

2018 CHARTER REVIEW COMMISSION MINUTES

July 25, 2018

Roll Call

Present: Vince DeLeonardis, Chairman
Deputy Commissioner Michael Sharp, Vice Chairman
Deputy Commissioner John Daley, Secretary
Commissioner John Franck
Commissioner Michele Madigan
Commissioner Peter Martin
Deputy Commissioner Maire Masterson
Deputy Mayor Lisa Shields

Absent: Deputy Commissioner Joseph O'Neill
Commissioner Skip Scirocco

Recording of Proceeding

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

Call to Order

Chairman DeLeonardis called the meeting to order at 3:10 PM.

Public Comment

Chairman DeLeonardis opened the floor up for public comment.

No public comment.

End of public comment.

Chairman DeLeonardis introduced Bob McLaughlin and Dick Weisz from Hodgson Russ and invited them to sit at the table for the meeting.

Approval of Minutes

Chairman DeLeonardis made a motion to approve the minutes of July 19, 2018 as amended with Commissioner Martin's minor edit included. Second: Deputy Sharp. Vote: Ayes – 7 Nays – 0
Motion: Passed

Discussion Items

Chairman DeLeonardis began the meeting with the Preamble and Title 1 Statement of Purpose. There have been no changes or amendments made or contemplated for these sections. A review of these sections will be done prior to the final vote. The discussion continued with the following new language addressing salaries: "The Mayor and each Commissioner shall receive a salary and compensation as shall be established from time to time by local law and subject to the provisions of the Municipal Home Rule Law." It was determined that a change in salary is allowable so

long as the Council is not attempting to change their own salary during their current term which would trigger a referendum. Chairman DeLeonardis asked if everyone was comfortable with the addition “subject to the provisions of Municipal Home Rule Law”. Deputy Sharp asked if the City would put a process in place for this change. Dick Weisz suggested some clarifying language be made to section 2.1 regarding resident elector. Bob McLaughlin said that the term “elector” is not a defined term anywhere and may be a hold over from a prior charter. He felt that the term was unclear and suggested that the intent may have been someone qualified to vote. Chairman DeLeonardis suggested the word “elector” be removed and the new language read “registered to vote at the time of the election a resident of the City”? Dick Weisz suggested “a registered voter at the time of the election” would pull in the registration and residency requirements. Commissioner Martin said that was a good suggestion and likes, “a resident who is eligible to vote” which brings in a lot of other concepts that we would want to bring in. Chairman DeLeonardis said he will make the change. Commissioner Martin also mentioned that there should be a place holder put here for “At-Large” inclusion if it is agreed upon. Chairman DeLeonardis agreed and said a discussion on the At-Large topic will follow the review of the redline.

The review continued with the addition to section 2.2: “The Council shall adopt a set of procedures for the conduct of Council meetings at the first meeting of each term.”. Sections 2.3 and 2.4 are as previously discussed and Civil Service is left as it was. In section 2.8.1 reads: “Deputies shall be public officers. Each deputy shall serve at the pleasure of, and not longer than the term of, the Council member making the deputy's appointment. Each deputy shall possess sufficient educational qualifications, or work experience, or both, reasonably related to the administrative responsibilities of his or her department. The Council may establish other appropriate qualifications for any deputy.” the political party wording was removed. Commissioner Martin questioned the word “any” and remarked that a qualification may not be appropriate for a particular department but is able to be set so is it better for the Council to set qualifications for all deputies? Chairman DeLeonardis agreed that there is a distinction for each department. Commissioner Madigan is not in favor of the language. Deputy selection is already difficult and you need flexibility and would like to indicate that Deputies could be appointed from neighboring communities to widen the pool of candidates. Deputy Sharp suggested that there are ways to abuse the qualification process but there are ways it can be fixed. Chairman DeLeonardis suggested the second sentence be removed as unnecessary. Commissioner Madigan said that these are political appointees and putting additional qualifications on a choice is not appropriate. Dick Weisz said the first part talks about the Commissioner picking the deputy and the sentence that is being discussed perhaps provides for the Council to be able to overrule or limit the choice. He suggested changing the word “any” to “each” which would allow for each Commissioners choice. Commissioner Madigan said to remove the sentence and Chairman DeLeonardis said he would remove it.

