

SPECIAL ORDINANCE COMMITTEE

Special meeting of the Ordinance Committee was held on Monday, May 17, 2010 in the Council Chambers, City Hall, Cranston, Rhode Island.

The meeting was called to order at 7:15 P.M. by the Chair.

Present: Councilman Anthony J. Lupino, Chair
Councilman Robert J. Pelletier, Vice-Chair
Councilman Mario Aceto
Councilman Emilio L. Navarro
Council President John Lanni, Jr.

Absent: Councilwoman Michelle Bergin-Andrews

Also Present: Councilman Richard D. Santamaria, Jr.
Councilman Paul Archetto
Robin Muksian-Schutt, Director of Administration
Evan Kirshenbaum, Assistant City Solicitor
Robert Strom, Director of Finance
Maria Medeiros Wall, City Clerk
Rosalba Zanni, Assistant City Clerk/Clerk of Committees
Heather Finger, Stenographer

CORRESPONDENCE:

Chair presented two pieces of correspondence:

- Memo from Council Vice-President Livingston, who could not attend this meeting, indicating areas of the Charter that should be addressed that have not been addressed by the Charter Review Commission.
- Memo from the Administration of what recommended changes from the Charter Review Commission the Administration supports and what it does not support.

PUBLIC HEARINGS/OLD BUSINESS:

PUBLIC HEARINGS/NEW BUSINESS:

- **Report from Charter Review Commission of Proposed Charter Amendments**

Public Speakers:

Municipal Court Chief Judge, Fred Joslyn, appeared to speak and asked the Council to place on the 2010 ballot a Charter Referendum codifying Municipal Court. He stated that this provision would not change any existing status quo. In 1987, the City Council enacted what was then Chapter 31-1, which ordained powers and duties of the Municipal Court. This Charter change would only codify the existence of the Municipal Court on an equal footing of the Probate Court.

Council President Lanni questioned the recommended amendment, which states that the Municipal Court Clerk be appointed by the City Council. Judge Joslyn stated that there is no provision in the current Charter in regards to appointment of a Clerk of Municipal Court. He stated that at this time, there is an Administrative Court Clerk, who is the highest-ranked position in this department. The position at the moment is not necessary. It is part of the recommendations because it was picked up from the Ordinance.

Ms. Schutt stated that the Administration does not have an objection to codifying Municipal Court, but in these financial times, there is a concern with the provision, which states “shall” and with the title of Municipal Court Clerk. There is already a position in this department entitled Municipal Court Clerk and this would cause tremendous confusion having two positions with the same title.

Chair thanked the members of the Charter Review Commission, even though only one member is present, for all their hard work through this process.

Dolores Issler, 108 Eldridge St., appeared to speak and stated that she was very glad to see that the report from the Charter Review Commission has been posted on the City’s website. As to contracts being posted online, this provision falls a little short.

Councilman Navarro questioned what the deadline is for any Charter amendments to be forwarded to the Secretary of State to be placed on the ballot for November. City Clerk stated that the drop dead date for passage would be the end of June. After speaking to the City Registrar, the amendments have to be sent to the Secretary of State by August 4th. Council President Lanni stated that placing these amendments on the June City Council docket would be cutting it close. He asked that they be voted on at the May Council meeting or a special Council meeting can be called if necessary.

Steve Carrera, 16 Mollie Dr., member of the Charter Review Commission, appeared to speak and stated that a great deal of gratitude needs to go to Chairman Mulcahy, who brought his expertise. Mr. Carrera highlighted the proposed recommended amendments from the Commission.

Chair stated that the Charter Review Commission has provided a 32 page report of recommended changes. He had asked Chairman Mulcahy to provide a list of recommendations in the order of importance because if there are a lot of changes placed on the ballot, they are not bound to be approved by the voters. Mr. Carrera stated that he considers them all equally important.

Councilman Aceto stated that he understands that all the recommendations are equally important, but some could be done by Ordinance. Maybe the Charter Review Commission could meet again and cut this list down to maybe four or five of the most important ones.

Council President Lanni stated that it is not up to the Charter Review Commission, it is up to the Council to prioritize the changes.

Councilman Archetto asked Mr. Carrera if the issue of term limits for the School Committee came up before the Charter Review Commission. Mr. Carrera stated, not for the School Committee. The issue did not come up. Councilman Archetto stated that the Charter Review Commission proposed term limits for Mayor be changed to four-year term. He asked Mr. Carrera if the issue for the Council came up. Mr. Carrera stated, no. Councilman Archetto asked if Council salary was discussed by the Commission. Mr. Carrera stated that this was discussed and an analysis was done comparing Cranston to other cities and towns.

Ms. Schutt stated that the Administration concurs that if changes can be done by Ordinance, this would be better. The Administration feels that filming the Council meetings and online postings is not a priority. This can be addressed by Ordinance. The Administration strongly supports voter initiative. Ms. Schutt addressed Section 6.10 and stated that the Administration feels that the Mayor should have more authority to veto a line item in the budget. The Administration also strongly feels that joint purchasing should reflect City and Schools. The Mayor feels Section 11.01 should be tightened down before going to the voters. Ms. Schutt also stated that as to the Investment Board, Mr. Strom would like to address a slight modification to the Investment Board. Chair stated that Mr. Strom can address this when this section comes up.

Discussion took place on how the Committee is to proceed on voting on the recommended changes. Council President Lanni stated that this Committee should vote on each recommended change as they are discussed. Chair stated that he would like the Solicitor and Council legal counsel to review the changes approved by the Council.

Sec. 2.03 *Elective officers – Mayor and Council.*

1. *Delete from Section 2.03 the bracketed and bolded language appearing below:*

Sec. 2.03 *Elective officers – Mayor and Council.*

“Beginning with the general city election of [2002] and every [two] years thereafter the mayor shall be elected for a term of [two] years. There shall also be elected at each general city election for a term of two years a council of nine members, one from each of six wards, and three council members city-wide.

(a) No person who has been duly sworn as mayor effective with the election of November [2002] shall be elected to the office of mayor for more than [four] consecutive two year terms.

(b) No person who has been duly sworn as a member of the city council effective with the election of November, 1994 shall be elected to said office for more than five consecutive two year terms. The city shall be divided into six wards in such a manner that each ward shall consist of a compact and contiguous portion of the city and that all wards shall contain as nearly as possible an equal number of inhabitants as determined by the most recent federal decennial census, and shall request that such plan be enacted into law.”

2. *Amend Section 2.03 to replace the foregoing deleted language with the following underlined language:*

Sec. 2.03 Elective officers – Mayor and Council.

“Beginning with the general city election of 2012 and every four years thereafter the mayor shall be elected for a term of four years. There shall also be elected at each general city election for a term of two years a council of nine members, one from each of six wards, and three council members city-wide.

(a) No person who has been duly sworn as mayor effective with the election of November 2012 shall be elected to the office of mayor for more than two consecutive four year terms.

(b) No person who has been duly sworn as a member of the city council effective with the election of November, 1994 shall be elected to said office for more than five consecutive two year terms. The city shall be divided into six wards in such a manner that each ward shall consist of a compact and contiguous portion of the city and that all wards shall contain as nearly as possible an equal number of inhabitants as determined by the most recent federal decennial census, and shall request that such plan be enacted into law.”

3. *Explanation: a four year term for mayor should enhance the recruitment of Department heads. The greatest voter turnout is typically during a presidential election year.*

Council President Lanni stated that he likes the idea of a four-year term for whether this Mayor or future Mayors. Having it in the General Election is the best way of doing it because almost everybody votes. He feels two five-year terms for Council is enough and should not be changed.

Councilman Aceto stated that four-year term for Mayor is good for fiscal and economic policy because it takes a good twelve to eighteen months for an Administration to get in office and feel comfortable.

On motion by Councilman Aceto, seconded by Councilman Pelletier, it was voted to recommend approval of this proposed change. Motion passed unanimously.

