

# **2018 CHARTER REVIEW COMMISSION MINUTES**

July 31, 2018

## **Roll Call**

Present: Vince DeLeonardis, Chairman  
Deputy Commissioner Michael Sharp, Vice Chairman  
Deputy Commissioner John Daley, Secretary  
Commissioner Michele Madigan  
Commissioner Peter Martin  
Commissioner Skip Scirocco  
Deputy Commissioner Maire Masterson  
Deputy Commissioner Joseph O'Neill  
Deputy Mayor Lisa Shields

Absent: Commissioner John Franck

## **Recording of Proceeding**

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

## **Call to Order**

Chairman DeLeonardis called the meeting to order at 3:05 PM.

## **Public Comment**

Chairman DeLeonardis opened the floor up for public comment.

No public comment.

## **Approval of Minutes**

Chairman DeLeonardis made a motion to approve the minutes of July 25, 2018  
Deputy John Daley seconded the motion. Vote: Ayes – 9 Nays – 0 Motion - Passed

## **Discussion**

Chairman DeLeonardis opened the discussion advising that a representative of Hodgson Russ is unavailable to attend the meeting today but comments (attached) from Attorney Bob McLaughlin's were received in response to the two questions that he took away from the last meeting. The memo indicated that it was acceptable to proceed with the addition of 2 At-Large members and that the Health Officer was not a requirement for Public Safety.

The Charter document provided at the table does not include visible redlines but rather for ease of review and consolidation, the sections previously discussed and amended or moved, are highlighted. The discussion is to continue on the highlighted sections. If an entire section was moved, no further discussion is anticipated. It is also noted that the 2 Council Members-At-Large have been incorporated, and not identified as Supervisors who would be elected

separately. Deputy Daley believes the Supervisors should be the At-Large members. Chairman DeLeonardis pointed out that the current Charter already allows for Supervisors to run for a position on the Council and that option has never been exercised and there is a potential conflict of interests while serving both the City and the County. Deputy Daily pointed out that a Town Supervisor serves a dual position and has the conflict. Commissioner Scirocco said that the 2 new positions encourages additional people to run but it does not prevent a current Council member to run for the At-Large positions and that would eat up the two seats so he has mixed feelings on this. The Council seat would then be open and the existing issues of running still exist and what services would the At-Large members be entitled to? Chairman DeLeonardis said that services would be decided on by the Council (IT provisions and salary) and would have a vote on all City matters before the Council but no functions or duties in City Hall. Deputy Sharp said it is a concern but citing Commissioner Frank's comments, he believes that there are people who will run. Commissioner Scirocco said that this could result in open seats on the Council because no one wants to run a department and this brings more issues to the table and problems for the voters to decide. Deputy Shields said that her perspective of the public perception of those who voted for the Charter at the last election is that the issue is 5 people running things not 1 and adding 2 more people won't solve the problem. Deputy Sharp said no it won't solve the problem but it is addressing the concern that others expressed by adding 2 voices at the table. Deputy Shields said that the issue is the form of government so 5 is now 7. Will this really attract people to vote for this Charter? There are really good improvements and efficiencies being made in this charter and so the concern is for this effort to be passed. Chairman DeLeonardis said that this addition will probably be the main topic for discussion but the 2017 effort did raise a number of issues that are relevant and pointed out issues that we must be mindful in this effort. One of the issues raised was how difficult it was for members of the community to run for office. This does open that door and allow for that. Increasing accountability and professionalism issues are also being addressed. Today the form of government is not dysfunctional having the right people at the table. Commissioner Madigan said that public input on the issue is needed. The form of government is not necessarily dysfunctional. The addition seems to be reactive but more input is needed for consideration. Commissioner Martin is in support of the addition. It provides advantages to the City without the administration and would bring initiatives from the public and maybe more than would otherwise be brought forward. He is somewhat in favor of the Supervisor being the At-Large member but more in favor of the At-Large addition. The public input needs to be greater than the 40 people we may get at a Forum. Commissioner Madigan said there is still a process to use and we can ensure that we are asking for feedback. The Discussion continued. Deputy Daley said he supports the Supervisor being the At-Large but the County determines the number of supervisor positions and that may pose a problem in the future if the number grows larger than what is called for in the Charter. More discussion around that point was had and Chairman DeLeonardis said that the draft of the content is still fluid and changes can be made to remedy that situation. Commissioner Scirocco said that he feels that the At-Large members may create more of a problem for the Council. Could the At-Large members not be voting members? Chairman DeLeonardis said that they could not hold an advisory position only. They need to have a vote. Commissioner Scirocco said that he feels that many people were misinformed in the last election about the form of government. He has mixed feelings. Deputy Shields is not sure of her personal opinion and there is not a lot of time to consider the addition. Will this change get all the attention and risk not getting the Charter approved and lose all the other good things that it does. Chairman DeLeonardis said that there is always some risk that any one thing may affect the overall efforts being made however the issue of serving as both administrator and