Bob McLaughlin asked how in section 2.10 Removal from Office – “Where an appointment is made subject to the advice and consent of Council, removal shall be made in an equal manner” would be handled. Chairman DeLeonardis said that if the appointment is made by the Mayor upon advice and consent then the decision to remove is not unilateral and should be upon advice and consent as well. Bob McLaughlin asked if there was an egregious act committed that removal would have to wait for a vote? Commissioner Martin said that a special meeting could be called within 48 hours and the person would be suspended until a vote could be taken. Deputy Martin asked who could suspend the individual? Deputy Shields asked if it was only the Mayor who has the ability? Commissioner Martin would like the word “equal” to be changed to

“similar” and he believes that this assumes that the similar manner would include the advice and consent, but perhaps not all the specifics belong in the Charter. Bob McLaughlin thought that it was a little awkward the way it was written so maybe that solves it. He just wanted to make sure of the process to approve or disapprove was thought through. Deputy Sharp said that the Mayor is the one making the appointment so the Mayor would be the one to remove. A discussion continued which included the action of removal from office. Chairman DeLeonardis will change the language to include the word “similar” and remove “equal”. Commissioner Madigan requested that there be thought to include some language to address removal from office as the situation has come up in the past and there is no direction on how to do it. Commissioner Franck joined the meeting at 3:42 PM.

Title 3 – The Mayor Chairman DeLeonardis asked Commissioner Martin for clarification of his proposed alternative language (email attached) regarding section 3.1 Building Department where you thought “the language was too broad in section 3.1 and might create confusion due to overlapping or duplicative authority with the Code Enforcements responsibilities” because the Building Inspector does have jurisdiction over the entire Uniform Code. What is proposed is “The Building Department, under the direction of the Mayor, shall be responsible for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code as well as other applicable laws rules and regulations relating to the construction, alteration, demolition, use or occupancy, location, repair or removal of buildings and structures in the City and the installation and use of materials and equipment therein.” Our Code addresses property maintenance. Chairman DeLeonardis feels that the original language is sufficient. Commissioner Martin cited section 1225 of Fire, saying the majority of it is not covered by the Building Department currently and most of that section is exclusively handled by the Department of Public Safety. Naming specifics pulls it all in and broadly granting these additions to the Building Department does cause confusion. Chairman DeLeonardis said that this is articulated in the Code in section 118. Commissioner Martin feels that the wording in the charter expands this and then we must rely on the Code to pull it back. Deputy Shields asked if this working is actually an expansion. Chairman DeLeonardis said that in both the City Code and the Uniform Code the specifics are called out. During the construction phase the Building Department is responsible for enforcement. Deputy Shields said that the language in the email doesn’t seem to be that much different than what was in the original charter language. Chairman DeLeonardis said that the language came from the Charter as a cut and paste. Deputy Sharp suggested adding relevant language as a qualifier. Dick Weisz suggested the wording “unless expressly stated to the contrary in the City Code,” which would allow for flexibility in the future. Commissioner Martin said that the existing Charter speaks to specific titles and offices but nothing goes broadly to New York State Uniform Fire Prevention and Building Code. Chairman DeLeonardis cited the existing Charter section 3.6 “The Building Inspector and the Zoning and Building Inspector shall be under the direction of the Mayor and shall have authority to administer and enforce those provisions of the City’s codes, rules and regulations as specified in Chapters 117, 118, 240 and 241 of the City Code, together with other authority conferred on him or her under the laws of the State of New York.” More discussion followed and Commissioner Martin will review the Code for sufficient designation and primary, and in some cases, exclusive authority. Chairman DeLeonardis said that this section will be revisited.

Discussion continued with proposed new section added to 3.3 Zoning “The Mayor shall cause a review of the City’s zoning laws, ordinances and regulations within twelve (12) months following adoption by Council of the Comprehensive Plan.” In newly proposed section 3.5 Open Space and Preservation of Lands, which has been separated from Parks, reads: “The Mayor

shall have authority over the planning, management, development and administration of open space and preservation of lands within the City of Saratoga Springs. The Mayor shall recommend policies regulating the use of the lands and facilities in the City's open space and preservation of lands system, subject to review and approval by the Council.

