



January 10, 2017  
CITY OF SARATOGA SPRINGS  
Charter Review Commission  
City Council Room - City Hall  
7:00 PM

**CALL TO ORDER**

**ROLL CALL**

**WELCOME AND ANNOUNCEMENTS**

**PUBLIC COMMENT**

**INTRODUCTORY REMARKS BY BOB TURNER**

**APPROVAL OF MINUTES**

**DISCUSSION AND VOTE ON CHARTER REVIEW COMMISSION 2017 BUDGET  
AND SPECIAL ELECTION**

**DISCUSSION OF NEW CHARTER ISSUES**

**ADJOURN**



January 10, 2017  
CITY OF SARATOGA SPRINGS  
Charter Review Commission  
City Council Room – City Hall  
7:00 PM

PRESENT: Jeff Altamari  
Ann Casey Bullock  
Gordon Boyd  
Laura Chodos  
Devin Dal Pos  
Elio DelSette  
Matt Jones  
Pat Kane  
BK Keramati  
Mike Los  
Minita Sanghvi  
Barbara Thomas  
Robert Turner  
Beth Wurtmann

ABSENT: Robert Kuczynski

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

### **MINUTES**

R. Turner said the minutes of December 13 were an amazing set of minutes. There was some discussion regarding the resolution adopted at the December 13<sup>th</sup> meeting and possible changes. Gordon Boyd commented that if the Commission believes that the minutes accurately reflect the resolution passed, we should approve the minutes. If someone wants to change something regarding the resolution, we can clarify and discuss that during the course of this meeting. Elio DelSette recommended accepting the minutes as presented.

**Elio DelSette moved and Gordon Boyd seconded to approve the minutes of the December 13, 2017 Charter Commission meeting as presented.**

**Ayes all**

### **INTRODUCTORY REMARKS**

Robert Turner said he had a productive discussion at the City Council meeting January 3. Commissioner Scirocco made it clear that he believes no change in the Charter is necessary; he suggested that the Commission has not kept him informed and no one on the Commission has read the City Charter and there has been a rush to judgement by the Commission. Robert Turner said he responded that we have been at this since June and that they are an independent Commission. He also told the Council that the Commission will soon produce some reports that they will share with the City Council. He said the main line of questions focused on the special election. There was also a legal question about the funding of special elections.

Beth Wurtmann said it is outstanding that even though he did not have to, Chairman Turner informed the City Council on the progress of the Commission, an independent body and he reviewed all our analysis since June, the dozens of officials the Commission has interviewed, the dozens of committee meetings they have held in order to have a close read on the Charter and we are beginning to assess our recommendations moving forward. She was glad that he pointed out the key points of what this Commission has been doing in the spirit of informing the Council and the public.

Robert Turner said he offered to meet with each of the Council members to discuss the budget and answer any questions. He also asked them to send him any suggestions to change the existing Charter as Elio DelSette recommended. He said that comments have been received from Commissioner Madigan and a more general statement from Commissioner Scirocco was received also. He will keep the Commission apprised as things come up.

Beth Wurtmann said it is important to note that the Commission has been transparent through all of their meetings with live streaming and two websites that feature the meetings and archives of all of the meetings. All of the agendas and minutes are posted; photographs as well as articles from the press have been published about the meetings. That was a great first step to bring the City Council up to date on the activities of this Charter Commission.

### **2017 COMMISSION BUDGET:**

Robert Turner said that many of the things we are going to discuss tonight are outgrowths from the discussion with the City Council. He said that some of the City Council members asked whether the Charter Revision Commission has seen the draft budgeted expenses for 2017 and voted on the budget. He said that since he has not heard back from any of the Commission members regarding the proposed budget, he thought he would review it now. He wants to be clear about New York Municipal Home Rule Law Section 36, the provisions for adoption of a

new or revised City Charter as proposed by a Charter Commission. He clarified that the intent of the law is that the Charter Review Commission should be independent of the political process and should not be subject to the political whims of the current City government. One of those provisions is that the Charter Commission has the authority to make expenditures that are reasonable and necessary to defray current expenses and the City government has to reimburse the Commission as long as the expenses are reasonable. He said that \$20k was budgeted for legal consulting. He met with Robert Batson, the government lawyer in residence at the Government Law Center of Albany Law School, to discuss securing a drafting attorney. Robert Batson has worked on six city charters in recent years, for all forms of government including Mayor-Council; City Manager; and some hybrids. He will review our City Charter and identify things that should be transferred to the City Code, as well as re-draft the Charter to include the changes proposed by the Commission and some additional items for the Commission to consider in its deliberations. The \$20k includes money for Tony Izzo to continue to serve as in-house Counsel to the Commission.

Robert Turner advised that one of the things that came out of the meeting with the City Council is that the City Council feels it would be helpful to continue to retain Tony Izzo with his considerable experience in this government and its relationship to the Charter and Tony Izzo has agreed to stay on and it has proven very helpful.

The second item in this budget was community education/outreach, also \$20k. Robert Turner stated that the New York Municipal Home Rule Law 36 requires that the Charter Commission shall provide for the publication and other publicity in respect to provisions of the proposed Charter or amendment as it may deem proper. He advised that New York Comptroller opinion states that it is very necessary to educate the public [regarding Charter revision], however this cannot be advocacy; the Commission may not encourage the adoption. It is just a summary such as: here is what is in the Charter and here is the date of the election. Robert Turner said that \$20k is reasonable, it is about \$1.50 to \$1.75 per voter.

He said that also included in the budget is \$6k for the Clerks to continue to take minutes at the meetings per the open meetings law. Altogether the budget is \$46k.

BK Keramati asked that since there is no advocacy allowed, does that mean that reasons cannot be given for why the Commission added or changed something?

