



March 2, 2017
CITY OF SARATOGA SPRINGS
Charter Review Commission
Music Hall – City Hall
7:00 PM

CALL TO ORDER

ROLL CALL

SALUTE TO FLAG

WELCOME AND ANNOUNCEMENTS

INTRODUCTORY REMARKS

MINUTES

COMMITTEE REPORTS

ADJOURN



March 2, 2017
CITY OF SARATOGA SPRINGS
Charter Review Commission
Music Hall – City Hall
7:00 PM

PRESENT: Jeff Altamari
Gordon Boyd
Ann Casey Bullock
Laura Chodos
Matt Jones
Pat Kane
BK Keramati
Robert Kuczynski
Mike Los
Robert Turner

ABSENT: Elio DelSette
Devin Dal Pos
Minita Sanghvi
Barbara Thomas
Beth Wurtman

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.

MINUTES

No minutes.

PUBLIC COMMENT

Robert Turner opened the meeting for public comment.

Bonnie Sellers asked that the Commission share the documents that they were working from. Tony Izzo reminded everyone that if documents are being discussed, they are public knowledge. Commission members agreed, but noted that no decisions were final in the discussions.

There being no one else wishing to speak, Robert Turner closed the public comment period.

EDUCATING/ADVOCATING THE CHARTER

Bob Turner asked for clarification from Tony Izzo on his reply to Commissioner of Finance Michele Madigan's inquiry on Commission members speaking in public about the charter.

Tony Izzo said there is one hard rule -- that if public funds are being used, then the statements/comments/material cannot be persuasive. If public funds are used, Commission members cannot advocate for the charter. He said he could not find any rule that was applicable to Commission members advocating for the charter if public funds are not being used. He suggested, though, that now that public funds were available, that Commission members be aware of their comments in public.

Bob Turner asked what exactly was the nature of Commissioner Madigan's inquiry. Tony Izzo said she asked if Commission members could make statements concerning the new charter. Tony Izzo said he kept his reply on the focus of public funds and statements.

Jeff Altamari asked if Tony Izzo was a conduit for Commissioner Madigan. Tony Izzo said the Mayor appointed him as Counsel to the Commission. Jeff Altamari said as he reads the Municipal Home Rule there is no definitive answer on public comments. He said other research supports comments being made. He said these are two distinctly separate issues. Tony Izzo said there is one authority that says it is okay to advocate for the charter. Jeff Altamari asked why Commissioner Madigan made this inquiry. Tony Izzo suggested that Commission members ask her.

Bob Turner said it seems appropriate that Commission members have their right to free speech. He also said it seemed as though Finance might have the final say over what will or will not be funded. He said she seemed to make a point of that by asking this question.

Gordon Boyd asked that Tony Izzo share the specific question that Commissioner Madigan asked. Tony Izzo said he would.

Matthew Jones said we have had several discussions on this and the use of public funds. He said we have been operating under the rule that we have the right to say whatever we would like, but it now seems that there is some suggestion that might be different.

Jeff Altamari said that Tony Izzo has done a good amount of work for the Commission and we are heading down the final stretch and it seems that Tony Izzo is right in the middle of this. Tony Izzo said if the Commission preferred another attorney they could request one. Tony Izzo said though that if a Commission member was in a conversation with someone and that person asked whether the new charter was a good document, he said that it would be likely that a Commission member would respond positively. He said that would be natural.

Matthew Jones asked if there was a legal impediment to speaking about the charter. Tony Izzo said if public funds are being used, the comments/documents must be informative but not persuasive.

Gordon Boyd said as Treasurer, he would ensure that the funds were used appropriately. He said though that the comments made by Commission members goes directly to first amendment rights. He said there are court cases, whereby, even if the Commission was to say something collectively showing support of the document, that it might be okay with the courts. He said it is clear that Commissioner Madigan is concerned with what we say, but there is no specific standard on what Commission members could say. He said it could be difficult for anyone to discern whether they were advocating or educating. He said it was a slippery slope on the right of free speech and this seemed more like intimidation.