legislator was an identified issue and this would cure that. Deputy Daley said that the vote in the last election was very close. This document needs to address the concerns. More discussion took place regarding the practicality of the At-Large position; budget; information; titles; roles; and responsibilities. Tony Izzo noted that the addition of the position respects the accountability the public is looking for and the ability for more people to serve. This addition will serve both. Commissioner Madigan likes what is outlined in the new Title 8 defining what the position will be. Chairman DeLeonardis read the proposed new Title 8 - Council Members-At-Large. "There shall be two (2) Council Members-At-Large who shall be vested with all the legislative powers and authority conferred upon members of the City Council by this Charter and the laws of the State of New York. The duties of the Council Members-At-Large shall be legislative only, and they shall have no powers or authority to serve or act as administrators or directors of any City department or entity. They shall not have deputies, but they shall be entitled to such employees as the Council may determine pursuant to Section 2.1 of this Charter." *NOTE: other changes to the Charter document have been made where prior reference to majority or super majority vote is identified. That wording now includes the addition of the Council Members-At-Large therefore a majority would be 4 members and a super majority would be 5 members.* Deputy Shields asked if the At-Large member would be able to bring contracts or RFPs? Commissioner Madigan said no there would be no ability for that because there would be no budget attached to the positions, but they will have a vote on the project. Deputy Daley again brought up the idea of making the Supervisors also the At-Large member. A discussion again continued on that topic. Deputy Shields asked if this has been done anywhere else. Chairman DeLeonardis said that Bob McLaughlin advised that we are unique in exploring this addition so there is no real analysis available. There is a Public Forum scheduled for August 21<sup>st</sup> at the regularly scheduled City Council meeting, three weeks from today. A press release will be done to encourage people to turn out and let their feelings be known. A draft document of this Charter is anticipated to be available to the public next Tuesday, August 7<sup>th</sup> which will be two weeks before the Public Forum. Commissioner Madigan asked Commissioner Martin and Deputy Daley to provide some language regarding the Supervisor + At-Large position. Deputy Masterson asked that we keep in mind that we are a unique, small, close knit community with big city ideas. She suggested using the PR budget that was discussed in the beginning meetings to get an idea of what the public is thinking.

Chairman DeLeonardis continued the meeting with the highlighted sections:

This addition was in a response to a direct suggestion for an uneven number of committee members from Richard Sellers and says "2.4 Initiation of Reviews. The Council shall cause a review of the City Comprehensive Plan and City Charter to be conducted at least every ten (10) years. The reviews shall be initiated by the Mayor and each Council member shall have an equal number of appointments to the Committee or Commission conducting such review except that the Mayor may have a greater number not to exceed three (3) such appointments." This will allow the Mayor to appoint a tie breaker so there is no committee with an even number of members.

"Supervisor(s) shall sit at all meetings of the Council and shall regularly report to and seek advice from the Council on matters affecting City residents and taxpayers that are coming before the County Board of Supervisors. Supervisor(s) may submit agenda items for public information and discussion, and may request the Council conduct a public hearing on County issues of interest to the City and taxpayers that are before the Saratoga County Board of Supervisors."

