

Charter Change Committee
September 29, 2010
(Approved 11/16/10)

Committee Members Present:

Councilor Paul Decelles, Chair
Councilor Mary Kehoe
Councilor Joan Shannon

Also Present: John Briggs (Burlington Free Press), Steve Goodkind (DPW Director), Mari Steinbach (Parks & Rec Director) Susan Leonard (Human Resources Director), Bill Ward, (Code Enforcement Director), John Vickery (City Assessor), Bill Keogh; Ken Schatz, City Attorney

Call to order at 5:08 p.m.

1. Agenda & Minutes of 8/18/10

Agenda: Approved

Minutes: to be reviewed later by Committee

Mayor provided memorandum dated September 29, 2010 to Committee regarding proposed Charter changes.

2. Review of Proposal re Mayoral Appointment, Reappointment and Removal of Department Heads

Paul Decelles: Described rationale for proposal.

Reappointment process was not satisfactory

Much discussion by Committee on appointment and removal process.

Joan Shannon: Researched other communities in this process, Burlington unique in many ways. She doesn't want to take votes that don't matter, especially no votes. When something egregious happens and Mayor doesn't want to remove, council deserves some authority to step in.

Mary Kehoe: Support the refinement of removal language.

Steve Goodkind: Appreciates changes to mayoral appointments.

Discussion about new appointments, firing process and terms.

Susan Leonard: Also appreciates changes to appointment process. Concern about "bad conduct" language in removal provision. Nebulous language subject to different interpretations. Prefer clearer language. What does "incapacity" mean?

Ken: Physical or mental inability to perform functions of job; subject to ADA and other legal issues.

Susan Leonard: Suggest that city policies on disability should apply, not separate process. Disability leave doesn't mean firing, loss of health insurance.

Joan Shannon: Wants to make sure someone in the position is able to perform.

Susan Leonard: Acting department head could be appointed. Disability retirement will apply after a year.

Bill Ward: Emergency plan provides for person to act if case of incapacity.

Ken Schatz: That works for emergencies but would need someone with authority to act as department head. Mayor can appoint someone on temporary basis.

Joan Shannon: If disability retirement means the individual leaves the office, then comfortable to remove incapacity.

Joan Shannon: Move to remove “incapacity.”

Mary Kehoe: Seconds.
Unanimous approval.

Mary Kehoe: Move to allow removal only for mis or malfeasance. That is, negligent or intentional wrongful conduct outside scope of job responsibility.

Joan Shannon: Would examples satisfy that standard: concern was person’s conduct; i.e., not sharing information with City council. Making accusation that affected election.

Mary Kehoe: Misappropriation of funds would be malfeasance.

Susan Leonard: Describes process for sexual harassment.

Paul Decelles: Not clear what could be “bad conduct” but not “mis or malfeasance”

Discussion of comparative risks and benefits of different standards.

Ken Schatz: City better protected by mis and malfeasance.

Joan Shannon: Seconds motion.

Unanimous approval to make only basis for removal is mis or malfeasance.

Ken Schatz asked to prepare resolution for October 4th City Council meeting.

3. Election of Mayor by Majority of Voters.

Reviewed draft language.

Joan Shannon & Mary Kehoe: Comfortable with language.

Paul Decelles: Petition to change IRV was by voters. Council now proposing a change even though voters approved change to current language. Should give voters at least one voting cycle.

Mary Kehoe: Moves to approve language.

Joan Shannon: Seconds.
2: 1 Vote; Paul Decelles opposed.

Ken Schatz asked to prepare resolution for October 18th City Council meeting.

4. Composition of Board of Finance.

Bill Keogh: Audit Task Force will recommend separate board of audit; city councilors and professionals from auditing field. This committee might want to wait to see report before acting.

Joan Shannon: Bd. of Finance does other things so that proposal doesn't change the need for addressing composition of board of finance. More common for other communities to have full board handle financial matters. Rutland only other city in Vermont to have Board of Finance.

Councilors don't have requisite financial skills. Suggests standing by recommendation. Administration has welcomed citizen involvement in task forces. Why not make it part of regular course of business?

Paul Decelles: Outside experts provide credibility.

Joan Shannon: Charter provides for different parties to be represented. No reason to put additional councilors on board.

Bill Keogh: Recent discussion of complicated airport issue by BOF. Having a knowledgeable outside person would have been helpful. Supports proposal.

Mary Kehoe: Having a non-elected person on Bd. of Finance causes some concern. Mixed feelings about issue.

5. Recall/Impeachment of Elected Officials.

Ken Schatz clarified that neither VLS or UVM had responded to identify person available with expertise to provide analysis. Could be such a person at Albany Law School. Student survey possible but not quickly; i.e., by Thanksgiving.

Joan Shannon: don't want to proceed unless get indication that it has been productively used. When she introduced resolution, thought it was helpful. Now thinking it will cause more harm than good. Leaning against it. But open to more information if an effective tool not likely to be abused.

Ken Schatz will contact expert at Albany Law School.

6. City Council Legal Majority.

Joan Shannon: For day to day issues, we should continue present practice. Ask Ken to draft rule and charter change to institutionalize present practice.

All agreed.

Meeting adjourned at 6:50 p.m.

lb/c: KAS 2010/CHARTER CHANGE COM. 9-29-10 Minutes