

Minutes for the City of Lansing Charter Commission

Regular Meeting | Tuesday, December 3, 2024, 6:30 PM

Tony Benavides City Council Chambers,
Lansing City Hall, 10th floor, 124 W. Michigan Ave.

Present: Commissioners Adams Simon, Anderson, Bauer, Dowd, Lopez, Qawwee, Washington (6:38)

Absent: Commissioner Jeffries (excused)

Staff Present: City Clerk Swope, Deputy Clerk Drever, Attorney Rewa

Call to Order

The meeting was called to order by Vice-Chair Adams Simon at 6:30 PM.

Roll Call

Clerk Swope called the roll of the Commission. A quorum was present.

Adopt the Agenda

Moved by Commissioner Qawwee to adopt the agenda as presented.

Motion Carried.

Public Comment

No public comments were made.

Officer Reports

Chair

No Report.

Vice-Chair

No Report.

Clerk

Clerk Swope acknowledged written communications in the packet.

Presentations

Jake Brower, the City of Lansing Chief Strategy Officer, presented to the Commission on legislation that governs the financial operations of the City. Then, he took questions about investments, City Council, public participation in the budget, retirement, and position duties.

Old Business

A. Article 1: Line-by-Line Review

Vice-Chair Adams Simon summarized the actions taken on Article 1: chapters 1 and 4 were approved as presented, chapter 2 was referred to the attorney for clarifications on the definitions of Officer, Publish, and

Statute, chapter 3 was referred to the attorney regarding publicly accessible data and inspection of City records, and chapter was referred to the attorney to update the penalties.

1-205: Generally

Attorney Rewa clarified the purpose of the phrase “unless the context clearly indicates otherwise” in 1-205 and recommended the phrase be kept in the Charter.

1-205: Officer

Attorney Rewa explained that she will have an opinion on the impact of removing “members of boards and commissions” from the definition of ‘officer’ for the December 17th meeting.

1-205: Publish

Attorney Rewa explained the opinion issued on the definition of ‘publish’ will need to comply with regulations in state law. She talked about clarifying specific types of publishing elsewhere in the Charter and recommended employing a “both / and” definition to expand publishing locations, so long as is feasible for City employees. She directed the Commission to other charters with similar provisions, such as the Pontiac and Ann Arbor charters.

Commissioner Dowd: To me the glaring piece to change is to remove the term “bulletin boards”. I think that was done at a time when that was a way to publish, I don’t know that any constituent is going to come down to City Hall to check the bulletin to see announcements that are going on. That doesn’t make a ton of sense in my mind. Newspaper makes sense as does the language “other media permitted by law.” I think that opens it up and it can be the directive of whomever is making that decision to publish. Then the definition just states this is what’s allowable or required.

Commissioner Anderson: I want to make note that I want it to be broad enough to allow there to be flexibility, but I want it to make it clear that this is also what’s expected. It’s expected of us as a government that we’re going above and beyond in communicating with our residents with our notices. So whatever language makes that happen is what I would be in support of.

Commissioner Washington: Could the official city website be considered the bulletin board if there were a place when you first opened it up to see published notices?

Attorney Rewa: Just so we’re clear, some state law still requires posting, that’s the Open Meetings Act (OMA): you have to physically post it and you can post it otherwise. Keep in mind there are certain specific things where it’s going to have to be a certain way. This [definition] is sort of a catch-all where if it’s not stated elsewhere how you do it, this is how the charter directs the City to do it.

Commissioner Washington: We’re not writing this charter for today, but for today and thirty years in the future. It would be important in there to do whatever it is we need to do now, but we don’t know what communication will look like in 20-30 years, so we need to have something there that states “or as specified by City Council.”

Commissioner Lopez: would it be possible to mention “existing technologies”? That would open it for Facebook or social media.

Attorney Rewa: You certainly could. My recommendation is you could say social media, but I would stay away from specific branding.

Commissioner Lopez: Just say “technology”. That’s the direction we’re going. If this charter is for the future, I think we should talk about the future, and certainly technology is advancing, and we need to keep up with it.

Attorney Rewa: You could say something broad and then give examples for guidance, such as in the Ann Arbor and Pontiac charters. In terms of what something like “widespread dissemination” means, you can provide a list that helps guide. That’s something you could consider in developing that language.

Commissioner Bauer: to follow up on what Commissioner Anderson said, I like the language “widespread dissemination to the public.” We want to make it clear that we want transparent and widespread dissemination, and that’s the goal. And whatever other language needs to be in.

Attorney Rewa: I can draft a proposed bit of language that has that broader goal type language, and then I can also have “including but not limited to ...”