Pat Kane replied that something can be explained but you can't push someone to a yes or a no. Gordon Boyd said the language in the Charter links to where someone could read the whole Charter. We can provide a summary of exact provisions, but we can't say this is a better idea than what we have now because that would be crossing a line that is not suitable for taxpayer funding.

Beth Wurtmann explained that she is on the outreach committee with Barbara Thomas, BK Keramati, Minita Sanghvi, and Laura Chodos and they have spent a lot of time talking about how to educate the public. There is a website and there is also an email address, [saratogacharter@gmail.com](mailto:saratogacharter@gmail.com) and they have always encouraged the public to send an email with comments and committee members are always available to answer questions, but there is no doubt that the committee will need to put out the facts in a minimum of at least three mailers or two mailers and a door hanger. We are going to have to go door to door and we should hold another town meeting. An essential part of an educational campaign, not an advocacy campaign is to simply educate people about our recommendations and also when and where to vote; a get out to vote campaign is necessary for a good representation of the electorate. Pat

Kane encouraged the outreach committee to drive people toward our website; the website cannot advocate one way or another but clearly it will be an informative base.

Robert Turner said that this was a problem with the 2006 Charter Revision Committee; they sent out a mailing that was deemed too political with too much advocacy and this is going to be where our Counsel, Tony Izzo, will be helpful telling us what can and cannot be included in a mailing. He clarified that a mailing is for informing people what the new Charter says and how it is different from the old Charter.

Barbara Thomas said it is important within in these pieces that we tell the public what is in the current Charter and what is in the proposed Charter so that they have a quick idea, a comparison and that it is informing, not stating that one is better than the other.

Matt Jones asked that of the \$20k for this process, has the Committee determined how the expenses will be used? Beth Wurtmann replied that she and Laura Chodos have both contacted printers; one locally and one in Albany and both have experience creating campaign like flyers. She said there is a standard size of flyers you see in campaigns; she stated that the County Board of Elections confirmed there are 18,000 registered voters in the City, but we may not need 18,000 flyers because there may be two or more voters in a household so they asked printing companies what they normally do and each stated they delete duplicates and make an efficient mailing and the Commission would receive a government rate. She investigated the cost of door hangers and flyers that we can personally distribute at town meetings and gatherings. The committee hopes to incorporate social media, have phone banks and decide with the rest of the Commission how to get the vote out, whether door to door or phone lists. The hard costs have been investigated and the \$20k us realistic and fiscally responsible.

Laura Chodos wishes they had a cost break-out, because we are guessing at some things. We added door hangers because she has found them to be effective. They state that someone was here, did not take your valuable time, and a lot of information fits on both sides of a door hanger that someone cared enough to walk to your front door and hang there. She said the committee would need help with that. She asked that when the Commission reviews the expense break-down, they support and approve the proposed expenses.

Beth Wurtmann assured the Commission that the Committee would get multiple bids, a government rate, and they will be designing the flyers and will share them to make sure the facts and comparisons are correct and the information is solid and encourages everyone to vote and let the public know we want their input. This is not a political vote, it is a vote for our City and how we think the government should function. This Commission has studied it exhaustively and here are the Commission's recommendations. The Outreach Committee decided to have at least three mailings or something to take to the residents' doors. They will have to hit the streets and let the people know to get out and vote.

Matt Jones said that we will need some back-up on the mailing and the details. He is worried that the door hangers may lean toward advocacy. He does not know where the line is but he does not want us to incur expenses to cross that line.

Beth Wurtmann said there are two estimates now and we can submit them to the record as estimates that may be refined going forward.

Robert Turner said it is worth noting that of our \$27k budget in 2016, we have spent about \$12k of it so we have been very frugal and just because we have authorized the money does not mean we have to spend it all.

Gordon Boyd asked for clarification whether approving the budget tonight is necessarily approving all the specific activities mentioned at this point. He stated that \$20k is enough to pay for a responsible objective campaign, but we are not saying specifically the number of mailings or door hangers. He applauds the effort of the committee but approving the budget tonight is not saying that every one of the suggested activities has to take place. Robert Turner agreed; and stated that the \$20k for outreach is about one dollar and change per voter; it is very frugal.

**Motion to approve the Charter Review Commission's budgeted expenses up to \$20k for legal consulting, \$20k for outreach and education and \$6k for clerical services; the total expenses not to exceed \$46k made by Pat Kane and seconded by Minita Sanghvi.**

Matt Jones clarified that this does not address the Special election issue.

**Ayes all, 14-0 (R. Kuczynski absent)**

### **SPECIAL ELECTION**

Robert Turner advised that there are some important legal updates regarding special elections thanks to Tony Izzo and Wade Baltramo. Tony Izzo said that a few questions came up at the last Council meeting as to who under Section 36 of the Municipal Home Rule Law has the ultimate authority to submit charter changes or a new charter to referendum at a special or general election, the local legislative body of the City or this Commission itself. Wade Baltramo came up with a 1987 informal Attorney General's opinion that answers the question right on point. Tony Izzo summarized the findings that essentially the opinion states that unless the certificate that establishes this Commission specifies that it must be submitted at a general election, it is the Commission that has the power to determine that it should be submitted at either a general election or a special election. That is the sum and substance of the 1987 Attorney General opinion. Tony Izzo commented that in his research and experience both now and in 2001, researching back to the 1960's, he has never seen a certificate that restrictive.

Regarding the issue of whether or not special election expenses become a charge against the City, Tony Izzo advised that under Section 36, sub-section 6 of the Municipal Home Rule Law, there is nothing definite on that. There is no definite case or opinion that says yes or no, but there is probably some substantial weight accorded to the fact that a Commission has the power to determine whether it goes to special or general election. He said the research on that is regrettably slim. He recommended to the City Council and he recommends to this Commission as well to sit down together and discuss the matter, cooperate and work things out as to what the expenses are for a special election, the reasonableness of the cost and what the scheduling should be and do the best you can to reach an agreement. It is much better than to go into untested waters where there is no legal case law or opinion one way or the other. He said the first question is plainly answered that it is this Commission that has the authority to determine whether the referendum goes to a special or to a general election.