Sec. 2.09 City campaign contribution reporting.

1. *Delete Section 2.09 in its entirety:*

Sec. 2.09 City campaign contribution reporting.

[All candidates for local municipal office and all party committees in the City of Cranston required to file reports of campaign contributions and expenditures with the State Board of Elections shall file duplicate copies of all such reports with the city clerk. In the event of failures to file by any such candidates or committees, the city clerk shall cause copies of such missing reports to be secured from the State Board, and shall maintain a log of all such reports available in the city clerk’s office, and make the log and copies of reports available for public inspection during business hours].

2. *Explanation: Campaign contribution reports are now online, rendering this section obsolete.*

Solicitor Kirshenbaum stated that campaign contribution reporting has been wholly taken over by the Secretary of State.

Chair questioned if this amendment can be addressed by Ordinance. Solicitor Kirshenbaum stated that he does not believe so.

Councilman Navarro stated that he does not agree with this amendment. Any taxpayer can go into the Clerk's Office and ask for this report.

On motion by Councilman Navarro, seconded by Council President Lanni, it was voted to deny this recommended change. Motion passed unanimously.

Chair indicated that motion should be to ignore passing this to the full City Council for respect to the Charter Review Commission for all their hard work.

Sec. 3.07 Meetings.

1. Delete from Section 3.07 the bracketed and bolded language appearing below:

Sec. 3.07 Meetings.

“Regular meetings shall be held at such times as the rules of the council shall prescribe; provided, that not less than one regular meeting shall be held each month. Special meetings may be called by the mayor, the president of the council or any three members upon at least [twenty-four] hours written notice delivered by messenger [or registered mail] at the place of residence of each member. Such notice shall state the specific items of business to be transacted at the meeting and no other business shall be transacted thereat unless all members are present and consent thereto. Any regular or special meeting may by action of a majority of the members present be adjourned to a time fixed in such motion and such adjourned meeting shall be treated in all respects as a continuation of the original meeting. All meetings of the council and its committees shall be open to the public. Under such reasonable rules as may be adopted by the council for the preservation of order and decorum and the efficient conduct of its business, opportunity shall be given at all regular meetings, as well as at scheduled hearings, for citizens to be heard on matters within the authority of the council. The mayor, city solicitor and the directors of finance and public works shall be assigned permanent seats in the council chamber. The mayor shall be entitled to introduce ordinances and to be heard at any time on all matters before the council. The city solicitor and the directors of finance and public works shall have the right to be heard on the legal, financial and engineering aspects, respectively, of pending municipal legislation. The heads of all other departments shall have the right to be heard on problems within their respective jurisdictions.”

2. Amend Section 3.07 to add the following underlined language:

Sec. 3.07 Meetings.

“Regular meetings shall be held at such times as the rules of the council shall prescribe; provided, that not less than one regular meeting shall be held each month. Special meetings may be called by the mayor, the president of the council or any three members upon at least forty-eight hours written notice delivered by messenger at the place of residence of each member, or via read receipt electronic mail. Such notice shall state the specific items of business to be transacted at the meeting and no other business shall be transacted thereat unless all members are present and consent thereto. Any regular or special meeting may by action of a majority of the members present be adjourned to a time fixed in such motion and such adjourned meeting shall be treated in all respects as a continuation of the original meeting. All meetings of the council and its committees shall be open to the public. Under such reasonable rules as may be adopted by the council for the preservation of order and decorum and the efficient conduct of its business, opportunity shall be given at all regular meetings, as well as at scheduled hearings, for citizens to be heard on matters within the authority of the council. The mayor, city solicitor and the directors of finance and public works shall be assigned permanent seats in the council chamber.

The mayor shall be entitled to introduce ordinances and to be heard at any time on all matters before the council. The city solicitor and the directors of finance and public works shall have the right to be heard on the legal, financial and engineering aspects, respectively, of pending municipal legislation. The heads of all other departments shall have the right to be heard on problems within their respective jurisdictions. All meetings shall be filmed and said video shall be made available in electronic form on the city's official internet site within forty-eight hours of the end of the meeting.”

3. *Explanation: Increasing notice from twenty-four to forty-eight hours will bring Section 3.07 into conformity with the Open Meetings Law --- RIGL 46-6-6. In this day and age most people have access to and regularly use electronic mail. It makes sense that this medium be utilized to facilitate quicker communication and reduced costs. Further, videos of the meetings are easily and inexpensively produced and can be made available to the public for viewing.*

Chair asked Solicitor if changes to this Section could be done by Ordinance. Solicitor Kirshenbaum stated that as to the notice of meetings, he is concerned about Open Meetings regulations. As to the notification of meeting, that can be addressed by the Council Rules.

On motion by Councilman Navarro, seconded by Councilman Pelletier, it was voted to ignore this change for now. Motion passed unanimously.

Sec. 3.10 *Ordinances, when required.*

1. *Add to Section 3.10 the following underlined language:*

Sec. 3.10 *Ordinances, when required.*

“In addition to such acts of the council as are required by applicable laws of the state or by other provisions of this Charter to be by ordinance every act of the council creating, altering or abolishing any board, commission, department, office, agency or employment in the city government, assigning or reassigning the same to a department or otherwise affecting the organization of the city government, fixing compensation of the officers and employees of the city or any of them, making an appropriation, authorizing the borrowing of money, levying a tax, requiring payment of a fee or charge, establishing any rule or regulation for the violation of which a penalty is imposed, or placing any burden upon or limiting the use of private property, shall be by ordinance. All collective bargaining agreements and all amendments thereto that require council approval shall be approved by ordinance and not by resolution.”

2. *Explanation: This amendment will clarify that approval of collective bargaining agreements and amendments shall be by ordinance and not a resolution.*

Ms. Schutt stated that she believes that there is an Ordinance requiring contracts be approved by Ordinance, but it is not in the Charter. Contracts now are approved by Ordinance, but an Ordinance can be changed.

Councilman Navarro stated that since this is being done, why place it before the voters.

On motion by Council President Lanni, seconded by Councilman Navarro, it was voted to ignore this change. Motion passed unanimously.

Sec. 3.11 Introduction and form of ordinances.

1. Amend Section 3.11 to add the following underlined language:

Sec. 3.11 Introduction and form of ordinances.

“An ordinance may be introduced by any member, any committee of council or the mayor at any regular meeting of the council or at any special meeting if the ordinance is pertinent to the item or items of business specified in the notice or such special meeting. It shall be introduced in typewritten or printed form, and shall be made available in electronic form on the city’s official internet site. Every ordinance except the annual appropriation ordinance or an ordinance making a codification of ordinances shall be confined to a single subject which shall be clearly expressed in its title. All ordinances which amend or repeal existing ordinances shall set for the section or subsection to be amended or repealed and if it is to be amended shall indicate matter to be omitted from the revised section or subsection by enclosing the same in brackets and new matter by underscoring except that if the ordinance is printed italics may be substituted for underscoring. The enacting clause of all ordinances shall be “It is ordained by the city council of the City of Cranston as follows:”.

2. Explanation: This will facilitate constituent access to proposed ordinances.

On motion by Councilman Navarro, seconded by Councilman Pelletier, it was voted to ignore this change. Motion passed unanimously.

Sec. 3.15 Record and publication of ordinances.

1. Delete from Section 3.15 the bracketed and bolded language appearing below:

Sec. 3.15 Record and publication of ordinances.

“Every ordinance that becomes effective shall be given a serial number and be included in the journal. It shall also be recorded by the city clerk in a properly indexed book. All ordinances for violation of which a penalty is imposed or which limit the use of or impose a burden on private property shall be **[published by the city clerk once as a paid advertisement in a newspaper of general circulation in the city]** within **[five days]** after their final adoption. All ordinances of general and permanent character shall be published by the city clerk at least biennially in pamphlet form as a supplement to a complete codification of all general and permanent ordinances which shall be made under the supervision of the city solicitor as of December 31, 1969, and every ten years thereafter. The city clerk shall be responsible for the publication of the recodified ordinances and shall have authority to sell the same to the public at a price to be fixed by the council.”