Commissioner Boyd: I agree with Commissioners Bauer and Anderson, we have to have it available electronically, we also have to post it for people who don’t use computers.

Commissioner Qawwee: I think the widespread dissemination part from Pontiac. I would also like to incorporate from Ann Arbor’s Charter Section 7.4., I think we could do a merge of the two to cover all aspects mentioned here.

Commissioner Dowd: We want to make sure there’s not an out that somebody could get something to happen without the public knowing. We want to make sure in our charter we are saying, you have to do more than the bare minimum.

Attorney Rewa explained the meaning of the definition of ‘statute’ and provided a recommendation to leave the language in place to clarify the moment in time.

1-301: City Records to be Public

Attorney Rewa explained the purpose of this section: to establish records are owned by the City and that they shall be available for inspection. She explained the practical applications of the Freedom of Information Act (FOIA). She recommended the Commission consider whether they want to add an open data policy to the Charter. She explained that should the Commission move to establish a board on data transparency, addressing it in Article 5.

Clerk Swope explained procedures for answering FOIA requests and explained why the records are not always immediately accessible. The language in this section creates an unreasonable expectation.

Commissioner Qawwee addressed consistency in expectations set forth in this provision.

Commissioner Boyd: Echoing Commissioner Qawwee, our intention from our discussion last week was this section would be “during regular business hours by appointment” I think that needs to be included.

Commissioner Lopez: I think all this is covered by the statement “as allowed by law”. Is it state or federal law?

Attorney Rewa: The intent was to do it broadly, because there are things the city might possess that would be protected by federal law. FOIA isn’t the only statute that covers the law, so my recommendation is to make it as broad as possible.

Attorney Rewa offered to bring additional language for the Commission to discuss further.

Commissioner Washington: You could also put something in there to give a definition of what you want to look at. I think we should put in there to specify what they want to inspect.

Vice-Chair Adams Simon: Would changing “in accordance with state law” to specifically referencing FOIA, would that be too encompassing? Can we directly reference FOIA, so people understand how this process works?

Attorney Rewa: FOIA is one method for how you look at records. I would caution against limiting to FOIA, based on the discussions you are having about transparency.

The Commissioners discussed how to make data about City residents more accessible.

Vice-Chair Adams Simon proposed a data and transparency Commission.

Clerk Swope explained that the City might not currently keep data sets as envisioned by the Commission.

Commissioner Anderson proposed data aggregated by ward for demographics, socioeconomics, and City spending.

Commissioner Washington, echoing Commissioner Anderson’s remarks, proposed adding a position for a statistician.

1-401

Attorney Rewa explained relative to Article 1-401 that enforcement is not in the Commission’s jurisdiction.

1-501

Attorney Rewa said a legal opinion on Article 1-501 would be provided for the December 17th meeting.

New Business

A. Article 2: Line-by-Line Review

Vice-Chair Adams Simon explained the Commission will review Article 2, with the understanding that they will circle back to the discussion of number of wards later.

Moved by Commissioner Washington to accept the recommendations of the attorney from Article 1.

These recommendations include:

Keeping the language “unless the context clearly indicates otherwise” in 1-205;

More modern methods of information dissemination can be included in the definition of “publish”;

Keeping the phrase “as it exists at the time the provision containing the words STATUTE is to be applied” in the definition of statute;

Changing “and shall be available for inspection during regular business hours” to “and shall be available pursuant to law” in 1-301.1

Motion Carried.

2-101.1

Vice-Chair Adams Simon: Should 2-101.1 include “other offices elected by residents of Lansing”?

Attorney Rewa: This commission is different because it’s set up by state law. You’re going to have to specify who the elected officers are in point 1.

Commissioner Washington: Can the city attorney be elected in Michigan?

Attorney Rewa: There's nothing prohibiting that, I am unaware of any City Attorney that is elected in Michigan.

Commissioner Washington: I ask because a lot of people would like to see our city attorney elected, not appointed, because of the conflict that happens. They're support to the mayor and the city council, but because the mayor can fire, the attorneys when they opine tend to go in one direction. I have had a lot of people suggest we elect our city attorney. And I've had people suggest we not elect our city clerk but appoint them.

Attorney Rewa: According to Home Rule City Act, the charter has to provide for the following: the election of the mayor who is the chief executive officer of the city, and a body vested with legislative powers, and for the election or appointment of a clerk, a treasurer, an assessor or board of assessors, board of review, and other officers considered necessary.

2-101.2

Commissioner Boyd: In 2-101.2 I believe that the second phrase "And shall serve until the election and qualification of a successor" should be eliminated.