Elio DelSette asked what power the City Council has with respect to funding, are they forced to pay for this or can they decline to pay?

Tony Izzo responded that according to Section 36 of the Municipal Home Rule Law, the Commission requests the amount of funds needed, then the "appropriate officials" (the City Council in this case) have 45 days to say yes or no. If at the end of the 45 days, they have not taken "appropriate action", then the Mayor of the City has the power to certify up to the amount requested and authorize the Commission to incur those expenses and those expenses "become a charge against the City". He noted there is not a whole lot of case law on this.

Elio DelSette stated that a common majority is required to approve the funding and if they do not, it is up to the Mayor to certify it. Tony Izzo said there may be issues regarding whether an expense is necessary or not but there is not a lot of case law on this so it is very important to maintain a dialogue with the City Council.

Robert Turner said that the New York Municipal Home Rule Law establishes procedures about how the Charter Review process is governed and the principle is that the Commission should be free of political interference and case law/legal opinion establishes clearly that the Commission has the authority to call for a special election and that election must be run per normal established election rules and the City must award the Commission such sum or sums necessary to defray expenses and that is the wording of the law. He said that according to Tony Izzo and Wade Baltramo there does not seem to have been a litigated case so there is no judicial opinion. He noted that the City Council was concerned that the Commission has not discussed this or officially voted on it, and he pointed out to them that the Commission had voted on the resolution and passed it 15-0 but they had not followed that. He said that Council members were concerned that voters who winter elsewhere may not be back in April. Commissioner Franck's office would hold the special election and he was concerned about his administrative capacity to do so in that particular time period.

Robert Turner said the City Council also had concerns about the cost and why not bring the referendum to the general election. He said that since then, there have been conversations with Commissioner Franck and we discussed a date in May, but there is a School Board election and a tax grievance day in May so the date we were considering is May 30<sup>th</sup>. It seems that May 30, 2017 would address most of the concerns that Commissioner Franck and others expressed and it would give the Accounts office more time to run the election.

Robert Turner said there have been conversations with the Saratoga County Board of Elections and Bill Fruci and Roger Schiera have both offered to help Saratoga Springs run that special election and a lot of details were brought out about how that would happen. He was not sure of the cost, but he has it now in the hand out which itemizes the cost for machines, ballots, inspectors, technicians, transportation and legal advertising as well as absentee and affidavit ballots. The approximate cost is about \$37k and there is some flexibility in there that if we wanted to run a primary election from noon to nine pm, it would reduce the cost. There is also an option to have voting all in one place but he would be personally opposed to that because he thinks it should be kept as similar to a general election as possible.

Gordon Boyd said there was a question about having a special election on primary day in September, which would not fall enough days prior to the general election. He advised that there is another provision within the municipal home rule law that states that a special election can be no less than 60 days before the general election; otherwise it should be at the general election. He said the calendar has not been set yet but primary day will most likely be held in the middle of September this year which would be too close to the general election.

Robert Turner said that before they supported it, the City Council would want to feel that the Commission had a more robust conversation about this issue than they had on December 13.

Barbara Thomas said that the suggestion to do it at a primary might have been misinterpreted; they probably meant to hold it for the hours similar to that of a primary. Robert Turner agreed. Barbara Thomas advised that it could be held from 6 am to 9 pm or noon to 9 pm. Robert Turner noted that Bill Fruci had stated that the special election could be run on primary election hours, noon to 9 pm or general election hours from 6 am to 9 pm. The six fewer hours would cut the cost of the election inspectors. The cost for inspectors is \$110 each for a primary election and \$190 for general election. Whether we would want to hold this special election at primary or general election hours would have to be a conversation and decision by this Commission in consultation with Commissioner Franck.

Barbara Thomas asked whether we need to specify a particular date at this time because May 30<sup>th</sup> is a difficult date because it is the day after Memorial Day and we should have some discussion about the actual dates and whether we will be ready.

Jeff Altamari asked where the numbers came from. Robert Turner said the financial numbers are from Bill Fruci and Roger Schiera who are respectively the Democratic and Republican Commissioners of the Saratoga County Board of Elections and the costs were verified by their deputies. Jeff Altamari asked if John Franck participated in these discussions and Robert Turner replied that he did not, the Saratoga County Board of Elections has a lot more experience running elections, and so many of the costs including ballots, election inspectors, and machines are routine; they are familiar with those costs.

Robert Turner said there are two issues, one is the Commission's thoughts on a special election versus a general election, and then we will get to thoughts on May 30<sup>th</sup>.

BK Keramati said he can't recall if as a Commission we have discussed why we want a special election and the reasons, advantages and disadvantages of a special election versus a regular November election. Robert Turner said he wants to have that discussion now.

Elio DelSette said there were several comments that Commissioner Franck had about not supporting a special election; one was the question of depriving voters that might be out of town; it is not an auspicious time to expect a normal voter turnout. He asked if there were statistics or figures as to how many people turned out for a special election in the past as opposed to a regular election. Robert Turner said that Saratoga Springs has not had a special election in its history.

