

Charter Review: Public Hearing and Concluding Policy Items

Somerville MA City Council
May 10, 2023

Tonight's Agenda

Anticipated Schedule

Reminder of Procedure

Public Hearing

Final Policy Items

Policy Analyst Slides

Optimistic Schedule

- **Virtual, May 10**
 - Public Hearing
 - Final Policy Votes
- **In-Person, May 24**
 - Concluding Public Hearing
 - Line-by-Line Review
 - Final Amendments and Vote to Refer

Resources and Process

- **Subject Matter Experts: Collins Center consultants**
 - Legislative Policy Analyst **Brendan Salisbury** serving as City Council liaison
- **Subject Matter Experts: Charter Review Committee members**
 - Bev Schwartz (member) and Anna Corning (Mayor's Office), liaisons
- **Online Document repository: tinyurl.com/hashtagCharterReform**

Parliamentary Procedure

- **Deliberation**

- Largely focused on the current topic area; Rules of the Council prevail

- **Resolutions are “in order”**

- Resolutions to recommend adoption of the Committee’s suggested text
- Resolutions to request amended text to address the Council’s intent
 - Amended text will be reviewed for adoption at a future meeting

- Once all topics have been resolved, a final HRP Text will be submitted

- **Working Groups** may be formed to work on issues and return with compromise

Public Hearing

- Written Comment is always welcomed at cityclerk@somervillema.gov
- Public Hearing will be held open until May 24
- Public Hearing will recommence in person for any live testimony on May 24
- To request to speak this evening, please use the Raise Hand function in GoToMeeting and you will be recognized.

Final Policy Items

Confirmation Process for CAO

Budget Timeline

Civil Service Appointment Confirmation Process

Compensation Study Commission

Mayor's Proposal: Access to Information Provision

Confirmation Process for Dept Heads/CAO

Language discussed jointly by Administration and Clr Ewen-Campen

- Policy Considerations: Several options to establish an effective term for, or require reconfirmation of, a seated Chief Administrative Officer were considered.

Confirmation Process for Dept Heads

Language adopted at our previous meeting

- SECTION 2-8: CITY COUNCIL CONFIRMATION OF CERTAIN APPOINTMENTS

(a) Department Heads - The mayor shall refer to the city council for confirmation and simultaneously file with the city clerk the name of each person the mayor has appointed as a department head. Such appointments shall become confirmed 30 days from the date of the first regularly scheduled city council meeting after the date on which notice of the appointment was filed with the city clerk, unless the city council within said 30 days **shall reject such appointment by a 2/3 vote. The city council shall not *unreasonably* reject such an appointment.** However, 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 appointment to reject such appointment by a 2/3 vote. The city council shall accompany a rejection of the appointment 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 rejection of any appointment made by the mayor shall not be subject to the procedure of charter objection provided in section 2-9(b) of this charter.

Confirmation Process for Dept Heads

Language proposed with scrivener's edits by Analyst Salisbury

- SECTION 2-8: CITY COUNCIL CONFIRMATION OF CERTAIN APPOINTMENTS
 - (a) Department Heads - The mayor shall refer to the city council for confirmation and simultaneously file with the city clerk the name of each person the mayor has appointed as a department head. These appointments shall become confirmed 30 days from the date of the first regularly scheduled city council meeting after the date on which notice of the appointment was filed with the city clerk, unless the city council within said 30 days shall reject the appointment by the vote of 8 members. However, 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 appointment to reject the appointment. The city council shall not unreasonably reject an appointment 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 rejection of any appointment made by the mayor shall not be subject to the procedure of charter objection provided in section 2-9(b) of this charter.

Confirmation Process for CAO

Language reviewed jointly with administration and Council President Ewen-Campen

Proposed Text: SECTION 3-6: APPOINTMENT OF CHIEF ADMINISTRATIVE OFFICER

The mayor shall appoint a chief administrative officer to coordinate and direct the operations and functions of municipal government. The chief administrative officer shall be appointed by the mayor, subject to review by the city council under section 2-8(a). The appointee shall be chosen on the basis of strong administrative and executive qualifications and shall have a combination of experience, training, and/or education to perform the duties of the office.

Budget Timeline

Proposal: Add more transparency and responsible deadlines for budget review.

- Policy Considerations: Strong Mayor, Council/Manager, and Town Meeting municipalities who have recently undertaken Charter Review all have more extended and transparent Budget processes than proposed by the Committee. In support of a more collaborative and transparent budget process, a timeline is proposed which would provide public visibility into Departmental Budget Requests and a more predictable timeline for budget submission and consideration.