Commissioner Qawwee: What if there's a runoff? What if there's no direct person that won that election? You don't want to leave that position vacant.

Clerk Swope: We do not have runoffs in Michigan. Someone is elected.

Commissioner Washington: Is this language important should somebody be removed from Council, or they die?

Clerk Swope: I don't know that the language is necessary, I don't know if our attorney knows if it appears in other charters. I don't know if this sentence is part of the interpretation that boards and commissions continue. There are township clerks across the state positions that have had no one file for office. I guess in the circumstance where no one filed for a specific office, this would allow someone to continue until an appointment is made. Also, without this, the Council could appoint the person who didn't run for reelection.

Attorney Rewa: To the extent you want me to look at whether striking this is possible, I can look at that for next time.

2-101.3

Commissioner Boyd: I am curious what the Clerk has to say on this.

Clerk Swope: I think every member of every county commission is up for election at the same time, every member of every township board is up for election at the same time. Large number of cities have all their elected officials up for election at the same time. As I pointed out last time, the fact that the wards are on a different cycle. We do end up with the situation where with reapportionment, some voters get to vote for a ward member twice in a row, and some voters go two city elections without voting for a ward member. If we had all elected officials elected at the same time, that would save at least \$100,000; we spend an excess of \$50,000 per election, and we have an August primary and November election.

Commissioner Bauer: I assume the reason we've done this is, so you always have 50% of your council, you have some stability. I'm now wondering, it's very interesting that you pointed out that a lot of other areas don't do that, which I hadn't thought about. I would tend to still think it's better, from my own experience, to have 50% of the people on a council who have has some experience, than the chance that you could have all new people. I'm very open.

Commissioner Washington: I like the idea of everyone being elected at once. It's a cleaner election. That 50% that's left, might not be that good. At the end of the day, you are going to have some people reelected. I would

favor just one and done, because you always have that off election where not that many people vote because there's no presidential, no governor, no anything. When you're being elected by only 11% of the population, that shows they're not showing up because there's nothing else on the ballot worth voting for.

Commissioner Boyd: I consider it one of my responsibilities as a commissioner to look at should we make changes in this charter that will reduce the expenses as a city. This is one area we could make a change, and it would save the city dollars.

Commissioner Lopez: I'm not sold on the one election. I think we can talk about it but I think if we have staggered elections, I think those who want to do it do it, those that don't, don't, but we would have a better chance to know the candidates than all at once. I agree with Commissioner Bauer, and I agree that some of the 50% might not do what you want, but we can always bring new people in if the voters agree to change. I wasn't thinking so much about saving money, I was thinking about making it better for the electorate. I don't know that money and better for the electorate equals the same. I'm thinking about it. My thing is how do we make the charter better for the community moving forward.

Commissioner Washington: Regardless of how many wards we go to or what we do with the Council, people aren't going to be focused on all seven or all nine, they're going to be looking at their ward, so I don't think that's going to be as big a problem.

Commissioner Dowd: I think it's a good opportunity to think about this, walk away, then come back and discuss.

2-102

Commissioner Washington: This is for our attorney: when it says here "shall have been a resident of the City for one year prior to taking office" is that state law? Because you could maybe not live in the city and run for office. I'm wondering if there's a way we can put in there a time period that you have to be a resident of the city before you file.

Clerk Swope: I believe Detroit has that. I believe the current mayor of Detroit did not meet that qualification when he filed and ran as a write-in and won. I think it's legal, I think it's possible to do that.

Commissioner Washington: I think it's something to consider.

Commissioner Boyd: I personally have no trouble with the one-year requirement, but I'm open to what others have to say.

Clerk Swope: The filing deadline is the end of April, so people will have to live there by January 1 generally, so people will have to live here for four months, per this provision.

2-103.2

Commissioner Washington: I'm wondering if that shouldn't be a requirement to file.

Vice-Chair Adams Simon: In the language the Clerk provided us as candidates, they cannot be in default to the city when they take office.

Commissioner Boyd: We could make an amendment here that is in line with the Campaign Finance Act. When you're running for office, you have to file an affidavit that you've paid all your bills, etc. Why can't we make that the requirement in writing in this charter? You not only have to have your taxes paid, you have to sign an affidavit that your taxes are paid when you file.

Clerk Swope: We have a similar affidavit that states “at the time of taking office” because that’s what the Charter requires. The affidavit could be modified. Would that then give the Clerk’s office authority to check that when people file? The other point, you might want to make it both. If you’re paid up in April, are you paid in December when you take office?