The Mayor shall update and maintain an inventory of City owned land and facilities currently identified as open space and shall request formal designation of such by the Council. All open lands shall be held in trust by the City for the public and may not be alienated from their purpose except as provided by the laws of the State of New York and the United States. The Mayor shall be responsible for identifying, negotiating and recommending lands for addition to the inventory, including acquisition by purchase, conservation and/or development easements, or utilization of private/public partnerships to achieve open space preservation and public access. No additions to the City open space and preservation of lands system shall be made without approval of the Council." and continuing with section 3.5.1 Master Plan: "The Mayor shall develop a citywide Open Space and Preservation of Lands Master Plan, in cooperation with appropriate City staff, which shall include all designated lands and facilities extant or proposed. The Plan shall be developed and transmitted to the Council for comment and adoption. The Council shall hold a public hearing prior to adoption of the plan. Such Master Plan shall be reviewed and updated periodically, but not less than once every five (5) years." and 3.5.2 Capital Plan: "The Mayor shall develop a long range Capital Plan, in cooperation with appropriate City staff, for all City owned lands and facilities included in the Master Plan. The long range Capital Plan shall be transmitted to the Chairperson of the City's Capital Program Committee in sufficient detail on or before August 1 and in time for inclusion in the City's Capital Program." This is a modification of the original POSH position. Deputy Sharp asked if it should read "long range Capital Plan and maintenance" to incorporate Commissioner Sciroccos previous concerns for the ongoing maintenance of lands. Chairman DeLeonardis asked if it should be added after "in sufficient detail including – maintenance". Deputy Sharp will propose language for consideration.

A new section 3.6 City Historian has been added as previously discussed. "The Mayor shall have authority to appoint a City Historian who shall be responsible for the management and preservation of City records with enduring value and promote knowledge, understanding and appreciation of the City's history." This was previously included, but not called out, in the POSH position. Commissioner Martin asked if this should also just be a function of the Mayor's Department without specific title in keeping with the methodology of this Charter. Chairman DeLeonardis said that the title is included to ensure preservation of the City's value and history. And asked if this shouldn't be under the Accounts Department as they are the keeper of City records. Commissioner Franck said that document preservation is a duty of the City Clerk but agreed that those records are not the same as the Historian's would be. Chairman DeLeonardis said that in previous discussions it was agreed to include this. Deputy Shields asked about putting the function under the Mayor but not be called out. Chairman DeLeonardis said that the position is very unique and should not be left up to the discretion of a two-year term holder who may not have the same interest. Deputy Sharp suggested defining "records" more clearly. Commissioner Martin said that Mariann Fitzgerald holds a very valuable role and we should distinguish the types of records she holds verses the records held in Accounts. Dick Weisz suggested that if you want to be permissive, change "shall appoint" to "may appoint" and then say "The City Historian will provide recommendations to the Mayor on appropriate steps deemed necessary to preserve the history of the City of Saratoga including artifacts and historical records" or something like that which give the permissive if it is wanted but makes it clear that it is still the Mayor's role. Commissioner Madigan likes the proposal. Commissioner Franck

doesn't know if preservation and custodian are the same thing. Accounts records are in a safe. Deputy Shields says Maryann works in the Visitors Center but under the Mayor's budget. Commissioner Madigan likes Dick's suggestions. There is value in the position but the language should be more nebulous and point to the job description for the for more details so it isn't needed in the Charter. Chairman DeLeonardis will incorporate this discussion and bring language for consideration.

3.8 Official Appointments now reads: "The Mayor shall make appointments to the Planning Board, Zoning Board of Appeals, and Design Review Commission, subject to the advice and consent of the Council. This subsection is intended to supersede Sections 27 and 81 of New York General City Law." This calls out the Mayor's Land Use Board appointments and includes the language on advice and consent of Council based on the previous agreement to include it.

In Title 4 The Commissioner of Finance's opening paragraph, a consolidation of the letter sections, now reads: "The Commissioner of Finance shall be the Chief Fiscal Officer of the City, and shall have and exercise the powers and duties conferred on that office by this Charter, and such other duties as the Council may prescribe by ordinance or local law, and shall supervise their execution.

The Commissioner shall have responsibility for the following functions, boards and/or departments in City government and shall organize same to ensure efficient, cost-effective operations: **Tax Collector, Bursar of Funds, Custodian of Monies, Keeper of Financial Records and Certifier of payrolls.** The Commissioner shall also serve as the Capital Program Committee and Budget Chairperson." The "how" the functions are to be done have been moved to the new section as previously agreed upon and in the Annual Audit section Deputy Sharp will provide language for the next meeting.

The Capital Program Committee: "The Commissioner of Finance shall be Chair of the Capital Program Committee, which shall develop and submit for public review an annual assessment of the City's needs and priorities regarding its physical facilities, equipment, and appurtenances. The Committee shall consist of one (1) representative each from the Departments of Public Safety, Public Works, Accounts and the Mayor's office..." Deputy Shields asked about the City Engineer? Chairman DeLeonardis said just 1 member from each department. Commissioner Martin said that the resident experts could be at the table but the votes would be limited to the actual committee members.