Comparative Budget Timelines

Original Proposal: Add more transparency and responsible deadlines for budget review.

	Watertown	Framingham	Brookline	Somerville (current)	Somerville (CRC recco)	Somerville (Proposed)
CIP presentation	1/1	10/1	(7/15)	6/20	10/15	10/15
Financial Review	10/30	-	12/1	-	4/1	11/1
Council Input	12/30	-	-	-	3/20	(12/30)
PIR Publication	1/31	-	(11/1)	-	-	3/1
SC budget submission	-	4/7	-	-	5/15	4/1
GF Budget submission	4/1	5/1	2/15	6/20	6/1	4/15

Budget Timeline

Proposal: Add more transparency and responsible deadlines for budget review.

- Proposed Text: SECTION 6-2: COMMUNITY BUDGET INPUT

The city council shall hold a Community Budget Hearing on or before **December 1st** of each year in order to solicit public input regarding budget priorities. The city council shall post notice of the Community Budget Hearing 14 days in advance of the hearing.

- SECTION 6-3: ANNUAL BUDGET MEETING

On or before **November 1st** of each year, the mayor shall call a joint meeting of the city council and school committee, including the superintendent of schools, to review the financial condition of the city, revenue and expenditure forecasts for at least 3 years, and other relevant information prepared by the mayor in order to develop a coordinated budget.

Budget Timeline

Proposal: Add more transparency and responsible deadlines for budget review.

- Proposed Text: SECTION 6-4: SUBMISSION OF OPERATING BUDGET; BUDGET MESSAGE

Within 14 days of receipt of departmental budget proposals, but **no later than March 1**, the mayor shall submit to the city council a synopsis of all proposed budget initiatives and requests for additional funding for its review. The synopsis shall include a summary of each initiative, its justification and its estimated costs.

- By the **second regularly scheduled city council meeting in April**, or a later date if approved by a vote of the city council, **the mayor shall submit to the city council a proposed operating budget** for all city agencies for the next fiscal year. The proposed operating budget shall include the school budget, as adopted by the school committee, which shall be submitted to the mayor on or about April 1st.

Budget Timeline

Proposal: Add more transparency and responsible deadlines for budget review.

- Proposed Text: SECTION 6-4: SUBMISSION OF OPERATING BUDGET; BUDGET MESSAGE (cont.)
 - The proposed operating budget shall be accompanied by a budget message and supporting documents. The budget message shall explain the operating budget in fiscal terms and in terms of work programs for all city agencies. It shall outline the proposed fiscal policies of the city for the next fiscal year, describe important features of the proposed operating budget and include any major variations from the current operating budget, fiscal policies, revenues and expenditures together with reasons for these changes. The proposed operating budget shall provide a complete fiscal plan of all city funds and activities and shall be in the form the mayor deems desirable; provided, however, that the budget proposals relative to elected officials shall identify the cost of compensation and the cost of benefits for those officials. The mayor and the superintendent of schools shall coordinate the dates and times of the school committee's budget process under the General Laws.

Civil Service Appointment Confirmation Process

Language developed by Council Pres Ewen-Campen

- Proposed Text: Charter 2-8 (d)

Civil Service Employees – 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 member or officer of the police department or the fire department. The city council shall not unreasonably withhold confirmation of appointments, shall adhere to any merit principles identified in applicable law, including, but not limited to applicable civil service law, 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 90 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.

Civil Service Appointment Confirmation Process

Language developed by Council Pres Ewen-Campen

- Proposed Text: Charter 305 (c)

adding the following subsection and renumbering subsection (c) to (d):

(c) Civil Service Employees – The mayor may appoint, subject to confirmation, members and officers of the police department and fire department.

Compensation Study Commission

Amendment moved by Clr Davis

Proposed Text: SECTION 5-3: COMPENSATION OF CITY EMPLOYEES

The mayor and city council shall provide a review to be made of all municipal employee compensation at 5-year intervals to ~~ensure compensation is distributed equitably across all municipal employees and to the greatest extent possible compensation is sufficient to live in the city~~ **examine whether compensation reflects principles of equity and to the greatest extent possible is sufficient for municipal employees to live in the city.** This review shall be made by a special committee to be established by ordinance, and the initial review shall be implemented as provided in Section 9-7(b).

Mayor's Proposal: Access to Information Provision

Language relayed by Liaison Singh

Proposed Text: SECTION 2-10: ACCESS TO INFORMATION

(b) Department Head - The city council may require, by majority vote, specific information from a department head or their designee on any matter related to the municipal services, functions and powers or duties which are within the scope of responsibility of that person **and related to the official duties and responsibilities of the city council**. The department head or their designee shall not be required to answer questions relating to any other matter outside the scope of the matter noticed **or provide information that is privileged or the release of which is prohibited by law**.

