

SUMMARY MINUTES

CHARTER REVIEW COMMISSION – November 12, 2015

Chairperson Cleora Magee called this regular meeting of the Flint Charter Review Commission to order at 6:33 p.m.

Roll Call

The recording secretary took roll call.

Present: John Cherry, Cleora Magee, Victoria McKenzie, Charles Metcalf, Heidi Phaneuf, James Richardson and Marsha Wesley.

Absent: Barry Williams (excused)

Vacant: Brian Larkins' seat

Also in attendance: Thomas Donnellan, 1972 Charter Review Commission Attorney.

Minutes of Previous Meeting

No minutes were provided.

Special Presentation to the Commission: Ms. Magee welcomed representatives from two law firms, who answered the Commission's Statement of Need seeking help in the areas of research and legal services in revising the City Charter.

First to speak was Peter Letzmann of Peter Letzmann Associates.

Mr. Letzmann: "Thank you very much, Madam Chair, and members of the Commission. Before I start I have to thank Mr. Metcalf for opening up the front door, guiding me up to the third floor and finding my seat here in the Chambers. It was-so thank you very much.

"I assume that you first want to know a little bit about me, my background – I'm a municipal (attorney). I do not do divorces, auto negligence or any other type of work except municipal law. I started my career-my training started at the University of Detroit Law School, my first job out of law school was with the City of Detroit. I represented the various departments – primarily the police department in some of their civil litigation. I was there for about six years and I can tell you about my victories and all of those if you really want to know.

"Uh, after leaving, uh, Detroit, I went to the City of Pontiac – I was their Deputy City Attorney for another six years, handling a whole myriad of government work, everything from animals to zoning, from A to Z, literally, and everything in between. And then in 1981 there was an ad in the Bar Journal that the City of Troy wants a City Attorney. I applied for the job and I was appointed City Attorney in 1981, uh, and had the responsibility for all of the legal matters for a city of over-about 100,000, police department of 150, fire department-volunteer fire department of 350 and, of course, the land use, the zoning, the development, uh, in the City of Troy, uh, was phenomenal during that time. We did the, uh, the transactions, the contract work, um, for the Somerset Collection – if you know that's, uh, a million and a half square feet located on the North and South side of Big Beaver Road. And just as an aside, I would ask you, if you have some free time and free money, please go shop at the Somerset Collection because I still get a small pension from the City of Troy, and I want to make sure that their pension fund is well-funded and that my little pittance continues.

"Anyway, uh, I was at the City of Troy for about 20 years, and, uh, then decided it was time for a change. I moved up to Northern Michigan, (?) small-I went from big city of Detroit to a small township in, uh, Northern Michigan, population about 2,000, so I've had the-the whole gamut in terms of prob-problems and issues, uh, for local governments, and I can tell you they're all similar – there may be different in size, add some zeros on the dollar amounts or so on, but, uh, the problems are pretty much consistent.

“I came back to the City of-or I came to the City of Grand Rapids and am a sole practitioner, again handling municipal activities so, uh, right now I represent the Lowell Fire and Rescue Authority. I’m doing some work and I’ve done some work for the City of Lowell for their City Council, I’ve done, uh, I’m doing some work right now for the City of Ypsilanti, uh, and, uh, other-other municipalities from time to time when they call upon me.

“In terms of, uh, Charter work, or before I get to Charter work let me also add that, uh, I’m an educator. I teach or I’ve taught classes at Grand Valley State in the graduate school of public administration, I’ve lectured at Aquinas, at Oakland U. and some of the other educational institutions here in the state. In addition to that I’m a court mediator, I mediate for the various courts on the west side of the state, uh, everything from Civil Rights cases to divorce cases, to business, uh, and neighborhood disputes. So, that-that keeps me busy.

“Now specifically as to my experience in, uh-uh, Charter work, I worked on the original Charter in, uh-uh, 1978-79 in the City of Pontiac. I was the young assistant at that time-very young assistant at that time. Uh, and I did not do the primary work, I did a lot of the grunt work and when the City Attorney didn’t want to come to the city-or to the Charter Commission meetings, I had the privilege to attend those meetings. Uh, I then also, while I was in Detroit, I helped work on the Charter, again the early Charter, the Charter that, uh, um, uh, established the Police Commission and that Charter was effective in 1975, uh, I had worked on that one a bit. Finally, uh, my most recent Charter work was with the City of Pontiac. And as you know, the City of Pontiac, although not identical to the City of Flint, has maybe some of the same aches and pains that the City of Flint does, and money, of course, is the number one issue that they had.

“Uh, they hired me when they were about half-way through the Charter process, so I had a lot of catching up to do and we had to redo some of the work that, uh, they had previously done. They were brave in trying to do it without advice and counsel. Uh, they did some very, very good work but there’s some technicalities that they-they-they just missed. So, we, uh, it took us, uh, about 18 months once I was, uh, on board. We had meetings twice a month, uh, it became clear, quite early on, that once-a-month meetings did not satisfy the-the volume of work that they want to do and the intensity of research and the discussion that they wanted to have. So, one monthly meeting was not enough for them. I noticed that you’re scheduled for once-a-month, um-I’m wrong on that, Mr.-you’re twice a month? Okay, great. Um, so, um, we worked with them for about 18-18 months, uh, we took their Charter-and there’s two ways of approaching the Charter, of course. You can start with a blank sheet and just start anew or-or take a model Charter and as a matter of fact, one of the Emergency Manager provisions, uh-uh, in the-in the law provides that, uh, if there is a Charter provision-revision in-in the, uh-uh, in the community that is undergoing this transition, that Charter should comply with what they call the Model Charter, and I tried to find what the Model Charter by state law meant. I went to the Attorney General’s office, I went to Treasury, I went to the Legal Advisor at Treasury, uh, and I went all over the place and, uh, nobody seemed to know what a Model Charter was. But moving ahead very quickly to sort of the end of the process, I’ll maybe fill in some of the blanks if you want.

“We did finish in the, um, uh, in-in the-in January or February of, uh, 2015, and, uh, we did submit it to the state and I’m very proud to say that we have got the letter – approval letter – from the State of Michigan without any blemishes, without any cautions or without any red marks on it. It was a clean letter of approval and the Governor also sent the-well, the letter of approval came from the Governor. I was impressed by the brevity of the letter saying it’s approved, ready to go on the ballot. It did go on the May ballot, May 5th ballot, as you know, or may-may not know, um, and the-the Charter was defeated by about 500 votes out of I think maybe 7 or 8 thousand votes, or 9 thousand votes that were cast. I thought it was a pretty close call. There were some dynamics, uh, in the Charter, because the, uh, Charter Revision Commission went from a pure ward or district election for council members to a combination of hybrid, where there were two at-large and five wards so that, uh, that was-they-they thought that was a improvement. And I think that, uh, there was a lot of political pushback, because there would be two ward members or two Council members who, uh, would have to run at-large, which obviously is a greater undertaking than running in the wards. So, those-we have to be or, you know, we were alert to or we found out that, uh, we, uh, had some political push-and that’s what happens with every Charter, you know. There are different political factions that will be pushing back and pushing forth and so on. Um, we did, uh, we did the Charter with, uh, several community meetings, not as many as I would have liked to have seen, that the Commission would undertake, but that’s, you know, that’s not a legal call, that’s a call of the-the Commission.