City Budget has an introductory paragraph but the remainder will be moved to a separate title describing the "how". Construction with Local Finance Law is as it was and each Commissioner's section has the catch all language at the end "The Commissioner may lawfully delegate the above-cited powers, duties and responsibilities. The Commissioner shall ensure that employees in the Finance Department have appropriate skills, work experience, and education to perform professional-quality work. All City departments and personnel shall provide the necessary data, assistance, and information required in the execution of these powers, duties and responsibilities." Dick Weisz asked to whom and what are the powers delegated to? You may want to limit it to someone in the department. Commissioner Madigan said it is something to consider. A discussion continued and Commissioner Martin suggested to make it simple and each department should bring the appropriate people. Commissioner Madigan suggested that it needs more thought. Commissioner Franck said to keep the language exactly as it was. Commissioner Madigan said that the way it is currently the vote is weighted. Deputy Shields

would like the members to be all deputies. Deputy Daley said that currently many people show up to the meetings and it is difficult to tell who is a voting member and who isn't when at the table. Commissioner Martin suggested the Commissioner designate a Deputy or Director.

Title 5 The Commissioner of Public Works the opening paragraph was updated, the date change was made to June from March for the required report, and the consistent language for designation of duties was included at the end. The opening paragraph reads: "The Commissioner of Public Works shall be responsible for the overall operation of the Department of Public Works and shall have and exercise the powers and duties conferred on that office by this Charter, and such other duties as the Council may prescribe by ordinance or local law and shall supervise their execution.

The Commissioner shall have responsibility for the following functions, boards and/or departments in City government and shall organize same to ensure efficient, cost-effective operations: **Streets and Highways, Buildings and Grounds, Utilities, Engineering Services, and City Beautification Programs.**"

Section 5.4 Parks and Recreation: "The Commissioner of Public Works shall be responsible for the operation and maintenance of all City owned parks and recreational facilities and shall, in coordination with the Recreation Commission, ensure that all established programs and activities are implemented and available for City residents.

5.4.1 Recreation Commission

The Recreation Commission of the City, created by resolution of the Council on 5-6-77 pursuant to Section 243 of the General Municipal Law, shall reside for administrative, reporting, and oversight purposes in the Department of Public Works and shall have authority to establish programs that serve City residents..." Chairman DeLeonardis said that more clarity is needed here to determine the appropriate language regarding programming, budgeting etc. A discussion continued regarding the Recreation Commission budget and function. Chairman DeLeonardis and Deputy Sharp will meet with John Hirliman to better understand how it all works and provide language following that discussion.

In the section titled Office of the City Engineer the title was removed and now reads: 5.5 Engineering Services: "The Commissioner of Public Works shall be responsible for coordinating the provision of engineering services to all City departments and entities. The Commissioner shall ensure that any individual or individuals retained or employed in such capacity shall have the requisite skill, certifications and experience and, as necessary, shall be a registered Professional Engineer, duly certified by the State of New York and possessing all of the qualifications required by the State."

The section referring to Infrastructure Inventory, along with inventory as specified under Public Safety, has been moved to Capital Program.

5.6 City Beautification Program removes composting as previously included and now reads: The Commissioner of Public Works shall undertake responsibility for City Beautification and such other related programs as the Council may from time to time establish."

The delegation paragraph reads "The Commissioner of Public Works may lawfully delegate the above-cited powers, duties, and responsibilities. The Commissioner shall ensure that employees

of the Public Works Department have appropriate skills, work experience, and education to perform professional-quality work. The Commissioner shall have immediate responsibility for administering and operating the Public Works Department and shall organize the Department to provide efficient, cost-effective services. All City departments and personnel shall provide necessary data, assistance, and information required in the execution of these powers, duties, and responsibilities.”

Title 6 The Commissioner of Public Safety follows the same formatting as other titles with the consolidation of letter designations and the designation of duties paragraph at the end. The delivery date of the report was changed from March to June as it was done in Public Works. “The Commissioner of Public Safety shall be responsible for the protection of City residents and their property from crime, fire, hazard, disorder, and natural disasters. The Commissioner shall have and exercise the powers and duties conferred on that office by this Charter, and such other duties as the Council may prescribe by ordinance or local law, and shall supervise their execution..