Elio DelSette asked if the cost of a special election of \$36k would be an issue for the voters. He asked if spending that kind of money would hurt or help our cause when it reaches the public and the opposition begins and says we do not need a special election despite what has been said quite well at this table regarding the time factor. Pat Kane said he had an extensive two-part conversation with Commissioner Franck after the meeting and his concern is whether this is the right thing to do, and once he saw within the Municipal Home rule Law that it is the Commission's responsibility to do that, he changed his thoughts dramatically, coming back with other dates that would work. He noted that April 15 is tough for him to do, but he did ask about May. He has thought through it and understands it is our responsibility. There are some restrictions to having a special election, some being about having it too soon before or after a general election. Elio DelSette asked about the factors regarding voter turnout. Pat Kane said that Moreau will have their second special election in the last four years and the voter turnout is



as they expected. He said the special election they are having soon is for water and sewer and the only people eligible to vote are those that have a deed, owning property in Moreau. He said that some of the special elections held in New York City have a higher turnout than at the general elections. Pat Kane said regarding voter suppression, every person has the privilege to vote and whether they act on it or not is up to them. He said that on May 16, over 30,000 people will be eligible to vote on the school budget which is over \$126m, and the school system employs well over 2000 people. It is an important part of the tax base of the City of Saratoga Springs; it is 63% of his tax bill. He said traditionally, the votes turn out fairly small and no one is suppressing the vote; it is well publicized and legal and there is nothing wrong with that, it is just that typically people do not turn out to vote on the school budget and he does not know why, but it is not due to voter suppression by any means.

Pat Kane commented that we have heard from our marketing group that we are going to push and drive people to get out to vote therefore establishing a special election with a significant amount of people voting, probably more than will vote on the school budget. We are not suppressing the vote and to say so is not fair; we are completely in compliance with all of the laws. If someone decides not to come out, we can't force them.

Elio DelSette said the general election has its own attraction; they come out to vote, not necessarily for this, but for a special election they come out to specifically vote on one thing.

Pat Kane said there are so many statistics; whether it is an off year or an on year, it depends on many factors such as the particular races and what the issues are. There is no data whatsoever to suggest that we will not have an adequate voter turnout at a special election.

Robert Turner said if you looked at voter turnout in 2015 compared to 2013, voter turnout dropped 40%. There is tremendous variation in local elections. He said we are drafting a new Charter, a new constitution for the City that is going to be in place for a long time; we want voters to study it to know the issues and understand it and not be swayed by emotion, partisanship and personalities. When the country's founders went to ratify the constitution, they created a special set of ratifying conditions, they created a special election. He said at this year's general election, there will be eight races including five City Council members. Two County Supervisors and a judge and the people he has spoken with believe all of the races will be hotly contested, so how would we get the people to focus on our referendum as opposed to the other races? He said moreover, if we look at the amount of spending that will happen on this general election, \$250k on the mayoral race that will be very competitive, \$40k on each of the other races and a pact could be formed to dump another \$100k on the races so we are talking about a possible \$750k of political spending on a general election which is a ton of "noise" to break through. In the midst of that, people do not spend a lot of time looking at campaign literature, especially if they are bombarded with it, so they will not spend a lot of time on our little \$20k mailer so the real important issue will get caught up in all of the political noise. He mentioned that in 2006, the issue of a charter change was buried in the politics and the proposed form of government was not even mentioned in the fliers.

He said that this referendum will be the only thing that the people have to focus on for the Special Election, and there will be lots of comments, critique and controversy but it will not focus on current or future political office holders and it will not be about whether it is motivated by republicans or democrats. He wants the focus to be on the constitutional issues and the special election will do that. He can see that voter turnout would be much higher because the last time they polled Saratoga voters, 95% had college degrees and over 60% had an advanced professional degree. Saratoga voters are very smart, and very conscientious, educated and

knowledgeable and if our referendum is the only thing on the ballot, they will be concerned and they will come out because they know this is an important issue one way or another for them.

Devin Dal Pos said the general election in essence politicizes the issue and we as a group are made up of a variety of different political backgrounds and have checked that stuff at the door when we came in to focus on and study the issue for the betterment of the City whichever way it goes so why would we want to take something apolitical and place it into a political arena? A special election provides the best opportunity to have our referendum thought about and decided on by the public apolitically.

BK Keramati said those are great arguments for a special election. He said there are other things we can do as a Commission and need to talk about. If we have a special election and whether it passes or fails people will know who they are voting for in November and whether their task will be to prepare the City for a new Charter or to proceed with the old one, which is a significant issue that will be resolved. He said we are spending money on a special election to do the best for the City as possible so people need to understand that what they are getting for the money is a separation of the important constitutional issue of this City from the politics. He added that one of the other advantages is that people will know the kind of people they will want to elect in November and that the job of those people will be to either prepare the public for the new Charter or for the old Charter.

Elio DelSette said if we want the people to make a really good choice, let's put both Charters on as separate entities on the ballot. Robert Turner said, according to Wade Baltramo, General Counsel for NYCOM, if there are two Charters on the ballot and both pass, the one with more votes supersedes the other and it is a really bad idea. Wade Baltramo was adamant that having two competing Charters on the ballot at the same time is too confusing for voters.

Gordon Boyd said that if the new Charter is on the ballot and you want the existing Charter to stay, vote "No". He said he has observed tallies for the various questions and candidates that appear on the ballot and you do not get the same numbers for every race. In a presidential year, the biggest number of voters will be on the Presidential line, the next highest number would be for the Senator then to the State legislature and in the rare event that there is a state amendment on the same ballot, often voters miss it or ignore it so that gets the smallest number of voters. Just because you have a question on the ballot does not mean that everyone is going to vote for it. This is an argument for giving a referendum a spotlight of its own so everyone that is going to vote is doing so exclusively to vote on that issue. Having a May special election would give both sides of this question the exclusive attention of the voters for a period of eight to twelve weeks and the ability to reach them much more economically than during the noise of a general election campaign with daily candidate mailings, door to door knocking, phone banks, and parties, when everyone is distracted. Anyone in this City involved at all in politics is going to vote on the Charter. There are people on both sides of this issue in the Republican, Democratic and Independence parties. Giving both sides of each of the major parties a chance to go into the Charter issue, to dig into it, to learn about it, to vote on it in an exclusive time period when it would settle that issue then the candidates can decide if they are running for office and what they are running for and they can circulate their petitions, have their primaries and enter the election knowing what the voters have had to say about the Charter. Having the referendum on the ballot at the general election will be a surprise package on Election Day. Someone will be elected, someone defeated but no one will know about the Charter until the votes are tallied and that is unfair to the candidates and to the voters that elect them.