Commissioner Boyd: Who gets to be the elected officer, if the person hasn’t paid by the time they are sworn in? The affidavit that any elected official signs should be modified to include that their taxes are paid. I am open to hearing others on the date of filing or the date of taking office.

Clerk Swope: Property taxes aren’t always the best example, because if you owe on February 28, on March 1, the county pays, so you now owe money to the county and are not in default to the City.

Attorney Rewa: So I’m clear, you would like some guidance on the legal requirements, or law behind, default. How are we defining default and what does that mean? The concern, based on what I’ve heard, is two attorneys came to two different conclusions. To the extent you want to provide more guidance on what that means, now is your time. Not only when this criterion takes place, but what does it mean to be in default?

Clerk Swope: There is a standing City Attorney opinion on this. I think it would be beneficial to more clearly define it in the Charter.

Commissioner Washington: There must be a way to say your property taxes are current, all other taxes are current, and you don’t have tickets out there and everything else. There has to be a way to do that. Something like “all financial obligations”.

Attorney Rewa: Are you talking in default just to the government?

Commissioner Washington: Just to the City.

2-103.3

Commissioner Washington: What is the wisdom behind “a person who has held a city office cannot be eligible for an appointment or employment for which compensation is paid”?

Vice-Chair Adams Simon: I would think it’s a conflict of interest. If someone votes in favor of something an elected official wants done, and then that person is rewarded with an appointment.

2-104.3

Commissioner Boyd: As I read this, “the city may by ordinance by any time alter the procedure for determining compensation of any officer” what does this mean? Does this mean the City Council can override what the Officers Compensation Commission has recommended?

Commissioner Washington: An example might be turning down the proposed raise, or moving to a flat rate and per diem for every meeting attended.

Commissioner Lopez: I was thinking how could we say in the charter that there shall be a compensation commission to determine ... Now, city council doesn’t have to take it. In terms of the Council overriding, why can’t it just be a chartered position?

Clerk Swope: The Home Rule City Act (HRCA) provides for the opportunity to have an elected officers compensation commission. And the HRCA is specific to the number of days they can meet, and the amount of time the council has to reject the proposal by a 2/3 majority. This is saying the City Council could adopt an ordinance to completely change the process.

2-204.2

Commissioner Anderson: I don't understand why there is a cap on the number of signatures. I don't know that it needs to be in the Charter.

Clerk Swope: A point of election law is that someone can only sign the number of petitions equal to the number of people to be elected. I think part of the reason for the cap is to stop someone from blocking other people out by collecting a lot of signatures and turning them in.

2-204.4

Commissioner Lopez: There was discussion that we should up the filing fee to \$500. I'm not suggesting we do, just bringing it up for discussion.

Commissioner Bauer: I would hate to increase this, because it would perhaps discourage people via financial impediment to file for office. Does anyone know the mayor's rationale for increasing this?

Commissioner Boyd: By raising the fee, it would ensure that people are serious about running. I know we're talking about marginalized people and ensuring our elective offices are accessible. If you're serious about running, you'd come up with \$500, and I think that's the logic.

Commissioner Washington: This is the exact reason I want 7 or 9 wards and no at-large. As we increase the income of the elected officials, we are becoming elitist. I am against that 100%. I would vote to keep it at \$100 so anyone in public housing could run.

Commissioner Anderson: I think the idea that if people really wanted it, they would come up with the money is really hard for me to swallow. There are people struggling to pay their electric bill. I don't think that coming up with the money is contingent on whether you really want something. It's really about access. People don't just have access to \$500 leisurely to make an impact in their community and I think to require that is not okay at all.

Clerk Swope: I would like to remind everyone that the option exists to file signatures or to pay the fee.

Commissioner Boyd: It doesn't have to be \$500. I don't really care, but the logic is that it would take more than someone saying they're going to run.

Commissioner Washington moved to keep the filing fee at \$100.

Motion carried.

2-301

Commissioner Bauer: Has a person ever forfeited their office? How does this apply?

Commissioner Lopez: Is there a way we can clarify this and make it more definitive, and make it in line with state law, or applicable law?

Vice-Chair Adams Simon: It does note that there's a public hearing by City Council, so is that when it goes to the governor?

Clerk Swope: Attorney Rewa could weigh in as well. Michigan election law does allow the governor to remove someone, but I don't know that that precludes the City Council removing someone as well.

Vice-Chair Adams Simon: 2-302.3 would need some clarification as well.

2-304

Commissioner Washington: This is where the issue of Deputy Mayor comes up, which has no place in the City Charter. I think we either need to take it out that the City Council President is acting as mayor, but this has never been followed.