Chairman DeLeonardis continued with section 2.8.1 noting the removal of the wording regarding political parties from the Deputies section and in section 2.7 – Civil Service Commission with the change to the language at the request of Chairman Mark Cocosa, which now reads “No two members of the Commission shall also be members of the same political party.”

Deputy Shields asked for clarification regarding Civil Service and wondered if the City has to keep it. Chairman DeLeonardis said that previous discussions indicated the intent to keep it as it was. Commissioner Madigan and Deputy Shields said that was not their recollection and may have missed the meetings where this was discussed in detail. Chairman DeLeonardis cited the three options open to address this: 1) remove from Charter; 2) hire a personnel director for a term of 6 years; and 3) leave it as it is. Deputy Shields asked if the direction the City will take must be called out in the Charter. Chairman DeLeonardis said that it did. Commissioner Madigan thought that the discussion was tending to have a Personnel Director? Commissioner Martin said he believed that no decision was made and all options are still up for discussion and we need to decide. Deputy Sharpe said moving the function to the County removes the daily support and lack of control that we currently have. Chairman DeLeonardis said previous discussions provided guidance for the revisions that he included but nothing is off the table. Interviews that were conducted with Commissioner Cocosa and Corissa and the move of HR from under the Mayor indicates a greater level of communication and would foster a better relationship and cohesion of the work efforts of both Civil Service and HR. Commissioner Madigan said at the very least there needs to be a stronger relationship between the two. Its very confusing as it is and takes a lot of time. Chairman DeLeonardis stated that according to Bob McLaughlin and the research that was done, we do not have the authority to force the HR administrator on Civil Service. Commissioner Madigan said that Albany has a different model and Commissioner DeLeonardis said that the change was made with the agreement of Civil Service. Commissioner Madigan suggested that a Personnel Director should be further explored. Deputy Sharp asked Commissioner Scirocco and Commissioner Martin, as the largest user of Civil Service, what their thoughts are. Commissioner Scirocco said that the integration with Civil Service and HR is needed because it involves personnel. Deputy Shields said keeping it as it is and find a way to get HR involved seems to be the way to go. Chairman DeLeonardis said that HR and Civil Service seem to be working better now but the issue on the table is - do we keep it as it or change it. Commissioner Madigan said she is unsure. Commissioner Martin said he identifies that time is short but that more discussion is needed. Deputy Sharp said he thought the previous discussions indicated that moving to the County would be the least desirable option. Commissioner Madigan said she understood that the entire document would be brought to the Commission for a vote but this is a big decision and perhaps requires a separate vote. Chairman DeLeonardis said that is was not voted on but the previous consensus was to leave it as it is. Deputy Shields asked when the vote would take place? Chairman DeLeonardis said that the vote for the entire document will be done after the Public Forum on August 21<sup>st</sup>. Chairman DeLeonardis said in earlier discussions it was asked if the City had the ability to provide the support person for Civil Service and it was determined that no the City can't provide the support person, Civil Service is the authority to appoint that position. Commissioner Scirocco asked if HR could be part of Civil Service? Deputy Shields said that Civil Service would have to agree. Chairman DeLeonardis said that a Personnel Director is an independent function/position and would not fall under the direction of HR. Deputy Masterson left the meeting at 4:35. Commissioner Scirocco suggested that if HR is no longer under the Mayor perhaps Civil Service would be more comfortable working with HR. The discussion continued and no consensus was reached.