“Uh, and basically what I tried to do for the Commissioners is act as, uh, a conduit, a machine or as a, uh, process, uh, of-of making sure what they wanted to accomplish was done in a legal, um, plain English understandable form, uh, so that was my-my-my function, uh, for the Commission. And so I present myself to you folks, um, as to some questions, I have-I have some questions, of course, uh, of-of the-of the Commission as to where you want to go, what you have done so far. I noticed that you have worked on Rules of Procedure, uh, and that-my hat is off to you for doing that, that’s one of the requirements of the Open Meetings Act, all public bodies have to have Rules of Procedure and, of course, you’re operating under the, you know, in the open, subject to the Open Meetings Act. We want to make sure we have those little nuances, uh, taken care of and then basically that we comply with the Home Rule Cities Act, uh, compiled laws 117, uh, on how we adopt a Charter, what are-what are the necessary elements in the Charter, what do we have to have, what are we prohibited from having in the Charter and then what are the things that are discretionary in the Charter. In the-in the-in the, uh, Pontiac Charter, and maybe this was, uh, upsetting to some people also, we, uh, we tightened up things in terms of finances, financial control, getting information, uh, to the appropriate people timely, uh, there was a real lag of-the-the budget was presented to the Commission from time to time, a week or even less than a week before it had to be adopted where law requires-so they were really with their back against the wall and we wanted to make sure that didn’t happen. We also, uh, had a strong ethics provision, not quite as strong as the City of Ypsilanti – they have perhaps the most Draconian ethics provision in their Charter – it literally calls for the removal of a public official and the criminal prosecution of the public official if they violate the Charter.

“So, we had some of those things in there that really, uh, I-I-I made it more – I don’t want to say necessarily more difficult – but it changed the way that the bureaucrat- bureaucracy in Pontiac had to operate so that they would be more responsive, more responsible, uh, gave the control to-obviously they kept the strong Mayor, uh, delineated clearly what the legislative function is of the City Council so they would not step on the toes of the Mayor, uh, as, uh, things were-were going along. Uh, also, uh, we utilized some resources – one of the resources that we have available, I don’t know if you’ve reached out to the Michigan Citizens’ Research Council, they have done a lot of work on municipalities, municipal forms of government, uh, have consulted with, uh-uh, some of the municipalities that have consolidated and consolidated services, and that’s again an element that we put into the Pontiac Charter. It made it very easy to have, uh, to, uh, contract out for services, to consoli-consolidate services, uh, to share resources with other communities, uh, where it did not make sense for the City of Pontiac to have one – for example, this is-is just hypothetical – why should the City of Pontiac have a helicopter? If there’s a helicopter that’s needed, it-it shouldn’t be in Pontiac, it should be somewhere else and maybe we should share with it. Same thing with, uh-uh, the K-Nine with the Police Department. Not necessary to have one in Pontiac – we can share the Sheriff’s, uh, even though the Sheriff, right now, is doing the police service in Pontiac, and the fire service, by the way, is being provided by Waterford Township. Uh, and that was part of the change with the-the-the, uh, Emergency Manager.

“The other thing is we had some considerations about the transition back to local control, once the man-the Emergency Manager left and the Transition Board left. Uh, what are the, uh-uh, city should-should be aware of. And by the way that, uh, the sort of primary, uh, Emergency Manager was a guy named Lou Schimmel. And he has been floating around the State of Michigan as a Emergency Manager and he had listed, oh, I don’t know, 30 or 40 things that should have been or should be included, uh, in the Charter, and, of course, the Charter Commission paid close attention to that. That’s a good checklist that, uh, I would employ here in, uh, in Flint, uh, to make sure that there is a smooth transition from where you are today to where you want to be tomorrow or in a few years.”

Ms. Magee: “Okay, thank you, Mr. Letzman. At this time we’ll take questions from Commissioners.”

[PAUSE]

Mr. Letzmann: “I can’t be that good.”

Mr. Richardson: “Yeah, you answered most of the questions that were, uh, going through my mind as I-after reading your, uh, reading about your background. Uh, that’s about it. Um, I don’t have a particular question at the moment – I’m still thinking about that. Maybe someone else does.”

Ms. Magee: “Um hum. I, uh, well I have a question regarding, um, one of the things that we’re concerned about is looking at other Charters in other cities. But not just what they’re, you know, the-the-normal processes, but what are some things that are-that other cities are doing creatively – some things they’re doing out of the box regarding their Charters?”

Mr. Letzmann: “Well, they’re a couple things, uh, it’s, uh, that’s an excellent direction to go – we want to-what we want to have is a Charter that is flexible and will meet the needs of the City of Flint not only this year, next year but for 25-30 years. Your Charter is what 30 years old now?”

Someone says: “40.”

Mr. Letzmann: “40 years old. So, uh, it’s-the possibility is we will have to live with the new Charter for 40 years so I’m not sure-I don’t want to skirt the question about thinking out of the box – I-I wanna address it by saying that we have the great-greatest degree of flexibility in that Charter so that could be a living document for 40 or 50 years. For example, when you wrote the old Charter, did we think about things like drones, did we think about things like Smart Phones-I don’t know if there’s anybody old enough that was around at that time. Tom was, but, uh-uh, but you know, we want to be able to project-to have that flexibility. And we have to be careful, Madam Chair, is that, uh, thinking out of the box we have to identify what the purpose of the Charter is – the Charter is a Constitution for the City of-of Flint. It’s not a goal-setting, it’s not a list of chores that they have to do, it’s perhaps the parameters – how they perform those chores. So, um, to answer that question the best thing we can do is to try and anticipate what is coming down the road and give the City Council members, the administration, and so on a great deal of flexibility within the law and still achieve the city’s goals that you want to have in 50 years.”

Ms. Magee: “Okay.”

Mr. Richardson: “We have a robust, uh, community engagement process that we’re trying to, um, try to utilize, um, where we want to have discussions with community groups about issues, um, that, um, that bubble up and identify key kinds of concerns and issues that, uh, the residents and the voters of the city have. Um, I’m curious about how you would interact, uh, with all of that process, um, because it’s, um, it’s a robust, um, set of discussions.”

Mr. Letzmann: “Yes it is, and there-there would be two sets of discussions that I would think, uh, that you would have. One is at the beginning, to find out what is on-what’s bother-do you remember the radio show ‘What’s Bothering You Bunky?’