The Commissioner of Public Safety shall have responsibility for the following functions, boards and/or departments in City government and shall organize same to ensure efficient, cost-effective operations: **Police Department, Fire Department, Code Administration, Animal Control, Emergency Planning and Health Officer.**

Dick Weisz asked about the Health Officer and wondered if this should read that the Commissioner of Public Safety shall have the “authority” verses “responsibility” to appoint a Health Officer. Commissioner Martin thought that this is currently a New York State City Law requirement. Bob McLaughlin will check the City Law for requirements.

6.3 Code Administration was added here to reflect the information from the letter section: “The Commissioner of Public Safety shall have authority to appoint a qualified individual or individuals to enforce and administer those provisions of the City’s laws, codes, rules, and regulations specified in the City Code, together with such other authority as may be conferred on him or her under the laws of the State of New York.” Commissioner Martin likes the specific codes being removed to provide the ability for flexibility. He wondered why this language is different than the Building language? Chairman DeLeonardis said that this is a valid point and he had merely cut and paste this from letter “C” and moved here.

Section 6.4.1 incorporated the Emergency Medical Services and Emergency Management language and 6.5 took the lettered section and added it here as “Health Officer”.

Commissioner Martin said that section 6.6 Public Safety Facilities and Equipment referenced Public Works as being responsible for Public Safety facilities. Chairman DeLeonardis said that this was an error and will be revised.

Title 7 The Commissioner of Accounts has the introduction paragraph: The Commissioner of Accounts shall have and exercise the powers and duties conferred on that office by this Charter, and such other duties as the Council may prescribe by ordinance and local law and supervise their execution.

The Commissioner shall have responsibility for the following functions, boards and/or departments in City government and shall organize same to ensure efficient, cost-effective

operations: **City Clerk, City Assessor, Purchasing Agent, Registrar of Vital Statistics, and Issuer and Collector of License Fees and Rents.**

Section 7.2 City Clerk is untouched and 7.3 City Assessor the “how” was removed and given a separate title. 7.3.1 took language from the Finance policy and procedure manual with Council approval and Section 7.3.5 regarding access to storage was removed as unnecessary as was 7.3.7 and 7.3.8 because those two sections are in our Policy Manual. Deputy Masterson will provide language for consideration for section 7.4 Registrar of Vital Statistics. The designation paragraph was added at the end of the title. Commissioner Franck wanted to review the removal of 7.3.8 to be sure that it doesn’t run afoul of state laws regarding RFPs.

In Title 8 Chairman DeLeonardis will add more language here. He has removed “administrator” from Human Resources and will be adding Risk and Safety language again outlining the functions not the titles. No real changes to Title 10, except to fill in the date in 10.4 for the discount. Deputy Sharp will provide the “on or before” date. No changes were made to Title 11, 12, 13 – Assessment of Real property moved here, 14 remains the same, 16 – elections of the judges will need to be reviewed, and title 18 will be modified and dates adjusted accordingly. A further redline will be provided before the next meeting and a discussion will take place with Commissioner Martin with regards to the building and code administration.

Commissioner Franck asked to review the memorandum (attached) that was previously provided by Hodgson & Russ since the attorneys are present. Chairman DeLeonardis said that some specific questions were provided and some items after previous discussions, are no longer relevant. Commissioner Franck asked about the response to Board of Assessment Review. “Question: Should the Commissioner of Accounts appoint and supervise the Board of Assessment Review? The response was: Currently, the Commissioner of Accounts appoints the City Assessor. To the extent there is an appeal from the Assessor to the Board of Assessment Review, there is a credible argument that such a process will deny the applicant its due process right as they would be appealing to essentially the same person.” Commissioner Franck pointed out that he doesn’t appoint the City Assessor, he is the City Assessor and the appeal is made to the Board of Assessment Review. Bob McLaughlin asked for clarity on the process today. Commissioner Franck advised that currently there is a 5 member board and the Assistant City Assessor presides over the hearings so he would not be the one to hear any dispute. He would not appear before the board, if he had an issue he would go to the County for resolution of a grievance. Chairman DeLeonardis asked if the advice and consent of Council language should also be added here. Commissioner Franck said if the Council appointed the Board, it would be an ethical issue for them as well if they had a grievance. Bob McLaughlin said that he would review and revise his opinion to provide for due process and transparency. Commissioner Martin would like to move up one question: Is it appropriate to create an office of Legal and Professional Services which includes HR, Public Information, Risk & Safety, and Benefits. He likes the opinion on the legal issue and the response is very insightful. When you throw all these together you may risk the attorney client privilege. Chairman DeLeonardis said that the language that was suggested was to be a coordinator of those positions not the supervisor. Dick Weisz said that the courts are looking at this question and it is a developing area of law. Any time you put the City Attorney’s Office in a business setting rather than purely legal you could create some problems. It is best to keep them separate. You could say that they report to the Mayor’s office but are free to consult with the City Attorney. A discussion continued. Commissioner Martin suggested two administrative departments – 1 the Law and 2 all others. Chairman DeLeonardis will put language together for a Legal Department and a separate Professional

