

MINUTES OF CITY COUNCIL AD-HOC CHARTER COMMITTEE
59 COURT ST, WESTFIELD, MA
ROOM 207
January 18, 2023 at 5:00 PM

The meeting was called to order by Councilor Flaherty at 5:00 PM.

The following committee members were in attendance: Councilor Dave Flaherty, Councilor Brent Bean and Councilor Ralph Figy. Also in attendance was City Councilor Cindy Harris.

- a. Clarify that a job title is not necessarily a full-time job and that one person may have multiple roles.

Upon motion of Councilor Figy, it was

VOTED: to remove from Committee with no action that a job title is not necessarily a full-time job and that one person may have multiple roles. The motion was seconded by Councilor Bean. Approved by Roll Call 3-0.

The vote on the foregoing was as follows:

Dave Flaherty	Yes
Brent Bean	Yes
Ralph Figy	Yes

Prior to the vote, Councilor Flaherty stated he believes this topic is covered in Section 11 of the Charter that states the City Council can organize things.

- b. Change language for appointments for terms of 'up to three years' not 'of three years'.

Upon motion of Councilor Bean, it was

VOTED: to bring to full City Council changing the language for appointments for terms of 'up to three years' not 'of three years'. The motion was seconded by Councilor Figy. Approved by Roll Call 3-0.

The vote on the foregoing was as follows:

Dave Flaherty	Yes
Brent Bean	Yes
Ralph Figy	Yes

Prior to the vote, Councilor Flaherty stated there is a document titled Department Heads Terms and Salary in regards to this item. This document incorporated a couple of items from the to-do list. Term one is separated into a different topic than salary setting. Councilor Figy stated it doesn't mean that it won't be three years, it just gives the option. Councilor Flaherty stated this is only for department heads and not for committees and commissions. Councilor Figy asked what department head the City would only like to have for one or two years. Councilor Flaherty responded if the Mayor decides to give a person a try. Councilor Bean asked how PSA's work currently and if there was a probationary period where you could get rid of someone within the first six months. Councilor Flaherty responded no, not like in the school setting with a school employee. Councilor Figy added that a school employee can be let go within 90 days of the first year without reason. He added that the employee isn't guaranteed year two unless the contract is renewed. After year three the employee falls under the union. Councilor Flaherty stated this gives the appointing authority the ability to be flexible. Councilor Bean stated the

City already has a hard time hiring employees. Councilor Flaherty stated that the other one would be combined to state that appointing authority in HR will negotiate the salary and PSA's with appointees consistent with annual appropriations and guidelines that are set by ordinance or labor contract.

- c. Establish regular expenses that shall be charged to Enterprise (and similar) Funds.

Upon motion of Councilor Figy, it was
VOTED: to hold in Committee establishing regular expenses that shall be charged to Enterprise (and similar) Funds. The motion was seconded by Councilor Bean. Approved by Roll Call 3-0.

The vote on the foregoing was as follows:

Dave Flaherty	Yes
Brent Bean	Yes
Ralph Figy	Yes

Prior to the vote, Councilor Flaherty stated he is looking for a clear list that states what can and can't be in Enterprise and Revolving Funds. There is different state laws that apply to different things. He continued he needs to do more research so that the language is generic enough that it applies to all things.

- d. Change the term of Mayor to four years beginning January 2026 (review doc for motion to put on ballot).

Upon motion of Councilor Bean, it was
VOTED: to submit the Resolution titled Ballot Question for Mayor. The motion was seconded by Councilor Figy. Approved by Roll Call 3-0.

The vote on the foregoing was as follows:

Dave Flaherty	Yes
Brent Bean	Yes
Ralph Figy	Yes

Prior to the vote, Councilor Flaherty stated this topic was talked about at last meeting. In addition, there was also a public hearing. The general consensus was a ballot question would be brought forward. Using the standard language from Massachusetts General Law, the question states "shall the term of office of Mayor of the City of Westfield be four years"? Councilor Bean asked if this question would go on the November ballot. Councilor Flaherty confirmed it would go on the November 2023 General Election ballot. Councilor Flaherty stated he hopes this resolution would pass tomorrow at the City Council meeting and then it would be referred to the Law Department for language review and then go to the City Clerk's Office. Councilor Bean stated it is a binding question for a four year term. Councilor Flaherty stated if the public passes it the Charter will need to be amended.

- e. Procedure for future Special Act Charter Amendments.

Upon motion of Councilor Flaherty, it was
VOTED: to hold in Committee the procedure for future Special Act Charter Amendments. The motion was seconded by Councilor Figy. Approved by Roll Call 3-0.

The vote on the foregoing was as follows:

Dave Flaherty	Yes
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Brent Bean	Yes
Ralph Figy	Yes