2. Amend Section 3.15 to replace the foregoing deleted language with the following underlined language:

Sec. 3.15 Record and publication of ordinances.

“Every ordinance that becomes effective shall be given a serial number and be included in the journal. It shall also be recorded by the city clerk in a properly indexed book and shall be made available in electronic form on the city’s official internet site. All ordinances for violation of which a penalty is imposed or which limit the use of or impose a burden on private property shall be made available in electronic form in a special section on the city’s official internet site within forty eight hours after their final adoption. All ordinances of general and permanent character shall be published by the city clerk at least biennially in pamphlet form as a supplement to a complete codification of all general and permanent ordinances which shall be made under the supervision of the city solicitor as of December 31, 1969, and every ten years thereafter. The city clerk shall be responsible for the publication of the recodified ordinances and shall have authority to sell the same to the public at a price to be fixed by the council.”

3. Explanation: To reduce costs and take advantage of technology, it seems appropriate that the changes be made available on the internet for public viewing, thus making newspaper publication unnecessary.

On motion by Councilman Navarro, seconded by Councilman Pelletier, it was voted to ignore this change. Motion passed unanimously.

Sec. 3.16 Powers over organization of the city government.

1. Delete from Section 3.16 the bracketed and bolded language appearing below:

Sec. 3.16 Powers over organization of the city government.

*“The council shall have power by ordinance not inconsistent with other provisions of this Charter to create, modify or abolish departments and non-departmental agencies in addition to those provided for in this Charter; and to create, modify or abolish within departments divisions, bureaus and other organizational units not established by this Charter. The council shall further have power by ordinance not inconsistent with this Charter and subject in particular to the provisions of chapter 14, to fix the number, qualifications, powers, duties, hours of work and compensation of all officers and employees of the city except employees of the school **[committee]** and to make needful rules and regulations for the operation of all public buildings except school buildings, public grounds, parks, parkways, streets and other public property.”*

2. Amend Section 3.16 to replace the foregoing deleted language with the following underlined language:

Sec. 3.16 Powers over organization of the city government.

“The council shall have power by ordinance not inconsistent with other provisions of this Charter to create, modify or abolish departments and non-departmental agencies in addition to those provided for in this Charter; and to create, modify or abolish within departments divisions, bureaus and other organizational units not established by this Charter. The council shall further have power by ordinance not inconsistent with this Charter and subject in particular to the provisions of chapter 14, to fix the number, qualifications, powers, duties, hours of work and compensation of all officers and employees of the city except employees of the school department and to make needful rules and regulations for the operation of all public buildings (except school buildings), for public grounds, parks, parkways, streets and for other public property.”

Councilman Pelletier stated that his concern with this change is taking the power from the School Committee and giving it to the School Department and Superintendent.

On motion by Council President Lanni, seconded by Councilman Pelletier, it was voted to ignore this change. Motion passed unanimously.

Sec. 3.17 Power of investigation.

1. Delete from Section 3.17 the bracketed and bolded language appearing below:

Sec. 3.17 Power of investigation.

*“The council or any committee thereof when duly authorized by the council shall have power to investigate the official conduct of any department, board, commission, office or agency, or officer or employee of the city; providing that no such investigation shall be made of any activity of the school department over which the state department of education has exclusive supervisory jurisdiction. For the purpose of conducting any such investigation each member of the council shall have the power to administer oaths and the council or authorized committee may compel the attendance of witnesses and the production of books **[and]** papers. If any person summoned as a witness shall refuse to testify to any facts within that person’s knowledge or to produce any books **[or]** papers within that person’s possession or under that person’s control relating to the matter under inquiry the council may apply through the city solicitor or other designated attorney to any justice of the superior court for a citation of such person in contempt and thereupon such person may be cited in contempt and be punished in like manner as if that person were in contempt of such court”.*

2. Add to Section 3.17 the following underlined language:

Sec. 3.17 Power of investigation.

“The council or any committee thereof when duly authorized by the council shall have power to investigate the official conduct of any department, board, commission, office or agency, or officer or employee of the city; providing that no such investigation shall be made of any activity of the school department over which the state department of education has exclusive supervisory jurisdiction. For the purpose of conducting any such investigation each member of the council shall have the power to administer oaths and the council or authorized committee may compel the attendance of witnesses and the production of books, papers, and electronic and digital data. If any person summoned as a witness shall refuse to testify to any facts within that person’s knowledge or to produce any books, papers, and electronic and digital data within that person’s possession or under that person’s control relating to the matter under inquiry the council may apply through the city solicitor or other designated attorney to any justice of the superior court for a citation of such person in contempt and thereupon such person may be cited in contempt and be punished in like manner as if that person were in contempt of such court”.

Ms. Schutt stated that this Section is going to be covered by policies. The Administration is in the process updating the City Employees’ Manual. The Administration will also be able to monitor employee’s City computers.

On motion by Council President Lanni, seconded by Councilman Pelletier, it was voted to ignore this change. Motion passed unanimously.

Sec. 3.22 Legislative research staff.

1. Delete from Section 3.22 the bracketed and bolded language appearing below:

Sec. 3.22 Legislative research staff.

“The council [shall] have a legislative staff consisting of two part-time and unclassified members, one appointed by the members of the majority party and one appointed by the members of the minority party, and who shall serve at the pleasure of the appointing authority. The members of the research staff shall assist the members of the council in the performance of their duties, and the salary of each shall not exceed two-thirds of a councilmember’s compensation.”

2. Amend Section 3.22 to replace the foregoing deleted language with the following underlined language:

Sec. 3.22 Legislative research staff.

“The council may have a legislative staff consisting of two part-time and unclassified members, one appointed by the members of the majority party and one appointed by the members of the minority party, and who shall serve at the pleasure of the appointing authority. The members of the research staff shall assist the members of the council in the performance of their duties, and the salary of each shall not exceed two-thirds of a councilmember’s compensation.”

3. Explanation: This would make this discretionary rather than mandatory. It would provide the council with the flexibility to use their judgment whether to expend funds for this purpose.

Chair stated that this is just cleaning up this Section so it may not be a priority.

On motion by Councilman Navarro, seconded by Councilman Pelletier, it was voted to ignore this change. Motion passed unanimously.

Sec. 3.23 Voter initiative.

1. Amend Section 3.23 to add the following underlined language and to move the present subsection (f) to appear as subsection (h):

Sec. 3.23 Voter initiative.

“The right to enact ordinances, other than operating budget ordinances and capital budget ordinances, is hereby granted to the qualified electors of the city by initiative. The initiative shall be exercised in the following manner:

(a) Whenever twenty percent of the qualified electors of the City petition the city council to enact a proposed ordinance it shall be the duty of the city council to consider such proposed ordinance within ninety days of receipt. Receipt for the purposes of this section shall be defined as the introduction of said petition at the next regularly scheduled meeting of the city council.

(b) The signatures on any initiative petition provided for in this section may be on separate papers; provided however, that such separate paper shall contain a full and correct copy of the title and text of the proposed ordinance and all such separate papers shall be bound together and filed as one instrument with the city clerk. To each said separate paper there shall be attached a signed statement of the circulator thereof, who shall state under oath therein that each signature appended to said paper was made in the presence of the circulator.

(c) In the event that the city council shall fail to enact such proposed ordinance without amendment, and upon the receipt of the city clerk of a notarized referendum petition signed by an additional five percent of the qualified electors of the city, the city council shall submit the proposed ordinance to a vote of the people of the city at the next general election; provided, however, that said ballot referendum petition must be filed at least sixty days prior to the date fixed for such general election.

