



Members

James Tillotson, Chair
Fred Krampits, Vice Chair
Frank Laflamme
Gary Labrie
Jerry Roy

MINUTES
March 9, 2021

The following are the minutes of a public hearing held Tuesday, March 9, 2021 at 6:30 PM in the City Council Chambers, Fourth Floor, City Hall Annex, 274 Front Street, Chicopee, MA 01013 and via Teleconference.

Members Present: Tillotson, Krampits, Laflamme, Labrie, Roy

Also Present: Dan Garvey (Associate City Solicitor), Councilor Zygarowski, Councilor Dobosz (Zoom), Tim Wagner

The meeting was called to order at 6:30 PM

In compliance with the open meeting laws the Chairman asked if anyone in the audience was recording the meeting. Hearing none the meeting continued.

ITEM #1

BE IT ORDERED THAT the City Council pursue adopting a home rule petition to include in the current City Charter a recall provision.

Public Input

Tim Wagner, 103 Oakridge Street stated he is in favor of the Charter review Commission. He stated that this order is the first step to a long lasting positive change in the City of Chicopee.

Dan Garvey stated that we have three options; leave it as is because the Mayor and Council have two year terms so you have an automatic recall provision. The second is what we call a recall provision and some communities in the Commonwealth have a recall provision. He stated that to request a recall provision you would have to have one hundred valid voter signatures verified that they want to recall a specific Councilor, the Mayor or any other elected official. He stated if you reach that one hundred threshold then you are given three weeks to get fifteen percent of the registered voters to ask for the recall provisions. He stated that there's no distinguishing factor what would allow you to get a recall provision the task of getting one fifteen percent of the registered voters to sign on a recall provision is a pretty hefty duty. Option number three is more of an impeachment process where it wouldn't be the residents or the citizens who would decide to remove a Councilor or a Mayor; it would be a super majority of the Councilors that would consider recalling another Councilor or the Mayor. If they were able to get three quarters of the Councilors to agree to impeach that particular Councilor he would be impeached and the seat would become vacant. He stated that the impeachment or the recall would require a charter change.

Dan Garvey stated that the other list of communities don't have a list of offenses that would rise to the level of a recall. He stated that you have that threshold of the fifteen percent of the registered voters that you have to get signatures in that three week window, so the bar is high. He stated that you can craft something to say you can only have a recall for these specific instances. How you define and interpret that is with the legislative body which is the Council. He stated that most communities don't define what would allow you to start the recall provision.

Councilor Tillotson stated that the Supreme Court is flexible on what is free speech.

Dan Garvey stated that you would have to infuriate the electorate so much that they would have to gather fifteen percent of the signatures in three weeks, that's a tall task to try to accomplish.

Councilor Tillotson stated that the order tonight is just to explore our recall provisions.

Councilor Dobosz stated that we should consider impeachment as an option. He stated that sometimes the public is not paying attention enough to make that decision. He stated he would rather a super majority to make that decision if someone committed wrong doing to the point of where they should be impeached.

Dan Garvey stated that the difference is in a recall it would be the general public, registered voters that would decide whether or not a particular elected official would be recalled. He stated that an impeachment it would likely be this body the City Council that would decide a Councilor, Mayor or other elected official would be removed from office.

Councilor Laflamme stated that social media has a big effect on this. He stated that being an elected official you don't have all the rights as a private citizen. He stated they can bring something forward on Facebook and the danger of a rumor mill that starts from one place to another.

Councilor Krampits stated that whether it's impeachment or recall we need to narrow it down. He stated that impeachment could easily be turned into a political football.

Councilor Labrie stated that he does not like the impeachment idea; he thinks it will divide the Board.

Dan Garvey stated that in one of the towns in the recall provision, it was in the ordinance where you couldn't even start a recall until a person has been in office for six months. He stated that there are all different types of things that we can incorporate in any ordinance if we decide to move forward on one to give some guidance to the Council and some investigative tools.

Dan Garvey said the fact of the matter is there's a two year term and there is an automatic recall. If it goes to a four year term the argument becomes a lot stronger. He stated it can't be passed by ordinance it has to be part of our charter. The charter controls how you're elected and how long your term is.

Councilor Tillotson stated to move forward with the Law Department which will give us some direction to where we want to go.

Discussion of a recall provision

Move forward with a written report from the Law Department

Councilor Labrie motion to approve – Councilor Roy 2nd the motion – motion passed

Committee vote 5 – 0 favorable

ITEM #2

BE IT ORDERED that a commission shall be established to review the Charter of the City of Chicopee. This commission shall be convened at ten-year intervals in years ending in one.

- A. This commission, entitled "Charter Review Commission," and hereinafter the "Commission," shall be comprised of no more than eleven (11) members. Each of the nine wards of the City shall be represented on this Commission, with two (2) additional at-large members from any ward. Elected officials serving at the time of the adoption of this ordinance shall not be permitted to serve on the Commission.

