



CHARTER REVIEW COMMITTEE

COMMITTEE MEETING

~ AGENDA ~

Tuesday, June 6, 2023

5:30 PM

Remote Meeting

CHARTER REVIEW COMMITTEE

A communication was received from Charter Review Project Manager, Anna Corning, transmitting the Charter Review Agenda.

A communication was received from Charter Review Project Manager, Anna Corning, transmitting the Charter Review Agenda Packet.

A communication was received from Charter Review Project Manager, Anna Corning, transmitting an updated Agenda Packet.



City of Cambridge

(ID # 19694)
IN CITY COUNCIL
June 6, 2023

A PUBLIC MEETING OF THE CAMBRIDGE CHARTER REVIEW COMMITTEE

June 6, 2023, @ 5:30 p.m.
 REMOTE ONLY – VIA ZOOM

Pursuant to Chapter 2 of the Acts of 2023 adopted by Massachusetts General Court and approved by the Governor, the City is authorized to use remote participation at meetings of the Cambridge Charter Review Committee.

The zoom link is: <https://cambridgema.zoom.us/j/83253118929>

Meeting ID: 832 5311 8929

One tap mobile +13092053325,,83253118929# US

Agenda Items – Tuesday, June 6, 2023

- I. Roll Call 5:30 PM
- II. Introduction by Chair, Kathy Born
- III. Adoption of Meeting Minutes from the meeting of May 9, 2023.
- IV. Meeting Materials Submitted to the Committee to be placed on file
 - Communications from Committee Members
 - i. A communication was received from Jim Stockard, regarding his support for city manager-council-mayor form of government.
 - Communications from Council Members
 - Communications from the Public
 - Other Meeting Materials
- V. Public Comment
 - Members of the public are invited to share their ideas or comments with the committee.
- VI. Form of Government Vote
 - **Facilitator:** Anna **Goal:** Take a tentative vote on the form of government question (manager-council-mayor vs mayor-cafo-council). ****this is a tentative decision using a majority vote as part of the committee deliberation process****
- VII. Legislative Branch Discussion
 - **Facilitator:** Anna, Libby, Mike. **Goal:** Begin discussions on city council composition including 1) district vs at-large councilors, 2) term lengths and term limits, and 3) the role of the chair of city council (mayor).



City of Cambridge

(ID # 19695)
IN CITY COUNCIL
June 6, 2023

A PUBLIC MEETING OF THE CAMBRIDGE CHARTER REVIEW COMMITTEE

June 6, 2023, @ 5:30 p.m.
 REMOTE ONLY – VIA ZOOM

Pursuant to Chapter 2 of the Acts of 2023 adopted by Massachusetts General Court and approved by the Governor, the City is authorized to use remote participation at meetings of the Cambridge Charter Review Committee.

The zoom link is: <https://cambridgema.zoom.us/j/83253118929>

Meeting ID: 832 5311 8929

One tap mobile +13092053325,,83253118929# US

Agenda Items – Tuesday, June 6, 2023

- I. Roll Call 5:30 PM
- II. Introduction by Chair, Kathy Born
- III. Adoption of Meeting Minutes from the meeting of May 9, 2023.
- IV. Meeting Materials Submitted to the Committee to be placed on file
 - Communications from Committee Members
 - i. A communication was received from Jim Stockard, regarding his support for city manager-council-mayor form of government.
 - Communications from Council Members
 - Communications from the Public
 - Other Meeting Materials
- V. Public Comment
 - Members of the public are invited to share their ideas or comments with the committee.
- VI. Form of Government Vote
 - **Facilitator:** Anna **Goal:** Take a tentative vote on the form of government question (manager-council-mayor vs mayor-cafo-council). ****this is a tentative decision using a majority vote as part of the committee deliberation process****
- VII. Legislative Branch Discussion
 - **Facilitator:** Anna, Libby, Mike. **Goal:** Begin discussions on city council composition including 1) district vs at-large councilors, 2) term lengths and term limits, and 3) the role of the chair of city council (mayor).