Matthew Jones asked why it was speech suppression for just asking the question. Gordon Boyd said it was implicit in the question that we should not be allowed to speak on this matter. He said the question was not objectively phrased and it was more coercion and completely out of line.

FINANCIAL STATEMENT

BK Keramati asked about the Financial Statement. Bob Turner said Mike Los, Jeff Altamari and Pat Kane are working on that document.

DRAFT CHARTER

Section 2.03. Meetings: Ann Casey Bullock suggested that a sentence be added to state quorum size. Commission members agreed further noting that it should be four members that constitute a quorum. BK Keramati asked about getting an item on the agenda. He questioned whether it should be through bylaws or part of the charter. Pat Kane said that items would typically go through the Mayor's office. Tony Izzo said that currently items go through the Mayor's Office to get on the agenda. He said there is language in the existing charter which states how items are added to agenda. He also suggested that there could be discussion on separate documents such as a code of conduct. Pat Kane said that Council members should be required to sign the code of conduct.

2.05 Finance: Ann Casey Bullock asked how many members should be on the Finance Committee. Matthew Jones suggested that it should be all members of the Council. Gordon Boyd said the Council would make their own rules and will review committees and sizes of committees as well. It was agreed the Finance Committee would be the whole of the Council with the Mayor as the chair.

2.07 Code of Ethics: Ann Casey Bullock suggested that this section reference Home Municipal Law. Gordon Boyd suggested eliminated the actual section numbers in cases those sections

are changed. It was agreed to reference the Home Municipal Law, using articles but not sections.

2.08 Prohibitions: There was agreement that there should be a one year prohibition.

2.09 Vacancies, Forfeiture of Office Filling of Vacancies: Commission members agreed there should not be any "virtual attendance". Robert Kuczynski said in accordance with open meetings laws, the person who is in "virtual attendance" must publicize that location in case there is anyone at that location who would like to attend. Members of the public must be afforded the opportunity to attend the meeting at the main location as well as the location of the person who is in virtual attendance.

There was lengthy discussion on forfeiture of office and the reasons for forfeiture or removal. There was discussion on "willfully or knowingly" violating that would cause forfeiture or removal. Matthew Jones said there is no authority in the existing charter to remove a member. There was discussion on what constitutes "residing" in the City. Gordon Boyd said that could be construed as voting residence. He said the election law has its own standards of residency. Matthew Jones said whatever language we use, there needs to be no doubt over whether the person resides in the City. Mike Los asked how does the charter enforce these requirements. Matthew Jones said there could be censure. Gordon Boyd said the Council could adopt its own set of rules on how to sanction conduct. Pat Kane said the Oneonta charter says "must be a resident". Matthew Jones asked what was "excused" absences and how could that be determined. Matthew Jones suggested that the power of removal from office should be held by the electorate. Gordon Boyd suggested that "convicted of a felony" should be "while in office". Tony Izzo said the Public Officers law has a whole list of items on removal of office. Jeff Altamari said we should require a signed public disclosure statement which could disqualify a Council member if they are not truthful.

It was agreed to include: ceases to reside in the City; violates any express prohibition of this charter; is convicted of a felony while in office and fails to attend three consecutive regular meetings of the City Council

Filling of vacancies: Matthew Jones said not all bodies fill vacancies. Gordon Boyd said in some cases special elections are held. It was agreed the Council should not fall below five members.

2.10 Judge of Qualifications: Tony Izzo said there are still requirements in state statutes that there must be official notification in a newspaper. Robert Kuczynski suggested that the text, "transmitted to the extent practicable in all of the city's outlets". Matthew Jones said that becomes problematic because it could be debated on the "to the extent practicable". Robert Kuczynski said he would like to "future proof" this by adding this language. Matthew Jones said there is a good process now of getting items on the website. It was agreed that the text "or other appropriate media as designated by the City" should be added.