Ms. Magee: “Um um.”

Mr. Letzmann: “That’s all before your time. Okay, never mind. Show-shows-shows my old age. Uh, but we want to find out-we wanna do-whether you want to do a survey with a public hearing or so on as to what they’re thinking. And the meeting itself would be a-at least a two-part meeting. Uh, one part would be an overview or an explanation of the, uh, of the Charter. And the folks have to remember that if they really want to know what the Charter is they should pick up a copy and read it themselves. It’s just-if-if I were to make the presentation, it would-I’d have to caution them that it’s my interpretation of-of what the-what the Charter provides for. So, first we have to tell em what we have. And then I would think that-I would throw out some suggestions on what are some of the options. And we can have the first option that obviously all Charter commissions take a look at, uh, do you want to have a strong mayor form of government or do you want to have a city manager form of government, you know? And again it’s not my role to tell you what type of government, but those would be the options and you would say ‘here are some of the options that are available.’ And then of course you would want to have, and this might be excruciating for the commission to sit and listen to the folks, um, give their opinions. And I might suggest in terms of the technique of these public, uh, hearings is that if you can ask them to prepare in writing, you know, what their observations are, because that would give you a little bit of – and if they would submit it before hand in writing that would give a little heads up as to what direction they are going. Not that it’s necessary to-to have em in writing. So we would have-so that would be our first series of, uh-uh, input, uh, from those folks.

“Then I would say that what we have to do is at least do research of the administrative staff here at the city – what’s bothering the DPW, and the Parks and Recreation and the Police and the Fire and so on to see what provisions in the Charter keep them from being more efficient, more effective, more cost-saving, and so on. What are-what are some of those constraints? And the fin-and then of course we would want to have some outside people-I noticed on the agenda and I don’t know-did Diedra Washing, uh, did Waterman come up and speak to you folks, the mayor from, uh-uh, Pontiac.”

Ms. Magee: “No.”

Mr. Letzmann: “She was-but you did have her on the agenda. She was first on the Charter Commission – she ran for office, she was elected mayor, she had to resign, so we likewise had to fill a vacancy, uh, mid-term or so on. And I think that if you chat with, uh, Diedra, or Mayor Waterman and, uh, even, uh-uh, the Charter Commission chair you will find that, uh-uh, how can I say this modestly – that I did a bang-up job for them under the conditions. One of the other things, too, though, that I have to keep in mind going over the-the-with the Charter Commissioners whether it’s with the community outreach and so on, many folks don’t understand local municipal government. And in Pontiac, with all due respect, I spent a big chunk of my time teaching, discussion how government works. And after there-there was an understanding of how local government works then we really got into the meat of things of how we could adjust it and how we can do that.

“Finally, though, I said we have a-an outreach at the beginning and then we would want to do a, um, again a community outreach at the end – whether you want to call that selling the Charter or so on. We would have to go back into the communities to explain to the folks what we have-uh-what we have written and what the purpose is, what the changes are and why there is an improvement. And, by the way, we will also eliminate a bunch of stuff in the, uh-uh, from the Charter. There has been, in the last 40 years, there has been some substantial cha-election law, for example. We have to, uh, replicate the, uh, state election law – we can’t do what we had done in-in the past so we have to catch up our Charter with what the-what the law has-has changed.”

Ms. Magee: “Okay.”

Mr. Richardson: “Thank you.”

Ms. Magee: “Commissioner.”

Mr. Cherry: “Yeah, uh, one of the issues that has (?) to the forefront already is, uh, Charter enforcement. In working with, uh, the city of Pontiac or, uh, other cities on their Charters, have you worked much on Charter enforcement issues?”

Mr. Letzmann: “When you say enforcing the Charter, is that what you’re saying?”

Mr. Cherry: “Correct.”

Mr. Letzmann: “Uh, most Charters, many of the Charters – Detroit, Pontiac – also has a provision, um, something like that the violation, uh, of the Charter is a misdemeanor, uh, or punishable just as ordinance violations are – 90 days and/or, uh, 90 days in jail or \$500 – I think that’s our maximum, whatever the maximum fine is. That’s one of the provisions and then we also had, as I said, we tightened up the ethics provision and violation of ordinance law, Charter, and so on, might be violation of ethics and after due process that might, uh-uh-uh-uh, cause removal from office. So, yes, it-there can be a, uh, mechanism for sanctions, criminal prosecution and literally for removal from office of a public official – elected official would be a little more difficult to do, but it can be done and again we have to have all the constitutional protections of due process, equal protection, uh, and so on if we go down that-and they do have that.”

Ms. Magee: “Commission McKenzie.”

Ms. McKenzie: “Yes, how are you? It’s good to see you.”

Mr. Letzmann: “Thank you. Thanks for asking me here.”

Ms. McKenzie: “I have two questions, please.”

Mr. Letzmann: “Sure.”

Ms. McKenzie: “On your second page of your document that you gave to us, uh, I’ve noticed in most of the applicants for this position, uh, all of the attorneys are using almost the same legalese. Uh, and I would like for you to explain to the commission, uh, your opinion of what is demographic data. What will you be looking at in the City of Flint pertaining to demographic data?”

Mr. Letzmann: “Uh, my definition of demographic data is, uh-uh, that which, uh, or maybe my example might be a little bit better – population, income, housing, uh, the-are you primarily manufacturing, agricultural, recreational, you know, where-where you generate your tax dollars, um, that kind of data to say-and, uh, we’re not going to do a market research and we’re not gonna – we know what the city is like. One of the things we can take a look at, some quick, cheap data that’s available, and especially if we look at that, if we wanna take a look at trends and yes, we learn from history, and history is a predictor of where we’re going into-in the future. We’re go-we need to be alert to where are we going to be 25-50 years from now. Is our population going to go up? Are we going to have more homes in the city of, uh-uh, Flint? Are we going to have more manufacturing? Are we going to have some different sources-are we gonna have more retail? Where-where are we going to be? Those types of things that we want to look at so that when you make those decisions you know that you are making a Charter for what the city will look like in 25 or 50 years. Basically, that’s what the demographics are – the description, dollars, population and so on of the city. And you had a second question?”

Ms. McKenzie: “Yes. It’s the second paragraph on Page 2, where you’re talking about, uh, reviewing and analyzing the Charter by article, chapter and section. How-or will you use citizen input in reviewing and analyzing that so that what the citizens are saying that they would like to see in this Charter will also give some, uh, validity on how you go about in helping us to change it.”