(d) The ballots used when voting upon such proposed ordinance shall include an ordinance title which shall state the purpose or intent of such ordinance, the question, ‘Shall the ordinance pass?’ and shall set forth on separate lines the words ‘Yes’ and ‘No’.

(e) If a majority vote of the electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid binding ordinance of the city; an ordinance so adopted shall not be altered or modified by the city council within one year after adoption of the ordinance at said general election.

(f) Any initiative submitted must be phrased in such a manner that a yes vote means yes and a no vote means no.

(g) The chief purpose of the question must be plainly stated and concise and consist of no more than one hundred and twenty five words.

(h) The city council may by ordinance make such other further regulations for carrying out the provisions of this section as are not inconsistent herewith.

On motion by Councilman Pelletier, seconded by Council President Lanni, it was voted to recommend approval of this proposed change. Motion passed unanimously.

Sec. 4.03 Municipal Court.

1. Add to Chapter 4 Section 4.03 the following underlined language to provide for a Municipal Court in the Charter:

Sec. 4.03 Municipal Court.

Judges of the municipal court shall continue to be appointed by the city council for a term of two years from the first Monday in January following each council election. The municipal court shall consist of one chief judge and such number of associate judges as the city council may from time to time ordain. A municipal court judge shall have all the powers and duties prescribed for municipal court judges by the laws of the state. A municipal court judge shall be an attorney at law admitted to practice in the courts of Rhode Island and shall at the time of appointment have a minimum of five (5) years experience in the active practice of law. A municipal court judge shall receive an annual salary to be fixed by ordinance.

There shall be a clerk of the municipal court appointed by the city council for a term of two years from the first Monday in January following each council election who shall receive an annual salary to be fixed by ordinance.

On motion by Council President Lanni, seconded by Councilman Navarro, it was voted to ignore this change.

Under Discussion:

Councilman Pelletier indicated that the Probate Court is in the Charter and Municipal Court is not. This should be in the Charter.

Ms. Schutt stated that she and the Mayor support the concept, but her concern is if voters deny it, you have an Ordinance that established Municipal Court.

Solicitor Kirshenbaum stated that if it is the Council's wishes, pass this amendment, except the second paragraph, then pass it without the second paragraph and place that before the voters. This is something that could be addressed by Ordinance.

Motion and second were withdrawn.

Councilman Pelletier motioned to pass onto the full City Council this change except the second paragraph. Councilman Navarro seconded the motion for discussion purposes.

Under Discussion:

Chair asked what the intent is. The amendment, as drafted, is in the Ordinance.

Solicitor Kirshenbaum stated that a Council member can introduce an Ordinance removing this second paragraph from the Code.

Council President Lanni stated that he is concerned if this is rejected by the voters. This Section can be addressed by Ordinance.

Roll call was taken on motion to pass this change onto the full City Council except the second paragraph and motion failed on a vote of 1-4. The following being recorded as voting "aye": Councilman Pelletier -1. The following being recorded as voting "nay": Councilmen Lupino, Aceto, Navarro and Council President Lanni -4.

On motion by Council President Lanni, seconded by Councilman Navarro, it was voted to ignore this change. Motion passed on a vote of 4-1. The following being recorded as voting "aye": Councilmen Lupino, Aceto, Navarro and Council President Lanni -4. The following being recorded as voting "nay": Councilman Pelletier -1.

Sec. 5.02 Power of appointment and removal.

1. Amend Section 5.02 to add the following underlined language:

Sec. 5.02 Power of appointment and removal.

The mayor, with the advice and consent of the city council, shall have power to appoint the heads of all departments except the department of records. If the city council votes to deny its advice and consent to a proposed mayoral appointee, that individual shall not serve in the position to which that person had been nominated. The mayor shall also appoint four members of the city plan commission, the advisory committee on parks and recreation, the industrial development commission, the head of such additional departments as may be created by ordinance, the employees of the mayor's own office and all officers and employees of the city for whom no other method of appointment is provided. The heads of the departments of police, fire and personnel shall be members of the classified service and shall be appointed and removed subject to the provisions of chapter 14, as shall all employees of the mayor's office except one confidential secretary or assistant. All other heads of departments shall be appointed to serve at the pleasure of the mayor, subject only to the appointee's possession of qualifications prescribed by this Charter. Any member of an unpaid board, committee or commission, appointed by the mayor, may be removed by the mayor for any reason, provided such member shall first have been served with a written notice of the intention of the mayor to remove the member, containing a clear statement of the reasons for the member's removal and suspending the member from the performance of any duty or function for the city. if within five days after the receipt of such notice the member proposed to be removed shall request in writing a hearing the mayor shall fix a place and time not earlier than the fifth nor later than the tenth day following the receipt of such request, at which such hearing shall be held. The hearing shall be held before the mayor. It shall be public at the option of the member proposed to be removed and the member may be represented by counsel. The provisions of section 5.03 relating to the administering of oaths and the enforcement of the attendance of witnesses and the production of books and papers shall apply to hearings held under this section and the mayor shall summon such witnesses on behalf of the member proposed to be removed as that member may request. Upon the conclusion of the hearing the decision of the mayor reinstating or removing the member shall be final.

Ms. Schutt stated that this is already an Ordinance. She cautioned putting this into the Charter. This would make people who are employed elsewhere much less willing to come onboard as directors.

On motion by Councilman Navarro, seconded by Council President Lanni, it was voted to ignore this change. Motion passed unanimously.

Sec. 5.03 Power of investigation.

1. Delete from Section 5.03 the bracketed and bolded language appearing below:

Sec. 5.03 Power of investigation.

"The mayor may without prior notice and either personally or through a person or persons appointed by the mayor investigate the official conduct of any department, board, commission, office or agency or officer or employee of the city except the school committee and its employees. Every such investigation shall be based upon a written order signed by the mayor which shall define clearly the purpose and scope of the investigation. The mayor and any person or persons appointed by the mayor to conduct an investigation shall have the same powers with regard to the administering of oaths and enforcement of the attendance of witnesses and the production of books **[and]** papers as are conferred on the council and council committees by section 3.17."

2. Add to Section 5.03 the following underlined language:

Sec. 5.03 Power of investigation.

“The mayor may without prior notice and either personally or through a person or persons appointed by the mayor investigate the official conduct of any department, board, commission, office or agency or officer or employee of the city except the school committee and its employees. Every such investigation shall be based upon a written order signed by the mayor which shall define clearly the purpose and scope of the investigation. The mayor and any person or persons appointed by the mayor to conduct an investigation shall have the same powers with regard to the administering of oaths and enforcement of the attendance of witnesses and the production of books, papers, and electronic and digital data as are conferred on the council and council committees by section 3.17.”

On motion by Councilman Pelletier, seconded by Councilman Navarro, it was voted to ignore this change. Motion passed unanimously.

Section 6.01 should be amended to change the fiscal year by moving it back one quarter to run from the first day of October to the thirtieth day of September.

Sections 6.02, 6.03, 6.04, 6.08, 6.09 and 6.11 should be amended accordingly to reflect the change in the fiscal year.

Chair asked Mr. Strom why this change would not work. Mr. Strom stated that the amendment states moving the Fiscal Year back one quarter, if passed, it should state forward not back, even though he is not in favor of this. Changing the Audit date could present a problem for our outside Auditors in completing the Audit. Cash flow is major concern because much of our large expenses occur in July and August. The School Department could have a financial problem at the end of their Fiscal Year because they receive the littlest amount from the State during the months of July and August. These are some of the reasons why he does not support this change.

Councilman Navarro stated that he does not feel comfortable voting on this change without knowing the financial effects this would have.

Chair stated that this change was well-intended, but he does not feel it is a good change.

On motion by Councilman Navarro, seconded by Councilman Pelletier, it was voted to ignore this change.

Under Discussion:

Council President Lanni stated that this is a very good intention, however, he realizes the ramifications of this.