**MINUTES OF THE CAMBRIDGE
CHARTER REVIEW COMMITTEE
TUESDAY, MAY 9, 2023**

COMMITTEE MEMBERS

Kathleen Born, Chair
Kaleb Abebe
Jessica DeJesus Acevedo
Mosammat Faria Afreen
Nikolas Bowie
Kevin Chen
Max Clermont
Jennifer Gilbert
Kai Long
Patrick Magee
Mina Makarios
Lisa Peterson
Ellen Shachter
Susan Shell
Jim Stockard

The Cambridge Charter Review Committee held a meeting on Tuesday, May 9, 2023. The meeting was called to order at approximately 5:30p.m. by the Chair of the Committee, Kathleen Born. Pursuant to Chapter 2 of the Acts of 2023 adopted by Massachusetts General Court and approved by the Governor, this meeting was remote via Zoom.

At the request of the Chair, Clerk of Committees Erwin called the roll.

Kaleb Abebe – Present
Jessica DeJesus Acevedo – Present
Mosammat Faria Afreen – Present
Nikolas Bowie – Absent
Kevin Chen – Present
Max Clermont – Present
Jennifer Gilbert – Present
Kai Long – Present
Patrick Magee – Present
Mina Makarios – Absent*
Lisa Peterson – Present
Ellen Shachter – Present
Susan Shell – Present
Jim Stockard – Present
Kathleen Born – Present
Present – 13, Absent – 2. Quorum established.

*Member Mina Makarios was marked present at 5:47p.m.

The Chair, Kathleen Born recognized member Patrick Magee who made a motion to adopt and place on file the Charter Review Committee meeting minutes from April 11, 2023 and April 25, 2023. The motion was seconded by member Lisa Peterson.

Clerk of Committees Erwin called the roll.

Kaleb Abebe – Yes

Jessica DeJesus Acevedo – Yes

Mosammat Faria Afreen – Yes

Nikolas Bowie – Absent

Kevin Chen – Yes

Max Clermont – Yes

Jennifer Gilbert – Yes

Kai Long – Yes

Patrick Magee – Yes

Mina Makarious – Absent

Lisa Peterson – Yes

Ellen Shachter – Yes

Susan Shell – Yes

Jim Stockard – Yes

Kathleen Born – Yes

Yes – 13, No – 0, Absent – 2. Motion passed.

The Chair, Kathleen Born recognized member Jim Stockard who made a motion to adopt and place on file communications received from the public. The motion was seconded by Kevin Chen.

Clerk of Committees Erwin called the roll.

Kaleb Abebe – Yes

Jessica DeJesus Acevedo – Yes

Mosammat Faria Afreen – Yes

Nikolas Bowie – Absent

Kevin Chen – Yes

Max Clermont – Yes

Jennifer Gilbert – Yes

Kai Long – Yes

Patrick Magee – Yes

Mina Makarious – Absent

Lisa Peterson – Yes

Ellen Shachter – Yes

Susan Shell – Yes

Jim Stockard – Yes

Kathleen Born – Yes

Yes – 13, No – 0, Absent – 2. Motion passed.

The Chair, Kathleen Born opened Public Comment.

Jameson Quinn shared that they have been watching the process and appreciate the work the Committee has been doing and suggested that when it comes to voting systems, start with a statement of values to fulfill those values.

Anna Corning, Project Manager, reviewed the goals for this meeting and the next meeting, with the intent to take a vote on form of government at the May 23, 2023 meeting with a majority vote. Anna Corning noted that the final report will require a 2/3 majority vote and can also include a minority report. Members of the Charter Review Committee offered questions and concerns on the plan moving forward.

Members Kai Long, Susan Shell, Ellen Shachter, Mosammat Faria Afreen, and Mina Makarios, shared concerns and offered comments about the form of government decision making process. Anna Corning and Michael Ward from the Collins Center were available to respond to questions and concerns that were raised. Anna Corning shared that she would like to do a straw poll to see which form of government members were leaning towards to begin discussion.