Vice-Chair Adams Simon: There have been situations where the mayor has bypassed the City Council president. a deputy mayor has been called on. With new technology, it is possible still perform duties. So, it needs to be clarified. Who is in charge?

Commissioner Dowd: we need to clarify what “temporary absence” means, so if we’re assuming does out of the City mean unavailable.

Attorney Rewa: Are there proposals about what the idea of this means? I hear incapacitation

Commissioner Dowd: I would suggest out of contact, like there is no ability to contact the person.

Commissioner Qawwee: Currently, we have an acting deputy mayor?

Clerk Swope: Whether a person has the title deputy mayor or not, that person has not been called on to perform statutory duties. The mayor’s position, which he stated here, is he is still in charge, whether he is here or not.

Commissioner Washington: We have talked about adding language for a chief administrative officer who has administrative, but not statutory duties. I think anything called Deputy Mayor is disingenuous, and that should be an elected position if we go that route. The mayor should still inform the Council President when they are out of town.

Commissioner Anderson: We should define “temporary absence”, and I am in favor of the Council President taking over.

2-400 Ballot Issues

Clerk Swope: State law no longer creates a vacancy when there is a recall. I think we need to clean the language up to comport with current state law, and in case state law changes back, be a little broader.

Attorney Rewa: We are reviewing the whole charter, this chapter in particular, to ensure alignment with state law.

2-410

Commissioner Boyd: I think this should be repealed; I don’t think it’s necessary. I think the charter can be amended by the council if needed. I think what we are doing is a lovely exercise, but it’s very costly, and I don’t think it’s important enough, so I would strongly recommend this be removed from the charter.

Commissioner Washington: I think the constitution of our city is incredibly important, and I think the people should elect the people that look at this charter. I would never vote to have this repealed. Does it have to be 12 years?

Vice-Chair Adams Simon: It does not.

Commissioner Lopez: Some cities have a standing charter commission, and I’m wondering if that’s something we should think about. Maybe every 6 months, every 3 months, whatever.

Vice-Chair Adams Simon: We’re going to have to come up with a way to position this, where maybe we have a standing commission. There is no way a charter should go unrevised for 48 years.

Commissioner Anderson: We can make it where we set a number of years, maybe it's 20 years, and we make it where it's not on the ballot it's automatic where people run for the commission every 20 years or so. Instead of having the actual revision on the ballot. People should still run to be a charter commissioner, but it shouldn't be on the ballot before that, to open the charter, if that makes sense.

Clerk Swope: To provide some context, The HRCA provides two ways for a City to elect a charter commission: one is by a 3/5 vote of council, the other way is by an initiative, so the voters can circulate petitions. That can be done at any time, in any year, whenever. So, the 12 years creates a false timeline, and we are one of six cities in Michigan that has a provision like this. If this isn't there, the City Council can still do this any year, and they can have more of a planned process. I think automatically going on the ballot is not necessarily meeting the needs of the City. I think this is something that should always be in the back pocket of the voters and the Council. That's why I think it benefits the City to remove this provision. You can also amend the Charter in the same ways outlined in HRCA. The state law allows the election of the commissioners to occur concurrently with the question of should there be a charter commission. It saves having two separate elections. I think that allows a city to have a more informed process.

Commissioner Boyd: If there is a change, there should be an effort made to have the two ballot items concurrently.

Commissioner Washington: I think voting for the two at once is a good idea. We shouldn't have lost those six months. I really want people to be able to vote on whether to review the Charter. For a local government it's good to review it in totality now and again.

Commissioner Dowd: We should add language that says this charter can be reviewed by the processes in HRCA and we put the ways it can be reviewed.

Attorney Rewa: MCL 117.18 is on revision, so if you're looking at ideas, look to that. This falls under the "unless otherwise provided by the charter" so if the section is removed, there are still ways to do a general revision. At the end of the day, the voters still need to decide.

Commissioner Bauer: I am intrigued by a study committee of the charter being formed, and then bring that recommendation to the City Council. We would have to look at who would be on the committee.

Vice-Chair Adams Simon: I think we should have an established charter commission that makes those recommendations to council, but it goes back to how do we make appointments, and there is a disconnect with our citizens there.

Commissioner Boyd: We should look to 1978 to how the study committee came to be.

Commissioner Lopez: I think my vision is a standing charter commission that would keep the charter updated.

Public Comment

Farhan Sheikh-Omar spoke about remarks made by Commissioner Boyd; Article 2-304; and Article 2-410.

Commissioner Remarks

Commissioner Washington congratulated Vice-Chair Adams Simon on her leadership during the meeting.

Adjournment

The meeting was adjourned by Vice-Chair Adams Simon at 9:26 PM.