



City of Somerville, Massachusetts

City Council Charter Review Special Committee

Meeting Minutes

Wednesday, April 26, 2023

6:00 PM

COMMITTEE OF THE WHOLE

This meeting was held via GoToWebinar and was called to order by Chair Scott at 6:06 pm and adjourned at 9:28 pm on a Roll Call Vote: 8 in favor (Councilors Davis, Ewen-Campen, Clingan, Wilson, Burnley, Kelly, Strezo, Scott), 0 opposed, 3 absent (McLaughlin, Pineda Neufeld, Gomez Mouakad).

Others present: Aneesh Sahni – Intergovernmental Affairs Director; Kimberly Wells – City Clerk; Brendan Salisbury – Legislative and Policy Analyst; Stephen McGoldrick - Edward J. Collins Center for Public Management; Marilyn Contreas - Edward J. Collins Center for Public Management; Beverly Schwartz – Charter Review Committee Member

Roll Call

Present: Chairperson Jefferson Thomas (J.T.) Scott, Vice Chair Kristen Strezo, Willie Burnley Jr., Lance L. Davis, Ben Ewen-Campen, Jesse Clingan, Jake Wilson and Charlotte Kelly

Absent: Matthew McLaughlin, Judy Pineda Neufeld and Beatriz Gomez Mouakad

Committee Minutes
(ID # [23-0537](#))

Approval of the Minutes of the Charter Review Special Committee of the Whole Meeting of April 12, 2023.

RESULT: ACCEPTED

AYE: Chairperson Scott, Vice Chair Strezo, City Councilor At Large Burnley Jr., Davis, Ewen-Campen, Clingan, Wilson and Kelly

ABSENT: McLaughlin, Pineda Neufeld and Gomez Mouakad

2. Officer's Communication
(ID # [22-1520](#))

Charter Review Committee conveying its recommendations and proposed Charter text.

Chair Scott referred the Committee to the slides dated 04.12.23, related to the returning items.

Following reminders from the Chair about the timeline and outstanding items before the Committee, Councilor Ewen-Campen noted that he had been in touch with the administration regarding changes suggested at the previous meeting regarding Department Head appointments and they had no issues.

Councilor Ewen-Campen moved to amend Section 2-8 (a) of the Charter

Review Committee's proposed Charter text to read: The city council shall not unreasonably reject such an appointment ~~unless the candidate does not have the experience, training, and/or education to perform the duties of the office or position~~. The motion was approved on a roll call vote of 8 in favor (Councilors Davis, Ewen-Campen, Clingan, Wilson, Burnley, Kelly, Strezo, Scott), 0 opposed, 3 absent (McLaughlin, Pineda Neufeld, Gomez Mouakad).

The next topic of discussion was the definitions for "legal holiday" and "newspaper". Councilor Davis clarified that further research into legal holiday determined that the definition was sufficient. Legislative and Policy Analyst Brendan Salisbury commented regarding the definition of "posting or post" to suggest changing "required under the General Laws" to "required by law", to account for other requirements that may exist, including Somerville laws.

Chair Scott moved to amend Section 1-7 (18) of the Charter Review Committee's proposed Charter text to update the definition of "posting or post" to read: means making available publicly on the city website, at city hall, and in a local newspaper, and/or as otherwise may be required by law under the General Laws. For the purposes of this definition, a local newspaper shall be a newspaper of general circulation within the city, with either weekly or daily circulation. The city council president may, from time to time, select a local newspaper for posting according to a procedure that shall be set forth in the rules of the city council. The motion was approved on a roll call vote of 8 in favor (Councilors Davis, Ewen-Campen, Clingan, Wilson, Burnley, Kelly, Strezo, Scott), 0 opposed, 3 absent (McLaughlin, Pineda Neufeld, Gomez Mouakad).

The discussion regarding the multiple member body vacancy procedure was next before the Committee. Analyst Salisbury noted that the proposed update to the language provides an avenue for the City Council to address longstanding vacancies without overstepping the executive authority by appointing an individual directly. Director Sahni noted that this was his first time reviewing this language and he would share with the administration for feedback regarding this section. Councilor Ewen-Campen supported this language as a workable compromise. Chair Scott added that this is mild language, with limited power, but a better solution has not been found. Councilor Burnley asked if this would differ from how the Council President is currently able to make appointments, and Chair Scott noted that the City Council could determine through its Rules how these designations would be made. Analyst Salisbury noted that the use of "shall" in "shall be established by the rules of the city council" was intentional, and affords the Council the opportunity to establish a procedure, even if that procedure is the same as the status quo. Councilor Burnley added that it also affords a future Council the opportunity to make changes to the process if needed.