Mr. Letzmann: “Well, what we’re going to do is, um, when-if the citizen input will come in a-in a statement, we want to have a-and let me use the manager-mayor, uh, example for right now. So, the, uh, citizens may say we want a city manager. And then we understand that. So then we have to do the tweaking and the detail of how the city manager would be appointed, do you want some qualifications for the city manager, does he have some, you know, what-uh-terms, will he, uh, serve for a year or so on, you know, those kind of things you would put in. You would not, and I don’t foresee taking the Charter paragraph sections out to the community and saying ‘this is, uh, do you agree with this or do you like the language here?’ If we do that, we’ll never get a finished product. So, what we want to do is incorporate the thoughts, the desires of the-of the community and you have to determine whether those are valid thoughts. Just because they’re articulated or somebody says ‘I want a city manager form of government,’ doesn’t mean that’s the road you have to go down. So you’re going to have to ferret that out or you’re-distinguish, uh, distinguish that. But I think what I would want to do is when we do go in communities we keep some notes as to what the concern was, let’s say in Ward 1, 2, 3 and 4. When we go back to that community with a finished Charter, I would say ‘when we were here last a year ago, you were concerned about this, you were concerned about this and concerned about that. Well, it’s addressed in Section 1, Section 3 and so on,’ and address it that way to answer it.”

[TALKING AT THE SAME TIME]

Ms. Magee: “Commissioner Metcalf.”

Mr. Letzmann: “Does that make sense?”

Ms. McKenzie: “Yes, sir. Thank you.”

Mr. Metcalf: “The Pontiac Charter, rev-uh-the new Charter, was, uh, okayed by the state?”

Mr. Letzmann: “Yes.”

Mr. Metcalf: “What elements in that Charter caused it to fail with the citizens?”

Mr. Letzmann: [SIGH] “If I had the crystal ball to be able to determine that, you know, I would hire myself out as a-what election consultant or something like that. I can only, uh-uh, surmise. One is we made it-we’ve held the bureaucrats more accountable for their actions. And typically the bureaucrats don’t like that. So we probably had some pushback from those folks. And then as I said we changed the-the election process for commission-or for council members, from a purely ward system to a hybrid system where we had some elected from wards and some elected, uh, at large. And I think that we had some literally political feedback or blowback, uh, from the commissioners. They liked the Charter, most of the Charter, but they didn’t like the, uh, reconfiguration of how the commissioners were to be elected.”

Ms. Magee: “Thank you.”

Mr. Metcalf: “Uh...”

Ms. Magee: “Oh, I’m sorry.”

Mr. Metcalf: “Can I get one more? Um...”

Ms. Magee: “This will be the last question.”

Mr. Metcalf: “What-where-where does Pontiac go from-from here? The Charter was not okayed, so what does the Charter Commission in Pontiac do – do they continue, are they done away with, is Pontiac going to follow the same Charter that they had before?”

Mr. Letzmann: “An-answering in reverse order – right now, they are obligated to follow the existing Charter. It’s there, it hasn’t been changed, they have to follow the old Charter. Where does the-where does Pontiac go from here? Pontiac, uh, languished a little bit in terms of, uh, resolving the, uh, or finalizing the Charter, so they were at the-you’re elected for a term of years. And the-when you’re expired, you’re done. Okay, and what we would have to do is we wanna make sure we get state approval before you’re done so if we have to do some tweaking and so on we do that. Anyway, the Charter Commission in Pontiac has expired. So for Pontiac, uh, to, uh, resurrect the Charter, they literally either have to have, uh, a new commission, uh, basically that’s what they would have to do is have a new commission – they would have to elect a new commission. There’s some other mechanics that might work, but that’s-that’s the way they would do it.”

Ms. Magee: “Okay.”

Mr. Letzmann: “They would really-really have to just replicate the old process.”

Ms. Magee: “Thank you, sir.”

Mr. Letzmann: “This side of the room was quiet.”

Ms. Magee: “Thank you very much.”

Mr. Letzmann: “Thank you for giving me the opportunity and, uh, I would be happy to stay if there’s some questions. If there are none, um, may I be excused?”

Ms. Magee: “Yes. You may be excused.”

Mr. Letzmann: “Okay, thank you.”

Ms. Magee: “Next we have, um, the firm Banks and Company, uh, attorney Lloyd Banks and I believe he just walked in... So are you ready, sir?”

Mr. Baydoun: “Good evening, Commission. Madam Chair. Commissioners. My name is actually attorney Tarek Baydoun and this is my colleague, Lloyd Banks. The Meridian Law Group is our firm. Um, we are currently serving together in an integrative approach to the, uh, City of Highland Park Charter Commission. Um, I was, uh, born and raised in southeast Michigan. Been here my whole life. I, uh, have a background and a passion in policy and legislation, uh, and so I’ve written a lot of rules. I’ve read a lot of rules, read a lot of Charters, and when the opportunity presented itself, we dove right in. The approach that we’ve taken in Highland Park, I think Mr. Banks will wanna talk about. But as far as our legal experience, I think that’s what was asked, uh, that we address today, or tonight. And we appreciate that opportunity.

“Um, I believe that having looked at how public policies are affecting the cities, uh, today, particularly under, uh, distressed situations, including blight, Emergency Manager and other things, uh, it is particularly interesting to see conflicts between the Charter, you know, uh, of these cities and the, uh, evolving role of the Home Rule Act. And, uh, frankly the, uh, eroding of the idea of Home Rule and, um, and that has been particularly fascinating to me. As you started, uh, to do your work here, it appears that you’ve, uh, a certain approach that, uh, I think is very, uh, helpful. Uh, and that is asking for citizen input and getting people involved because at the end of the day if what we put on the paper and it doesn’t pass it really can’t have an impact. But I do look at Flint’s situation as a, uh, fascinating opportunity for all of you and a huge responsibility also as public servants and-and people that are going to be charting the future of, uh, Flint to make a change. Um, it does appear that Flint is ready to adopt a Charter, uh, that would chart that change and-and so the opportunity of this commission is particularly, uh, I think particularly, I think, uh, big, if I must say. And I would love to be a part of it. I, uh, ready to do everything that I think it’s going to take to help, um, but I do realize and appreciate that my role – our role here would be based on what was put out – (would be) a little more limited in scope. Uh, and-and that’s quite fine, actually. Uh, and I view my job, um, and my background as a, uh, policy maker, policy writer in the Michigan Senate and the U.S. House of Representatives and even at the local levels in my municipal law practice, um, could be a help I think to the, uh, Flint Charter Commission as it looks forward, uh, the, uh, the opportunity, uh, is very exciting. I don’t know if Mr. Banks has anything to add or if the Commission wants to ask any questions.”

Ms. Magee: “Yes, we do. Did you want to go ahead, Mr. Lloyd?”