Roll call was taken on motion to ignore this change and motion passed on a vote of 4-1. The following being recorded as voting “aye”: Councilmen Lupino, Pelletier, Navarro and Council President Lanni -4. The following being recorded as voting “nay”: Councilman Aceto -1.

Sec. 6.07 Publication.

1. Amend Section 6.07 to add the following underlined language:

Sec. 6.07 Publication.

“The mayor shall cause the budget message to be printed or otherwise reproduced for general public distribution at the time of its submission to the council; in addition, it shall be made available in electronic form on the city’s official internet site within twenty-four hours of its submission to the council. The mayor shall supply copies of the operating and capital budgets and of the appropriation ordinance to each member of the council and to each newspaper of general circulation in the city. The mayor shall also deposit two copies of each such document in the office of the city clerk and one copy in each public library in the city where such copies shall be open to public inspection during the regular hours at which such office or libraries are open. No further publication of the appropriation ordinance shall be required prior to passage.

On motion by Councilman Navarro, seconded by Council President Lanni, it was voted to ignore this change. Motion passed unanimously.

Sec. 6.08 Public hearings.

1. Amend Section 6.08 to add the following underlined language:

Sec. 6.08 Public hearings.

“On receipt of the operating and capital budgets the council shall fix the time and place for public hearings thereon which may be separate or concurrent and which shall begin not later than the seventh day after the receipt of such budgets. Notice of such hearing or hearings shall be published by the city clerk as a paid advertisement once in a daily newspaper of general circulation in the city not later than three days prior to the date of the hearing, and advertised in electronic form on the city’s official internet site. Such hearing or hearing shall be continued if necessary from day to day until all persons desiring it shall have been heard, provided that hearings on the budget shall be concluded prior to the fifteenth day of May. The hearing on the operating budget shall be in lieu of other bearing on the appropriation ordinance. All hearings shall be filmed and said video shall be made available in electronic form on the city’s official internet site within forty-eight hours of the end of the meeting.

On motion by Council President Lanni, seconded by Councilman Pelletier, it was voted to ignore this change. Motion passed unanimously.

Sec. 6.10 Mayor’s item veto.

1. Delete from Section 6.10 the bracketed and bolded language appearing below:

Sec. 6.10 Mayor’s item veto.

*“The signature of the mayor shall not be required on the operating budget and appropriation ordinances. Following their adoption, if the council has [**increased**] the amount of any item or items of appropriation or added an item or items of appropriation not included in the operating budget and appropriation ordinances as submitted by the mayor the city clerk shall forthwith deliver to the mayor a copy of the portion of the journal recording such changes. If the mayor disapproves of any such change, the mayor shall within forty-eight hours of his receipt of the record of changes file with the city clerk a message of disapproval. The council may by a vote of two-thirds of all its members override the mayor’s disapproval. If the mayor’s disapproval is not overridden the change disapproved shall be eliminated”.*

2. Amend Section 6.10 to replace the foregoing deleted language with the following underlined language:

“The signature of the mayor shall not be required on the operating budget and appropriation ordinances. Following their adoption, if the council has changed the amount of any item or items of appropriation or added an item or items of appropriation not included in the operating budget and appropriation ordinances as submitted by the mayor the city clerk shall forthwith deliver to the mayor a copy of the portion of the journal recording such changes. If the mayor disapproves of any such change, the mayor shall within forty-eight hours of his receipt of the record of changes file with the city clerk a message of disapproval. The council may by a vote of two-thirds of all its members override the mayor’s disapproval. If the mayor’s disapproval is not overridden the change disapproved shall be eliminated”.

On motion by Councilman Navarro, seconded by Council President Lanni, it was voted to ignore this change.

Under Discussion:

Mr. Carrera asked that any changes from this point forward that the Committee would not like passed, be passed to the full City Council without recommendation.

Ms. Schutt stated that a concern the Administration has is not the overall veto, but the problem is the Mayor can only veto an increase, but cannot veto the Council’s reductions.

Roll call was taken on motion to ignore this change and motion passed unanimously.

Sec. 6.16 ***Transfer of appropriations.***

1. Amend Section 6.16 to add the following underlined language:

Sec. 6.16 ***Transfer of appropriations.***

“The mayor may at any time authorize the transfer of any unencumbered appropriation balance or portion therefor from one classification of expenditure to another within the same department, board, commission, office or agency, provided that the existence of the balance proposed to be transferred is certified in writing by the director of finance. At the request of the mayor but only within the last three months of the current fiscal year or the first three months of the ensuing fiscal year, the council may by ordinance transfer any portion of an unencumbered appropriation balance certified in writing by the director of finance from one department, board, commission, office or agency to another except that no such transfer shall be made from the appropriation of the school committee.

2. *Explanation: This is a practical problem that our finance department encounters every year. Due to the timing of certain invoices it may not be known that a transfer is required until after the fiscal year has concluded. Often invoices will come in months after the services have been rendered thereby creating an unforeseen deficit with no means to alleviate. Thus, we need the flexibility to make these transfers.*

Mr. Strom stated that standing procedure has been when Fiscal Year is closed out, it is not closed out until September 30th because we still have bills to pay and close on. This is why we extend closing the Fiscal Year by ninety days with the intent of bills and liquidation of Purchase Orders.

On motion by Councilman Navarro, seconded by Council President Lanni, it was voted to ignore this change. Motion passed unanimously.

Sec. 7.05 Powers and duties of the city treasurer.

1. Delete from Section 7.05 the bracketed and bolded language appearing below:

Sec. 7.05 Powers and duties of the city treasurer.

“a) The city treasurer shall be the custodian of all moneys belonging to the city and, subject to the provisions of specific trusts, of all moneys held in trust by the city. The city treasurer shall hold the moneys of the city in such separate funds as may be required by law, ordinance or rules and regulations of the director of finance. The city treasurer shall collect all taxes and assessments on behalf of the city and the fees for such licenses are assigned to the treasurer for collection by ordinance or order of the director of finance. It shall be the city treasurer’s duty to deposit city moneys in the treasurer’s custody in banks or other depositories under the conditions prescribed by law for the deposit of public moneys **[and with the approval of the Board of Investment Commissioners]**. It shall further be the duty of the city treasurer to invest the surplus moneys of special funds such as those related to bond retirement and pensions and including the general funds, not needed for immediate disbursement, in securities legal for such purposes and subject to the approval of said Board of Investment Commissioners, and to credit the interest or dividends earned thereby to the fund concerned. The city treasurer shall keep such records and accounts of the several funds in the treasurer’s charge as may be required by law, ordinance or the rules and regulations of the director of finance, and shall render an annual report of the transactions of the treasurer’s division at such time as the director of finance may require. The city treasurer shall be responsible for the disbursement of all city funds; provided that, except in the case of trust funds where the treasurer is bound by the terms of the trust, the treasurer shall pay out no money belonging to the city except by check based upon a payroll, warrant or voucher signed by the head of the department, board, commission, office or agency concerned and approved by the director of finance.

b) There shall be a board of investment commissioners consisting of the mayor, the chairperson of the committee in charge of budgetary matters of the city council, the finance director, and the city treasurer, all ex officio and three (3) additional members appointed by the mayor who shall not be officers or employees of the city. The appointed members of the board shall be selected on the basis of their knowledge of, and expertise in, investments and finance, and shall serve for a term of three (3) years. Of the three (3) members first appointed by the mayor, one shall serve a term of one year, one shall serve a term of two (2) years and one shall serve a term of three (3) years. The board shall have the control and management of all sinking funds established for the redemption of any bonds or notes issued by the city, or for the redemption of any bonds held by the city. The board shall hold any fire insurance fund, waterworks depreciation and extension fund, or any additional funds which the city council may by ordinance from time to time prescribe. **[It shall further be the responsibility of the board to direct the investment of all unencumbered and un-appropriated funds of the city government, including but not limited to all bequests, devises and trusts, except as otherwise provided by the governing instrument]**”.