Chair Scott moved to amend Section 2-8 (b) of the Charter Review Committee's proposed Charter text to add: (1) In the event of a vacancy on

a multiple member body where the seat has remained vacant in excess of one year and the mayor has not referred to the city council any proposed appointees to fill the vacancy, the city council president may present to the mayor the names of no more than three individuals as recommendations for appointment. The procedure for selecting names for presentation to the mayor shall be established within the rules of the city council. (2) The mayor shall twice annually, in February and August, post a complete list of the vacancies within all multiple member bodies, as well as the procedures for individuals to apply to become a member of those bodies. The motion was approved on a roll call vote of 8 in favor (Councilors Davis, Ewen-Campen, Clingan, Wilson, Burnley, Kelly, Strezo, Scott), 0 opposed, 3 absent (McLaughlin, Pineda Neufeld, Gomez Mouakad).

Director Sahni noted that this update, in conjunction with the temporary appointments (Section 3-8), is acceptable to the administration in the framework of a four-year Mayoral term.

The topic before the Committee next was regarding Police and Fire Department confirmation authority, as well as Constable confirmation authority. Councilor Ewen-Campen expressed that the new Charter should follow the existing Charter regarding the confirmation authority for these appointments. He noted that there was a suggestion that this could live in an Administrative Code, with a binding commitment included in the Charter that it be placed in that Code. His preference is that the language is placed in the Charter. Chair Scott noted that a main difference would be the ability to make a change in the future. Analyst Salisbury shared that the ability of a future Council to change the provision is a benefit to inclusion in an Administrative Code. Councilor Kelly and Councilor Burnley supported keeping it in the Charter. Chair Scott noted that he would not want to see this easily changed.

Analyst Salisbury noted that the provision for constable appointments was included in the Charter over 150 years ago when the Police Department did not yet exist. The state legislature has since produced significant legislation governing the appointment of constables in general, and they may not support an attempt to change those uniform practices. The Massachusetts General Laws (MGL) provides for more regulations by establishing more requirements for constables. Chair Scott noted that keeping this confirmation authority in place provides another check on the behavior and qualifications of individuals who have significant power within the city. Director Sahni noted that the Administration suggested that the language include a reference to the Civil Service guidelines.

Chair Scott moved that language be drafted to include a provision that Police and Fire appointments and promotions be subject to City Council confirmation. The motion was approved on a roll call vote of 8 in favor (Councilors Davis, Ewen-Campen, Clingan, Wilson, Burnley, Kelly, Strezo, Scott), 0 opposed, 3 absent (McLaughlin, Pineda Neufeld, Gomez Mouakad).

Councilor Strezo expressed the preference that constables remain subject to MGL, and that an additional confirmation process might deter more Somerville residents from applying. Councilor Davis noted that the constable process is different, and is often presented as a “renewal”, more akin to a license. If the confirmation authority remains in the Charter, he suggested language to address the issue of a pending confirmation preventing the individuals from working during a period of time until they are approved. Councilor Kelly asked for clarification about whether state law supersedes Somerville’s ability to confirm these appointments and Analyst Salisbury noted that Somerville has not accepted that MGL, but when the state does this, the goal is typically designed to create uniformity among municipalities. Councilor Kelly elaborated that being able to hear from constables about their activities in the community and how they approach their role has been useful. Councilor Clingan expressed support for leaving the confirmation authority in the Charter as well.

Chair Scott moved to amend Section 2-8 of the Charter Review Committee’s proposed Charter text to add: (c) Constables - The mayor shall refer to the city council and simultaneously file with the city clerk the name of each person the mayor desires to appoint as a constable within the city. The city council shall not unreasonably withhold confirmation of such appointments and shall accompany a rejection with a written statement describing the reason, which shall be delivered to and placed on file with the city clerk within 30 days of filing. The question on confirmation of any appointment submitted by the mayor shall not be subject to the procedure of charter objection provided in section 2-9 (b) of this charter. The motion was approved on a roll call vote of 7 in favor (Councilors Davis, Ewen-Campen, Clingan, Wilson, Burnley, Kelly, Scott), 0 opposed, 4 absent (McLaughlin, Pineda Neufeld, Gomez Mouakad, Strezo).

Councilor Clingan raised the issue that the term is currently set at one year in the current Charter and this provides an opportunity to assess that also. He also asked what the term is by state law and Chair Scott noted that it is three years. Councilor Davis suggested that aligning the term with the state could perhaps make this provision more agreeable to the legislature. Chair Scott agreed that a three-year term would be sufficient for periodic review. He added that a provision to prevent the Mayor from withholding submission of applications for confirmation is also warranted.

Councilor Davis moved to request that language be drafted to establish a three-year term and to ensure that applicants for constable appointment are submitted for confirmation with sufficient time for City Council review prior to the expiration of the term. The motion was approved on a roll call vote of 8 in favor (Councilors Davis, Ewen-Campen, Clingan, Wilson, Burnley, Kelly, Strezo, Scott), 0 opposed, 3 absent (McLaughlin, Pineda Neufeld, Gomez Mouakad).