Anna Corning opened the discussion to Committee members on the City Manager-Council-Mayor and Mayor-CAFO-Council form of government. Anna Corning recognized Elizabeth Corbo from the Collins Center who shared a chart titled “Decision Chart for Article 3: Executive Branch” (Attachment A). The chart reviewed the potential decision areas which included qualifications, term of Office, compensation, prohibitions, evaluation, goal setting, powers/duties, appointments by Office, temporary appointments, temporary vacancy in Office, removal (City Manager), and Veto (Mayor). While reviewing the Chart, notes and questions that were brought forward by Committee members were added to the document (Attachment B). Members from the Collins Center and Anna Corning were available to respond to questions and concerns from Committee members.

The Charter Review Committee adjourned at approximately 7:30p.m.

Attachment A – Decision Chart for Article 3: Executive Branch

Attachment B – Decision Chart for Article 3: Executive Branch with comments and questions

Clerk’s Note: The City of Cambridge/22 City View records every City Council meeting and every City Council Committee meeting. This is a permanent record.

The video for this meeting can be viewed at:

https://cambridgema.granicus.com/player/clip/499?view_id=1&redirect=true&h=04bab9598a2b86d0b810dd6a3260cf5a

Re: Charter Review Meeting Follow Up

James Stockard <stockardjg@gmail.com>

Wed 5/24/2023 4:27 PM

To: Corning, Anna <acorning@cambridgema.gov>

Anna—

I'm happy to help think about new methods for increasing voter turnout, but I'm no expert at that task. I don't mind "brainstorming" — that is, tossing crazy ideas on the table to see if someone else can make something of them. The problem is that I will be leaving town from June 5-15, so I may not be much use.

As to the next meeting of the full committee on June 6 when I will be out of town, please record me as a vote for City Manager/Council form of government. I have tried to be open to all of the arguments for a switch to a strong Mayor form, but none have persuaded me that it would be a better option. In some ways, it all comes back to "what problem are we trying to solve", the question that was asked by a resident at the meeting at the library a month or two ago. I have not heard from citizens or committee members about ways in which our government does not serve some of its citizens that could be fixed by having an elected mayor. It still seems to me that if we want to be one city, then the idea of electing a diverse set of City Councillors and letting them discuss among themselves the criteria they want in a City Manager is a better solution to good government. I worry that the "side" that wins the Mayoralty will have no reason to respond to the "other side" in policy making and the Council will have less reason to work cooperatively with a Mayor whose job they might like, especially if they are on the "other side".

I do favor some changes in other parts of our governance — I like the idea of a much more serious form of evaluation for the Manager, I like the idea of electing the "weak" Mayor directly rather than having the councillors do it among themselves, and I like the idea of randomly selected Citizen Assemblies. I'm not sure I have exactly the same idea about how to use them as some other members of the Committee, but I'd love to discuss them. I agree strongly with Ellen about the need to have the professional staff do the detailed budgeting for their departments in concert with the Manager, but I think we might tweak the budget review process in some ways to allow both the council and citizens to express their views on overall priorities.

Sorry for the long ramble. No need to read out all my thoughts about the City Manager form of government. Just wanted to weigh in. If there is any way to tune into the meeting from Ireland, I will try to do that. But the timing will be bad (10:30-12:00 midnight over there) and I suspect that Sue and I will be tired from a day of touring and our hotel room will not be a place to tune in from. But if circumstances break in an unusual way, I will try to be present. It's much more likely that I will see you at our second meeting in June.

Thanks again for all you do to keep us on track.

Best,
Jim



City of Cambridge

(ID # 19696)
IN CITY COUNCIL
June 6, 2023

A PUBLIC MEETING OF THE CAMBRIDGE CHARTER REVIEW COMMITTEE

June 6, 2023, @ 5:30 p.m.
 REMOTE ONLY – VIA ZOOM

Pursuant to Chapter 2 of the Acts of 2023 adopted by Massachusetts General Court and approved by the Governor, the City is authorized to use remote participation at meetings of the Cambridge Charter Review Committee.