Mr. Lloyd: “Good evening, Commissioners. Uh, we-we have a very unique, uh, partnership and I just wanted to make sure-Banks & Company has been the umbrella organization in helping, uh, the City of Highland Park with its Charter. We are actually in the middle of doing that work now so when we submitted the proposal initially, we were submitting a proposal asking or submitting a proposal to do the work, um, from operations to community relations to everything. And then I got the response back from Chair Magee that you’re only looking for legal and research. So I just wanted to make sure that you know that our background has been, um, helping them operate the entire, uh, process from insuring-from a research and analysis standpoint we can speak to-we’ve been meeting with a lot of community stakeholders, uh, in Highland Park, gathering the information and helping the commission as they-as they look at reviewing and revising a Charter. We took again, a different approach. We decided to do a review process and then started going into a revision process with community input chapter by chapter. And it’s been very refreshing because many of the members on the commission didn’t even fully understand the Charter itself. And so going through that review process’s been helpful. We’ve also been able to, um, in the research and analysis space as well as the community stakeholders is bring in other, um-uh, other, uh, subject matter experts. And so we brought in the Detroit City Charter Chair, we’ve talked to, uh, mayors in other cities. We’ve compared the Charters to, um, to, uh, cities that are comparable in size to Highland Park like Rochester. Uh, we’ve also looked at cities outside of, um, their size and scope. We’ve gone as far as Hawaii to look at how that Charter was formed because what we’ve been gathering for them is enough information, um, about different structures, um, in different ways.

I also heard a question while I was sitting here listening, um, innovation is part of-has been part of this process as well. The Council-the Commission has been eager to figure out ways to look at land use in Highland Park and so we've been able to gather that kind of information. Community input has been part of the process the entire way. We're also looking at greening, geothermal, all of those different things we're looking at in-in the City of Highland Park. And so I just wanted to give you a sense that we decided on a hybrid approach where we would have legal and my firm where we do more operations, research, um, we do, uh, a lot of different strategic planning community type work together in order to make the, uh-in order to make this effort happen, uh, in the City of Highland Park and so that's why we're here before you today."

Ms. Magee: "Questions?"

Mr. Richardson: "Yes, please, um, is it just Highland Park that you've had experience in working on a Charter?"

Mr. Baydoun: "Yes, in actually working on a Charter, yes, we, uh-do you have any other?"

Mr. Richardson: "What's the-what's the status of that, uh, that work currently?"

Mr. Baydoun: "I believe the Commission is very happy with the progress, um, and-and it has been charted. So we are currently in the, uh, public interaction, uh, stage where we've identified, uh, not consensus but, uh, positions of-of-of-points of interest in-in starting for-for public comment so we've reviewed the Charter, we've discussed almost all of the Charter and gotten, you know, the input, and now we are currently in public meetings based on subject. Uh, we've had meetings with stakeholders, uh, you know, and-and quantifiable format we-we put together some-some, uh, some suggestions on where to start and-and-and I believe the Commissioners are pretty satisfied with how we're going. We-we-we do look forward to I think, uh, implementing a very nice and very, uh, optimal city Charter in, uh, Highland Park, and so we're excited about that. But as far as the experience goes, we've, you know, I-I've represented cities, I used to work with the Allan Brothers Law Firm, which is a municipal law firm. Um, I've written ordinances, I've, uh, written Senate Bills, I, you know, this is, uh, certainly I'm not the most experienced, uh, attorney here but I can tell you that that's not always a bad things. Uh, we will certainly look at things, uh, in a different and-and maybe a more energetic and, uh, diverse perspective, bring that to the table. But also I will, uh, promise you all of my energy and effort and-and-and you can rest assured that the competence is definitely there."

Mr. Richardson: "So, what do you see as your role and relationship to the-to us on the Commission?"

Mr. Baydoun: "To help write what you determine the best pol-public policy in a way that conforms with all of the laws. Now, above and beyond that, uh, researching, bringing information to the table is certainly something that legal counsel probably should be doing or at least supervising, because that information needs to fit what is legal, what is allowable and what has been done elsewhere. So, there's a tremendous amount of work that goes around in the background, but ultimately, uh, to implement your will as a commission."

Mr. Richardson: "Thank you."

Ms. Magee: "Can you give your name again for the record?"

Mr. Baydoun: "Sure. T-Tark Baydoun, and it's the Meridian Law Group."

Ms. Magee: "Okay."

Ms. Wesley: "Madam Chair."

Ms. Magee: "Yes."

Ms. Wesley: "I have a question. Um, I'm a little concerned about you-you're in the process of Highland Park. Um, what is your capacity to handle both of us? Flint and Highland Park?"

Mr. Baydoun: “I work a lot – I work very hard. We, uh, we have plenty of capacity to answer your question shortly. But, uh, certainly I think there are going to be efficiencies, actually. Uh, especially when we’re looking at certain, uh, key areas, like blight, like potential even, you know, financial distress. And how a Charter interacts in those areas, I think that actually creates some efficiency, um, which would, uh, perhaps benefit the-the work of the Commission. I-so-I don’t view that being a problem.”

Ms. Magee: “How long have you been working with Highland Park?”

Mr. Lloyd: “July, of, uh, they brought us on board July of 20-of this year.”

Ms. Magee: “Was that when they actually started the process?”

Mr. Lloyd: “No, they actually did not-they were empaneled and on board in December of 2014.”

Ms. Magee: “Oh. Okay. Any other questions?”

Mr. Metcalf: “Yeah.”

Ms. Magee: “Go ahead.”

Mr. Metcalf: “Uh, how many, um, Charter revision boards have you ever worked with – I mean, other cities on working with a Charter?”

Mr. Baydoun: “I worked-I-I-I-I helped with, uh, Dearborn as a resident. And I-this is first, uh, Charter Review Commission that I’ve actually served in a official capacity – the Highland Park Charter.”

Mr. Metcalf: “Well, I’m just wondering of the cities that are doing Charters and the ones that have, uh, not been able to pass them with their voters, are there things that stand out that the citizens do not want? You know, Pontiac’s Charter was okayed by the Governor. But when it came back for review, there is something in that Charter that the citizens did not like that the Governor liked. So are-can you think of anything even that-that would be okayed by the Governor but something that the citizens would say ‘no, no, that’s not what we want in this Charter?’”

Mr. Baydoun: “Certainly that would be something that we would attempt to avoid, uh, at all costs, and-and I think the way you do that, and not at all costs, I shouldn’t say at all costs. I mean, you would pre-pre-empt that by staying in contact and having a, uh, working knowledge of what may be unacceptable, uh, to the residents here, in, uh, in Flint and what may be unacceptable to the Governor. The Governor’s role is very limited, according to the, uh, the, uh, Home Rule Act and-and the, uh, Review and actually even if the Governor rejects what you come up with, um, it can still be put in front of the voters and yeah... I don’t know if that would be a good scenario, but certainly, um, something should not come back that you think is going to, uh, defeat your work here. And-and-and I think the best way to do that is by making sure you get ahead of the ball.”

Mr. Lloyd: “The-the other-the other area that we found when doing some of this research is that citizens were not involved in the process as they should be. As to a reason-as to one of the reasons, um, there’s been-there was failure. There was failure when City of Highland Park attempted to do this Charter some years ago and it was defeated by citizens but there was no process in place for having the citizens input along the way so by the time it came back and-and from the Governor and on the ballot, uh, citizens rejected it at a very large number because they were not involved.”

