

**CHARTER REVIEW COMMISSION
CITY OF SARATOGA SPRINGS
MONDAY, JANUARY 29, 2001
CITY COUNCIL ROOM
6:30 P.M.**

PRESENT: Harvey Fox, Chair Vassar Curtis
 Lew Benton Chris Whann
 Mark Lawton Rita Balmuth
 Elio Del-Sette Lee Nelson

ABSENT: Mia Mouzon Denise Polit
 Margie VanMeter

STAFF PRESENT: Anthony J. Izzo, Assistant City Attorney

CALL TO ORDER

Harvey Fox, chair, called the meeting to order at 6:30 p.m.

NEXT MEETING

Commission members agreed that the next meeting (February 5, 2001) would be devoted to committee meetings.

MINUTES

Harvey Fox reminded Commission members that corrections to the minutes should be given to Kathy Moran before the meeting.

STATE FUNDING

Harvey Fox said he would send a reminder to the Mayor concerning the State's budget in connection with funding the Commission's work.

BUDGET

Harvey Fox said an up to date budget had been included in the mailing packet. He noted that the amount spent on the survey was very little. He said if Denise Polit had charged the Commission for her services it would have cost more than \$10,000. He said it was gracious of her to donate her time and skills to the City/Commission on this project.

CITY BOARDS/COMMITTEES

Harvey Fox distributed a list of City boards/committees to which the Mayor makes appointments.

OUTSIDE COUNSEL

Harvey Fox said he, Tony Izzo, Chris Whann and Mark Lawton met this afternoon with Barbara Samel, attorney, on the possibility of her assisting the Commission in drafting the charter. Harvey Fox said she has been counsel to NYCOM and has assisted many cities throughout New York State in charter revision. Harvey Fox said she will draft a proposal and present it to him within the next few weeks. He said at that time the Commission can determine if her services are desired.

Tony Izzo said she could bring a specialized perspective to the Commission. He said she could almost instantaneously know whether an issue proposed by the Commission conflicts with state/federal law. He said her input and experience in working with other communities would be quite valuable to this Commission.

Elio Del-Sette asked what it might cost for her services. Harvey Fox said that was yet to be determined, however, it would depend on how much the Commission chose to use her. He said it is up to the Commission to determine whether her use will be minimal or more. He said that in some cases, she has provided lengthy, involved services and has charged as much as \$15,000 for that service, however, in other cities they have not utilized her full service and the cost has been approximately \$7,000. Harvey Fox said he proposed that she would attend two, three hour meetings with the full Commission. He said Commission members could submit their questions in advance. Elio Del-Sette said it was important to him that the Commission stay within its budget. Harvey Fox said we would not pay her for services that Tony could provide.

Chris Whann said it was appealing to him to use her services because of her expertise in this field. He said in all likelihood language that she might propose has already been used in other charter revisions and she will know whether it is appropriate or not. He said he could envision that this would speed up the process somewhat. Mark Lawton pointed out that she was one of the authors of the NYCOM guide.

Lew Benton said he did not believe any particular expertise is needed to draft a charter. He said he thought Tony Izzo could do much of that work and in fact Commission members could propose the language and Tony Izzo could then draft the charter. Tony Izzo agreed but said Barbara Samel's value comes from her experience in dealing with many charters, while his experience is with only the City's charter. Lew Benton said he did not want Commission members to be left with the impression that there is some mysterious, specific way to draft a charter. He said Commission members could do so themselves. He said he did not want to spend this kind of money.

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Lew Benton said he was also concerned that as a member of the drafting committee he was not informed that there would be an interview with Barbara Samel. He said every member of the drafting committee should have been made aware of that meeting. He said he also did not want to pay her for sitting in on Commission meetings. Harvey Fox said he did mention at the last Commission meeting that he would meet with Barbara Samel as well as inviting the chairs of the committees to attend.

Chris Whann said Barbara Samel would work for the Commission. He said using Barbara Samel would allow the Commission to hear her ideas and her expertise and the Commission can either accept or reject her recommendations.