Barbara Thomas said that if we go to a general election, the referendum on the Charter would have to appear on the back of the ballot and that makes it really difficult. She added that initially she was opposed to a special election but the more she thinks about it, the more we need to separate the election about whether or not to change the form of government of the City from the whole candidate issue. She thinks we are really going to have a much better result if we hold a special election. She prefers having it in June rather than May.

Beth Wurtmann agrees but feels that it should be said that there are risks. The special election is still part of a political arena. Coming from the PR side, we have already heard the critics say that the committee has not done its job, it is a waste of taxpayer money; things are going great so why change it; a representative number of voters will not be weighing in and that is not fair. These are actual statements from critics, so if we go forward with this, those are the risks and as a non-political body we want to respond to those but the rhetoric may become polarized and members of the press will be reporting what our critics say so we have to go in with our eyes wide open, be prepared with a response and we all have to be unified.

Pat Kane stated that this is our City's constitution, so why shouldn't people turn out to vote. There will always be critics; that is normal. This is the City's constitution and it deserves its day in the sun. It does not deserve to be in the midst of all the tomatoes that get thrown in November. It is hard to schedule something when we think that citizens of Saratoga Springs will not come, but it is incumbent upon this Commission to find a time that makes turning out to vote the right thing to do. He is not concerned about critics, everyone has an opinion, regardless of the issue, and that is part of what this country is about. The city's constitution is important and it is something we have worked long and hard at and those that say the Commission has not worked hard have not paid attention. He feels strongly that it deserves its own time. There are 25 voting areas to secure so we have to pick our dates carefully.

Beth Wurtmann said we must think about the voter that has not been able to have their eyes on this issue like we do and if they see a Commissioner state that this Commission is wasting taxpayer money, we must be prepared to go to bat for this convincingly. She is concerned although she supports a special election. She urged the Commission to think about the average voter who did not get a chance to read something so they go by a headline full of misconceptions. We have to be very clear from a PR standpoint.

Matt Jones asked Robert Turner if he is making a case that more voters are likely to turn out to vote on a Charter referendum at a special election in May than they would in November. Robert Turner replied that local voters are different from general election voters. Typical local voters own their home, have lived here a long time, they know the issues. Voter turnout is very high when the issues are perceived as being important. Matt Jones said he should have stated odd years versus even years because our local elections fall on odd years. He said there is evidence that suggest how many people will come out to vote and how many will vote for the Charter and not everyone is going to vote for it.

Pat Kane said in 2006, 2000 of the 6000 voters did not vote on the Charter; it was on the back of the ballot and there was a lot of bickering at that time. Matt Jones said that was a non-local election, a governor's and statewide election.

Pat Kane said that twice as many voters showed up to vote on a proposed consolidation of the Town and the Village of Schuylerville than to vote in their local elections. More people turn out to vote on a local issue than for a candidacy. Gordon Boyd said it depends on the issue, if it structural and a significant change, people come out, but not if it is a bond act for a fire truck.

Robert Turner showed the voter turnout in the Mayoral election as having a significant variation from election to election. In races where the voter perceives there is more at stake, the turnout is higher. He will tell people that the City Charter is the most important thing they will vote on in the next ten years. There will be a tremendous amount of education and outreach so he expects the turn out to be similar to a City Council race.

Devin Dal Pos asked if the new voting machines read both sides of the ballot and if the referendum would really be on the back of the ballot and Barbara Thomas responded yes to both questions adding that the voter has to flip the ballot over to vote on the referendum. He clarified that in a special election, there is only one question, no ambiguity, no confusion, and only one box to fill in.

Matt Jones asked if the highest objective here would be to go with whichever solution is most likely to secure the highest number of voters.

Robert Turner said he is not sure about that. In conversations he has had about the 2012 Charter, many people said they knew nothing about that Charter because they were focused on the presidential election.

Minita Sanghvi noted that Skidmore is closed on May 30<sup>th</sup>, so the student population will not be voting. Robert Turner said that voter turnout at Skidmore has plummeted since they stopped trying to take away the voting booth. Jeff Altamari commented that 125 students voted in the last Mayoral election. Pat Kane advised that absentee ballots are obtainable. Robert Turner said that some locals would be more comfortable with Skidmore students not voting on constitutional issues when they will leave the city in 1 to 3 years.

Matt Jones asked if it is an advantage or disadvantage that we will have five to seven races in which candidates will be most likely asked how they feel about the Charter, and whether they think the changes are good or bad; would that create more interest and excitement and focus on the Charter? Elio DelSette said it could have that kind of influence to make it a political matter.

Gordon Boyd responded that if the Charter is on the ballot in November, yes, both sides and both parties would be doing that because there is division within the parties so the Charter will be mixed up in the candidate politics. He believes that personalities should be taken out of the Charter issue. A lot of elected officials say it depends on who you elect to the office, but it should not depend on who is elected to the office, personalities should not be in the equation. It should be a piece of paper stating how the government should be run no matter who is elected to office. The Charter is the litmus test here. He said the number of voters is important but most important are the number of voters motivated with the information they need and the concern they have for the City and these factors will add up to whether it is a representative decision.