Ms. Magee: “Okay. Any other questions?”

Ms. McKenzie: “Yes, I’d like to ask you, uh, two questions. Give us your opinion on how you would use demographic data.”

Mr. Baydoun: “How I would use demographic data?”

Ms. McKenzie: “Yes.”

Mr. Baydoun: “At your direction I would assume that we’re talking about, uh, as it relates to implementing Charter provisions? Or…”

Ms. McKenzie: “Yes.”

Mr. Baydoun: “I would look at you as the policy maker and certainly I offer feedback where asked. But I wouldn’t necessarily have-if you’re asking for my opinion as to how it should be used in general, my personal opinion, I-cause I-I do have an opinion, I don’t know if that’s the question.”

Ms. McKenzie: “Okay, in-in using demographic data to help wreck-write the Charter, according to what the citizens of the City of Flint – you – want, how would you use demographic data or would you use it at all?”

Mr. Baydoun: “Yes, I think demographic data is very important when you’re determining things such as wards, boundaries, uh, commissions, uh, representation. I think demographic data is important when you’re determining, uh, what types of boards you will need, what types of, uh, issues you will be looking at, uh, you know, and that-that’s age, that’s gender, that’s racial, uh, that’s, uh, also, uh, you know, people with needs, special needs, uh, all of those things need to be, uh, garnered from the demographic data and considered I think, uh, section, uh, in every section. I think people need to be well aware of the demographics that they’re, you know-I think that’s a very important part of your work – our work.”

Ms. McKenzie: “And second question, uh, you talked, uh, extensively on utilizing citizen input. How often would you need to or want to meet with various citizen groups?”

Mr. Baydoun: “Commissioner, can I just add something to my last answer before I answer that one? In Highland Park, particularly, we had to know how many people, for instance, had a high school diploma before the Charter commission considered, uh, qualifications for office or-or appointments. Uh, that was important. And certainly that was something I didn’t want to leave out. I mean, things like that are certainly-they need to be considered. And-and your second question was about citizen input?”

Mr. Lloyd: “So citizen input happens along the way. What we’ve done, I think, a little differently is invited citizens into every-every process that we put in place for the Charter commission. So they’ve been invited to meetings, we’ve gone out to have one-on-one meetings with-with many leaders, um, in the community, as well as invited them into meetings. So, when we do the review and revision process that we’re undertaking with the commission now, we make a concerted effort to insure that citizens are there and we take the commission out of City Hall and into senior citizen buildings, into community, uh, buildings, where-churches, where the community feels a more safe environment in order to be vocal and to give input. And so there is a section on the agenda each time for citizens to give input prior and after to make sure and during the process if we’re in a mode of making-if-if we’re in the mode of going through Charter chapters, we make sure their input is considered, uh, and allow for that during the process.”

Ms. Magee: “Any other questions?”

Mr. Baydoun: “Can I just add some-uh, commissioner, and all of the commission, I-I-I do think that goes hand in hand with good policy making. Uh, but also in-in making sure that your work is realized in-in the adoption of a Charter. I think that-that those two are not, you know, uh, supposed to be separated, and-and I don’t think they ever will be. I think the process is improved – the Charter, the product will be improved – but also the likelihood

that it would be adopted would be improved by such an approach and that's why we've taken such an approach, um, and-and-and that, you know, that's been our philosophy. We-we like the way it's working."

Ms. Magee: "Okay. Thank you very much. We will be in touch."

Later Ms. Magee said one applicant could not attend today's meeting so she would like to set up a phone conference for the week – on either Nov. 16 or 18. She asked Commissioners to let her know if they would be available those days. Also, she noted that Thomas Donnellan, 1972 Charter Review Commission Attorney, would interview for the position at the next full CRC meeting.

Public Comment

1. Allah-Gawan Reeder – 902 E. Court Street, Apt. 206

"I was coming up here because last time I came I had talked to some of the commissioners about coming up to my school. We talked to, um, some of the students to get them involved, and I had some feedback from one of my teachers and they said it would be okay if I could get one or two of em to come up to our class – to our school – to talk to three different classes. And I was wondering if-who would be okay with coming up to the school to talk to some of the students about being involved in the process?"

Ms. Magee: "Okay, we will get your phone number and, um, we will definitely make preparation to attend your school. What school do you attend?"

Mr. Reeder: "Mott Middle College."

Ms. Magee: "Mott Middle College."

Ms. Phaneuf: "Madam Chair, if I may?"

Ms. Magee: "Yes."

Ms. Phaneuf: "Um, Allah-Gawan? Did I get it right?"

Mr. Reeder: "Yeah."

Ms. Phaneuf: "Okay. I'm sorry. I did talk to Professor Wood at the-at Mott. Um, and I hope that we have an opportunity to get over there and talk soon. I think that, um, it's gonna be a great opportunity. We have been pretty busy, um, and I know I haven't had an opportunity to really think through what that, you know, process would- would look like. But I would love to get some thoughts from you. I know you've been to like a couple of our other, uh, meetings, uh, the kick-off meeting and our first advisory committee meeting. But, um, some i-ideas about the conversation and what kind of things you think would be..."

Mr. Reeder: "They'll basically-I'm pretty they want you to like tell them what the Charter Commission do, and what a Commissioner does and then have them-tell them, educate them on, uh, why it's important to have, what-I mean come up with a nuance so you'all can have it for the future."

Ms. Phaneuf: "Um hum."

Mr. Reeder: "And so it can meet the needs for today because you know it's kind of old, so they'll probably be having questions for you too."

Ms. Phaneuf: “That’s really helpful, um, I hope we can make arrangements to have a couple Commissioners to come, um, fairly soon. Probably not this month – I know talked to Professor Wood about around November, but maybe December or January. But definitely. Okay?”

Mr. Reeder: “Uh huh.”

Ms. Magee: “Thank you very much and thank you for being here.”

2. Brian Larkin – former Charter Review Commissioner

Mr. Larkin: “Good evening, Commissioners. I-I come before you today with surprising news to none. No, I come to you today, um, submitting my resignation as a Charter Review Commissioner. And, this was not a easy decision. Uh, this was based on the accept-of me recently accepting the position here at the City of Flint as the Planning Director, or the Director of Planning & Development. And, I must say, I-I take-I took the ability to be elected and serve as a Charter Commissioner very seriously. The reason I was interested in serving and wanted to help write the City Charter was because I was interested in driving my hometown forward – helping find ways to help create a place that’s exciting to live for us currently and for future generations. And with this, uh, full-time opportunity to serve directly in the City Administration I think I’ll be able to-to do that on a full-time basis and really focus my efforts. Uh, but again, it was a really difficult decision because I really do think we’re just getting started doing really outstanding work here. Uh, thankfully I won’t be too far and I plan to stay closely engaged throughout many of the advisory committees and coming to the meetings and as we need to communicate – cause I know there’s certain times we need to get in touch with department heads – so, you happen to know one and I’ll be willing to work and put that forward. Yes, I would just today officially like to submit my resignation. I hope we can quickly begin the process of filling that seat so we don’t have to take too much time off from getting this great work done.”