Lee Nelson pointed out that as an expert in her field she would very likely know instantly whether there is a conflict with state laws. She said many times, Tony Izzo needs to research issues.

Harvey Fox said the blend of Barbara Samel with her expertise and experience with other cities and Tony's intimate knowledge of the charter is the best combination for the Commission. He said he anticipated getting a proposal from her within the next several weeks and he would bring it to the full Commission for approval. He said he explained to her that the Commission would probably not require her services until the end of March.

Elio Del-Sette asked specifically what type of service she would provide. Mark Lawton said the Commission will tell her what we want and she and Tony would then craft a charter. He again noted she brings great knowledge of federal/state laws and how they affect charter revision. Elio Del-Sette asked Tony Izzo if it was better for him to have Barbara Samel assist in this capacity. Tony Izzo said he certainly could draft a charter, however, the benefit to him was the value of her thoughts since she has drafted so many charters. He said we have the ability to use her for as many or as few hours as we choose. He said there would be no guaranteed commitment of hours in the contract. Chris Whann said as he understood it, she would not supercede the Commission's authority but would simply provide a service to the members.

DUTY OF COUNCIL MEMBERS B MAYOR'S OFFICE

Elio Del-Sette clarified that the Commission would review the charter and make recommendations/suggestions using the existing form of government. Harvey Fox said yes. Elio Del-Sette clarified that the proposed protocols and other suggested recommendations would be integrated into the existing charter. Harvey Fox said yes.

Lew Benton suggested we begin with the Mayor in section C-17. Tony Izzo suggested we begin with section C-16. Lew Benton said he had taken the lead from the Commission and in his memo had given the Mayor more executive and legislative authority and better definition of the duties..

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Tony Izzo said there was some discussion on duplication of enforcement, general oversight and general supervision which was addressed under section C-16.

Elio Del-Sette suggested that the Commission start with the accountability/efficiency issues in connection with the capital register and the ineffectiveness of the capital register.

Tony Izzo suggested reviewing section C-89 (budgets). Mark Lawton said that section was totally inadequate and it should not be used. Tony Izzo suggested it could be added to Title IV. Mark Lawton said perhaps it should be set aside in the "other" column and determined at a later date how it would fit into the structure. He said some functions are central to the whole government. He further noted that staying with this form of government did not preclude creating new offices. Elio Del-Sette said perhaps the previously discussed personnel office should be placed in a central administrative office.

Lew Benton again suggested that the Commission simply start with the Mayor's Office and go through the charter.

C-17a: There seemed to be agreement that the Mayor should preside at the Council meetings.

C-17c: Lew Benton read his suggested language as follows: "The Mayor shall have general oversight of the administration of the City's laws, codes, rules and regulations and the authority to require as he or she may deem appropriate and necessary for the effective, timely and orderly administration of said laws, codes, rules and regulations, appropriate members of the City Council to report on the status of their administration. Vassar Curtis suggested removing some text so it would read as follows: "The Mayor shall have oversight of the administration of the City's laws, codes, rules and regulations and the authority to require members of the City Council to report on the status of their administration.' Lew Benton said this would somewhat strengthen the Mayor's Office. He said though there is nothing which precludes any Council member from asking for a report. Chris Whann suggested that rather than using the word "require" that "compel" be used. Lew Benton suggested that Commission members not quibble over words but rather just get general consensus on the change. Tony Izzo suggested this information be added under section C-16.

It was also suggested that the following language be considered: "The Mayor shall have general oversight of all departments of the City and the authority to require said departments to report to the City Council on the status of any function, program or project under its purview. The Mayor shall have general administrative control and supervisor of all City departments and functions and the employees thereof, not specifically under the control and supervision of the City's commissioners. The Mayor shall also have the authority to require any member of the City Council to report on the status of any program, function or budget matter under his or her control and supervision."