Jeff Altamari said that 44% of the 18,000 voters in this City voted in the last Mayoral race. He said that of the money spent on elections this year, roughly 80% will be spent on media, and so about \$500,000 will be spent by candidates so with our little PR budget we would be drowned. You cannot cut through that noise and having it on the back of the ballot makes it worse. He said another point is that if the Charter is on the ballot at the general election, the candidate wakes up the next day and something new has been dropped in their lap and that is not good. He would rather have candidates be aware of the special election and its results and form policy and positions accordingly, it would be much more instructive for the general election.

Laura Chodos said there were great comments made tonight. She likes the idea of undivided attention to one of the most important things about our city. She said we are so obviously involved in the fact that this City has a lot of people that are concerned about what is going to happen in the future, how the growth will go, and what it is going to be like, so it is timely to have a Charter review and a new Charter put in front of the public and where it has the undivided attention of a special election.

Ann Bullock said that the concern is that we are going to save \$37k by having the Charter election in November, if in fact \$750k gets dumped into the media, we should budget the \$37k in addition to the \$20k and then some to the marketing campaign in order to educate the public on what we have in front of them if we choose to do this in November. There would be no way for us to educate the voters from June to the end of August because no one does anything in this City at that time, no one is around and from labor day weekend to election in November is the eight weeks we would have to educate the public about the Charter, the ballot, and what the ballot looks like. We would have to spend all that money and then some to cut through the noise and educate the population. She would rather use the eight weeks at a time when we really have their undivided attention.

Pat Kane said you also must look at your expenses at that time of year. It is unlikely that we would get any benefits of media partners or spots or generosity during general election season but you might get media partnerships during the spring for a special election. Robert Turner commented that for a special election, we are also likely to get spots on WAMC and Look TV, and they have been very generous. We would never get that media time during a general election.

Minita Sanghvi said if the citizens of the City want to debate the issue and want to talk about the issue to each other, there are lots of forums they can do so if the election is in the spring or summer. The letters to the editor would be about the Charter versus this or that candidate, which takes a lot of time and space during general election season, 9/1 through Election Day. A lot of space is taken up by candidates and about their positions. If we do a special election, citizens have a chance to talk and express their points of view both for and against the Charter.

Mike Los said it seems so crystal clear to him; we are all saying the same thing. This is such an important part of our City and everything we do, so why we would want to diffuse it in a general election is beyond reason. He can't understand why we would place it in the mix with everything else due to its importance. Elected officials have terms; this could be our future for at least ten years, but if we do a good job, it could be around for 20 years or more. .

Jeff Altamari said he was agnostic on this issue when he came to this meeting. Everyone has been very articulate and he has been convinced by what he has heard tonight.

Robert Turner said he wants to talk about the May 30 date and Gordon Boyd has good electoral reasoning. Gordon Boyd said that one of the polling places is at the City Center and May 30 happens to be an open date at the City Center which serves 6 or 7 election districts and on that Tuesday, the day after Memorial Day, the City Center is available. Gordon Boyd advised that the first week in June, the election law is likely to authorize the initial nominating petition process. He explained that the candidates running for public office will be circulating their petitions in June, so out of deference to the political process we should try to get this issue settled before those nomination petitions go out. That is when committees meet to make

endorsements and candidates should be able to decide if they want to run to help manage the transition or manage the changes to the existing Charter that the City Council might make.

Mike Los asked Robert Turner if he has met with any of the City Council members on this issue. Robert Turner replied that he has met with Commissioner Mathiesen and Mayor Yepsen. Commissioner Madigan wanted to meet with him after the Commission approved the budget and decided on a special election. He has not heard back from Commissioner Scirocco. Gordon Boyd and Pat Kane met with Commissioner Franck.

Pat Kane said another thing to think about is that several polling places are in schools and in June there are many tests so that would not be an ideal month for them to have election activity in the schools.

Barbara Thomas asked about May 23. Gordon Boyd said that May 23 is by State Law Assessment Grievance Day. John Franck asked us not to have it on that day, but we could have because not everyone grieves their assessment, however the City Center is not available that day. He said the School Board vote will be held on May 16.

Beth Wurtmann asked if the change to May when April had been discussed originally was for more time to educate. Gordon Boyd responded that the date was pushed up because of the snowbirds, people in the public accounting profession, and to give ourselves time to develop a proposal which has not been read, analyzed or discussed, and time for public education. He said that according to the statute that Tony Izzo reviewed with us earlier, if we inform the City that we would like to set the Special Election for May 30<sup>th</sup>, officials who would authorize this have 45 days and if they do nothing, there is another way to make it happen. Although it has not been tested in Court, when the legislature drafted the law they created a pathway for an independent Charter Commission to get to a special election with funding even if the incumbent governing body tries to thwart it.

BK Keramati asked if there would be a provision for absentee ballots. Gordon Boyd said there is; when you are working back with the calendar, you have to allow time to place it on the ballot and time for absentee ballots to be picked up, filled out and mailed back.

Matt Jones said that shortly we will be looking for a motion to deal with authorization of the money and incorporating the date in there. We suspended the discussion on whether we would be able to compel this, but from your discussions it looks as if there may be support for this to occur and if that is the case, life gets easier from there. Robert Turner said the City Council had very fair points. He said these issues about changing the date to allow the Accounts Department to get its ducks in a row and giving us more time to draft the Charter and providing a longer time period for outreach and education address the main substantive concerns the Council had about the feasibility of this.

Matt Jones asked regarding a mechanism as we follow the course, if the funding going to be there or are there still objections.

Pat Kane replied that the Municipal Home Rule law talks about necessary expenses when you form a Charter Review Commission so the argument would be that if we have the ability to call for a special election, one would assume that there are necessary expenses to do so. If we can call for it, we should be able to get it funded because if we have the authority to call for it we should have the authority to spend the money and the law is clear on that and expenses are not necessarily verified by City Council. We are asking for common courtesy, not necessarily to

have expenses approved. We have the right, it is understood and we have managed our expenses well so far. There could be an article 78 and because this is an election issue the judge would move it to the top of the docket; an Article 78 can be brought before a judge in 72 hours.

