

SUMMARY MINUTES

CHARTER REVIEW COMMISSION – June 4, 2015

Chairperson Cleora Magee called this regular meeting of the Flint Charter Review Commission to order at 6:31 p.m.

Present: John Cherry, Cleora Magee, Victoria McKenzie, Charles Metcalf, Heidi Phaneuf, Marsha Wesley and Barry Williams. Brian Larkin arrived at 6:46 p.m.; James Richardson arrived at 7:09 p.m.

Also in attendance: Deputy City Attorney David Roth, City Clerk Inez M. Brown, and Thomas Donnellan, the attorney who guided the Charter Review Commission in 1972.

Pledge of Allegiance

Mr. Metcalf led the Pledge of Allegiance.

Roll Call

The recording secretary took roll call.

Motion on Agenda

Mr. Williams, seconded by Ms. Phaneuf, voted to adopt the agenda. Mr. Cherry, seconded by Ms. Phaneuf, amended the motion to adopt the agenda with changes (to move #3, the Governor's letter, further down in the agenda to await Mr. Richardson's arrival.)

OLD BUSINESS

1. Public Statements by Commission Members

Attorney Roth asked for clarification of this item. Various members responded with "what are the guidelines in making statements to the public and in addressing the media?"

Attorney Roth recommended appointing a spokesperson who will speak on behalf of the Commission. He said members can speak to the public/media individually as long as they make it clear that they are speaking on their own behalf and not for the Commission. He said it is also okay for members to discuss the Commission and its progress when asked by individual constituents.

2. Open Meetings Act

Attorney Roth reminded the Commission that the Charter Review Commission is a public body and that it is required to hold meetings in a public forum and to entertain public comments. He said also that records of the Commission are subject to the Freedom of Information Act (FOIA) and, as such, must be made available to the public when asked. He pointed out that in addition to officials records, private emails, texts and telephone records may also be subject to a FOIA request if they pertain to the business of the Commission.

Ms. Phaneuf suggested that the matter be referred to the Rules Committee.

Ms. McKenzie asked if committee meetings were subject to the Open Meetings Act. The response was "yes."

Mr. Williams asked how many members can be together at one time in the same room. He said five of the Commissioners live in one area and asked if they can attend a neighborhood function together if they are not discussing Charter Commission business.

Attorney Roth said he was not sure. He asked Mr. Williams to send him an email inquiry.

Ms. Magee reminded Commissioners to be sensitive of the fact that they are members of the CRC and to try and avoid appearances of impropriety.

3. Budget and Staff

4. Legal Council

Mr. Williams asked if the CRC can hire its own attorney. Attorney Roth said he's not aware of any power that they have to select their own attorney. He said he was also unaware of what the CRC's budget is.

Commission Motion

Mr. Williams, seconded by Ms. Phaneuf, made a motion to ask City Attorney Peter Bade to attend the next CRC meeting to give Commissioners clarification on these matters. Mr. Cherry amended the motion, seconded by Ms. Wesley, to include City Administrator Natasha Henderson in that request.

The motion passed by the following vote:

John Cherry – Yes
Brian Larkin – Yes
Cleora Magee – Yes
Victoria McKenzie – No
Charles Metcalf – Yes
Heidi Phaneuf – Yes
James Richardson – Absent
Marsha Wesley – Yes
Barry Williams – Yes

Ms. McKenzie mentioned that she was satisfied with the answers the CRC received from Attorney Roth.

Mr. Larkin suggested putting any questions for Mr. Bade and Ms. Henderson in writing to give them a "heads up." Ms. Magee said questions could be emailed to her and she would forward them on.

Mr. Cherry noted that city officials have separate interests from the CRC and that he believes an outside, independent attorney is needed.

NEW BUSINESS

1. Committees – roles, schedules and membership

Ms. Magee discussed the committees, the chairpersons assigned to each and the dates and times the committees will meet next week. She said once the schedule is accepted, the City Clerk will find locations for the meetings.