Continuing the review with Section 2.10 and noting the incorporation of the At-Large members where appropriate. In Title 3 The Mayor, section 3.6 The Capital Committee still needs consensus. This was originally in the Mayor's department, moved to Finance and after input, was put right back but includes language that identifies Finance as a participant. Deputy Sharp elaborated that while Finance has a role to play, this is a requested budget so language needs to propose that it is requested only, to ensure that the budget doesn't exceed the money or the bonding. If this is a mandated budget, it could be problematic. Commissioner Madigan said the General Operating Budget needs to be within the 2% Tax Cap Budget. The Capital Budget is only one of 7 budgets. A discussion regarding the language and meaning ensued. Commissioner Martin concluded by suggesting that some consider the budget binding and others consider it to be suggested so the language needs to be clarified. He asked why this was moved back to the Mayor's Title? Commissioner Madigan said she is fine with this being with the Mayor but wants the language to ensure it is a requested budget so hard decisions can be made. Deputy Sharp said that it is a budget still voted on by the Council and could be voted down. Commissioner Scirocco said that the Comprehensive Budget could still be adopted by Finance if there was no vote. A discussion continued. Deputy Sharp said he has proposed some language for section 13.4 Capital Program Adoption. "The Council shall adopt the 6-year Capital Program annually after its review and revision. Two public hearings shall be held prior to being voted on by the Council. If approved, the Capital Program and subsequent year's Capital Budget shall be submitted as a requested budget to the Commissioner of Finance. The Finance Commissioner may alter the Capital Budget from its approval by the City Council to the adoption of the City's Adopted Budget, to ensure a balanced budget and in review of the City's overall debt obligations. No capital project shall be authorized or undertaken unless it is included in the Capital Program adopted by the Council. A capital project may be added to or deleted from the Capital Program any time by affirmative vote of four-fifths (4/5) of the Council, only after public hearing and publication of the information supporting the requested action." Chairman DeLeonardis asked if everyone was ok with the Capital Budget staying in the Mayor's department with the language suggested by Deputy Sharp being included. All indicated agreement. The membership of the Capital Committee was identified as one representative of each of the 5 departments.

The City Historian section 3.8 now reads "The Mayor may appoint a City Historian..." changed from saying shall appoint.

In Title 4 section 4.3.4 Internal audit reads "The Commissioner of Finance shall conduct internal audits, as deemed necessary, of randomly selected City operations or on request of Council. The Commissioner of Finance may, if deemed necessary, retain an independent auditing firm to conduct any internal audit, subject to approval of Council. All audits, whether conducted by the Commissioner or an independent auditing firm, shall be presented in writing to the Council and forwarded to the City Clerk's office for public examination."

Section 5.4.1 revises the Recreation Commission to a programming only commission.

Section 6.3 Code Administration was amended to read "The Code Administration Department, under the direction of the Commissioner of Public Safety, shall, unless expressly stated to the contrary in the City Code, be responsible for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code as well as other applicable City Codes,

rules and regulations and the laws of the State of New York relating to the buildings and property located within the City's Jurisdiction." This language brings this section into conformity with the Building Code section.

Section 7.2.5 Board of Assessment Review a sentence was added at the end which reads "Each member of the Board shall be appointed by the Commissioner of Accounts with the advice and consent of Council." to identify the appointing authority and conform with the direction of all other appointments.

Section 7.4 Registrar of Vital Statistics was added with language provided by Chairman DeLeonardis and reads "The Commissioner of Accounts shall keep and maintain all records of births and deaths which occur within the jurisdictional limits of the City, and in accordance with the guidelines and requirements of the New York State Department of Health."

Per previous discussions the section that was Title 8 addressing the City Attorney has become Title 9 Legal Matters and includes only the City Attorney and Risk and Safety. Human Resources has become its own section per Bob McLaughlin's suggestion. Section 9.2 Risk and Safety shall read "The City Attorney's Office shall be responsible for the management of the City's Property and Casualty Insurance, Risk Management, Compliance and Safety Programs and shall, in coordination with appropriate City officials and staff, assist the City in achieving compliance with applicable local, State and Federal safety regulations."

In section 9.6 Condemnation; Acquisition and Disposition of City Property. A new paragraph was added at the end for clarity "Upon a published notice, the Council may sell or lease for fair value any property of the City, except that a transfer of title shall further require at least two (2) public hearings, prior to any such transfer. The sale or lease of City property shall require a majority vote of the Council. This subsection is intended to supersede Section 23 of the New York General City Law." Commissioner Martin suggested that the title specifically call out "sale" so that the term disposition is clear and the last sentence include "other disposition". Chairman DeLeonardis will make the changes.