Beth Wurtmann said we can't advocate, we are a non-political body but in an education campaign we may have recommendations for a more efficient government so what is the advocacy piece. Robert Turner asked Tony Izzo to enlighten the Commission on PR guidelines. Tony Izzo said there are opinions and cases on this point. It is perfectly all right for a Commission to educate the public as to what the proposed changes are but the closer you move toward advocacy, toward saying you should vote for this the less likely it is that any expenses you incur will be upheld as proper charges against the City. There are several opinions saying that advocacy for a cause is not the proper function of this Commission, but education is. He suggested sticking with and focusing on telling the public what the current situation is and what the proposed changes are. It is difficult. Robert Turner said it has to be an adjective free world.

Robert Turner asked for a motion about the special election.

**Motion for the Saratoga Springs Charter Commission to agree to hold a special election on May 30, 2017 and to authorize the cost up to \$37,000, made by BK Keramati and seconded by Pat Kane**

Matt Jones stated that he would like to support this if he believed that it would encourage the most number of voters but he does not believe that and for him it is not the qualitative achieving merits, it is the most number of voters to cast a vote to come to that decision. And he does not see that occurring in a special election having been through School Board elections which at times turned out only 250 people. He sees this as a smaller amount; he would like to see a large turnout but he does not believe it would be the case.

Robert Turner said Matt's concerns are very legitimate, honest and well placed. The democratic legitimacy of the Charter is going to be really important and it is up to us and other members of the City to educate voters and hopefully the results will surpass the Mayoral turnout numbers. If there are a record number of voters he would be very happy.

**Ayes: 12 Nays: 2 (E. DeSette, M. Jones)  
Motion Approved**

### **NEW CHARTER ISSUES**

Ann Bullock said judging from the dates and where we are in this process, we need to get this in front of the City Council now.

Robert Turner said he would draft an email to the City Council tonight. He said since we just authorized a special election, we should get busy writing a new Charter. The next meeting is Thursday January 12 and one of the things he tried to do is to come up with a list of items we might want to discuss that could be in the new Charter. He put them in a loose order of importance and the Commission could start out discussing: City Council provisions; wards; length of terms; powers; term limits; for of government including City Manager, Strong Mayor or a Hybrid; and what we could do about the County Supervisors.

He wanted thoughts from the Commission about what other things should be discussed, items to add to the list or other information the Commission wants him to martial to help them decide on these issues.

Minita Sanghvi said that on December 13 the Commission talked about discussing the strong Mayor and City managers forms and evaluate which would be better and do the best job.

Robert Turner said we have that check list and as we talk about these various items, some may be more or less helpful but it is a way to help structure our discussions.

Pat Kane said a checklist should be formalized. These are the topics and types of decisions we will be making going forward such as whether there should be a City Council with a City Manager, a strong Mayor, or what? We should talk about City Boards and who has the appointment power, how long are the terms, how are they nominated or approved. These are the types of things we should begin to think about. The majority of these are topics that reach into both forms, all forms of government. Regarding County Supervisors, there was discussion on whether we should have the Mayor represent the City at the County Board of Supervisors. Pat Kane said every town and Village has their highest ranking elected official serve as representative on the County Board except Saratoga Springs and Mechanicville and maybe we should consider doing the same thing, and this would be the time to do it. He said we learned from our many interviews that the City Attorney process is broken and we can't change that within the Commission form of government because that would be usurping powers from the Mayor, but if we elect to go with something different we can decide what the City Attorney process would be.

Jeff Altamari said we have identified certain weaknesses in the current Charter, that being one of them, and also checks and balances, internal audits, HR management position, employee policies, IT, things that are yellow and red flags in our current Charter that should not be overlooked as we craft the new Charter, regardless of what form we choose.

Minita Sanghvi said she learned from many discussions that there is a lot of confusion about different forms of government and she would like a way that the Commission could evaluate the different forms side by side to get everyone on board and get clarity on the issue so we do not continue to have repeated discussions because it gets frustrating that we often have the same discussions repeatedly. To get everyone on the same page, if we use a list, and talk about a topic and then vote on it, that would end discussion on that issue so we could move on to the next topic.

Barbara Thomas said one thing we could put into a new Charter is a mechanism to ensure and enforce that all items within the Charter were enacted and are being done and put into practice. Many things written into the current Charter were not put into practice or were not maintained by the City. We need to determine how we can ensure that the Charter will be used in its entirety; a mechanism of enforcement. Laura Chodos suggested that the City Council should be responsible to conduct an annual review of the City Charter. Devin Dal Pos suggested including a mechanism where elected officials could be removed from office.

Robert Turner said there are various City Charters that include language about the removal of City officials. He has sent the Commission a number of Charters for review but he will now send out the National Civic League's model City Charter and examples of City Charters from each form of government including a hybrid (Oneonta). There is a tremendous amount of variation in different forms of government and as you examine the samples you should each think about



what you would want to include in our City Charter. He will also circulate Gordon Boyd's straw Charters. To have our focus entirely on the form of government understates the work we have ahead of us, it is a daunting task. As we discuss this Thursday, we should hopefully come out with a pretty good idea of what the ideal City Council would look like including Wards, number of representatives, length of terms, what we would think about different powers or other provisions. The checklist is a good place to start since it includes big conceptual issues that the Commission needs to think about moving forward and we will be able to list the things we like and why and decide to make them part of the Charter.

Bk Keramati said the checklist Pat Kane is putting together provides a criteria and a path and helps the evaluation process. We should work on one item at a time, consider it, discuss it, vote on it and move on.

Jeff Altamari said that Minita's idea to use a template is excellent and will stop repetitious discussions and enable us to move quickly from one item to the next. Time is becoming our enemy.