- B. The Commission shall appoint a Chairperson, Vice Chairperson, and Clerk from within its membership to administer the activities of the Commission, and the Commission shall be overseen by the Law Department and by the City Solicitor.
- C. All members of the Commission must be registered voters of the City of Chicopee.
- D. The members of the Commission shall be recommended and appointed by the City Council. Each ward councilor shall submit one (1) person from their respective ward to be approved by a simple majority of the City Council. The two (2) at-large members shall be submitted by agreement of the four (4) at-large City Councilors and approved by a simple majority of the City Council.
- E. The Commission shall be convened no later than thirty (30) days after its appointment by the City Council, hold meetings as scheduled by the Commission, and shall file with the City Clerk a report of recommendations for changes to the Charter of the City of Chicopee no later than one (1) year after the appointment of the Commission by the City Council.
- F. The City Council shall review the recommendations of changes to the Charter of the City of Chicopee and follow the appropriate legislation, ordinances, bylaws, or regulations required by the Commonwealth of Massachusetts to adopt the approved changes.
- G. The Commission shall be dissolved upon submission of its report to the City Clerk.

Joel McAuliffe sent an email. Councilor Tillotson read the email

Sent Wednesday, March 3, 2021

I have a work conflict for this meeting – but I would like to impress upon the committee the dangerousness of creating a recall provision that would allow people to recall officials for every vote they do not like. It is a recipe for bad government.

What would be more appropriate would be creating an impeachment provision. If a members conduct meets a threshold that is worthy for consideration of removal, it would make more sense for a super majority vote of the council to be the mechanism for removal.

I have studied this issue at length. Please consider this viewpoint – and if you would like to speak to me in greater detail, please call me.

Furthermore I ask you allow the charter review commission to be established as an advisory commission to the council.

Creating a full on committee with elected members is never going to happen. Let's each appoint community members to make recommendations and we can form an opinion on next steps after that.

Councilor Labrie stated that the voters really don't have a say.

Dan Garvey stated in the end this is just a report that's submitted to the Council and the Council has to take further action.

Dan Garvey stated that the difference what Councilor McAuliffe is asking for in 43B is essentially you as the Council would appoint thirteen people and they would have twelve months which to review the Charter and come up with some proposed changes and there would be some public input as to their conclusions that they submit to the committee. He stated that this just allows the report to go to the Council as where 43B which requires the Commissioners to be elected; they're given specific duties, and monies to get the job done. At the end of their conclusion these items actually go on the ballot. He stated that here are just recommendations and the Council has to take the next step, the elected commission is they go on the ballot.

Councilor Laflamme stated if we put a committee together to review the Charter and bring to the City Council to review it, modify whatever we need to do and send it to be voted on by the residents in the next election.

Dan Garvey stated that you could go that route. He stated that they are both going to take a significant amount of time. He stated you're giving the commission one year and you have to wait at least another year to get it on the ballot as supposed to establishing a commission, it literally goes on the next ballot.

Dan Garvey stated when you get the report at the end of the year then a decision has to be made by the City Council what they want to do.

Dan Garvey stated to Councilor Laflamme, this is just an advisory board that gives you their recommendations.

Councilor Tillotson stated if we move this forward I hope you will entertain the changes I made.

Councilor Krampits motion to accept the changes modified by Councilor Tillotson - Councilor Tillotson 2nd the motion – motion passed

The Committee adopted the amended ordinance as detailed in Exhibit A attached hereto and incorporated herein

BE IT ORDERED that a commission shall be established to review the Charter of the City of Chicopee. This commission shall be convened as determined by the Mayor and the City Council.

- A. This commission entitled “Charter Review Commission” shall be comprised of thirteen (13) members. Each of the nine wards shall be represented by one person appointed by the ward councilor and with each of the four At- Large Councilors appointing one representative. Elected officials serving at the time of the adoption of this ordinance shall not serve on the Commission.
- B. The members of the Commission as recommended by a City Councilor shall be approved individually by a simple majority of the City Council.
- C. The Commission shall appoint a Chairperson, Vice Chairperson, and Clerk from within its membership to administer the activities of the Commission. The Commission shall be overseen by the Law Department and by the City Solicitor.
- D. All members of the Commission must be registered voters of the City of Chicopee.
- E. The Commission shall be convened no later than thirty (30) days after the approval of its members by the City Council. The Commission shall hold meetings as determined by the Open Meeting Law and shall file a report of the final recommendations for changes to the Charter to the City Clerk no later than one (1) year after the appointment of members to the Commission by the City Council.
- F. The City Council shall review the Commission’s recommendations for changes to the Charter of the City of Chicopee. Subsequent action must follow (M.G.L.) Chapter 43 B. Home Rule Amendment and Home Rule Procedures Act and all City ordinances.
- G. The Commission shall be self-sufficient.
- H. The Commission shall be dissolved upon the submission of its report to the City Clerk.

Committee vote 5 – 0 favorable

ITEM #3

PENDLETON AVENUE - From Memorial Drive easterly to Honeysuckle Drive - COMMERCIAL VEHICLES EXCLUDED

Councilor Tillotson stated that we finally got the permission from the State to limit Pendleton Avenue “No commercial vehicles”. He stated now we have to pass the ordinance and send a copy to Boston and then the signs can go up. He stated no heavy trailer trucks, they are supposed to take Westover Road and that’s why the State approved it. He stated that he worked on this with the Engineering Department and they submitted their results to the State.

Councilor Labrie motion to approve – Councilor Tillotson 2nd the motion – motion passed

Committee vote 5 – 0 favorable

ITEM #4

HONEYSUCKLE DRIVE - Entire length - COMMERCIAL VEHICLES EXCLUDED

Councilor Tillotson stated same course.

Councilor Labrie motion to approve – Councilor Tillotson 2nd the motion – motion passed

Committee vote 5 – 0 favorable

Meeting adjourned at 7:47 PM.