The committees, chairpersons, roles and first meeting dates are as follows:

1. Finance Committee

Chairperson: Marsha Lynn Wesley

Members: Victoria McKenzie, James Richardson and Barry Williams

Roles: Determine staffing needs; develop a budget; and examine outside funding sources

Meeting Date: 6:30 p.m. Monday, June 8, 2015

2. Rules Committee

Chairperson: Victoria McKenzie

Members: Brian Larkin, Heidi Phaneuf and James Richardson

Roles: Develop rules for adopting proposals and sections for the proposed charter; develop procedures for hiring staff and paying expenses; develop rules/procedures for commission meetings (order of business and votes); and develop rules to determine the authority of the chair and/or vice-chair
Meeting Date: 6:30 p.m. Tuesday, June 9, 2015

3. Public Outreach Committee

Chairperson: Heidi Phaneuf

Members: Charles Metcalf and Barry Williams

Roles: Determine methods for disseminating information; determine alternate meeting locations throughout the city; develop methods to solicit citizen opinions and ideas, and encourage citizen participation; and work with the Rules Committee on public comment procedures

Meeting Date: 6:30 p.m. Wednesday, June 10, 2015

In addition, Chairperson Magee and Vice-Chairperson Cherry are non-voting ex-officio members of all committees.

Commission Motion

Mr. Williams, seconded by Mr. Larkin, made a motion to accept the committees and roles as presented. The motion passed by the following vote:

Brian Larkin – Yes

Cleora Magee – Yes

Victoria McKenzie – Yes

Charles Metcalf – Yes

Heidi Phaneuf – Yes

James Richardson – Yes

Marsha Wesley – Yes

Barry Williams – Yes

John Cherry – Yes

Ms. McKenzie asked what vehicles can be used to disseminate information (i.e., Facebook, Web site). Attorney Roth said the CRC is not limited in the way it communicates, except that if information is to be posted on the city's Web site, it has to go through the City Administrator. Ms. Phaneuf suggested that the discussion be brought up in committee.

Ms. Wesley asked about seeking outside funding. Ms. Magee suggested talking to the finance department and others within the city. She said she doesn't think it would be a problem to find additional monetary sources. Ms. Phaneuf suggested organizations such as the United Way.

Mr. Larkin asked about having community members sit on committees. Ms. Magee said she did not think that would be appropriate, however, she said she thought they could sit on advisory committees.

2. Potential presentations to the commission

Mr. Cherry suggested inviting representatives from the Michigan Municipal League and others who could provide Commissioners with needed information. He noted that a Charter Review Commission was formed in Pontiac, but when the Charter went to a vote of the people, they rejected it. He said he thought someone from that commission might be a valuable resource for the CRC. Ms. Magee said that potential speakers would be a good topic for the Public Outreach Committee.

Commission Motion

Mr. Cherry, seconded by Ms. Phaneuf, made a motion to invite representatives from the MML and the Pontiac Charter Review Commission to speak at future meetings. The motion passed by the following vote:

Cleora Magee – Yes
Victoria McKenzie – Yes
Charles Metcalf – Yes
Heidi Phaneuf – Yes
James Richardson – Yes
Marsha Wesley – Yes
Barry Williams – Yes
John Cherry – Yes
Brian Larkin – Yes

3. Governor's Letter

Mr. Richardson drafted a letter to Gov. Snyder, in reference to Mr. Snyder's letter to Secretary of State Ruth Johnson, dated April 29, 2015, asking for clarification of concepts that he felt were vague, specifically the paragraph that reads:

'After study by the Mayor and City Council, and in consultation with the Receivership Transition Advisory Board, the city shall enact changes in the current charter through charter amendments or charter revision that are consistent with applicable model charters and model charter amendments and in the city's best financial interests.'

He also asked for a representative of the Governor's office to attend a CRC meeting.

Mr. Williams asked if the Governor has jurisdiction over the Commission. Both he and Mr. Larkin expressed concern that the hard work of the CRC could ultimately be vetoed by the Governor's office. Mr. Richardson pointed out that that was the intent of the letter he drafted – to get clarification on what role the state will play in the process.

Ms. Magee summarized the concerns with two questions: "What power does the Governor have over us and what power does he have over this body?"

Attorney Roth was asked his opinion.

His response: "Specifically, in reference to the Governor's letter, there's nothing contained in the letter, that I see, that states that this body can or cannot adopt particular provisions. I don't believe there's anything in this letter that is telling you that you can't do the work that you're doing here. I don't think the Governor is saying that the Commission has to adopt any particular provision or the city will not be removed from the receivership. I don't believe that's what it's saying."