On motion by Councilman Navarro, seconded by Council President Lanni, it was voted to recommend approval of this change.

Under Discussion:

Mr. Strom stated that some of the terminology in this Section has changed over the years. As to the day to day operation of investments, this Section should not state “subject to the approval of the Investment Board”. This is all short-term investments that should be under the direction of the Treasurer and his guidance and the Mayor.

Councilman Pelletier stated that he feels it should be a board making the decision and not just one person. Mr. Strom stated that a problem the City has is trying to get the members of the board together to meet to make a short-term investment decision and this is very difficult. Three of the board members are not available all the time. The short-term investment can be reported to the board at their next quarterly meeting.

Solicitor Kirshenbaum stated that he has suggested to Mr. Strom that the Treasurer could meet with the board to obtain a policy and procedures of what they want as to short-term investments, as an oversight.

Councilman Navarro stated that he serves on the Investment Board and that board basically handles the pension funds.

Ms. Schutt stated that the Administration agrees with this change, but Mr. Strom feels that there is language that is not touched, mainly the sentence after the Section being deleted.

Roll call was taken on motion to recommend approval of this change and motion passed unanimously.

CHAPTER 7, SECTION 7.08(g) –

1. Delete from Section 7.08(g) the bracketed and bolded language appearing below:

“(g) Any sale of city-owned property except that which has reverted to the city for nonpayment of taxes shall be accomplished in accordance with the following procedure:

*(1) Public notice of any proposed sale of city property shall be **[given at least once a week for two (2) weeks a newspaper circulated generally in the City of Cranston and this shall be done]** at least two (2) weeks prior to the acceptance of sealed bids. Such notice shall contain a statement that any and all bids may be rejected and the property may be readvertised. Such notice shall also contain any restrictions placed on the use of the property to be sold as mandated by the city plan commission or established by the city council by a majority vote.*

(2) Prior to the sale of any city property, the city assessor shall appraise the same and determine the current market value thereof. With the approval of the city council, the city assessor may obtain the services of other qualified persons to assist him in such appraisal.

(3) Sale of city property may be made only to the highest qualified bidder in compliance with the restrictions noted in subsection (1) upon sealed bids to the city council. Any and all bids may be rejected and the property readvertised or removed from the market. No sale of any city property shall be made for less than ninety (90) percent of the appraised value thereof.

(4) Any city personal property having an appraised value of one thousand (\$1,000.00) or less after having been offered for sale unsuccessfully in accordance with subsection (1) may be sold without public notice or public bid as required by this section; and, further, such property may be sold for any reasonable amount irrespective of its appraised value.

(5) Any sale of real property shall be authorized only by resolution adopted by the affirmative vote of a majority of all member of the city council.

(6) Any lease or rental of city-owned real property shall be authorized by resolution of the city council. If the city council does not take any action within (40) days of receipt of the proposed lease or rental notice, the lease or rental shall take effect.

(7) No city property shall be exchanged for other property until an appraisal of all property included in the exchange has been made by the city assessor and the value of the property to be received by the city equals or exceeds the value of the property to be disposed of by the city. Exchange of property must be authorized by resolution passed by an affirmative vote of the majority of the entire city council unless otherwise specified by this Charter.

(8) Sale of city property to the Cranston Housing Authority shall not be subject to the restrictions set forth in subsection (1) of this section.

2. Amend Section 7.08(g) to add the following underlined language:

“(g) Any sale of city-owned property except that which has reverted to the city for nonpayment of taxes shall be accomplished in accordance with the following procedure:

(1) Public notice of any proposed sale of city property shall be advertised in electronic form in a special section reserved for the sale of city property on the city’s official internet site and shall be advertised on an internet based vending site of general usage at least two (2) weeks prior to the acceptance of sealed bids. Such notice shall contain a statement that any and all bids may be rejected and the property may be re-advertised. Such notice shall also contain any restrictions placed on the use of the property to be sold as mandated by the city plan commission or established by the city council by a majority vote.

(2) Prior to the sale of any city property, the city assessor shall appraise the same and determine the current market value thereof. With the approval of the city council, the city assessor may obtain the services of other qualified persons to assist him in such appraisal.

(3) Sale of city property may be made only to the highest qualified bidder in compliance with the restrictions noted in subsection (1) upon sealed bids to the city council. Any and all bids may be rejected and the property re-advertised or removed from the market. No sale of any city property shall be made for less than ninety (90) percent of the appraised value thereof, provided, however, that the city may sell the property for the highest reasonable offer if two attempts to obtain bids for at least ninety (90) percent of the appraised value fail to produce any qualified bids.

(4) Any city personal property having an appraised value of one thousand (\$1,000.00) or less after having been offered for sale unsuccessfully in accordance with subsection (1) may be sold without public notice or public bid as required by this section; and, further, such property may be sold for any reasonable amount irrespective of its appraised value.

(5) Any sale of real property shall be authorized only by resolution adopted by the affirmative vote of a majority of all member of the city council.

(6) Any lease or rental of city-owned real property shall be authorized by resolution of the city council. If the city council does not take any action within (40) days of receipt of the proposed lease or rental notice, the lease or rental shall take effect.

(7) No city property shall be exchanged for other property until an appraisal of all property included in the exchange has been made by the city assessor and the value of the property to be received by the city equals or exceeds the value of the property to be disposed of by the city. Exchange of property must be authorized by resolution passed by an affirmative vote of the majority of the entire city council unless otherwise specified by this Charter.

(8) Sale of city property to the Cranston Housing Authority shall not be subject to the restrictions set forth in subsection (1) of this section.

On motion by Council President Lanni, seconded by Councilman Aceto, it was voted to ignore this change.

Under Discussion:

Ms. Schutt stated that in the Mayor’s recommendation to the Charter Review Commission, he proposed adding to Section 7.08(a-5) “and School Committee”. In doing this, you would be consolidating the purchasing process. The Charter Review Commission did not recommend this.

Council President Lanni stated that the added language in Section 7.08(2)(g)(3) brings all kinds of scary things to him and opens up a can of worms. He also stated that “the appraised value” does not state a dollar amount.

Roll call was taken on motion to ignore this change and motion passed unanimously.

Sec. 8.01 Department of law.

1. Delete from Section 8.01 the bracketed and bolded language appearing below:

Sec. 8.01 Department of law.

“There shall be a department of law which shall consist of the city solicitor and such assistant city solicitors and other employees as may be provided by ordinance. The city solicitor shall be appointed and removed by the mayor as provided in section 5.02. The city solicitor shall be [a qualified elector of the city of Cranston] an attorney at law admitted to practice in the courts of Rhode Island and shall at the time of the city solicitor’s appointment have so practiced for five years. The city solicitor shall appoint to serve at the city solicitor’s pleasure the assistant city solicitors who shall be [electors of the city of Cranston and] attorneys at law admitted to practice in the courts of Rhode Island. Such other employees of the department as there may be shall be appointed by the city solicitor, subject to the provisions of Chapter 14. The compensation of the city solicitor and assistant city solicitors shall be fixed by ordinance.

On motion by Councilman Navarro, seconded by Council President Lanni, it was voted to ignore this change. Motion passed unanimously.

Solicitor Kirshenbaum indicated that this provision has been modified by State Law.

Sec. 8.02 Powers and duties of the city solicitor.

1. Amend Section 8.02 to add the following underlined language:

Sec. 8.02 Powers and duties of the city solicitor.

“The city solicitor shall be legal adviser of the mayor, the council and departments, boards, commissions, offices and agencies of the city in all matters affecting the interests of the city. Upon request the city solicitor shall furnish to any of them a written opinion on any question of law involving their respective powers and duties. The city solicitor shall attend all meetings of the council or if unable to attend, shall assign an assistant city solicitor to do so. The city solicitor shall examine all proposed ordinances for form and legality and at least 72 hours prior to the city council meeting at which the ordinance is scheduled for consideration file a report thereon with the city clerk before final action is taken by the council. The city solicitor shall prepare or approve the form of all contracts and other instruments to which the city is a party or in which it has an interest. The city solicitor shall represent the city in all actions, suits or proceedings brought by or against the city or any of its departments, boards, commissions, offices and agencies. The city solicitor shall have power with the approval of the mayor to appeal from any order, decision or judgment in such cases or to compromise and settle any claims by or against the city.”