The zoom link is: <https://cambridgema.zoom.us/j/83253118929>

Meeting ID: 832 5311 8929

One tap mobile +13092053325,,83253118929# US

Agenda Items – Tuesday, June 6, 2023

- I. Roll Call 5:30 PM
- II. Introduction by Chair, Kathy Born
- III. Adoption of Meeting Minutes from the meeting of May 9, 2023.
- IV. Meeting Materials Submitted to the Committee to be placed on file
 - Communications from Committee Members
 - i. A communication was received from Jim Stockard, regarding his support for city manager-council-mayor form of government.
 - Communications from Council Members
 - Communications from the Public
 - i. A communication was received from John Hawkinson, regarding vote threshold for committee recommendations
 - Other Meeting Materials
 - i. A communication was received from Nancy Glowa, regarding voting for charter review committee deliberations
- V. Public Comment
 - Members of the public are invited to share their ideas or comments with the committee.
- VI. Form of Government Vote
 - **Facilitator:** Anna **Goal:** Take a tentative vote on the form of government question (manager-council-mayor vs mayor-cafo-council). ****this is a tentative decision using a majority vote as part of the committee deliberation process****
- VII. Legislative Branch Discussion

Cambridge Charter Review Committee

- **Facilitator:** Anna, Libby, Mike. **Goal:** Begin discussions on city council composition including 1) district vs at-large councilors, 2) term lengths and term limits, and 3) the role of the chair of city council (mayor).

**MINUTES OF THE CAMBRIDGE
CHARTER REVIEW COMMITTEE
TUESDAY, MAY 9, 2023**

COMMITTEE MEMBERS

Kathleen Born, Chair
Kaleb Abebe
Jessica DeJesus Acevedo
Mosammat Faria Afreen
Nikolas Bowie
Kevin Chen
Max Clermont
Jennifer Gilbert
Kai Long
Patrick Magee
Mina Makarios
Lisa Peterson
Ellen Shachter
Susan Shell
Jim Stockard

The Cambridge Charter Review Committee held a meeting on Tuesday, May 9, 2023. The meeting was called to order at approximately 5:30p.m. by the Chair of the Committee, Kathleen Born. Pursuant to Chapter 2 of the Acts of 2023 adopted by Massachusetts General Court and approved by the Governor, this meeting was remote via Zoom.

At the request of the Chair, Clerk of Committees Erwin called the roll.

Kaleb Abebe – Present
Jessica DeJesus Acevedo – Present
Mosammat Faria Afreen – Present
Nikolas Bowie – Absent
Kevin Chen – Present
Max Clermont – Present
Jennifer Gilbert – Present
Kai Long – Present
Patrick Magee – Present
Mina Makarios – Absent*
Lisa Peterson – Present
Ellen Shachter – Present
Susan Shell – Present
Jim Stockard – Present
Kathleen Born – Present
Present – 13, Absent – 2. Quorum established.

*Member Mina Makarios was marked present at 5:47p.m.

The Chair, Kathleen Born recognized member Patrick Magee who made a motion to adopt and place on file the Charter Review Committee meeting minutes from April 11, 2023 and April 25, 2023. The motion was seconded by member Lisa Peterson.

Clerk of Committees Erwin called the roll.

Kaleb Abebe – Yes

Jessica DeJesus Acevedo – Yes

Mosammat Faria Afreen – Yes

Nikolas Bowie – Absent

Kevin Chen – Yes

Max Clermont – Yes

Jennifer Gilbert – Yes

Kai Long – Yes

Patrick Magee – Yes

Mina Makarious – Absent

Lisa Peterson – Yes

Ellen Shachter – Yes

Susan Shell – Yes

Jim Stockard – Yes

Kathleen Born – Yes

Yes – 13, No – 0, Absent – 2. Motion passed.

The Chair, Kathleen Born recognized member Jim Stockard who made a motion to adopt and place on file communications received from the public. The motion was seconded by Kevin Chen.

Clerk of Committees Erwin called the roll.

Kaleb Abebe – Yes

Jessica DeJesus Acevedo – Yes

Mosammat Faria Afreen – Yes

Nikolas Bowie – Absent

Kevin Chen – Yes

Max Clermont – Yes

Jennifer Gilbert – Yes

Kai Long – Yes

Patrick Magee – Yes

Mina Makarious – Absent

Lisa Peterson – Yes

Ellen Shachter – Yes

Susan Shell – Yes

Jim Stockard – Yes

Kathleen Born – Yes

Yes – 13, No – 0, Absent – 2. Motion passed.