2.13. Audit: Gordon Boyd said it seemed that this was covered in Article 5. Robert Kuczynski said the internal audit function seems to be the third administrative role that reports directly to the Council, i.e., City Manager, City Attorney and the internal auditor. BK Keramati said the internal auditor should be a function of the City Manager. It was noted that the internal auditor would likely be contracted by the City and not a city employee.

2.16 Actions requiring enactment by ordinance or by local law: It was agreed to modify the language to read, "Establish rules or regulations and provide for fines or other penalties for violations thereof"

Attorney and audit. BK Keramati said it is a function of the City Manager. The internal auditor would be contracted. It was also agreed to include "except as otherwise provided".

Levy taxes: Tony Izzo said that current water and sewer rates are set by City resolution. It was agreed that the text "except as otherwise provided" should be removed.

2.17 Enactment of Ordinance: It was agreed the text should be updated to mirror Section 2.10]

2.20 Publication and effective date: Commission members agreed that "unless otherwise specified in the ordinance" should be included.

2.24 City Manager: Ann Casey Bullock asked if we should remove the City Manager section under 2.24. Pat Kane said this is a distinctive function and it should be kept. Ann Casey Bullock said this was in connection with disaster. Mike Los suggested that the language was redundant. Ann Casey Bullock asked for a definition of "city officer" Tony Izzo said that definition should be included in the charter and Commission members could make that distinction on who is a "city officer". Bob Turner suggested that the phrase "employee" be used. Pat Kane said this section refers to disaster and this paragraph should be maintained. Gordon Boyd suggested that there be some mention of the creation of emergency plan. Bob Turner said this is blanket language from the model charter. Gordon Boyd said we should add language that requires the City to have an emergency plan that outlines what happens for any natural disaster. Bob Turner said there is language in the existing charter on an strategic emergency plan.

3.01 City Manager: Commission members debated whether the City Manager should have a masters, credentials, length of service, etc. Robert Turner said that stating some qualifications would prevent patronage positions. Mike Los said the specific terms of employment would be negotiated by the Council. Pat Kane suggested that ICMA credentialing be added as a qualification. He said credentials shows there is continuing education and there is a specific code of ethics. It was suggested that the text, "the ideal City manager would be credentialed by the ICMA" be included. Ann Casey Bullock suggested that the text read, "education, credentials and professional affiliation." BK Keramati supported having a reference to credentials. Ann Casey Bullock said the charter is not the ad for the newspaper. Gordon Boyd suggested that it state, "masters, five years and have to be a member of . . ." Bob Turner said we could say, "either masters and five years or ICMA credentials. It was agreed to leave the language as presented.

3.02 Removal: Gordon Boyd said the terms of the contract would likely have removal language. Bob Turner said this removal language was out of the model charter.

3.03. City officer or employee: Ann Casey Bullock said that we need a definition on "city officer" It was agreed to take out "city officer" and let the City Manager decide.

3.04. Powers and Duties of the City Manager:

There was some discussion on looking at census information. Bob Turner said he was hesitant on referencing census information when there were many other sources to gather data.

BK Keramati suggested that there be some language on performance evaluations for every employee, every year. Matthew Jones said collective bargaining agreements would need to be referenced. There was some discussion that it might not be appropriate to reference performance evaluations in the charter. Pat Kane said there needs to be a career path for employees and we need to invest in our employees. Gordon Boyd said the language needs to be qualified and state that it is consistent with collective bargaining. It was agreed that "in keeping with the terms of collective bargaining agreements" would be added.

NEXT MEETING

It was agreed the next meeting would be Monday, March 6 at 6:00 p.m.

ADJOURNMENT

Pat Kane moved and BK Keramati seconded to adjourn the meeting at 9:15 p.m. Ayes all.

Respectfully submitted,

Katherine A. Moran
Clerk

Accepted: 3/20/2017