The Committee moved on to a discussion addressing the establishment of an Administrative Code. Chair Scott explained that this is effectively an

executive order establishing an organizational chart for the city's government. Beverly Schwartz noted that some examples from the Watertown Charter include a provision sending the administrative orders to committee for discussion, as well as imposing a 90-day period for the City Council to take action. The current Charter Review Committee proposal provides for 60 days from the filing with the clerk. Chair Scott also asked for feedback on whether the approval should require a simple majority or a 2/3 majority of the Council. Analyst Salisbury noted that where the Administrative Code is the quintessential executive authority, a simple majority to reject is reasonable, and is in keeping with the separation of powers. He noted also that Watertown's City Manager form of government makes their process differ. Beverly Schwartz noted that the Charter Review Committee did not discuss the 2/3 majority and the Collins Center had noted that a simple majority is a best practice. Councilor Strezo supported the simple majority, and Councilor Ewen-Campen suggested that the Police and Fire conformation process is different from the organizational chart, and that reinforces why it should be separately in the Charter.

Chair Scott moved to support the recommended language by the Charter Review Committee for the simple majority requirement for the administrative code. The motion was approved on a roll call vote of 8 in favor (Councilors Davis, Ewen-Campen, Clingan, Wilson, Burnley, Kelly, Strezo, Scott), 0 opposed, 3 absent (McLaughlin, Pineda Neufeld, Gomez Mouakad).

Chair Scott moved to add language to Section 5-1 to provide that if no city council meeting is held within the subsequent 30 days of the first meeting, the city council shall instead have 30 days from the second regularly scheduled meeting after the submission to approve an administrative order. The motion was approved on a roll call vote of 8 in favor (Councilors Davis, Ewen-Campen, Clingan, Wilson, Burnley, Kelly, Strezo, Scott), 0 opposed, 3 absent (McLaughlin, Pineda Neufeld, Gomez Mouakad).

The Collins Center then shared some concerns regarding the Compensation Study Commission recommendation. Marilyn Contreas expressed concerns about the possible effects, including how communities pursue this process, the difference between competitive and equitable wages, and the potential for undermining the collective bargaining process. She also noted that the criteria for a wage sufficient to living in the city is included, despite there being no residency requirement. There is nothing in state law or case law that would allow for this to be a substitute for what is currently in place, and it varies greatly from the direction the Commonwealth has gone to set standards for collective bargaining practice. It would be valuable to obtain information and analysis of potential benefits and pitfalls prior to establishing this body as a permanent entity.

Councilor Kelly asked how the current compensation study differs and Ms. Contreas noted that this differs from a compensation study due to the nature of equitable wage distribution, whereas the point of a compensation study is

to set wages based on a competitive municipal employment environment. Councilor Kelly elaborated that the city is currently not always paying a competitive wage and that is precisely why a compensation study is taking place. Beverly Schwartz noted that the Charter Review Committee was deliberate in wanting to explore other ways to allocate wages, and the difference between equitable and competitive was intentional. Councilor Burnley supported equitable compensation as an additional component to meet the needs of all city employees. He emphasized that a competitive wage is not necessarily a living wage.

Ms. Contreas elaborated that in the transition, issues that are of concern to the city may be examined that may eventually be included in the body of the charter, but until the study provided for in Section 9-7 (b) is complete, Section 5-3 should not be included. Councilor Clingan supported keeping the language, noting that a compensation study at the whim of the Mayor is often the only way for union employees to receive raises. Chair Scott also pointed out that Section 5-3 does not have any requirements for action and also that the review is done under the supervision of the Chief Administrative Officer. Councilor Davis suggested that the exercise of creating a new Charter is forward-looking and inclusion of Section 5-3 allows for an ongoing process and seems to make sense. Chair Scott also noted that there is adequate evidence to presume that a periodic review is necessary. Ms. Contreas clarified that a compensation study every five years is different from what is outlined in Section 5-3, which includes the specific conditions that the city ensure compensation is distributed equitably across all municipal employees and to the greatest extent possible compensation is sufficient to live in the city. These are new ideas and would benefit from being informed by the study provided for in Section 9-7 (b).

Councilor Davis noted that it may be possible to interpret “compensation is distributed equitably across all municipal employees” differently, and if the concern is that might be interpreted to mean that every employee makes the same salary, for example, he would be open to revising it. However, he noted that a provision for a review every five years is important and should remain in the Charter. Chair Scott agreed with Councilor Davis that more general language or a whereas clause in place of the current language could work, but added that enshrining the value of equity is not something to back away from and the proposed language does not represent a fundamental flaw. Councilor Ewen-Campen emphasized that a municipality only comparing itself to its neighbors and not other equity principles is something that should be reevaluated, and added that he would support revised language in the manner that Councilor Davis suggested.

Councilor Davis moved to amend the language in Section 5-3 to read: The mayor and city council shall provide a review to be made of all municipal employee compensation at 5-year intervals to examine whether compensation reflects principles of equity and to the greatest extent possible is sufficient for municipal employees to live in the city. The motion was laid

on the table.

RESULT: KEPT IN COMMITTEE