Ms. Magee: “I’d like to say, um, we, um, we’re-you know, it’s hard to accept this, uh, letter of resignation, but we understand...”

Mr. Richardson: “Do we have to?”

Ms. Magee: “We understand, well we have to. But we do wanna let you know that, um, we thank you so much for your service and, um, the work that you’ve done thus far with the Commission. Uh, you really did some great work for me – you, um, sat in for me on numerous occasions speaking to different organizations, uh, for me and I appreciate that. And I, um, thank you for your service and we know that you’re going to do great things for the city, uh, as head of the Department of Community Development so congratulations on that. And, um, at this time all of you have the letter of resignation so I would ask for a motion to accept.”

Mr. Cherry made a motion, supported by Ms. Wesley, to accept Mr. Larkin’s resignation. The “yes” vote was unanimous.

First Readings of Proposals

Proposal #20 – Severability, under the In General article.

Second Readings of Proposals (these passed on Second Reading at COTW meeting)

Proposal #1 – Name of City

Proposal #2 – Boundaries of the City

Proposal #5 – Liberal Construction

Proposal #18 – Preamble & Declaration of Rights

Date reported for second reading is the date approved in Committee of the Whole.

Reports of Committees

Finance – None

Public Outreach – A summary will be provided via email, according to Chairperson Phaneuf. She said they had a well-attended advisory committee meeting last week at Bethel United Methodist with Nayyirah Shariff chairing. The discussion centered around the Preamble and how to make the language more about rights.

Ms. Phaneuf said she's still working on compiling survey information. The next Public Outreach meeting is scheduled for 6 p.m. Monday, November 16, 2016, at City Hall.

Ms. Magee noted that two students from the University of Michigan, who are working with the CRC, attended the advisory meeting, as did a student from Rutgers University.

Public comment on Second Readings

None.

Rules Committee Report – Ms. McKenzie reported that the Rules Committee met due to a letter of resignation and a vacancy on the Commission. They went back over their rules, particularly Rule #22. She said according to the rules, applications may be submitted for 15 days and the vacancy has to be filled within 45 days. The Rules Committee will select five candidates to bring before the Commission, who will then be interviewed by the entire CRC, after which there will be a call-to-question and a vote.

She said the committee wrote down some criteria for review by Commissioners. She said she will try to meet tomorrow with City Clerk Inez Brown to go over the application process, and will update Commissioners at the next meeting.

Questions include name, address, phone, other contact number, if are they a registered voter and a City of Flint resident and for how long, why are they applying, what is their background relevancy or experience to do this work, what is their Ward number and educational background, and each was asked to attach a resume if they think it's applicable. Other questions can be emailed to Ms. McKenzie.

Ms. McKenzie, with support from Mr. Richardson, made a motion to adjourn. The regular meeting was adjourned at 7:42 p.m.

SUMMARY MINUTES

COMMITTEE-OF-THE-WHOLE – November 12, 2015

Ms. Phaneuf called the Committee-of-the-Whole meeting to order at 7:44 p.m.

Twenty proposals have been submitted so far, she said.

Proposal 3 – Form of Government

Mr. Cherry asked to discuss Proposal 3 – Form of Government.

Mr. Cherry: "It seems like there's a lot hedging on making the decision on Form of Government. So something we might want to think about is determining a direction that we want to go sooner rather than later. It seems like this one is looming over some of the other issues we've been talking about, whether it's appointments or qualifications."

He added that maybe it's something the Commission can tackle in the New Year.

Ms. Magee said she thought that discussion would be appropriate during a large community meeting, which the Commissioners promised to the residents.

The suggestion was to schedule a large community meeting for January. Later, Ms. Phaneuf said early January would not be a good time; she thought late January or early February would work out better.

Mr. Richardson asked if it would be possible for the Commission to delve into the advantages and disadvantages of both of those approaches and systems by inviting or looking for those who've had some experience in both arenas so that that Commissioners can begin to get a clear perception both forms. He said he'd like to learn a lot more about the different forms that are possible and what they do in enabling the city to carry out its duties and responsibilities providing services to the citizens. He said he'd be interested in hearing from those who have studied the various forms either inside or outside of the state.

Ms. Wesley said it would be educational for the Commission and for the public to hear from the Michigan Municipal League on this subject.

Ms. McKenzie asked if there is money in the budget for another presentation by the MML. Ms. Phaneuf said there is still money left in the budget and that they are waiting to hear from the Mott Foundation regarding their grant request. Both she and Ms. Wesley said, based on the budget, bringing in the MML is doable.

Ms. McKenzie said she would support bringing them in. She pointed out that the next steps would be to pick a date and find a location.

Ms. Phaneuf said they will discuss the proposal at Monday's Public Outreach Meeting.

Mr. Richardson said it made more sense to have the Mayor versus City Manager discussion after the legal/research team is in place.

Proposal 9 – Retirement Benefits

Mr. Cherry asked to talk about Proposal 9 – Retirement Benefits. He said he sent an email to Assistant City Attorney David Roth asking two questions: Is Proposal 9 required in order for the city to stay with the State Pension System MERS (Municipal Employees Retirement System), and if such a section was not included in the new Charter would it allow the city to move out of MERS. He said Roth's answer was "yes," that in order for the city to use the state retirement system the Charter has to include a section that specifically talks about retirement benefits for employees/retirees.

Mr. Cherry said he wants to think through this section more, but he wondered if they could just say "provide retirement benefits through the state system."

Mr. Richardson said he thinks the wording in Proposal 9 is puzzling. "The city is authorized and empowered to provide by ordinance for the increase in pension benefits for city employees, therefore retired." He said it sounds like that section is talking about THE INCREASE for employees who are already retired.

Ms. Magee said the state system is only for retirees and that the city has to allow for increases because the retirees no longer get bonuses or raises.

And too, said Mr. Richardson, why is there no mention of current city employees?

Because they have union representation, said Ms. Magee, and bargaining for retirement is part of the union contract.

Mr. Cherry reiterated his question and the city attorney's answers: "Is I-503 required in order for the city to stay with the state pension system, MERS. If such a section was not included in the new Charter would it allow the city to move out of MERS?" Answer: "I-503 by its plain language allows the city to provide retirement benefits to its employees. It leaves how that is going to happen pretty open-ended."

So it sounds like it includes both providing for benefits as well as the opportunity to increase them, and was left intentionally open-ended, said Ms. Phaneuf.