Services Department but asked who would coordinate them. Dick Weisz suggested that if the At Large idea is adopted perhaps they could be the oversight or a subcommittee of Commissioners could supervise. Commissioner Madigan said that these departments should be set up to ensure that they serve all departments. Dick Weitz suggested that HR and the City Attorney shall report to the Council as a whole. Deputy Sharp suggested that today there is a managerial responsibility in the City Attorney's office. Bob McLaughlin said that is fine because it is all legal but if you put HR in too it creates a potential for conflict. More discussion continued to explore management, legal matters, union positions, confidentiality and other questions that are not necessarily going to be called out in the Charter. Chairman DeLeonardis will bring language for the two departments for everyone to take a look at.

The last item for discussion is the proposal concept of adding 2 At Large council members so what are your thoughts? Commissioner Franck reviewed his reasoning for bringing this idea forward for the benefit of Dick and Bob. Deputy Sharp said the proposal addressed the issue of the challenges of running for a Commissioner spot but the people who hate the Commission form of government will hate the idea but others will be glad to have the opportunity. Dick Weisz will review the concept for legality. He asked if the salary would be different and would it cause tension? Commissioner Franck said that salary would not be an issue and he feels there will be a line of candidates to run for these positions. Dick Weisz advised that the votes by the purely legislative votes versus the Administrators could provide the tenor of the discussion to be different. Those who work in the trenches may be more sophisticated due to experience. He asked if there would be a sunset clause for the positions, say 10 years? Commissioner Franck said the Charter provides the Mayor with the ability to review it every 10 years so a sunset clause would not be necessary. Chairman DeLeonardis asked Bob and Dick if they were aware of anything like this being done before. They were not. Commissioner Madigan likes it but is concerned about functionality. Commissioner Franck said that all Council members get votes and he agrees with Jane Weine's idea that this could provide an incubator for people to progress to a commissioner's position. The City has changed from 1971 and there are many people who have a second home here. It is not the same city. Dick Weisz will review Municipal Home Rule and suggested that if it's not allowed a petition for a change could be proposed. Commissioner Madigan had a meeting and left at 5:30. Tony Izzo requested a critical distinction and clarification of how they would be elected – by the top 2 vote getters or an A and B candidate. Chairman DeLeonardis suggested that once the research is completed this can be addressed. He polled the members individually to see if the idea of adding the 2 At Large positions is supported. It was a unanimous decision to continue to pursue this. Bob McLaughlin and Dick Weisz will look at the question and provide information.

Chairman DeLeonardis opened the floor public comment.

Public Comment

Bonnie Sellers, Saratoga Springs – Commissioner Scirocco isn't here but he does need to be consulted for the Capital Budget. Not in the Charter but a very defined process is needed for Capital Budget. Rec Commission in charge of programming is better than just being advisory. Don't let Legal Department be the dumping ground for everything else you don't know what to do with. New situation – not sure if it's legal but not totally against it. John is right on – the charter will be back next year.

Jane Weine, 44 White Street, Saratoga Springs – Capital Budget position should be revisited. There is an appearance that too much power is being taken from the Mayor. It needs checks and balances. Can't wait to hear more about John Franck's proposal.

Commissioner Franck asked Bob McLaughlin, if having 2 members at large isn't currently legal, could the City go for new legislation to allow it and if so, how long it would take. Bob McLaughlin said it would probably take 2 or 3 sessions and with a potential change in the Senate he isn't sure that there would be any appetite for this. Down state may not get the notice and getting a sponsor from the Assembly would be a problem.

Chairman DeLeonardis confirmed that the next meeting is at 7/31/18 and asked if Bob and Dick would be available to attend the next meeting. Bob will check his schedule and advise. Dick is not available but one of the partners would be available.

Deputy Sharp spoke to Jane Weine's comment about the Capital Budget. He said that view of the Commissioner Finance is oversight and is very involved therefore having this in the Finance Department is appropriate. Commissioner Franck said to keep it with the Mayor but add language when the Capital Budget is done then go to Finance for approving & presenting, which may solve the problem. Discussion continued and Jane Weine commented that the suggested language change would be good.

End of public comment.