The Chair, Kathleen Born opened Public Comment.

Jameson Quinn shared that they have been watching the process and appreciate the work the Committee has been doing and suggested that when it comes to voting systems, start with a statement of values to fulfill those values.

Anna Corning, Project Manager, reviewed the goals for this meeting and the next meeting, with the intent to take a vote on form of government at the May 23, 2023 meeting with a majority vote. Anna Corning noted that the final report will require a 2/3 majority vote and can also include a minority report. Members of the Charter Review Committee offered questions and concerns on the plan moving forward.

Members Kai Long, Susan Shell, Ellen Shachter, Mosammat Faria Afreen, and Mina Makarios, shared concerns and offered comments about the form of government decision making process. Anna Corning and Michael Ward from the Collins Center were available to respond to questions and concerns that were raised. Anna Corning shared that she would like to do a straw poll to see which form of government members were leaning towards to begin discussion.

Anna Corning opened the discussion to Committee members on the City Manager-Council-Mayor and Mayor-CAFO-Council form of government. Anna Corning recognized Elizabeth Corbo from the Collins Center who shared a chart titled “Decision Chart for Article 3: Executive Branch” (Attachment A). The chart reviewed the potential decision areas which included qualifications, term of Office, compensation, prohibitions, evaluation, goal setting, powers/duties, appointments by Office, temporary appointments, temporary vacancy in Office, removal (City Manager), and Veto (Mayor). While reviewing the Chart, notes and questions that were brought forward by Committee members were added to the document (Attachment B). Members from the Collins Center and Anna Corning were available to respond to questions and concerns from Committee members.

The Charter Review Committee adjourned at approximately 7:30p.m.

Attachment A – Decision Chart for Article 3: Executive Branch

Attachment B – Decision Chart for Article 3: Executive Branch with comments and questions

Clerk’s Note: The City of Cambridge/22 City View records every City Council meeting and every City Council Committee meeting. This is a permanent record.

The video for this meeting can be viewed at:

https://cambridgema.granicus.com/player/clip/499?view_id=1&redirect=true&h=04bab9598a2b86d0b810dd6a3260cf5a

Re: Charter Review Meeting Follow Up

James Stockard <stockardjg@gmail.com>

Wed 5/24/2023 4:27 PM

To: Corning, Anna <acorning@cambridgema.gov>

Anna—

I'm happy to help think about new methods for increasing voter turnout, but I'm no expert at that task. I don't mind "brainstorming" — that is, tossing crazy ideas on the table to see if someone else can make something of them. The problem is that I will be leaving town from June 5-15, so I may not be much use.

As to the next meeting of the full committee on June 6 when I will be out of town, please record me as a vote for City Manager/Council form of government. I have tried to be open to all of the arguments for a switch to a strong Mayor form, but none have persuaded me that it would be a better option. In some ways, it all comes back to "what problem are we trying to solve", the question that was asked by a resident at the meeting at the library a month or two ago. I have not heard from citizens or committee members about ways in which our government does not serve some of its citizens that could be fixed by having an elected mayor. It still seems to me that if we want to be one city, then the idea of electing a diverse set of City Councillors and letting them discuss among themselves the criteria they want in a City Manager is a better solution to good government. I worry that the "side" that wins the Mayoralty will have no reason to respond to the "other side" in policy making and the Council will have less reason to work cooperatively with a Mayor whose job they might like, especially if they are on the "other side".

I do favor some changes in other parts of our governance — I like the idea of a much more serious form of evaluation for the Manager, I like the idea of electing the "weak" Mayor directly rather than having the councillors do it among themselves, and I like the idea of randomly selected Citizen Assemblies. I'm not sure I have exactly the same idea about how to use them as some other members of the Committee, but I'd love to discuss them. I agree strongly with Ellen about the need to have the professional staff do the detailed budgeting for their departments in concert with the Manager, but I think we might tweak the budget review process in some ways to allow both the council and citizens to express their views on overall priorities.