(c) Mayor - The city council may request, by majority vote, specific information from the mayor on any municipal matter **related to the official duties and responsibilities of the city council**. The mayor or their designee shall appear before the city council and respond to the questions. The mayor or their designee shall not be required to answer questions relating to any other matter **outside the scope of the matter noticed or be required to provide information that is privileged or the release of which is prohibited by law**.

Policy Analyst Slides

- At our April 26 Meeting, Clr Kelly requested a full list of items which the Policy Analyst felt might constitute areas of concern for the State Legislature as they review a Charter Home Rule Petition for Somerville.
- The following slides are presented for reference and many are a compilation of information discussed in prior meetings.

Policy Analyst “Red Flags”

- **Mayoral term**
- **Advisory legal counsel**
- **Police and fire confirmations**
- **Constable confirmations**
- **Multiple member body vacancy language**
- **Expanded budget timeline**
- **Equitable compensation study**
- **16-17 year old and non-citizen voting**

Red Flag: 2-Year Mayoral term

- Affects several of the other red flags
- 44 municipalities in the Commonwealth have a council-mayor form of government
 - Cambridge, Lowell, and Worcester have mayors but are actually council-manager forms
- 21, including Somerville, have a 2-year mayoral term
 - 7 of those councils have no confirmation authority
 - 5 explicitly exempt the solicitor from confirmation
 - 3 charters contain explicit prohibition of confirmation of civil service appointments
 - Only 2 have confirmation of any civil service
 - Somerville
 - Methuen (promotions only)

Red Flag: 2-Year Mayoral term (cont.)

- 23 municipalities in the Commonwealth have 4-year mayoral terms
 - Several have shifted from a 2-year term in the last 10 years
 - None of those charters include civil service confirmation
 - 9 charters contain explicit prohibition of confirmation of civil service appointments
 - 3 explicitly exempt the solicitor from confirmation
 - 3 include no confirmation authority for the council
 - Quincy, Holyoke, and Boston

Red Flag: Advisory Legal Counsel

- This position would be unique to Somerville
- Cambridge and Boston have attempted to obtain legal counsel specifically for their city councils in the past, independent of the solicitor's office
 - A clear policy argument against the implementation of independent advisory council can be found in case law, which specifically notes “the potential for disruption of the City's business in the event that the advice rendered differs between each attorney.” (Boston City Council v. Menino, No. 00-1267 (Mass. Cmmw. May. 9, 2000))

Red Flag: Police, Fire, and Constable Confirmations

- As noted in the slide related to the mayoral term, Somerville's confirmation of police and fire appointments is not consistent with current practice throughout the Commonwealth
 - The single other charter that includes police and fire confirmations includes only promotions
- As mentioned at the last meeting of the charter review committee, the city council's authority to confirm constables is not consistent with current practice
 - There are only 2 municipalities that retain any council authority over constables by charter
 - Marlborough, where the practice is from 1890
 - Taunton, where the municipal council has appointing authority
 - 7 other municipalities maintain confirmation authority, but by ordinance
 - 33 either make no mention of constables in their charter or ordinances, have accepted the relevant general law, or have ordinances or charter provisions that do not include confirmation authority
 - Lynn's charter does not mention constables and their code of ordinances is not online

Red Flag: Multiple Member Body Vacancy Language

- As noted frequently in conversations around multiple member body vacancies, appointments are a quintessential example of executive authority
 - Attempts by the legislative department to compel the exercise of executive authority are an intrusion on that executive's authority
 - Additional administrative burdens on the executive that prescribe particular practices and compel exercise of executive authority are similarly an intrusion

Red Flag: Expanded Budget Timeline

- The budget process, similar to appointments, is quintessentially executive authority
 - The distinction between a council-manager and council-mayor form of government is of critical importance
 - Drawing a budget timeline from a council-manager form of government and placing it into the charter of a council-mayor municipality disrupts the organization of the city and introduces significant administrative burdens

Red Flag: Equitable Compensation Committee

- Beyond the issues previously identified by the Collins Center, there are additional policy concerns
 - There is precedent related to the use of “parity provisions” in contracts, as well as parity provisions in charter
 - While the equitable compensation provisions are not a traditional example of a parity provision, there is clear legislative intent, from discussion and the inclusion of “tying mechanisms” in the language

Red Flag: 16-17 and Non-Citizen Resident Voting

- Both of these have been filed as home rule petitions. I do not foresee any greater likelihood of passage in the charter as opposed to as home rule petitions and believe that duplicated filings is potentially problematic.