

Minutes of Charter Review Commission 5/9/17

Present: R. Turner, P. Kane, B. Thomas, E. Del-Sette, M. Jones, L. Chodos, J. Altamari, G. Boyd, R. Kucynski, B.K. Keramati, D. Dal Pos

Anthony J. Izzo, Acting Clerk

Meeting called to order at 7:03 PM. R. Turner asked for public comments at the beginning of the meeting. No one spoke.

R. Turner stated that he met with the Safety Committee 1 1/2 weeks ago. Many good comments and discussion. Focused on Civil Service provisions and Human Resources provisions in the proposed charter. He also met with the Downtown Special sssessment District Board.

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R. Turner stated that M. Jones had asked about a Skidmore College survey, but that survey is not relevant to the Charter Review process. The two surveys done by the Commission were very important. They were about encouraging more people to become candidates for public office and about the administration of City government. The survey showed how difficult it is to find candidates for public office.

M. Jones discussed polls and polling language.

R. Turner stated that he will locate the Skidmore College survey and share it with Commission members.

M. Jones discussed whether the arguments made by J. Altamari in his previous position paper are still relevant now. M. Jones read the discussion of that previous paper from the minutes.

J. Altamari passed around his written analysis. He stated that he is being asked whether we can just fix our current form of government to address his concerns about audits. He wanted to clarify that we could, but it wouldn't solve the problem of council members being able to audit their own departments. It would be better if a city manager had that function. J. Altamari also stated that he stepped down from his part in Mayor Yepsen's campaign back in March, so any criticism about the Mayor's possible influence on his conclusions is unwarranted.

P. Kane stated that there is already an internal audit procedure in City Hall and it is not effective.

R. Turner moved to approve the April 25 minutes. M. Jones seconded. Ayes all.

R. Turner introduced Hon. Jeffrey D. Wait, City Court Judge, for his comments. He stated that Judge Wait was formerly City Attorney.

J. Wait stated that he was City Attorney during Mayor Ken Klotz' administration for 4 years. Mayor Klotz appointed a Charter Review Commission and that commission fixed the current commission form from what it was. Mayor Klotz wanted to form a second commission to investigate the advantages of a different form of government. J. Wait said that he is a 3rd generation Saratogian and a 3rd generation City Attorney. He has been City Court Judge since 2009. He had spoken with P. Kane about what the Commission was doing and he has read the draft document. When he got to the "legal matters" section he found the proposed language problematic. Maybe it creates more problems than it solves. He doesn't understand why the City Manager is so involved in the appointment of the City Attorney. The City Attorney should be appointed by the Mayor with the advice and consent of the City Council. Having the City Manager direct what the City Attorney does is inappropriate. The City Attorney acts more as an in-house counsel. We often hire outside counsel and the City Attorney worked with them but didn't prosecute all matters personally. The City Attorney should not be given the responsibility to handle all actions and proceedings.

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J. Wait stated that outside counsel should report to the City Council, not the City Attorney. The City Attorney can cooperate but the outside counsel should be advising the City Council directly on the status of matters he or she is working on and report to them. Any commissioner could engage an outside counsel as long as it was approved at the Council table. If you're not satisfied with what your lawyer is doing, you can hire another lawyer.

B.K. Keramati stated that the City Attorney is responsible for all legal matters. Even if outside counsel is used, the City Attorney should keep aware of that attorney's work.

J. Wait stated that it is very problematic to have the City Attorney directed by the City Manager or by anyone else. The attorney needs to do his or her job. If he or she isn't doing their job, get another attorney.

J. Altamari stated that with corporate counsel, the corporate attorney has responsibility to hire other attorneys. As far as the City Attorney being directed, that wasn't intended and maybe we should rewrite that language.

J. Wait stated that the City Attorney will be working closely with the City Manager. That makes sense, but the City Attorney should report to the City Council, not to the City Manager. I represented the City Council, but my undivided loyalty was to the Mayor. If the commissioners wanted my opinion, they asked for it. We spent money on attorneys who didn't report to anyone but the commissioner that hired them. If you have the City Attorney appointed by the Mayor, or by the Mayor with the advice and consent of the City Council, and working closely with the City Manager, there's not such a possibility of conflict. I find the existing language in the current charter about the City Attorney, with few changes, can do everything you want under your proposed new form of government.

B.K. Keramati stated that the City Council is very different under the new proposal. Do they have a different role with respect to the City Attorney?

J. Wait stated that their role is the same when it comes to hiring attorneys and being able to find out what those attorneys are doing.

G. Boyd asked if the attorneys should be reporting anything to the City Manager rather than the City Council.

J. Wait stated that makes sense, but the City Council should be making the decisions about legal issues.

J. Altamari stated that the City Council will have to meet sometimes to get legal advice.

G. Boyd stated he has a problem with the City Attorney being able to say that the City Council didn't direct him to do something.