Sorry for the long ramble. No need to read out all my thoughts about the City Manager form of government. Just wanted to weigh in. If there is any way to tune into the meeting from Ireland, I will try to do that. But the timing will be bad (10:30-12:00 midnight over there) and I suspect that Sue and I will be tired from a day of touring and our hotel room will not be a place to tune in from. But if circumstances break in an unusual way, I will try to be present. It's much more likely that I will see you at our second meeting in June.

Thanks again for all you do to keep us on track.

Best,
Jim

Charter Review Committee 2022–2023
 Kathleen Born, Chair
 795 Massachusetts Avenue
 Cambridge, MA 02139

John A. Hawkinson, freelance news reporter
 Box 397103
 Cambridge, MA 02139-7103
 617-797-0250, jhawk@alum.MIT.EDU

May 25, 2023

By electronic mail:

CharterReviewCommittee@cambridgema.gov

Re: The municipal ordinance’s supermajority requirement as to individual recommendations from the Charter Review Committee

Dear Charter Review Committee:

I write to flag a concern I alluded to briefly during the May 23 meeting,¹ and I think it is important that you discuss it prior to taking a *formal* (but not *final*) vote on the critical question of form-of-government for the City of Cambridge in its Charter.

The municipal ordinance governing the Charter Committee requires not that the committee’s final report be approved by a two-thirds vote, but rather that any recommendations found as “desirable” by a two-thirds supermajority of the committee appear in the final report.

In other words, the governing legislation suggests that the committee should require a separate two-thirds supermajority vote on *each* of its recommendations. (Of course, the report is free to include further information beyond what the law requires. It can certainly include recommendations from a minority of the committee, or recommendations that command a simple majority but do not reach a two-thirds supermajority. But the report should distinguish those clearly.)

Specifically, §2.02.100(B)(v) of the municipal ordinance² states, in pertinent part:

Section 2.02.100 Special Committee to Review the City Charter Every Ten Years

...

B. The special committee shall:

...

(v) submit a written report to the City Council within one (1) year of its appointment, unless the special committee seeks an extension of the one-year period for enumerated reasons stated by the special committee and the City Council approves the requested extension of the one-year period by majority vote. The written report shall include any charter changes the special committee recommends as necessary or desirable by a two-thirds vote of the special committee, and shall include the reasons for the recommended changes to be made and the anticipated effects of the changes as set forth in subsection iv above; and ...

(Underlined emphasis added.)

Note that the ordinance does *not* state that the written report must obtain a two-thirds supermajority. The voting requirements of the ordinance do not speak to the report itself,

¹ I regret not raising this earlier when the committee discussed proceeding with most votes via simple majority — I had forgotten about the supermajority requirement prior to Ms. Corning raising it in passing at the May 9, 2023 meeting.

² Not yet codified, but available in PDF at https://library.municode.com/ma/cambridge/ordinances/code_of_ordinances?nodeId=1202546 and attached hereto. It was debated and agreed upon in committee on April 13, 2022, but not ordained until Feb. 27, 2023 due to the City Clerk transition.

but rather to the “charter changes the special committee recommends as necessary or desirable.”

A reasonable person might presume that the intent of this language is to place a thumb on the scales towards the *status quo*, requiring the Charter Committee to be very intentional that any “recommended” change to the current system commands more than a simple majority; and therefore discouraging changes in the event that the committee is split, or whenever less than ten of the fifteen members of the committee are in favor. I do not have, and do not express, a view as to whether this is the right public policy³.

I also think it is permissible, under the ordinance, for the committee to decide something like this: As a matter of workflow and comity, it will take unofficial votes on a simple majority basis. But then at the time of the final votes, it agrees to speak with one voice, so that those in the unofficial vote’s minority would vote with the majority in the final vote. That would produce unanimous recommendations.

If the committee elects to proceed in such a fashion, or, indeed, if past process discussions can be construed as the committee having already agreed to do so, I want to ensure that you advance with your “eyes wide open” as to what the ordinance requires, to avoid problems in December.

I hope you can (briefly) discuss this on June 6.