Chairman DeLeonardis advised that the next meeting on 7/31/18 @ 3:00 PM but the members should keep in mind another meeting may be needed in order to have the document done before the Public Forum so the people are able to review it.

Chairman DeLeonardis adjourned the meeting at 5:55 PM.

Respectfully submitted by Trish Bush.

Re: Draft meeting minutes from July 19th Workshop meeting

From : Peter Martin <peter.martin@saratoga-springs.org> Tue, Jul 24, 2018 05:13 PM
Subject : Re: Draft meeting minutes from July 19th Workshop meeting
To : Trish Bush <trish.bush@saratoga-springs.org>
Cc : Joe Oneill <joe.oneill@saratoga-springs.org>, John Daley <john.daley@saratoga-springs.org>, John Franck <john.franck@saratoga-springs.org>, Lisa Shields <lisa.shields@saratoga-springs.org>, Maire Masterson <maire.masterson@saratoga-springs.org>, Michele Madigan <michele.madigan@saratoga-springs.org>, Mike Sharp <mike.sharp@saratoga-springs.org>, Skip Scirocco <skip.scirocco@saratoga-springs.org>, Vincent DeLeonardis <vincent.deleonardis@saratoga-springs.org>

Fellow Commission members,

At the Charter Commission meeting of 7/19, I indicated that the proposed Section 3.1, which defines the functions of the building Department was too broad and might create confusion due to overlapping or duplicative authority with the Code Enforcement functions of the Department of Public Safety. The Building Department specifically does not have or exercise jurisdiction with respect to the following parts of the New York State Uniform Fire Prevention and Building Code: Part 1225 (Fire Prevention), Part 1226 (Property Maintenance), Part 1227 (Existing Buildings), and related provisions in the 2017 Supplement to the NYSUFVPC. Therefore, I would recommend the following in place of the proposed Section 3.1.

“The Building Department, under the direction of the Mayor, shall be responsible for accepting applications, reviewing design plans and construction and, where appropriate, issuing building and demolition permits, orders, notices and certificates of occupancy in conformance with the New York State Uniform Fire Prevention and Building Code as well as other applicable laws rules and regulations relating to the construction, alteration, demolition, use or occupancy, location, repair or removal of buildings and structures in the City and the installation and use of materials and equipment therein.”

The Mayor shall appoint such Building Department staff necessary to carry out the functions and responsibilities required by the City’s codes, rules and regulations and the laws of the State of New York.”

I also request one change to the proposed minutes of the 7/19/18 Charter Commission meeting. The first full paragraph on page 2 currently states: “Commissioner Martin suggested that a set of procedures should be added here to outline how a Council meeting should be conducted. All agreed.”

I would like this to read: “Commissioner Martin suggested that the following be added in Section 2.2: The Council shall adopt a set of procedures for the conduct of Council Meetings at the first meeting of each term. All agreed.”

Thank you,

Peter R. Martin

Commissioner of Public Safety
City of Saratoga Springs

City Hall, 474 Broadway
Saratoga Springs, NY 12866
Phone: (518) 587-3550 ext. 2627
Email: peter.martin@saratoga-springs.org

----- Original Message -----

From: "Trish Bush" <trish.bush@saratoga-springs.org>
To: "Joe Oneill" <joe.oneill@saratoga-springs.org>, "John Daley" <john.daley@saratoga-springs.org>, "John Franck" <john.franck@saratoga-springs.org>, "Lisa Shields" <lisa.shields@saratoga-springs.org>, "Maire Masterson" <maire.masterson@saratoga-springs.org>, "Michele Madigan" <michele.madigan@saratoga-springs.org>, "Mike Sharp" <mike.sharp@saratoga-springs.org>, "Peter Martin" <peter.martin@saratoga-springs.org>, "Skip Scirocco" <skip.scirocco@saratoga-springs.org>, "Vincent DeLeonardis" <vincent.deleonardis@saratoga-springs.org>
Sent: Monday, July 23, 2018 1:19:18 PM
Subject: Draft meeting minutes from July 19th Workshop meeting

Commission members,

Attached for your review and comment are the draft minutes and attachments from the July 19th Charter Review Workshop meeting. If you have any questions, comments or corrections, please let me know.