D. DalPos stated that we need to allow for times when the City Attorney and the City Council need to discuss the City Manager.

M. Jones asked why mandate that the City Attorney "shall" handle everything when we know it won't be done that way? The City Council will need access to the City Attorney sometimes outside of the City Manager.

D. DalPos stated that the City Council and the City Manager will work closely together. The City Manager should be involved in the process of finding the City Attorney. It should be a professional process where personalities will be compatible.

R. Turner stated that some people believe that the City Attorney should someday evolve into a more permanent, non-partisan position.

J. Wait stated that you can take the politics out of it by appointing the City Attorney with the advice and consent of the City Council. That reduces chance of getting people who can't work well with each other.

B.K. Keramati stated that it is important for the City Manager to determine who he or she can work with.

J. Wait stated that you still need to have City Council approval, so he is not sure what the distinction is.

R. Turner stated that it is often a question about where the City Attorney's loyalty lies.

[There was discussion about the City Attorney being dragged into arguments between council members]

J. Altamari stated that there is also a proposal to just bifurcate the existing City Charter. How could the City Attorney change so as to lessen any dysfunction?

[There was further discussion about arguments/conflicts between council members]

P. Kane asked if J. Wait would comment on current court space and staff and the effect on City Hall space.

J. Wait stated that the City Council has approved a plan with the NY State Office of Court Administration, who has the power to decide what court space will look like. The City went through a lot of work and spent a lot of money and we still don't have a new court room. I wrote to the Council and told them what was happening and what we would require. The Council committed to other plans anyway and spent \$300,000 - \$400,000 on renovations on the second floor. I've seen some dysfunction and waste like that and I think we would have a second court room today if we had a different form of government. I don't know that, but I'm guessing.

R. Turner asked J. Wait what he thought about the appointment process for land use board members. Should they be appointed by the Mayor with the advice and consent of the City Council?

J. Wait stated that that makes sense.

P. Kane asked if the City Attorney should be a resident of the City? Could he or she be from somewhere else?

J. Wait stated that State law would have to change for that. There is a lot of special legislation from the State to give municipalities a larger area from which to choose. It has been difficult to find qualified attorneys who live in the city.

[There was discussion of possible State legislation]

R. Turner stated that the proposed charter would give the City Council the power to subpoena witnesses. He asked J. Wait what he thought about that.

J. Wait stated he read that. He is not sure what he thinks about it. Hasn't given it a lot of thought yet.

[There was discussion about the City Council conducting investigations.]

J. Wait stated that, to sum up, the existing City Attorney language in the current charter, if modified as he discussed, would do the job properly.

[M. Jones further discussed City Attorney appointment procedure.]

J. Wait stated that it is a good idea to give the Mayor significant input to the City Attorney appointment process. The more you take away from the Mayor, the less attractive the new proposal becomes, to me. The Mayor and City Manager should have a role in it, but the City Manager shouldn't be picking the City Attorney, and the Mayor shouldn't be just picking the City Attorney. That politicizes it. You should divide the work and have a vetting process. It should be a collaboration. Maybe there could be a committee to make recommendations about possible City Attorneys.

J. Altamari stated that we have discussed this with Judge Wait for over an hour and we need to let him get home and we should move forward with our other business.

[J. Wait discussed his history in City Hall]

The Commission members thanked Judge Wait for his comments and information.

R. Turner asked for comments from Commission members.

B.K. Keramati stated that there is a clear indication that there are some issues that we need to resolve.

R. Turner stated that we will work on some changes to language in the City Attorney provisions.

[G. Boyd presented his Treasurer's Report.]

E. Del-Sette moved to accept the Treasurer's Report and the transfer as described by G. Boyd. Second by J. Altamari. Ayes all.

G. Boyd proposed to rent a room at the City Center on May 30 to provide information to the public about our proposal. The commission discussed the format for the session.

M. Jones asked when the commission will vote on the final version of the new proposal.

R. Turner said probably at the May 23 meeting.

M. Jones said that all proposed revisions and amendments should be in before that date so we can vote on all of them on May 23.

E. Del-Sette asked when commission members will have the chance to make their final statements on the record about the proposal.

M. Jones said on May 23.

B. Thomas moved to spend \$1500 as proposed for the public information session on May 30. Second by D. DalPos. Ayes all.

R. Turner asked again for public comment. Bonnie Sellers stated that people had discussed with the City Council the importance of distinguishing between educating the public about the proposal and advocating for the proposal.

M. Jones moved to adjourn. M. Los seconded. Ayes all

Meeting adjourned 9:20 PM

These draft minutes submitted by Anthony J. Izzo