Gordon Boyd said his starting point for the two versions he crafted recently was the National Civic League's City Manager Model Charter. He retyped the entire document into Word so he could play with it; he did a version of the same for a strong Mayor model. He did not do all of the boiler plate provisions but it highlights the main issues on the checklist. He said to read it and see if it is the way you intend it to be. He explained that in both of the versions, he took the existing budget section from our current Charter and transplanted it into each one and fit it accordingly and it works. The Mark Lawton model has served the City well over many Finance Commissioners for the last 15 years.

Robert Turner said we should consider the list tentative and if someone wants to add, change or delete something, bring the suggestion forward. He asked the Commission to let him know if there is something they are uncertain about that could be clarified through interviews. For example, if anyone wants to invite particular office holders to discuss having the Mayor represent the City on the County Board of Supervisors or to invite the City Attorney or the Finance Director to discuss something, please let him know.

Jeff Altamari is in the process of codifying the Charter and putting some into governance and we should revisit the resolution for clarity.

Robert Turner explained that this came from the drafting Commission. Matt Jones said that the issue is what the Drafting Committee is to do with the item 2 of the resolution on page 22 of the December 13 minutes that reads:

**Continue the development of amendments to the existing Charter that can be recommended to the City Council not later than February 1, 2017**

Matt Jones said that the drafting committee is in the business of providing the Commission with information, not the City Council. Gordon Boyd asked if it would meet the committee's intentions if the item were re-worked moving the words "not later than 2/1/2017" before the phrase "to the City Council".

Jeff Altamari said this has been discussed at length and he knows how well intentioned this was but there is some confusion that if we give a document to the City Council and tell them we are working on something else, but we recommend this, that document could become contentious

and politicized. He the tasks are to look for brevity in the current Charter, develop codification for procedures and administration and then we have a list of suggested improvements and we keep that amongst ourselves but at some point we may say to the City Council that we have examined the entire Charter and if you would like some suggestions to consider, here they are. Recommendation has more strength than suggestions.

Robert Turner said there was another question raised as to whether we have the authority to make recommendations to the City Council.

Matt Jones said we are in the business to put things on the ballot but the charge to our committee was 1) separate things in the Charter that should go into the administrative Code from those that are more substantive, governance issues, 2) interview fold to generate that and 3) to flag and identify more substantive controversial issues –the juice- in our current Charter, decisions that have to be made. Once we do that, given the time frame, time is better spent focusing on the efforts discussed tonight to get to May 30<sup>th</sup>, but at least we will conclude this effort and we will have it but it should not go to the city Council.

Devin dal Pos suggested to change the wording to "Continue the development of amendments to the existing Charter that can be suggested to the Commission not later than February 1, 2017." Gordon Boyd agreed.

Elio DelSette said that under Article 3 of our Commission's Bylaws, it says to submit proposed revisions of the Saratoga City Charter as deemed necessary and the State manual suggests how to begin the revision process and suggested using a pro and con approach to analyze the document then the Charter Review Commission says in its resolution that changes should be done and submitted to the City Council by February 1, 2017. All of this is in compliance with the Department of State and our Bylaws and now you want to change the process so we should amend the Bylaws, change the resolution and dissolve the committee because it is worthless.

Jeff Altamari reminded Elio DelSette that on Monday night, Tony Izzo discussed this with the drafting committee and he did not get the impression that they were violating the Bylaws, or home rule law or the spirit of the Bylaws or of the resolution. Matt Jones stated that if the Bylaws were inconsistent with the process we adopted, he would take a different view. What we are trying to do here is to get the resolution in accord with the will of the Commission.

**Motion to amend the language of item #2 of the resolution adopted by the Commission on December 13, 2016, to read "Continue the development of amendments to the existing Charter that can be suggested to the Commission not later than February 1, 2017 made by Jeff Altamari, seconded by Matt Jones. Ayes: 13 Nays: 1 (E. DelSette) Motion approved.**

### **ADJOURNMENT**

**Devin Dal Pos moved and Pat Kane seconded to adjourn the meeting at 9:12 p.m. Ayes all. There being no further business, Robert Turner adjourned the meeting at 9:12 p.m. The next meeting will be Thursday 1/12/2017.**

Respectfully submitted,

Nancy L. Wagner, Clerk

Approved: February 2, 2017

**Resolution #1**

**WHEREAS, the Charter Commission has over nearly six months conducted a thorough review of the Saratoga Springs Commission form of government, including interviews with existing and past elected officials and City employees, has taken comment from the public, and has studied and conducted discussion of the present Charter with all sides of the question vigorously represented, and**

**WHEREAS, the Commission's review of the existing Charter has also included identifying areas that could be transferred to the City Code by amendment of the existing Charter, such amendments having the goal of simplifying the existing Charter and allowing the City Council to make such legislative and policy-making choices at a time of its choosing, and**

**WHEREAS, the Commission has also begun examining alternative forms of government that would represent a structural change in city governance, and**

**WHEREAS, the Commission believes it is desirable to present an alternative form of government to the voters thereby allowing them to vote either for change or to continue the existing charter, and to do so in time for the 2017 electoral cycle to take account of the outcome, now therefore**

**BE IT RESOLVED, the Commission will**

- 1) Produce its findings concerning the existing Commission form of government not later than February 1, 2017,**
- 2) Continue the development of amendments to the existing Charter that can be suggested to the Commission not later than February 1, 2017**
- 3) Begin work immediately to prepare a proposal for an alternative form of government to be considered by the Commission, with the goal of being placed before the voters in the Spring of 2017.**

**Adopted 12/13/2016**

**Ayes: 15 Nays: 0**

**Revised: 1/10/2017**

**Ayes 13 Nays: 1 (E. DelSette)**