It is also possible, I guess, to read the ordinance differently than I do. It’s possible to read it as saying that the committee’s written report as-a-whole requires a two-thirds vote of the committee, but that the individual recommendations within the report are not subject to that supermajority requirement. I do not think the plain language of the ordinance supports that interpretation, but I want to acknowledge it.

I have copied First Assistant City Solicitor Elliott Veloso on this letter, with the hope that he may come prepared to answer any questions on this topic that the committee might choose to raise with him prior to or during the June 6, 2023 meeting.

Thank you for your time and attention.

And thank you, again, for your dedicated service, now extended to eighteen months.

Regardless of the reception of your final report, your work will have been of substantial value to the City of Cambridge and its civic affairs, and I am confident it will provide a template for future efforts.

Very truly yours,

/s/ John A. Hawkinson
John A. Hawkinson

encl: Cambridge Municipal Ordinance No. 2022-2

cc: Anna Corning, committee staff;
Elliott Veloso, First Assistant City Solicitor

³ I also recall no substantive discussion of this supermajority policy when the City Council debated this ordinance and subsequently adopted it. City Solicitor Nancy Glowa told the Ordinance committee: “Since this is a weighty matter, it seemed to us that you may want a supermajority.”

ORDINANCE NO. 2022-2 - FINAL PUBLICATION

CITY OF CAMBRIDGE

In the Year Two Thousand and Twenty-three

AN ORDINANCE

In amendment to the Ordinance entitled “Cambridge Municipal Code”

That Chapter 2.02 of the Municipal Code of the City of Cambridge entitled “City Council” be amended by the addition of the following two sections.

Section 2.02.090 Annual Review of City Manager’s Performance

A. As provided in G.L. c. 43, § 116(a) the City Council shall prepare and deliver to the City Manager an annual written performance review of the City Manager’s performance.

B. The annual written performance review shall address the City Manager’s performance during the prior year and the work that the City Council would like to be performed by the City Manager in the following year.

C. The annual written performance review shall be completed and delivered to the City Manager by no later than March 30 of each year and shall encompass the City Manager’s performance during the preceding calendar year.

Section 2.02.100 Special Committee to Review the City Charter Every Ten Years

A. As provided in G.L. c. 43, §116(b), no later than July 1 in each year ending in 2, beginning in 2022 and every 10 years thereafter, the City Council shall establish a special committee tasked with reviewing the City Charter and recommending any proposed changes the special committee deems necessary or desirable.

B. The special committee shall:

(i) be made up of 12-18 registered voters of the City, not currently holding any elective office;

(ii) be made up of members selected by an ad hoc committee of four councillors appointed by the Mayor;

(iii) hold all of its meetings in accordance with the requirements of the Open Meeting Law and keep written minutes of all meetings which shall be submitted to and approved by the special committee at its next meeting;

(iv) hold duly posted and advertised public meetings to seek input from members of the community on whether any changes to the City Charter should be made and the reasons why any proposed changes would be desirable, the beneficial effects that any such changes would have upon the electorate and the community in

general, and the beneficial effects that any such changes would have upon the reasonable operation and effectiveness of City government;

(v) submit a written report to the City Council within one (1) year of its appointment, unless the special committee seeks an extension of the one-year period for enumerated reasons stated by the special committee and the City Council approves the requested extension of the one-year period by majority vote. The written report shall include any charter changes the special committee recommends as necessary or desirable by a two-thirds vote of the special committee, and shall include the reasons for the recommended changes to be made and the anticipated effects of the changes as set forth in subsection iv above; and

(vi) dissolve once it files its written report with the City Council.

C. Action on any proposed Charter changes shall be as authorized by law.

In City Council February 27, 2023.

Ordained by a yea and nay vote:-

Yeas 9; Nays 0; Absent 0.