Thank you,
Trish

Trish Bush
Executive Assistant
City Attorney's Office
City of Saratoga Springs
(518) 587-3550 x2516

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MEMORANDUM FROM

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To: Vince DeLeonardis, Chairman
Date: July 17, 2018
Re: 2018 Charter Review

Pursuant to the Certificate of Appointment dated March 7, 2018, Saratoga Springs Mayor Meg Kelly established the Charter Review Commission ("Commission") in accordance with Section 36 of the State's Municipal Home Rule Law. On July 10, 2017, I met with members of the Commission and discussed certain changes to the current City Charter which the Commission was considering. As Chairman, you requested our review of the most recent version of the Charter, as modified by the Commission, generally, and the identified areas of concern specifically. While we continue our review of these questions, below are our initial responses.

We look forward to receiving additional questions from the Commission after their next working session.

QUESTION: Confirm that under state law, the proposed draft Charter is required to be delivered to the County for filing 62 days prior to Election Day (11/06)

RESPONSE: Municipal Home Rule Law §36(5)(a) & (b) requires that the Commission must prepare a report to the public which accompanies its proposals, references the parts of the Charter which are unchanged and include an explanation why that decision was made. The amendments to the City Charter must be filed with the City Clerk not later than sixty (60) days prior to Election Day. In addition, Election Law §4-108(1)(b) the City Clerk is required to submit a certified copy of the proposal for the ballot to each Board of Elections at least thirty-six (36) days prior to the election date. NOTE: for purposes of these provisions, the date of filing and the election date are not counted.

QUESTION: Can the salary be eliminated from the Charter for the Mayor and each Commissioner?

RESPONSE: Yes. Municipal Home Rule Law §24 a local law increasing salaries of elected officials for a fixed term is subject to referendum **if** such increase is made during their term of office.

QUESTION: Is it necessary for the City to have a Civil Service Commission?

RESPONSE: No. Civil Service Law §15 provides that the City may have a Civil Service Commission. The members of a City Civil Service Commission must be appointed by either the mayor, city manager, or other authority, as the case may be, having the general power of appointment of city officers and employees.

QUESTION: Can the City Civil Service Commission be eliminated?

RESPONSE: Yes. In this event, the duties of the City Civil Service Commission will be administered by the County Civil Service Commission.

QUESTION: Who appoints staff to the Civil Service Commission?

RESPONSE: Under the Public Officers Law, staff of the Commission are appointed by the Commissioners - Public Officers Law §9 provides that every deputy, assistant, or other subordinate officer, whose appointment or election is not otherwise provided for, shall be appointed by his principal officer, board or other body, and the number thereof, if not otherwise prescribed by law, shall be limited in the discretion of the appointing power.

QUESTION: (i) Can qualifications be established in the Charter for deputies?

(ii) Who appoints deputies?

RESPONSE: Deputies are appointed by “his principal officer, board or other body, and the number thereof, if not otherwise prescribed by law” as required by Public Officers Law §9. General qualifications are listed throughout the Public Officers Law, including residency requirements. Listing specific qualifications in the Charter may limit the applicant pool and may make future changes required by circumstances difficult to attain.

QUESTION: Is a Capital Program Committee appropriate under State law.

RESPONSE: Yes.

QUESTION: Is the discount change in Section 4.1.4 legal under State law?

RESPONSE: This suggested change removes a cap of 2.25% for such a reduction and leaves it to the discretion of the Council to establish a discount from year to year. The date of the determination is blank. We note that this date must be sufficiently before March 1 of the lien year to insure proper budgeting.

QUESTION: Should there be an internal audit function?

RESPONSE: There is nothing in state law which prohibits this. We note that in order to issue debt in the public market, the City must engage the services of an external auditor. We further note that the audit functions of the County and the State will continue with or without the appointment of an internal auditor.

QUESTION: Can the Recreation Commission be eliminated?

RESPONSE: Yes. Under General City Law §20(16), a Recreation Commission is permissible.

QUESTION: Is it appropriate to create an office of Legal and Professional Services which includes HR, Public Information, Risk & Safety, and Benefits.

RESPONSE: Yes. We note that many municipalities designate their in-house attorney with the responsibility for Public Information (FOIL) and Risk & Safety (Insurance). We are unaware at this time of any such attorney having the responsibility and oversight of HR and Benefits. We note the potential for an issue for City Attorney, as a manager of non-legal departments, for the loss of confidentiality (especially for FOIL purposes) as well as the potential requirement to retain outside counsel for each and every dispute that may arise among or against such departments.

QUESTION: Should the Commissioner of Accounts appoint and supervise the Board of Assessment Review?

RESPONSE: Currently, the Commissioner of Accounts appoints the City Assessor. To the extent there is an appeal from the Assessor to the Board of Assessment Review, there is a credible argument that such a process will deny the applicant its due process right as they would be appealing to essentially the same person.

RJM:mml