Title 10 Human Resources Administrator was added here and the previous description from the Mayor's department is summarized and included. Commissioner Scirocco suggested that we reach out and talk with Civil Service to see if they are agreeable to work together with HR. Chairman DeLeonardis identified the two big open items for continued discussion as Civil Service and Council Member-At-Large and agreed to reach out to Civil Service. Deputy Sharp said Civil Service is something we can figure out in-house but the At-Large question needs public input. He will get quotes for a survey option to be conducted using the PR resources. Commissioner Madigan said it's a great idea and will help raise awareness. Commissioner Martin agreed. Deputy Daley will work with Deputy Sharp and Chairman DeLeonardis and report at the next meeting. Commissioner Martin left at 5:15.

Chairman DeLeonardis opened the floor public comment.

### **Public Comment**

Bonnie Sellers, Saratoga Springs: The last Charter effort spent a lot of time talking about the 5 silos and there are so many opportunities that people totally ignore where you work as a team. The Council meeting is all about team work. You still have arguments and disagree but there is

team work with DPW and Public Safety. Likes the Capital Budget with the Mayor but the very important area is where Finance takes a look at the budget and shows cooperation with the Mayor, Finance and the Council. You have done a great job and are a breath of fresh air. One more thing added – you need to understand how it is going to work at the table (At-Large). Look at the pros and cons before you make a decision. Commissioner Madigan said she agrees that issues are discussed with members of the Council and prevents surprises at the table. Commissioner Scirocco said that he believes that Queensbury has At-Large members so we should look into how that works. Commissioner Madigan said that Commissioner Franck raises a good point that if we want to be successful maintaining this form of government, adding the At-Large piece may quell the effort for another referendum. Deputy Daley agreed. Deputy Sharp asked for clarity on the proposed questions for the phone survey. A brief discussion ensued. The effort to get polling done will begin today.

Jane Weine, 44 White Street: Comments on Commissioner Madigan’s comment of 1 Supervisor and 1 At-Large because it will open one seat for that and the City will always have 1 Supervisor. Chairman DeLeonardis agreed that it was a good point and commented that this is not prevented now. The question is to mandate it or allow it. Commissioner Madigan likes the connection with the City and the County.

End of public comment.

Chairman DeLeonardis again identified the two large open issues and suggested that another meeting may be needed. The question is tabled till after the August 14<sup>th</sup> meeting.

Next meeting on 8/14 @ 3:00 PM

Chairman DeLeonardis adjourned the meeting at 5:25 PM.

Respectfully submitted by Trish Bush.

MEMORANDUM FROM

Robert J. McLaughlin  
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**To:** Vince DeLeonardis  
**Date:** July 27, 2018  
**Re:** 2018 Charter Review Commission

**QUESTION:** May the Charter Commission consider the addition of up to two “at-large” members of the City Council?

**ANSWER:** Yes. Article 9 §2(c)(2) of the State Constitution grants a city, to the extent not prohibited by the legislature, the power to adopt and amend local laws regarding the membership and composition of its legislative body. We have also reviewed the specific powers granted to cities under General City Law §20. Nothing in that Section limits the expansion of the membership of the City Council. Accordingly, although there is limited discussion in New York law on the commission form of government, we believe that the City Council may pass a local law which would expand the current council to include “at-large” members who would not manage a specific department.

**QUESTION:** Under Title 6 of the Charter, is the position of a Health Officer compulsory under New York law?

**ANSWER:** No. Public Health Law §320 states that a local board of health can appoint a Health Officer except where a City Charter otherwise provides. In the event the position is eliminated from the City Charter, then the City’s Health Officer will be the health director of the County or the Commissioner (See, 10 NYCRR §11.1). The Health Officer does not need to be a licensed physician but can be a public health nurse or other individual qualified per the sanitary code.

RJM:mml

cc: Richard L. Weisz  
George Cregg, Jr.