phoning in is not fair to the applicant. The board member should be there; physical presence should be required. If the board member feels their input is that important, be at the meeting, otherwise, do not bother to serve. Pat Kane understands but is concerned that there could be extenuating circumstances such as illness, death in the family, giving birth, and these would be excused absences.

Gordon Boyd said it is not a court of law where a defendant may be deprived of his/her constitutional rights, but they should if at all possible be physically present. Jeff Altamari said the technology is so robust, you would not know if someone was there by skype or otherwise, the resolution is so advanced. He added that the ability to remotely be in attendance will change dramatically in the next ten to twenty years; technology is a strong component in the future of this city. Rob Kuczynski said as technology progresses, the ability to exploit it progresses at the same rate, so he advocates being vague regarding technology in the Charter and the Code. He advised that technically the area of physical attendance or not is not one that the City of Saratoga Springs wants to trail blaze.

Tony Izzo said that you need to have more than technology changed if you want to start writing about attendance at meetings by other than a person physically being there. You need for some laws to change. Right now under the open meetings law, video conferencing is ok by one or more members, but it has to be specifically advertised that one or more members will be video conferencing; the legal notice has to be very specific and state law has a great deal to say about how that shall be advertised and how it shall be conducted. He agreed that technology is progressing where people can attend meetings remotely more easily than ever, but state law has to keep up with it. Beth Wurtmann asked how the land use boards were able to skype. Tony

Izzo replied that they complied with state law. The Zoning Board was the first one to ever do it in this City. It was complicated but they were in compliance with all state requirements for the open meetings law. Devin Dal Pos said we do not have the highest quality technology here.

Rob Kuczynski said the current infrastructure will be a wasteland given what people can do with their phones. To continue to communicate digitally on a quantum level, we would need a new security structure.

There was further discussion on the viability of computers and technology. Gordon Boyd asked if the newspaper could be digital; fewer people are getting the newspaper delivered at their homes because they are opting to receive it digitally. Tony Izzo said municipalities usually designate one or more newspapers in their Charters. He does not know of any situation where a municipality has failed to designate a newspaper and instead only posts on the city's website. He does not know if that would be in compliance with the open meetings law. Devin Dal Pos clarified that that the question is whether designating a digital newspaper for the publications would be conforming with the law and Tony Izzo said he does not know why it wouldn't be in compliance.

Robert Turner said he will send a draft on Sunday and he asked the Commission to go through it and send to Ann and Gordon things to be changed, added, subtracted, etc. and refer specifically to the section # that you are addressing.

Matt Jones said that the discussion on benefits was never memorialized. Robert Turner said he has two students calling various City Councils. There was discussion that computing the expense of part time City Council members is similar to determining the amount of money to request in a grant application for personnel. The retirement option must be presented to every part time employee, and there are specific percentages for each benefit including retirement, unemployment, worker's compensation, and FICA which must be computed and included along with the compensation in determining the money to budget. It was noted that health benefits are not part of the computation because the grant positions are part time and temporary, usually less than 30 weeks.

Jeff Altamari said that the NYCOM document seems thorough; the Mayor of Canandaigua said that the City Council members there do not receive health benefits. Robert Turner said the hallmark of this is that we have tried to have an empirical and data driven process, so when we come up with numbers and someone asks how they compare, we want to have the ability to show the comparison and how the numbers we are using correspond with the time we expect them to put in.

Laura Chodos said regarding the Mayor's salary, she has received a list of the salaries of Mayors of 34 local governments.

Beth Wurtmann asked if the term "Dynamic Mayor" was going to be used officially. Pat Kane said we do not want to use the term strong or weak when describing the Mayor. The title of the position is "Mayor" Beth Wurtmann said she thought it was something that the Commission embraced.

Matt Jones cautioned that we are bumping up against the deadline; we are not at the point of discussion as to the removal of the five deputies. No one is assuming that the City Manager will

do the job of five deputies. There has to be some assumption in the new government as to that cost; do we have a number there that will shrink as we plug in Directors and staff.

Robert Turner asked if anyone has seen studies regarding savings. BK Keramati stated that internal audits typically render a savings. Mike Los said that is hard to quantify.

Robert Turner said we know from our survey that 70% of current employees feel that the City government currently does not save money and it does not protect taxpayer dollars. For example, DPW is failing to take care of the Recreation Center, and Recreation fields and City Hall. The survey results indicated that most employees feel there would be a significant savings with a change of leadership. Jeff Altamari said there are hard and soft savings; they go hand in hand. BK Keramati asked if it possible to research municipalities that have an internal audit function and determine if they realized a savings. Pat Kane said he has discussed this with an individual from a municipality in Illinois that went from a Commission form of government to a City Manager and they said the savings is significant and they will get back to him with the numbers.

Robert Turner said he would send out the draft and he reminded members to submit their favorite suggestions and changes to Ann and Gordon in numerical order by section. He announced the next meeting will be held Tuesday February 28 in the City Council room.

ADJOURNMENT

Matt Jones moved and Laura Chodos seconded to adjourn the meeting at 9:10 p.m. Ayes all. There being no further business, Robert Turner adjourned the meeting at 9:10 p.m.

Respectfully submitted

Nancy L. Wagner
Clerk

Accepted: 3/20/2017