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Lee Nelson said accountability was an issue. Lew Benton noted that he had suggested language in his memorandum that "On or before the second regularly scheduled City Council meeting of January of each year, the Mayor shall submit to the Council and the public a State of the City Message. Said message shall detail the overall status of City operations and fiscal conditions for the previous year and the challenges, opportunities, goals and objectives for the succeeding year."

He said under his proposed language in his memorandum the same recommendation for a report from the Finance Commissioner is suggested. Chris Whann said he would like some assurance that the reports were made in writing rather than orally.

Commission members agreed to eliminate the last paragraph of C-16, "The Mayor or any member of the City Council is authorized to request a report at any City Council meeting on the progress of any project authorized by the Council."

C-17a: There was some discussion on how a City Council agenda is put together in connection with adequate notice to the public. Lew Benton said the agenda is put together collectively by the Council with first a preliminary agenda and then a final. Mark Lawton said there should be a process for adding/deleting items from the agenda. Vassar Curtis suggested a super majority vote be taken to add late items to the agenda. Chris Whann said perhaps a separate meeting should be held for those items that do not make it on the agenda. He said this would give the public ample opportunity to know what the Council is doing. Lew Benton asked if the super majority was required to simply add an item to the agenda or was it to take action on the item.

Lew Benton said there was also a little known item of "voting by memorandum". Tony Izzo said often there are emergency matters that are dealt with by memorandum and then later confirmed at a Council meeting. Tony Izzo said if the Commission wishes to determine a mechanism for establishment of an agenda, there needs to be some consideration given for emergency measures that occur subsequent to the final agenda. Lew Benton said the vast majority of memorandums are far from emergencies.

Elio Del-Sette said he thought there should be a preliminary agenda, then a final and if there is some emergency then a super majority vote to add an item.

17a: The following language was suggested for the establishment of an agenda, "The Mayor shall prepare an agenda prior to each City Council meeting by obtaining from each Commissioner a list of agenda items. The agenda for each regularly scheduled meeting shall be finalized and placed on file for public review no later than noon on the day preceding the such council meeting."

Harvey Fox asked about special meetings. Elio Del-Sette suggested there needed to be some delineation between special meetings and emergency meetings.

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Lew Benton suggested that perhaps the suggested language by Vassar Curtis be considered. He said he did not want to constrain Council members from discussing any topic but only wanted to control action being taken on items that are added late. He said if it was a true emergency, there would likely be consensus to add an item top the agenda.

17a: Commission members agreed on the following language for the establishment of an agenda, @The mayor shall prepare an agenda prior to each City Council meeting by obtaining from each Commissioner a list of agenda items. The agenda for each regularly scheduled meeting shall be finalized and placed on file for public review no later than noon on the day preceding the such Council meeting."

Lew Benton questioned why the first and third Tuesday of the month was so designated as Council meeting dates in the charter. He asked if it was necessary to have it so stated.

It was agreed that the draft committee would now work on crafting the language on how to get items onto the agenda and when those items could be acted on.

C17-d: It was agreed the following would be deleted, "To have general supervision of all public utilities and affairs."

C17-e It was agreed there would be not change to 17e

"The Mayor is required to submit to the City Council a six-year municipal capital fund plan, to be amended annually." Mark Lawton said he believed that the same person who develops the operating budget should develop the capital budget. Lew Benton disagreed saying the capital budget is a function and it is intended to be used as a planning tool. He then read the following language as his recommendation, "The Mayor shall act as chair of the Capital Program Committee, which shall also consist of the City Planner, City Engineer and the Chair of the City Planning Board. The Capital Program Committee shall annually prepare and submit to the City Council a capital program consistent with Section 99-g of the General Municipal Law. In preparing the capital program, the Capital Program Committee shall consult with the City Commissioners, department directors and such others as it shall deem appropriate and necessary. On or before the first regularly scheduled City Council meeting of November of each year, the Mayor shall present a proposed capital program to the Council and the public and a public hearing thereon shall be scheduled. The proposed capital program shall be made available for public inspection at least five calendar days prior to the public hearing and at places convenient for public review." Lew Benton asked Mark Lawton what would be his suggestion in getting Council members to deal with the capital needs and long range plans. Mark Lawton suggested an administrator should put together this plan and then report to the committee. Mark Lawton said Council members would be compelled to work with this administrator. He said with a budget administrator that person could simply collect their requirements and formulate a plan. He said items such as inventory, maintenance