Proposal No. 12 – Forfeiture of Office and Removal for Cause

Mr. Cherry also wanted to talk about Proposal No. 12 – Forfeiture of Office and Removal for Cause. He said Roth affirmed that forfeiture does mean removal from office and that violating any sections of the Charter – not just Subsection 2 – would be cause for forfeiture.

Mr. Cherry explained that in order for this to be used there has to be an indication within any particular Charter provision that if it's not followed it's punishable by forfeiture.

Ms. Phaneuf asked Mr. Cherry if he has seen any of that language in the current Charter. He said he has not.

Ms. McKenzie said she thought the language should be included more clearly as one City Council member and previous Charter Commissioners have said that some of what they expected to be in the Charter is there but it is not enforceable in its current state.

Ms. Wesley pointed out that Advisory Committee members were interested in more accountability of elected and appointed officials. Those issues will be discussed again at future meetings of the Advisory Committee, said Ms. Phaneuf.

Mr. Cherry said not only do the Commissioners have to look at punishment but they also need to consider the adjudication process. "I think that might be one of the weaker links – if the adjudication is not feasible then it's never going to be utilized," he added.

Ms. McKenzie said once the legal/research team is hired they will be able to help guide the Commissioners on these issues.

And adding to that is how other cities handle the situation, said Mr. Richardson, who noted that the City of Lansing has had some interesting discussion about an ethics group and an ethics board that they've put together.

Proposal 7 – Qualifications of Appointed Officials

Ms. Phaneuf said one of the things that a lot of communities have are regular performance evaluations of department heads.

"I would like to think that's happening behind the scenes at City Hall," she said. "I think this particular proposal might be one where we could not just go with what are the qualifications, but once you're into a position, appointed or a department head, that there be a mid-year and a year-end evaluation that's open to the public."

She said the evaluations could be coordinated with the budget process as each department has strategy goals, which are outlined in the city's Strategic Plan. The evaluations could be tied to how well they were able to achieve their goals. If evaluations are open to the public, she said, they would help the community understand more about each department.

Evaluations would be done by the City Administrator, if the current form of government is kept, said Ms. Phaneuf.

Commissioners then discussed the advantages and disadvantages of having public evaluations.

Mr. Cherry said he agreed with having publicly recognized performance benchmarks that are updated on a regular basis. But, he said, he would be concerned with having performance evaluations as a public meeting because evaluations are a way for an employee to work with a supervisor to improve performance.

“If that’s politicized,” he said, “I don’t think it’s gonna be valuable for the employee or the supervisor. From an accountability standpoint, however, if there are scorecards or performance metrics that are utilized and reported on a regular basis, that makes a lot of sense.”

Ms. Wesley said the School Board has a public venue for their evaluating its superintendent, but she doesn’t know how detailed it is and how much of it is done in public. But she said she agrees with Mr. Cherry that public evaluations will allow the public to make hay of something and but won’t necessarily improve the performance.

Ms. Phaneuf said her idea is that the public would get a written scorecard based on the benchmarks, and then there would be a public comment period.

Mr. Richardson asked what she is trying to accomplish. He said these ideas may be too detailed for the Charter and may work better in an Ordinance because times and approaches change.

Ms. Phaneuf said it would be to increase the accountability throughout the year to make it very clear at the beginning of the fiscal year what the main priorities of that particular department are so employees and community members know what the focus will be for the coming year. The mid-year review, she said, would determine if the department is still on track and that the work is getting done.

Mr. Richardson asked if she’s looking for accountability in achieving goals.

Ms. Phaneuf replied, “It’s more than that. It’s to make sure the community understands what a particular department’s focus is. So that if they’re continuously being barraged by other ideas or issues, they can say ‘well, I have to stick to my goals or my five areas I’m focusing on, for instance.’ Then at the end of the year did that actually happen and occur. The reasoning is because I’m seeing as a community within the city departments, they lose track of where they’re going sometimes or it seems that there may be a loss of focus. This would allow for accountability based on something that everyone agrees is what is being measured and then also gives that department head the ability to stay the course on what their true objectives are.”

Mr. Richardson still wondered if the Charter is the appropriate place for that kind of a management process.

You may not need that kind of detail, however, you could require that departments have performance metrics that are reported on and reviewed on a regular basis, said Mr. Cherry. The question would be how often are they checked up on.

Ms. Magee said she thought the Strategic Plan would take care of these issues if it’s being updated regularly and followed as opposed to putting them in the Charter.

“I’m thinking about this from the perspective of residents and citizens wanting to know that their government is working effectively to get things done on a daily basis,” said Ms. Phaneuf. “The Strategic Plan is helpful – we have one now – but I’m trying to tie this back to things that the community can know and be assured that these components in government are going to be there and is something that they can rely on. I think of it as a checks and balance against performance.”

Ms. McKenzie said this is an area that the legal/research team can help with because for one thing, there are unions involved and they may have a problem with public evaluations.

Mr. Richardson asked how many department heads there are. Then he asked if they can be eliminated completely because “of why they’re put there. A reward job for campaigning. Just food for thought.”

Mr. Richardson said he wanted a definition for what the Charter refers to as “all appointed officers.” He said he’s also been thinking about some other definitions that he will bring to the body later.

Proposal 4 – Powers of the city

Mr. Cherry said Attorney Roth weighed in on this section, by writing “municipalities and their Charters are creatures of statute through the Home Rule Cities Act. My thought here, however, is that a municipality cannot put in place Charter revisions which violate federal law. For example, a city can’t adopt an ordinance which violates a person’s Fourth Amendment Right against unlawful Search & Seizure.”

He added that “so when he had talked about altering this one to recognize Federal law, this is what he meant.”

Mr. Richardson asked what happens if there is a conflict between State Law and Federal Law, using marijuana as an example. He pointed out that cities are created by state law and controlled by State Law, they are not controlled by Federal Law.

But he said he’d like to hear more on that subject from the city’s attorneys.

Mr. Cherry said he thought that including the words “Federal Law” to the statement “the city’s powers are subject only to the limitations contained in this Charter or State law” wouldn’t necessarily say that we cannot enact something that is contradictory to Federal Law. It just means that if it is contradictory, that Federal Law would overrule whatever is enacted.

But would the city have to adhere to all Federal Laws? asked Mr. Richardson. He agreed that the Commission needs an attorney to help with this issue as well.

Mr. Cherry asked which Commissioner wants to introduce the sections in Article 2. He said he will accept recommendations in an email.

Ms. McKenzie said, as a former city employee, that if she was a supervisor who knew her job was on the line and she was faced with an upcoming evaluation, that she would find a scapegoat to blame the problems on to save her own job.

Mr. Cherry, supported by Ms. McKenzie, made a motion to adjourn. The voice vote was unanimous.

This Charter Review Commission meeting was adjourned at 8:29 p.m.

Respectfully submitted,
Janell Johnson, Secretary