Solicitor Kirshenbaum stated that this is something that can be addressed by Ordinance.

On motion by Councilman Navarro, seconded by Councilman Pelletier, it was voted to ignore this change. Motion passed unanimously.

Sec. 11.01 School committee.

1. Amend Section 11.01 to add the following underlined language:

Sec. 11.01 School committee.

“(a) The school committee elected as provided in chapter 2 shall have and perform all the powers and duties conferred or imposed on school committees by the laws of the State of Rhode Island. It shall have authority to spend in its discretion such sums as may be appropriated by the council for the support of the schools. If the sum so appropriated is greater or less than the sum requested the school committee shall at once proceed to revise its estimate of expenditure to accord with the sum allowed and prior to the beginning of the fiscal year shall file with the director of finance such revised estimate summarized by the principal objects of expenditure into which school accounts are required to be broken down by the state department of education. These items shall be treated by the director of finance for the purpose of accounting control of school expenditures as separate appropriations within which school expenditures must be contained, provided that transfers between these items may be made at any time by the school committee on certification by the director of finance that a sufficient unencumbered balance is available in the item from which the transfer is proposed. The members of the school committee shall receive no compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties which may include expenses of travel to educational meetings and conferences within or without the State of Rhode Island.

“(b) In addition to the powers and duties conferred or imposed on school committees by the laws of the State of Rhode Island, the school committees is responsible to provide effective and efficient fiscal management of the school department. This includes being a steward of the local, state, and federal funds allocated for use in public education and fulfilling its responsibility to see that these funds are used wisely for achievement of the purposes to which they are allocated. Appropriate fiscal stewardship will ensure that funds are spent on programs that comply with the education vision of the district, avoid deficit spending and ensure funds are expended effectively and wisely.

On motion by Council President Lanni, seconded by Councilman Aceto, it was voted to ignore this change.

Under Discussion:

Chair indicated that this would be legislating something that we have no control over.

Roll call was taken on motion to ignore this change and motion passed unanimously.

Sec. 11.02 School committee procedure.

1. Amend Section 11.02 to add the following underlined language:

Sec. 11.02 School committee procedure.

“(a) The school committee at its first meeting in January of each odd numbered year shall elect one of its number to be chairperson for the ensuing two years. In the absence of the chairperson it shall choose a chairperson for that meeting from among the members present. It shall fill any vacancy in the office of chairperson for the unexpired portion of the term. All meetings of the school committee shall be open to the public and no action shall be taken by the committee except in a public meeting and the vote of its members on all motions except those of a purely procedural character shall be by roll call and the yeas and nays shall be entered in the official record of the committee proceedings; provided that the school committee may by the affirmative vote of five of its members authorize consideration in a closed meeting of but not a vote upon any matter within its jurisdiction.

(b) No motion whose passage will obligate or cause the City of Cranston or the Cranston School Department to expend funds shall be reported out of committee or placed on the docket of the school committee for consideration without a fiscal note attached to said proposed motion. Said note shall be supplied by the Cranston School Department Finance Director and shall indicate the approximate costs that the City will incur or be obligated to pay or guarantee if the proposed motion is passed. Said fiscal note shall contain information detailing the approximate costs to the city including, but not limited to, the anticipated amount of state and federal taxes and/or other benefits the city may be obligated to pay. Any motion which requires a fiscal note which is passed without a fiscal note attached thereof shall be deemed null and void.

(c) At least fourteen (14) days prior to ratification, all employment contracts and collective bargaining agreements shall be posted on the City's official internet site along with the fiscal note applicable thereto. No employment contract nor any collective bargaining agreement shall be ratified by the School Committee for at least fourteen (14) days after the fiscal note and the contract or agreement have been so posted.

On motion by Councilman Pelletier, seconded by Councilman Aceto, it was voted to ignore this change.

Under Discussion:

Councilman Pelletier stated that although he agrees with the addition of paragraph (b), he does not agree with paragraph (c).

Solicitor Kirshenbaum indicated that he has a problem with the verbiage in paragraph (b).

Council President Lanni stated that the Council has no authority over the Schools other than funding them. This proposed amendment tells the Council they have authority. Paragraph (c) is not enforceable.

Councilman Navarro asked what the Administration's opinion is regarding this proposed amendment. Mr. Strom stated that he has never received any fiscal notes from the School Department relating to any contract or any financial matter.

Ms. Schutt stated that language is misleading because it implies the City is going to pick up the costs.

Roll call was taken on motion to ignore this change and motion passed unanimously.

Sec. 13.01 City Plan Commission.

1. Delete from Section 13.01 the bracketed and bolded language appearing below:

Sec. 13.01 City Plan Commission.

"There shall be a city plan commission which shall consist of the director of public works, the director of finance and five electors of the city who shall hold no salaried office in the city government and who are known to be interested in city planning. The five nonofficial members of the city plan commission in office prior to the effective date of this Charter shall continue as members of the commission until the expiration of terms expire for which they were appointed and as their respective terms expire their successors shall be appointed by the mayor for terms of four years. Any vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment was made. Annually at its first regular meeting in January the commission shall elect a president from among its nonofficial members. The commission shall have power to make rules not inconsistent with the provisions of this Charter for the conduct of its business, which shall establish a schedule of regular meetings to be held at least monthly and provide opportunity for all persons affected by any matter under consideration by the commission to be heard thereon. No [action] shall be taken by the commission except by a majority vote of all its members. The nonofficial members of the commission shall serve without compensation."

2. Amend Section 13.01 to replace the foregoing deleted language with the following underlined language:

Sec. 13.01 City Plan Commission.

“There shall be a city plan commission which shall consist of the director of public works, the director of finance and five electors of the city who shall hold no salaried office in the city government and who are known to be interested in city planning. The five nonofficial members of the city plan commission in office prior to the effective date of this Charter shall continue as members of the commission until the expiration of terms expire for which they were appointed and as their respective terms expire their successors shall be appointed by the mayor for terms of four years. Any vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment was made. Annually at its first regular meeting in January the commission shall elect a president from among its nonofficial members. The commission shall have power to make rules not inconsistent with the provisions of this Charter for the conduct of its business, which shall establish a schedule of regular meetings to be held at least monthly and provide opportunity for all persons affected by any matter under consideration by the commission to be heard thereon. No land use decision shall be taken by the commission except by a majority vote of all its members. The nonofficial members of the commission shall serve without compensation.”

3. *Explanation: The proposed change would make our Charter more consistent with state law on the number of votes needed for land use decisions [i.e., subdivisions and land development]. The Planning Department recommends the change because a super majority should not be required for non-land use decisions such as recommendation to the City Council or the Zoning Board of Review. In such circumstances where it is only a recommendation, the commission should have the ability to decide with a vote of the majority of the quorum, which follows Robert’s Rules of Order.*

Mr. Carrera was asked for an explanation regarding this proposed amendment.

Mr. Carrera stated that this would be trying to stop the Planning Commission from sending decisions without recommendations to the full City Council.

On motion by Councilman Aceto, seconded by Councilman Pelletier, it was voted to recommend approval of this proposed amendment.

Under Discussion:

Councilman Aceto stated that maybe language needs to be added to make it more effective, either by adding a ‘yes vote’ or a ‘no vote’.

Motion and second were withdrawn.

Chair questioned if this change can be done by Ordinance. Solicitor Kirshenbaum stated that the problem he has is other language should be added because it still states “all its members”, possibly changing language to “positive or negative of a quorum present”.