Attest:- Diane P. LeBlanc, City Clerk

A true copy;



ATTEST:-

Diane P. LeBlanc
City Clerk

Nancy E. Glowa
City Solicitor

Megan B. Bayer
Deputy City Solicitor

Elliott J. Veloso
First Assistant City Solicitor



CITY OF CAMBRIDGE

Office of the City Solicitor
795 Massachusetts Avenue
Cambridge, Massachusetts 02139

Assistant City Solicitors
Paul S. Kawai
Sean M. McKendry
Diane O. Pires
Kate M. Kleimola
Sydney M. Wright
Evan C. Bjorklund
Franziskus Lepionka
Andrea Carrillo-Rhoads

Public Records Access Officer
Seah Levy

June 1, 2023

Kathleen Born
Chair, Charter Review Committee
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Legal Opinion – Voting for Charter Review Committee Deliberations

Dear Chair Born:

I write in response to your request for a legal opinion regarding whether the votes of the City Council's Charter Review Committee (the "Committee") may permissibly be done via proxy on behalf of members unable to attend a given meeting. I also write in response to inquiries regarding whether every vote taken during the deliberations of the Committee requires a 2/3 supermajority vote. This opinion is also provided at your request in response to the email sent by John Hawkinson on May 25, 2023, regarding the requirement for a supermajority vote of the Committee for any recommendations the Committee wishes to provide the City Council in its final report. I address both inquiries in turn:

1. The Charter Review Committee is a Special Committee of the City Council, formed pursuant to Section 116(b) of the City's recently amended Plan E Charter. As a committee of the City Council, it is a "public body" subject to the requirements of the Open Meeting Law. See G.L. c. 30A, §18. As a public body, all deliberations of a quorum of the public body on matters within its jurisdiction must be open to the public. Generally, any matter of public business on which a quorum of the public body may make a decision or recommendation is considered a matter within the jurisdiction of the public body. *Id.* Furthermore, state regulations on remote participation for public bodies require that members be present during the meeting, including during votes, either in person or by remote attendance. See 940 CMR 29.10(7)(c) ("All votes taken during any meeting in which a member participates remotely shall be by roll call vote.") As such, votes by proxy on behalf of absent Committee members is not permissible under the Open Meeting Law.¹

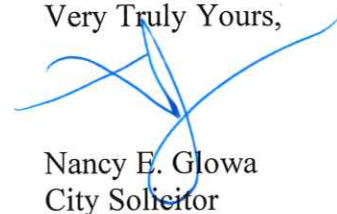
¹ The Rules of the City Council, as amended on November 21, 2022 (the "Council Rules"), which apply to the Committee, do not provide for proxy voting. Under City Council Rule 15, "When a question is put, every member present shall vote yes, no, or present and their vote shall be accepted and so recorded." (emphasis added).

Thus, in order to vote, a member of the Committee must be present at a publicly noticed meeting. Proxy voting by Committee members who are not present at the meeting is not permitted. If the Committee is concerned that certain members will not be present to vote on a matter, the meeting can be rescheduled to another date when all or most Committee members will be present.

2. Under Section 2.02.100 B. (v) of the Cambridge Municipal Code, a two-thirds vote of approval by the Committee is required for every charter change the Committee recommends to the City Council in its final report. The Municipal Code does not directly address interim votes during deliberations, and therefore, the Committee may vote by a simple majority on proposed charter changes as it would on any other matter being voted upon absent controlling authority to the contrary. Alternatively, the Committee may opt to require that all interim votes prior to the final vote of the Committee on its recommendation to be submitted to the City Council be adopted by a supermajority vote, so as to be consistent with the Charter's and the Municipal Code's requirements for a supermajority vote of the Committee regarding final recommendations to be submitted to the City Council. It should be made clear to the Committee's members, regardless of the process chosen, that 1) interim deliberative votes are part of the Committee's deliberation process, 2) that interim deliberative votes are not final votes and may be subject to change, and 3) that the City's amended Plan E Charter and Section 2.02.100 of the Cambridge Municipal Code both require that each and every recommendation in the final report to the City Council must be voted upon by a separate, final two-thirds vote by the Committee's members.

Please do not hesitate to contact me should you have any additional questions.

Very Truly Yours,



Nancy E. Glowa
City Solicitor

Cc: Anna Corning, Project Manager, Charter Review Committee
Nicole Erwin, Clerk of Committees
Elliott J. Veloso, First Assistant City Solicitor