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schedule, capital projects, etc. should be included. Vassar Curtis asked if this administrator was a new person. Mark Lawton said possibly. He said this could truly be a comprehensive budget with an individual who reports to the Council. Elio Del-Sette clarified that Mark Lawton was suggesting an independent office. Mark Lawton said yes.

Lew Benton said language and good definition was needed explaining how Commissioners would be compelled to comply. Mark Lawton said a central administrative office could go across the board and seek information from Commissioners. Tony Izzo reminded Commission members that at one time there was discussion of placing language in the charter that if the designated Commissioner did not do his duties, another Commissioner could. Lew Benton said the committee that he is suggesting is made up of individuals from many departments throughout City Hall. Mark Lawton said this needs to be an ongoing function and part of the budget process. Lew Benton said is why he made mention of Section 99-g of the state law. Lew Benton again said the capital budget is a planning tool. Vassar Curtis asked if there could be other individuals added to the committee. Lew Benton said yes. It was suggested that this item be added to the "other" column.

Elio Del-Sette asked if Mark Lawton was suggesting that one person be designated to handle this. Mark Lawton said yes. Elio Del-Sette asked if a comptroller might be that person. Mark Lawton said no. Mark Lawton said this individual would be charged with collecting the necessary information and developing a plan. Elio Del-Sette asked if this one individual could use a committee to gather this information. Mark Lawton said that Commissioners or their designees would ideally be the person that would give this information to this individual.

It was agreed that some language would be prepared by Mark Lawton for the next meeting on this topic. Harvey Fox asked that the proposed administrator position be expanded on. Mark Lawton agreed.

17g. "The City Engineer and the City Attorney shall be placed under the jurisdiction of the Mayor, and the City Council shall set its priorities with the approval of the Mayor."

Commission members agreed that "shall set its priorities" is to be deleted. Elio Del-Sette asked if there was consensus among Commission members that the City Engineer's Office should be unified with DPW/.

Mark Lawton said the City Attorney should serve all of the Council. He said presently the City Attorney is recommended by the Mayor and approved by the Council.

Elio Del-Sette suggested removing the City Attorney's office from under the Mayor. He said it should be an independent department and the City Engineer's Office should be under the jurisdiction of DPW. Lew Benton said he thought that the Commission had already agreed that the City Engineer's Office should be included in DPW.

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Lew Benton said departments such as attorney, planning, building, recreation, Urban Cultural Park, and the various boards should be under the Mayor. Elio Del-Sette said he felt that the Attorney's office should be independent and serve all five Council members.

Vassar Curtis said he felt that the City Attorney's Office should be under the Mayor. Rita Balmuth and Elio Del-Sette agreed. Chris Whann said was not ready at this time to make that call. Lee Nelson said she was somewhat concerned in that the Commission seemed to be giving too much to the Mayor. She noted all of the appointments that he makes to Boards. She said she did not believe there were enough hours in the day for the Mayor to handle all of these functions. Lew Benton pointed out that many of the people who testified before this Board stated that greater definition and a reduction in redundancy was needed. Lee Nelson suggested placing this in the "other" column. Vassar asked about a full time Mayor. Chris Whann said we first need to sort through the duties before we could make that decision. Elio Del-Sette pointed out that it might be necessary to hire additional personnel.

ADJOURNMENT

Elio Del-Sette moved and Chris Whann seconded to adjourn the meeting at 9:20 p.m. Ayes all. There being no further business, Harvey Fox adjourn the meeting.

Respectfully submitted,

Kathy Moran
Clerk

Approved: