



SHERWOOD CHARTER REVIEW COMMITTEE
22560 SW Pine St., Sherwood, Or
January 30, 2014

REGULAR MEETING

- 1. Call to Order:** Chair Pat Allen called the meeting to order at 6:32 pm.
- 2. Committee Members Present:** Citizen at Large Chair Pat Allen, Library Advisory Board Representative Jack Hoffbuhr, Parks Advisory Board Representative Brian Stecher, Citizen at Large Bob Silverforb, and SURPAC Representative Charlie Harbick. Citizen at Large Jennifer Kuiper arrived at 6:50 pm. Absent Members: Budget Committee Representative Vice Chair Neil Shannon, Planning Commission Representative Beth Cooke, and Cultural Arts Commission Representative Alyse Vordermark.
- 3. Staff and Council Liaison Present:** City Manager Joseph Gall and City Recorder Sylvia Murphy. City Council Liaison Linda Henderson arrived at 7:08 pm.

Chair Allen reviewed the agenda business and recapped the prior work of the committee. He stated the committee elected to focus their work initially on the areas of the charter that would have a direct impact to the election in November so the committee could get proposed changes on the May ballot. He said the committee has come across charter language or structure that seems weird or language that they would say differently and decided in the interest of putting forward a clear package of changes to the voters, they would save that work for later, work that was non-substantive, cleanup type of work and focus on work that would make substantive changes to the structure. He gave an example of a recommendation, to elect from a single list of candidates City wide for councilors as opposed to by position.

He said the committee's plan at their next session on February 13th is to hold a meeting that is half public workshop and half public hearing, with a format of open tables where the public can come and talk to the committee members and other members of the public regarding the sections of the charter that they have worked on related to elections. He said after an hour of this format, the committee would hold a traditional public hearing to receive public testimony on the record. He said the next step would be to come back and hold a final public hearing and final mark up to look at the committee's recommendations to the Council on February 27th.

Chair Allen asked the committee if they have reviewed the draft minutes and stated Vice Chair Shannon provided feedback on a typographical error in the minutes and other information that would be addressed later in the meeting.

The City Recorder informed the committee of the correction to page 9 of the minutes.

Mr. Silverforb pointed out a correction to page 3 and page 5 of typographical errors. With no other comments received, Chair Allen asked for a motion to approve the January 16, 2014 meeting minutes as amended:

4. Approval of January 16, 2014 Meeting Minutes

MOTION: from Bob Silverforb to approve the minutes as corrected, seconded by Jack Hoffbuhr. Motion passed 5:0, all present members voted in favor. (Ms. Kuiper was not present for approval of minutes).

5. Public Comments

Kurt Kristensen 22520 SW Fair Oaks Ct. came forward and stated he's been thinking of the committee and how it became to being and said he wanted to express concerns. He said three Councilor's, Henderson, Butterfield and Grant elected the at large people and said when he looks at the composition of the committee members he is seeing that Henderson selected Patrick Allen and Middleton appears to have selected Neil Shannon and Jennifer Kuiper appears to have been originally appointed by Mays and Mr. Silverforb was appointed by Mays and Beth Cooke was appointed by Middleton and Mr. Harbick was appointed by Mays originally and Mr. Hoffbuhr was appointed by Middleton and Mr. Stecher was appointed by Mays and Ms. Vordermark was appointed by Mays on the original decision. He said the reason he has been thinking and writing about this is because it distresses him as a voter that we have such a system that for most voters, it appears to be a closed loop. He said there is no one on the committee that is not beholden or owes their position on the board to somebody that is already within the power block of the City. He said he believes the perception in general amongst a lot of us is that it is not an open process and he is concerned about this. He said he is hoping that the committee members will be of goodwill and they will come up with constructive and meaningful changes. He said he is not hopeful for meaningful changes and believes that minor issues will be addressed and said it's always good to get the language perfect. He said in order for this City to work, we need to get people involved and it isn't going to happen if we keep doing it the way we have been. He said now we are seeing a few issues that have been brought about by Ms. Henderson filing for Mayor and said the current charter doesn't provide for when you have a council member running for mayor that she automatically loses that position if elected to be mayor and that means the voters lose out on electing another person on the council because the existing council will end up reappointing that person. He said that is a concern of his and would like the committee to take a look at this. He said he is also concerned that the next mayor will be elected with about 25% of the voters because there will be at least three people running for mayor. He said there is no run-off election provisions provided for the council or for the mayor to ensure that if none of the candidates get 50% of the voters in the election that we have a run-off and he thinks that would be a smart thing to have for both the mayor and the council. He said it doesn't make any sense that someone is elected with 20% on our most important board. He said he is a bit concerned and in his research Mr. Harbick has been on the urban renewal advisory committee and as part of being on that committee even though he excused himself, he became the beneficiary of a \$15,000 grant for improving his business and said he knows that Mr. Harbick took the proper steps of excusing himself but is still concerned about that being not the best ethical way for a person in a public position and doesn't know if Mr. Harbick has any intentions of excusing himself from this board, but he believes that most people, if they knew this would find Mr. Harbick's service on the committee to be a bit self-serving.

Chair Allen commented regarding people excusing themselves and said we are covered by Oregon's Ethics Laws and said what that usually deals with is conflicts of interest and if we get to those types of

topics here, he would expect that committee members would do what they need to. He said it seems to be an unusual thing that would happen in a charter discussion.

6. Staff Report (materials requested by the Committee)

The City Recorder introduced the following documents into the record. The documents were distributed to the Committee and made available to the public.

Exhibit A-City Charter with track changes to Chapter 3 and Chapter 7 as proposed at the prior meeting, including bullets and notes from prior discussions for Sections 31 and 32.

Exhibit B-City Charter from May 3, 2005, the charter language that existed prior to changes to “by position”, as requested by the committee at their prior meeting.

Exhibit C-Draft Measure Summary Briefing Reports, as requested by the committee at the prior meeting. The reports contain proposed language based off meeting records and is up to the committee to amend the language or direct staff otherwise.

Chair Allen stated the committee would readdressed the Issue Briefs and how to handle moving forward.

Chair Allen addressed the next agenda item.

7. Continued consideration of election related charter provisions

Chair Allen addressed Section 31-Vacancies and Section 32-Filling Vacancies. He asked for committee discussion and said the committee spent time discussing missing meetings and meetings during a particular time or a certain number of meetings and said the committee did not land on the discussion.

Mr. Silverforb addressed Section 31.b.2 and stated he thought the committee settled on removing “from three consecutive regular council meetings” and add “all meetings in a 60 day period”. He said he thought the committee conceded that this was the language they wanted. No objections were received and Chair Allen said and this takes the place of “absence from the City for 45 days without council consent”. Comments were received that no, it’s an add on to that language.

Chair Allen confirmed and said it’s the 45 days and it’s the second half of the sentence. The committee confirmed. He said this is the notion that someone gets sent on a work assignment for 2 months and plans on returning and wants to remain on the council and were not able to make arrangements to participate via phone and this is what would cause a vacancy. He asked if the committee was comfortable with this, no objections were received.

He said there was discussion about City limits and said he recalls prior conversations that there were issues with limits and boundaries and putting this in a category of cleanup as it was not substantive changes. The committee confirmed and City Manager Gall added that Chapter I, Section 3 has language that defines the City boundaries.

Chair Allen addressed section b.8 and language of filing a vacancy “pro tem” and said this is a circumstance when someone would be gone for a set period of time and having the ability to provide an “acting” council member pro tem. He said he is not sure how he feels about this.

Mr. Harbick said he doesn't like this. Chair Allen said he doesn't recall the energy behind this and City Manager Gall said there is language in other charters and referred to West Linn and gave the example of someone being in their term early on and needing to be out of town for a few months due to work or a temporary disability due to illness. He said the language indicated the council "may", not "shall" and said the council currently doesn't have this ability without the language.

Mr. Hoffbuhr stated what saves it for him is the language "may" and said if the council feels 3 months isn't bad and they decide to wait, but if it's 4 or 5 months and the council decides they need someone in the position due to issues, they can then put in a pro tem. He said he doesn't have a problem with the language.

Mr. Stecher said he is okay with "may" language and said it gives the council the option and they can choose to elect a new member.

Mr. Silverforb said in addition to the reasons, someone being out of town due to a sick child needing treatment in another City or it could be an elderly parent that needs help or has passed away. He said there could be a lot of reasons and the intent, if they are going to come back after a certain amount of time and if they have been elected to the position on the council, then he thinks they have the right to get that position back if they want to. He said he is okay with "may".

Ms. Kuiper arrived at 6:50 pm.

Mr. Harbick asked if this is something we are adding and Chair Allen confirmed. Mr. Harbick stated he is not in favor.

Chair Allen briefed Ms. Kuiper on the discussion.

Mr. Harbick clarified if the position would be appointed by the remaining council members. Chair Allen confirmed the language would say, "by a majority of the remaining council members". Mr. Harbick replied a majority could pick somebody possibly that would favor their position over where this council is missing, might be known to probably not support that position. He said it sounds like, rather than being elected by the citizens, now we have somebody that is appointed and that skews the makeup. Chair Allen said although, if they resigned within a small amount of time left in their term, the same thing would happen.

Ms. Kuiper asked for a recap of the discussion so far and Chair Allen replied he and Mr. Harbick are leaning towards not thinking this is a good idea and everyone else is okay with it.

City Manager Gall stated this is not addressing a problem we have had and the lack of language has not been problematic, we've just seen it in other charters. Mr. Gall said to address Mr. Harbick's issue, it is not addressing a problem we have seen, it is in anticipation of something that may never happen, to try to give the council some flexibility in that situation.

Ms. Kuiper asked if this is something that needs to happen at the May election or is it something that can be pushed out to the fall. Comments were received that it could wait and Chair Allen said he would be interested in carrying the issue into the public workshop and public hearing to get some feedback. He confirmed holding off on this issue and gathering public feedback, the committee conceded.

Chair Allen asked for discussion on other issues pertaining to vacancies. He said one of the issues brought forward by Kurt Kristensen might fit here, which is a notion of a vacancy caused by a councilor running for another office in the City or by running for any other office. He said he is not sure he followed Mr. Kristensen exactly in terms of what he was saying in terms of that it would cause something that could not be solved and believes a person would resign their position on the council. He gave an example of a person being midterm of a 4 year term and the person runs for mayor and get's elected as mayor, what happens to the remainder of the 4 year term. He asked staff if the charter was silent on that issue. The City Recorder replied she believes the charter is silent.

City Manager Gall added that he would argue that the old position, which may need to be clarified, is now vacant as someone can't hold 2 positions. He said he has been asked this question and said it's a likely "what if". Chair Allen said it is also dealt with in item 6, and said because you're not allowed to hold multiple positions you would have to resign one position to take the other position. Mr. Gall added his understanding is that the vacant seat, if it's beyond 13 months or more, there would be an election.

Chair Allen replied if it were honestly midterm, there would be an election and said the only thing we might want to consider doing in response to that input is call out under item 8, election to another office and make that irrespective of whether you resign or not, avoid the argument of whether you have to, and call that out as, if you get elected to something else your position becomes vacant.

Ms. Kuiper asked at what cost to run another special election to fill that vacancy. Chair Allen stated that would occur in any case, even in the implied language you would have to resign your position that would be vacant for more than 13 months because it's midterm and there would be an election. He said that change, he doesn't believe, would drive any additional costs and the existing system has a cost.

Ms. Kuiper reiterated, if someone wanted to run for another position, they would have to give up their position on the council, make that vacant early enough so that other people can....Chair Allen interjected and said no and gave the example of an Oregon State Senator running for Congress midterm and getting elected and it now leaves a vacancy.

City Manager Gall gave the example of Councilor Henderson running for mayor and then wins, she would need to resign her seat, leaving the seat vacant and because there is more than 13 months left in the term, there would be an election for that vacancy.

Ms. Kuiper asked how much does an election cost and the City Recorder replied anywhere from \$3,000 to \$10,000 depending on the number of participating jurisdictions in that election.

Mr. Silverforb said he doesn't see this as being any different if someone dies midterm of being on the council, you're going to have to have an election to fill the seat or if somebody resigns. Comments were received regarding controlled circumstances, and issues still needing to be resolved.

City Manager Gall gave the example of Multnomah County's system.

Chair Allen asked if the committee wanted to continue down the path of "resign to run" and the committee conceded not to go in this direction. He asked do we want to call out a new item 8, that is election to a separate City office. No comments were received and Chair Allen said we think the issue raised by Mr. Kristensen is already dealt with in the charter.

Mr. Silverforb asked the City Recorder if there has been a situation similar to what we are discussing and referred to former Mayor Mays and when he ran, opting to run for mayor, was he on the council at that time. Ms. Murphy replied, yes he was a council member and said she wasn't the clerk at the time and isn't sure of the dynamics, but Mayor Cottle was the Mayor and Keith Mays was possibly the Council President and he ran, but she is unsure if he ran unopposed. Brief discussion occurred recalling the circumstances.

Mr. Hoffbuhr asked where the language was that pertained to holding other offices. Chair Allen replied the committee spoke of it and said he believes the discussion occurred in Section 27-Qualifications and said there is language that states, "no person may be a candidate at a single election for more than one City office". He said we spoke of saying other things at that point, such as soil and water conservation and we ended up with electing not to say more about that.

Mr. Hoffbuhr said he would say that you could not run for council and mayor at the same time. Chair Allen replied, unless he is missing it somewhere else, that doesn't clearly say that if you're a councilor and have 2 years left and run for mayor and get elected, then you don't. He said we may have to add an item 8, "is elected to a different City position".

Ms. Kuiper referenced section 27.b and Chair Allen said we would add it to Section 31, item 8.

Mr. Harbick asked why do we have to have it? Chair Allen replied because all 27.b says is you can't run for more than one, it doesn't say you can't be more than one. Mr. Harbick replied, but you can't really be more than one, because if you're elected to a new position you're automatically out of the old one. Chair Allen asked where does it say that? Chair Allen said he thinks it may actually need to say that.

City Manager Gall asked the City Recorder if she knew if there were any state election laws that cover that, Ms. Murphy replied not off the top of her head.

Chair Allen said we all want this to be the case and Mr. Hoffbuhr referenced section 31.a.4, as the area to add the language. Chair Allen confirmed language of, "election to a different City office".

Chair Allen addressed Section 32-Filling Vacancies and said we have three things that we have preliminarily spoken about and that is the 13 month standard for election versus appointment, a time limit for appointment, which is the language of "within 45 days", and change in the 3rd sentence, language from "may be" to "shall". Mr. Stecher confirmed the language should state, "shall be" and the committee agreed.

Chair Allen stated the committee fiddled a bit with the language of "majority of the council making the appointment".

Chair Allen indicated Council Liaison Henderson joined the meeting at 7:08 pm.

City Manager Gall said it seems like these are two areas that staff should draft issue briefs on as there seems to be consensus to add language in both sections.

Chair Allen addressed the language of "45 days" and said he thinks the notion and previous discussion was that we did not want the council, for lack of action to consume a bunch of time that people were left

unrepresented, and we wanted to include a time limit so the council would have to act. He said the change on 13 months, and said 13 months is already the standard, and that looks more like cleanup language around, "by appointment of the majority". He said we may actually want to leave that part out at this point as we are not changing the 13 month standard.

Mr. Stecher replied if you're going to address it anyways why not clean it up? He said the cleanup isn't to confuse the electorate. Discussion followed and the committee conceded to consider all three items as proposed in the exhibit with a correction to the third item with a change to "may be" to "shall be".

Chair Allen asked for anything else on filling vacancies No comments were received. He said the Issue Briefs on filling vacancies is we have some cleanup to the language, but the main point to discussion is to force the council to act quickly to ensure adequate representation for the citizenship.

Chair Allen addressed another issue as raised by Mr. Kristensen and the notion of whether we want to add run-off provisions in the event of a multi-way race. He said he raises a good point and referenced the City of Portland. He asked the committee for their thoughts.

Mr. Stecher asked what are we thinking, majority then? Chair Allen replied the idea, if you had a run-off, what you would ordinarily do is you would have the top 2 vote getters and then if you had more than 2, you would take the top 2 from that election and they would go onto the next election and whoever wins that election, you would not necessarily say a "majority" because you could have write-ins.

Mr. Harbick asked if that would be a special election? Chair Allen replied we would have to change the timing of the mayoral election as well, so we would have to make the mayoral election a spring election with an opportunity...he said this is where there could be trouble with this system, which is you could have a spring election called for and if the person in that election gets 51% then they are the mayor elect for the next seven months, or if they don't get 51% the top two go on to the November election and whoever wins that election becomes the mayor elect for seven months.

Mr. Stecher asked if there were no provisions if we wanted to leave it November, to do a run-off after the November election? Chair Allen replied he supposes it could be done this way.

City Manager Gall replied and said Beaverton has this system and explained they have a spring primary and there could be multiple candidates for mayor and if it's 51% or more whoever that winner is in the spring is on the ballot in the fall but he/she is the only one. Discussion followed.

Chair Allen asked if the two year term resolves the plurality issue. Chair Allen confirmed there was not a lot of energy behind run-off language, the committee conceded it was not needed.

Chair Allen stated the committee did a high level run through of everything they wanted to discuss that was election related and said they went through a medium altitude run through to get their bearing's on what we thought the answers were and have now done a line-by-line run through to get what we want the language to be. He said we are going to get a few opportunities to received public feedback and asked the committee members, prior to this, is there anything significant they have missed that needs to be on the table.

All members confirmed they were good and Mr. Harbick asked if these were the only two issue reports they had.

Chair Allen addressed Exhibit C (see record) and said these are two of several reports and the idea was to provide the committee an opportunity to review in terms of tone and nature of content, whether the committee thought the reports would suffice. He said that is different than whether we agree with the exact points in the draft reports.

Ms. Kuiper asked if these reports would be used as a template for every proposed change. Chair Allen replied he would say for every major topic they have dealt with.

City Manager Gall stated the intent is for when the committee holds their public open house, people that may not have been following the committees work, this report is a one page summary of that work and key areas that may end up on the ballot.

Chair Allen asked the committee structurally and looking at the level of detail, what they thought of the reports.

Mr. Stecher asked if they thought to add the actual committee's recommendation and actual workings to the sections. Ms. Kuiper added the thought of indicating what the issue is, what the language says and what we found. She said we would add verbatim the language that currently exists in the charter and then what the issues were.

Mr. Silverforb said even if it's not addressed in the charter, we would just have a comment. Ms. Kuiper explained and Chair Allen said we could have existing charter language and if there wasn't any, it would say "none", and it would say "proposed charter language" and have the language we proposed, or conversely it might have existing charter language and proposed language being none.

Chair Allen asked if the committee wanted to have an issue report available in two weeks for the work shop. Discussion followed and if it was feasible.

City Manager Gall asked what the list of briefing reports were and getting consensus tonight. He said then it's the committee determining if the language was accurate as the reports are currently in draft form and if a committee consensus can be obtained in two weeks or not.

Discussion followed on how to get these reports to the committee if they don't meet again until the open house.

Chair Allen commented on the list of topics and referred to Chapter 3 and said we talked about: Issues on term limits for Councilors and term limits for mayor and said he believes the term limits for mayor could be incorporated into this document fairly easily as we chose to make no changes.

Chair Allen said elsewhere in Chapter 3 we spoke of Council Rules and public comments at meetings and said if we want to hold to what we have been talking about in terms of what is related to the election, these aren't really related to the election. Mr. Silverforb said he agrees they are not related to the election.

Chair Allen said on the other hand the public comment topic will be a popular one.

Mr. Stecher said Council Rules kind of are related as we are forcing the Council to review their rules every time a new council is elected, and Chair Allen replied starting with this election.

Chair Allen replied we could have an issue brief report that folds these two things together as it talks about conduct of council business. City Manager Gall asked if we want people voting on these together or separate. Chair Allen said he doesn't believe how they describe them necessarily is how they would be packaged for voting.

Ms. Kuiper replied if that is the case would it be easier to describe them by Chapter 3 or is that going to be too much for one briefing page, or do we break it down by Chapter 3, section 7.

Chair Allen said he likes the fact that it breaks itself down by 2-4 items that people can look at in a quick glance.

Mr. Harbick replied if we have a briefing paper on all the things we discussed and then only a few things show up in the election won't that be confusing. He said it would be confusing to him if he came to a meeting showing all these different changes and when it came to the election everything else is not there.

Ms. Kuiper replied the report could state "action" and what the action is for a May ballot. City Manager Gall replied the council gets to decide that and said that is a key point to tell people, that just because the committee is recommending it, it doesn't go to the ballot, the council decides this. He said the committee may have 7 items for the May ballot and the council could agree to only do 5. Ms. Kuiper asked could we say language of "proposes for May ballot".

Chair Allen said he thinks we have only four issue briefings we need to do and said two are already written and we can review them tonight. He said we have a report on term limits, which is for the council and mayor and we have one on conduct of council business, which are the rules and public testimony. We have one on system of electing councilors, which is by position versus not and we have one on vacancies.

Mr. Silverforb said he would agree on all four of these as they are all major things and said he is against dazzling everybody with too much stuff and wants to hit on the major things and this is what we want feedback on. He said he doubts people care about when the council must adopt rules and said the majority probably doesn't know the council has rules. He suggested having the major things for the work shop and get good solid feedback on the things that mean something.

City Manager Gall said the two briefings that have been drafted are the two major ones. Chair Allen addressed the reports and asked the committee to review them. He addressed the term limit report and said the only change he would make is deleting the reference to councilors as this issue brief talks about both the councilors and the mayor.

Ms. Kuiper asked if we could add reference to the chapter in the section number at the top. Mr. Hoffbuhr said if we are going to put the existing charter language. Comments were received if language exists, and City Manager Gall added there is no existing language on term limits and said it's easy to put that at

the top indicating “no existing language”. Chair Allen suggested after committee recommendations he would suggest something like, “no existing language” and then “proposed new language” and insert that language.

The City Recorder asked to provide a suggestion and said to think about what Mr. Harbick mentioned that the issue brief is going to be a document that eventually will make it to the council and to the council record of this committees recommendation. She said at the public open house/workshop, is it possible to have a document similar to the document that staff provided to the committee containing discussion bullets that way the committee sees every area that was discussed, why the committee choice not to discuss an item, and that discussion can be separate by all of Chapter 3 and all of Chapter 7. She said somebody might find a certain section important and someone else may not, but the report would indicate the committee discussed it. She said the information would also narrow down what would be proposed for a May election and what items will wait for a November election. She said the community members will know what was discussed and what will wait for November, this allows the community to see all the discussion. She suggested saving the issue briefing reports for the committee’s final reports to the council as they are premature for the public.

City Manager Gall indicated this is a good point as the issue briefing reports could change once the committee hears from the public. The City Recorder stated the committee discussion notes already exists and staff could add language based on the last two meetings and staff could narrow down the time line to provide this document to the committee. Chair Allen confirmed this process worked for the committee members.

Chair Allen stated the committee would have the document that has been ongoing that captures the points of discussion and suggested the open house format consists of two larger tables, designated by a Chapter 3 table and a Chapter 7 table and the committee members are dispersed amongst those tables and we structure the first hour into two-half hours so people can switch tables if they want to and spend an hour in the conversation at the table and then we recess and come back in a public hearing type of format for the second half of the meeting and receive feedback and we then come back on the 27th for another round of public testimony and we basically go over the issue briefs and use these as a vehicle to make our final decisions of what will go into the final recommendations to the council. He said when we come out of that we will have the language that we have proposed to the council, they put it on the ballot, here are the issue briefs with the four topics mentioned and a cover memo that will cover the initial work we did around the principles we followed and the decisions about narrow the scope to the election. He asked for the committees feedback on the format, the members agreed with the plan format.

The City Recorder asked Chair Allen to recap the proposed amendments to Sections 31 and 32.

Mr. Silverforb asked the City Recorder if she planned on getting the draft documents to the committee prior to February 13th to allow time to review and resolve any questions. The City Recorder responded yes and said most of the work is already done and referred to the document provided at the January 16th meeting, Exhibit B and said she would remove the reference to the meeting minutes and video timing and said it’s available on the City website for the public’s reference. She said the document she will provide would list bullets of the committee’s discussions and consensus and she should have something to the committee by the first of next week.

City Manager Gall said if there are changes that the committee get them back to the City Recorder on a timely basis and suggested she specify a deadline to get information back.

Chair Allen suggested the workshop start at 7 pm to allow people to attend who are coming from work. He said this also allows the committee flexibility if they needed to have a brief work session before the workshop.

Chair Allen recapped Section 31-Vacancies and said we will change item b.2 to delete the second half of the sentence, and take the language of “all meetings in a 60 day period” and we do not take the change on City limits because we think it is dealt with elsewhere and we want input...he said we can do potential language or something like that, as our language marker and call this out as an area we want input on, on the issue of the “acting councilor” or “councilor pro tem”.

Mr. Hoffbuhr said we were going to add to item 31.a, an item 4, “an election to a different City office”. Chair Allen confirmed the additional language.

Chair Allen recapped Section 32-Filling Vacancies and said we are going to take all three of the changes in this section; Clarifying the language on “13 months” although the standard stays at 13 months. We are going to put the time limit of 45 days and we are going to change the language from “may be” to “shall be”.

Ms. Kuiper asked the City Recorder when she finalizes the document if she could list the discussion points. Ms. Murphy replied yes and said at the committee’s January 16th meeting they were provided with a document, (exhibit B of January 16th record) and she would use this format listing discussion bullets and add additional discussion from tonight’s meeting and bring that document back to the open house.

Chair Allen said we may want to use a different color for the things we elected to change, versus the things we talked about and decided not to change. Ms. Murphy said she would color code the document to make it easy to read.

Chair Allen asked the City Recorder to read the remainder of Vice Chair Shannon’s email, she said Mr. Shannon pointed out a scrivener’s error and stated the follow:

I like the changes to section 11 but my preference would be to give the council a little more direction (or less discretion). I would like to include at the end of the sentence “prior to the start of business” to make it clear that public opinion is to be heard prior to the decision making process.

The other thing that I noted was Section 24 regarding the term limits of the City Council. I know the intent but I am just not sure that the words are there yet. It does not address the issue of partial terms (someone completing the term from a previous election). I would prefer to see the limits set to continuous elections although I have not figured out the wording I would use for that.

Chair Allen said he would suggest two things about Neil’s input. He said the second issue he believes we can save for the committees final deliberation at the end of February as we will need to get the public input on term limit concepts. He said on the first issue, he recalls talking about this in terms of how directive we want to be in the charter on when to take public comment. He said here, we have added it to the end as well and there are arguments for either one; you want to make comments after someone

has heard what has been done or you want to provide comments before they make decisions. He asked for the committees feedback and said now as we have drafted it we're putting it in where it doesn't exist so they have to do it, but we are leaving it up to each council to determine how they want to manage that.

Mr. Silverforb replied he wants to leave it up to the council and Mr. Hoffbuhr said he does as well.

Mr. Harbick said this is what he remembered the intent to be and Mr. Stecher said he agrees and said it's a constitution not a group of laws. He said he believes the committee is getting too specific if they start dictating to the council what/when.

Ms. Kuiper said it seems odd to take public comment after a decision has been made.

City Manager Gall said usually a public comment is they want to address this as council members. He said usually the public comment is on non-agenda items. He referred to the prior Walmart discussion and it being a heated topic and the room was full, public comment on the Walmart issue which was not an agenda item, was not subject to any action by the council, citizens wanted to be heard. He said the council sat and listened for hours and there was business to be conducted and some of that business had legal ramifications if it was a land use decision on a 120 day clock. He commented regarding this is why the council changed it and have not changed it back and said it's up to the council and mayor to change it, it's part of their rules.

Chair Allen replied he believes there is pushback on this and believes there are things that the council can act on that doesn't require a public hearing and then your ability to make comments on something before the council takes it's action becomes moot. He said he thinks that would be the argument for why there should be comment before. He said he thinks the points raised by City Manager Gall illustrates for him, the need for flexibility. He gave examples and said there needs to be the ability to manage this.

Ms. Kuiper said if it's not an agenda item, and they are not taking public comments on an agenda item, it's for non-agenda items, this makes sense to her. Chair Allen said this gets into the comments made by Mr. Stecher and getting prescriptive and getting down from a constitutional level.

Mr. Stecher said he thinks we give them enough flexibility to solve any issues they need, they can meet the intent of section 11 as we have re-written it by giving 15 minutes of public comment at the first of the meeting or at the last of the meeting, he said we don't care, we just want public comment.

Chair Allen said he believes the big thing the committee is doing in the charter is saying the council needs to take public comment, they just can't decide not to. Council Liaison Henderson said, which is not currently required by Oregon law, they have an opportunity to witness and be present, but the council is not required to take public comments.

City Manager Gall referred to business items on the agenda that do not require a public hearing and said his experience has been that this council will usually take testimony.

Ms. Henderson asked if Vice Chair Shannon desire was to take comments at the beginning of a meeting before business is conducted. Chair Allen confirmed and said he doesn't hear that Mr. Shannon is getting traction, but he will be able to make his own argument next time. Mr. Harbick added we had a thorough discussion at that time.

Chair Allen asked for other discussion.

Ms. Henderson asked the City Recorder what were the final dates for the ballot title and explanatory statement for the May election that the committee may recommend and the council may act on. Chair Allen said the committee is expecting to finalize their work on February 27th and said they set this date originally to allow the Council at least one public hearing.

The City Recorder said in working backwards on the calendar, the City deadline to file the SEL802 with the County is March 20th. She said prior to that, if you're looking at the two committee meetings in February, potentially more, once the committee meets in the public open house and the committee comes back to their regular meeting and conclude on their council briefing reports, we then have the following Council meetings of February 4 and February 18. She said and there is the March 4th Council meeting. She said the committee has their two meetings in February to have something concluded by March 4th.

Chair Allen replied he was assuming the committee would hold a work session with the City Council on March 4th and the Council would hold a hearing on the 18th.

The City Recorder replied she is thinking this is not sufficient time as the Council can hold a public hearing to receive community feedback, what timeline is the council going to make a final recommendation. She said upon the Council accepting the committee's briefing reports, they have to motion to accept the reports and this then gives the City Attorney direction to draft the ballot titles and explanatory statements. She said the City Council still has to adopt those documents (ballot title and explanatory statements) and upon adoption she has to post the public notice for the election process. She said the key factor is allowing the council time to consider the committee's recommendations, hold a public hearing to accept community comments, and then have time to discuss and potentially make changes.

Chair Allen replied then this means we need our final meeting on February 20th. Council Liaison Henderson suggested if the committee does their final meeting on the 20th, the committee could have a work session with the City Council on the 27th. He said this is a Thursday and she replied, yes and it's only a work session where the council doesn't make decisions. She said if the City Recorder is worried the council won't get the work done in time to file with the county and for her to post by March 4th we would have a work session with the council.

Chair Allen replied, basically we are adding a meeting and meeting on February 13th, 20th and 27th. He said the 20th would be the meeting where we have a public hearing and finalize our recommendation for the 27th work session with the council and hand off our work to them. Brief comments were received from the committee members that they thought this schedule would work.

The City Recorder asked in reference to "handing off their work" on the 27th, is it the committee's intent to provide the completed briefing reports.

Chair Allen replied yes and said on the 20th we would basically finalizing our recommendations with respect to findings, whatever else we want to say about the work, how we suggest the recommended language be grouped into ballot pieces and said he is thinking the committee would recommend four charter amendments, along those same 4 items we spoke of before and the specific actual language that we are recommending and this is what we hand off to the council at the work session on the 27th.

Council Liaison Henderson suggested maybe having a work session first with the council and the committee then reconvening after meeting with the council for their final language. Chair Allen replied in case we get something from the Council that same night.

City Manager Gall asked if it would be safe to invite the Council to the meeting on the 27th to allow them to get it on their calendars. Chair Allen replied yes.

City Recorder confirmed for the purpose of the records, that the work session on the 27th would be a Charter Review Committee meeting with the council being invited. Chair Allen confirmed.

8. Adjourn

Chair Allen adjourned the meeting at 7:54 pm.

Submitted by:


Sylvia Murphy, MMC, City Recorder


Patrick Allen, Chair