He also said that he is not aware of the Governor having jurisdiction over the CRC, but he pointed out that if the CRC wants clarification he thinks that would be appropriate. He reminded them that the focus of the Flint CRC should be on doing the work they were elected to do in the best interests of the citizens.

Mr. Richardson said he believes that the letter is confusing and he would like clarification up front – what the Governor is actually saying in the letter. He added that he wants to hear it from the Governor's Office in some very specific terms. "Let's hear from the governor's office," he said. "We need to know if he doesn't like the work we're doing, can he erase it. Let's find out up front."

At this point, the Commission allowed Mr. Donnellan to speak.

He pointed out that the *Home Rule Cities Act provides that prior to submitting the charter to the voters it must be submitted to the governor and then the Governor goes through it. The language about best interests was adopted in November 2014, he said, the same election where the charter question was approved.

"I think it's a fair implication that you could erase that," he said. "That was adopted in November 2014. But you're not bound by it; you're not bound by anything in the charter even if it was adopted as recently as 2014. But if you were to erase it I think the Governor is letting you know he would be very, very scrupulous about looking over the proposed charter and questioning why you took this out."

He added that "the Governor's office has no interest in your work. They are letting you know that this language that was adopted in November 2014 had better be in the charter or else the Governor and his powers over the city (to release it from) receivership would take action and also he would take action as part of his powers over the Home Rule Cities Act."

Commission Motion

Mr. Richardson, seconded by Mr. Cherry, made a motion to send the letter, with changes and Ms. Magee's signature, to the Governor's Office. The motion passed by the following vote:

Victoria McKenze – Yes
Charles Metcalf – Yes
Heidi Phaneuf – Yes
James Richardson – Yes
Marsha Wesley – Yes
Barry Williams – Yes
John Cherry – Yes
Brian Larkin – Yes
Cleora Magee – Yes

4. Additional Business

Ms. McKenze asked about linking phones and tablets to the city's Web site. The recording secretary said she would provide the members with the city's Wi-Fi password.

5. Public Comment

City Councilman Eric Mays talked about Public Act 436, and how the authority of elected officials, and the charter, were suspended while the city was in receivership.

The members discussed concern that Mr. Larkin is a member of both the CRC and the Receivership Transition Advisory Board (RTAB). Mr. Larkin noted that the City Attorney's office and the legal staff of Representatives Phil Phelps and Sheldon Neeley all investigated and found that there is no conflict of interest. Ms. Magee asked Mr. Larkin to put that information in writing to be filed with CRC documents.

6. Review of upcoming committee and commission meetings

Ms. Magee reminded members that the next meeting is scheduled for Thursday, June 11, and that meetings continue every Thursday through July.

Commission Motion

Mr. Williams, seconded by Ms. Phaneuf, made a motion to cancel the July 2nd meeting, as it falls before a holiday weekend. The motion passed the following vote:

The motion passed by the following vote:

Charles Metcalf – Yes
Heidi Phaneuf – Yes
James Richardson – Yes
Marsha Wesley – Yes
Barry Williams – Yes
John Cherry – Yes
Brian Larkin – Yes
Cleora Magee – Yes
Victoria McKenze – Yes

Mr. Cherry, seconded by Ms. McKenze, made a motion to adjourn the meeting. The motion passed by a voice vote of 9:0.

This Charter Review Commission meeting was adjourned at 8:04 p.m.

Respectfully submitted,
Janell Johnson, Secretary

NOTES (from the Home Rule City Act 279 of 1909):

***117.22 Charter amendment; submission to governor, approval; re-consideration.**

Sec. 22. Every amendment to a city charter whether passed pursuant to the provisions of this act or heretofore granted or passed by the state legislature for the government of such city, before its submission to the electors, and every charter before the final adjournment of the commission, shall be transmitted to the governor of the state. If he shall approve it, he shall sign it; if not, he shall return the charter to the commission and the amendment to the legislative body of the city, with his objections thereto, which shall be spread at large on the journal of the body receiving them, and if it be an amendment proposed by the legislative body, such body shall re-consider it, and if 2/3 of the members-elect agree to pass it, it shall be submitted to the electors. If it be an amendment proposed by initiatory petition, it shall be submitted to the electors notwithstanding such objections.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am.