Chair suggested that if this proposed amendment is passed, language be drafted by the Solicitor and possibly adding ‘majority of a quorum’.

On motion by Council President Lanni, seconded by Councilman Aceto, it was voted to recommend approval of this proposed amendment with the additional language to be drafted by the Solicitor. Motion passed unanimously.

Chair asked that the Administration provide the Council with a narrative regarding this Section.

Sec. 13.03 Comprehensive plan and its effect.

1. Delete from Section 13.03 the bracketed and bolded language appearing below:

Sec. 13.03 Comprehensive plan and its effect.

*“It shall be the duty of the city plan commission to carry on continuing studies of all factors involved in the physical development of the city and of its environs to the extent that the latter affect the physical development of the city, to combine the results of these studies in a comprehensive or master plan for the physical development of the city or any defined portion thereof and to amend the same from time to time as changing conditions require. The subjects to be included in the comprehensive plan or portion or amendment thereof may include but shall not be limited to: (a) the best uses of land; and, (b) the character, extent and location of streets and other public ways, public utilities supplying water, gas, electricity and transportation, railway, bus and other terminals, schools and other public buildings, parks, squares, monuments, playgrounds, playfields, open spaces, slum clearance and other redevelopment projects. The commission shall adopt a comprehensive plan or portion or amendment thereof only after a public hearing thereon notice of which shall be published as a paid advertisement in a newspaper of general circulation in the city **[twice]** a week for three successive weeks. Upon adoption of the comprehensive plan or portion or amendment thereof the commission shall transmit the same to the council and when approved with or without modification by the council by ordinance such comprehensive plan or portion or amendment thereof shall become binding upon the city and all its departments, boards, commissions, offices and agencies. Thereafter no ordinance or other action of the council and no act or order of any department, board, commission, office or agency of the city in violation of the terms of the comprehensive plan or any portion or amendment therefor, adopted as above provided, shall be valid or legally effective. Nothing herein shall be taken to prevent the council from initiating by ordinance the amendment, modification or repeal of any provision of the comprehensive plan or portion or amendment thereof, provided that such ordinance shall be referred before passage to the city plan commission which shall have thirty days from its next succeeding regularly scheduled meeting following such reference in which to express its opinion thereon. If within such period the commission adopts a resolution disapproving such ordinance its passage by the council shall require the affirmative votes of two-thirds of all its members.”*

2. Amend Section 13.03 to add the following underlined language:

Sec. 13.03 Comprehensive plan and its effect.

“It shall be the duty of the city plan commission to carry on continuing studies of all factors involved in the physical development of the city and of its environs to the extent that the latter affect the physical development of the city, to combine the results of these studies in a comprehensive or master plan for the physical development of the city or any defined portion thereof and to amend the same from time to time as changing conditions require. The subjects to be included in the comprehensive plan or portion or amendment thereof may include but shall not be limited to: (a) the best uses of land; and, (b) the character, extent and location of streets and other public ways, public utilities supplying water, gas, electricity and transportation, railway, bus and other terminals, schools and other public buildings, parks, squares, monuments, playgrounds, playfields, open spaces, slum clearance and other redevelopment projects. The commission shall adopt a comprehensive plan or portion or amendment thereof only after a public hearing thereon notice of which shall be published as a paid advertisement in a newspaper of general circulation in the city once a week for three successive weeks; in addition, the notice shall be made available in electronic form on the city’s official internet site. Upon adoption of the comprehensive plan or portion or amendment thereof the commission shall transmit the same to the council and when approved with or without modification by the council by ordinance such comprehensive plan or portion or amendment thereof shall become binding upon the city and all its departments, boards, commissions, offices and agencies. Thereafter no ordinance or other action of the council and no act or order of any department, board, commission, office or agency of the city in violation of the terms of the comprehensive plan or any portion or amendment therefor, adopted as above provided, shall be valid or legally effective. Nothing herein shall be taken to prevent the council from initiating by ordinance the amendment, modification or repeal of any provision of the comprehensive plan or portion or amendment thereof, provided that such ordinance shall be referred before passage to the city plan commission which shall have thirty days from its next succeeding regularly scheduled meeting following such reference in which to express its opinion thereon. If within such period the commission adopts a resolution disapproving such ordinance its passage by the council shall require the affirmative votes of two-thirds of all its members.”

3. *Explanation: In order to amend the City's Comprehensive Plan, the City Charter requires that both the Plan Commission and the City Council each advertise notice of a hearing on said change six times [twice a week for three consecutive weeks]. Given this requirement, the public notice costs for recent requests to change the Comprehensive Plan have ranged between \$11,000 and \$12,000. This notice requirement is uniquely locally imposed [Rhode Island General Law grants the City some flexibility regarding notices and requires that this be consistent with the City's procedures for passing ordinances]. Under Rhode Island General Law, an amendment to the City's Zoning Ordinance or Subdivision Rules and Regulations requires a notice of hearing on said matters to be given once a week for three consecutive weeks. The Department would suggest that the Charter adopt a similar notice requirement for Comprehensive Plan Changes.*

On motion by Councilman Pelletier, seconded by Council President Lanni, it was voted to ignore this change. Motion passed unanimously.

Sec. 14.01 Department of personnel.

1. *Delete from Section 14.01 the bracketed and bolded language appearing below:*

Sec. 14.01 Department of personnel.

*The department of personnel shall consist of the director of personnel, such other employees as may be authorized by ordinance, **the personnel appeal board and the employee retirement board**].*

2. *Explanation: The personnel appeal board is and should be a separate entity from the department of personnel. The employee retirement board no longer exists.*

Chair questioned if this Section can be addressed by Ordinance. Ms. Schutt stated that the Personnel Appeal Board is separate from the Personnel Department.

Solicitor Kirshenbaum stated that there has been one example in the past six months where we had to think about having an Appeal Board made up of people outside of the City.

Ms. Schutt stated that as to the Retirement Board, this is a moot point, since the municipal employees belong to the State Pension and as to the Police and Fire, when someone retires, it is brought before the Council for approval and the Council acts as a retirement board.

On motion by Council President Lanni, seconded by Councilman Aceto, it was voted to ignore this change. Motion passed unanimously.

Sec. 15.10 Charter amendments.

1. Amend Section 15.10 to add the following underlined language:

Sec. 15.10 Charter amendments.

“Amendments to this Charter shall be proposed by the city council and adopted by the people of the city in the manner provided by the constitution of the State of Rhode Island.

Commencing in calendar year 2018 and every ten (10) years thereafter, a Charter Review Commission shall be appointed to review the Cranston Home Rule Charter and to make recommendations to the council on proposed amendments”.

On motion by Council President Lanni, seconded by Councilman Pelletier, it was voted to recommend approval of this proposed amendment. Motion passed unanimously.

MISCELLANEOUS BUSINESS:

Chair stated that a change that is not part of the Charter Review Commission recommendations is - he questioned the Solicitor if we can present before the voters the ability to pass an Ordinance that would codify or take out language in the Charter that is inconsistent with State Law.

Council President Lanni stated that he would like to see placed on the ballot a referendum change whereby the City Council ratifies all School contracts. He asked if Administration would be interested in putting such a proposal on the ballot along with the Council. Ms. Schutt stated, definitely. The Mayor would stand behind that 100%.

Councilman Aceto stated that the Charter states certain positions in the City, such as the City Engineer and the Personnel Director. He questioned if the Charter should state that those positions be held by City employees or if they can be outsourced, can that be specified in the Charter. Solicitor Kirshenbaum stated that because the head of the department has day to day administrative functions, they would have to be City employees.

Chair asked Mr. Carrera to address the Committee’s concerns and discuss with the rest of the Charter Review Commission and encourage them to attend the City Council meeting when these are discussed.

The meeting adjourned at 10:30 P.M.

Respectfully submitted,

Rosalba Zanni
Assistant City Clerk/Clerk of Committees