Prior to the vote, Councilor Flaherty stated the City may amend the Charter allowed by Massachusetts General Law including home rule petitions. Councilor Flaherty stated if the City Council chooses to amend the Charter by Special Act the City Council President will appoint an Ad-Hoc Charter Amendment Committee to manage the process. He continued the City Council should "create a working document entitled proposed Charter that will incorporate the approved amendment into the version of the Charter that existed prior to the appointment of the Committee". Councilor Flaherty continued the "proposed Charter will be an internal working document until it is approved for submission as a Special Act in accordance with paragraph F". He further added that proposed amendment topics will be submitted to City Council by motion and referred to the Ad-Hoc Charter Committee by majority vote. Councilor Flaherty stated that at least one public hearing on each topic will be held by the City Council or the Ad-Hoc Charter Committee. The public hearing can be on multiple topics but each topic will be presented separately. The public will be able to express their opinions on the topics. Councilor Figy likes the idea that the public hearing can be in front of the full City Council or in front of the Ad-Hoc Charter Committee. Councilor Flaherty stated the Ad-Hoc Committee shall investigate the topics and make recommendations to the City Council. He further stated if there is a positive recommendation for an amendment it will be presented to the full City Council as a resolution to amend the proposed Charter. The City Council can approve the resolution by a two thirds majority vote. Councilor Figy questioned if this needed to be an order instead of a resolution. Councilor Flaherty continued the first vote is to amend the working document and the second vote is to submit it as a whole. Councilor Flaherty stated the vote is increased to two thirds instead of needing only a simple majority. He further stated when the amendment process is complete the proposed Charter will be publically posted no less than 10 days and a resolution will be prepared to request a Special Act of the legislature. The City Council can approve the resolution for a Special Act Charter by a two thirds majority vote. If it is not approved the Ad-Hoc Committee can make further amendments and recommendations. Councilor Flaherty continued he is unsure if this needs a two thirds vote but the Mayor has the ability to approve or deny the Special Act request under Massachusetts General Law.

f. Review Civil Service list.

Upon motion of Councilor Bean, it was
VOTED: to approve the changes with Civil Service list. The motion was seconded by Councilor Figy.
Approved by Roll Call 3-0.

The vote on the foregoing was as follows:

Dave Flaherty	Yes
Brent Bean	Yes
Ralph Figy	Yes

Prior to the vote, Councilor Flaherty stated the position of Fire Chief was added to the exempt list. There was also an edit made due to a typo regarding the words fire and law which have since been removed.

g. City Council may create Annual Budget process by ordinance.

Upon motion of Councilor Bean, it was

VOTED: to approve the passage of resolution entitled Financial Management. The motion was seconded by Councilor Figy. Approved by Roll Call 3-0.

The vote on the foregoing was as follows:

Dave Flaherty	Yes
Brent Bean	Yes
Ralph Figy	Yes

Prior to the vote, Councilor Flaherty stated this is in the draft labeled Financial Management. It is a new section in the Charter and states the "City Council may by ordinance create processes and policies for financial management, annual budget and labor contract approval". Councilor Figy asked if the Charter needed to be changed or if this could be done by ordinance. Councilor Flaherty stated this will be in the Charter that all of this can be done by ordinance. Councilor Bean asked other than approving a contract what will City Council be doing. Councilor Flaherty stated it would be formalizing the process. Councilor Flaherty further stated the Mayor always has the ability to negotiate any way he/she pleases. There needs to be a written policy how the budget process works.

h. Ability of City Council, or duly authorized committee thereof, to investigate matters.

Upon motion of Councilor Bean, it was

VOTED: to recommend the passage of resolution entitled City Council Investigation. The motion was seconded by Councilor Figy. Approved by Roll Call 3-0.

The vote on the foregoing was as follows:

Dave Flaherty	Yes
Brent Bean	Yes
Ralph Figy	Yes

Prior to the vote, Councilor Flaherty stated the draft is titled City Council Investigation and includes an appearance piece and an investigation piece. He further stated City Councilor's can't go rogue and investigate on their own but the City Council as a whole or any other committee authorized by the City Council can investigate financial transactions of any office or department in the City government including Enterprise Funds, Reserve Funds, Revolving Funds and Trustee Funds. Councilor Flaherty stated the other part was left alone and labeled Appearance Before Council.

i. Water Commission/Board of Public Works.

Upon motion of Councilor Bean, it was

VOTED: to hold Water Commission/Board of Public Works in committee. The motion was seconded by Councilor Figy. Approved by Roll Call 3-0.

The vote on the foregoing was as follows:

Dave Flaherty	Yes
Brent Bean	Yes
Ralph Figy	Yes

Prior to the vote, Councilor Flaherty stated this was originally on the list because the Charter didn't match the ordinances. Councilor Flaherty stated this item is going to take a lot of work and

suggests holding it in committee for now and it can be rejected out of committee when ready to move forward. Councilor Figy added this is the Legislature and Ordinance Committee currently.

Councilor Bean exited the meeting at 5:30 PM to attend the Finance Committee meeting.

Upon motion of Councilor Figy, it was VOTED: to investigate filling vacancies on Boards and Commissions. The motion was seconded by Councilor Flaherty. Approved by Roll Call 2-0.

The vote on the foregoing was as follows:

Dave Flaherty	Yes
Ralph Figy	Yes

Prior to the vote, Councilor Flaherty stated that the topic of filling vacancies on Boards and Commissions has arisen. He stated that he thinks there should be a motion made to the City Council to investigate this. He further added if there is a vacancy on a Board or Commission and it is not filled within 90 days by the Mayor the City Council may appoint a qualified registered voter directly by two thirds vote. This would help fill vacancies. Currently if there is a vacancy on City Council and it is not filled in time, the Mayor can fill the vacancy.

Councilor Flaherty provided the following summaries about topics.

1. The topic of vacancies came in two different times but is listed as one topic. It was passed at the January 5, 2023 meeting. A Special Election process will be used.
2. Editing gender specific pronouns was also passed at the last City Council meeting.
3. Changing the term of Mayor to four years and job descriptions will be come out to full City Council on January 19, 2023.
4. The Ad-Hoc Committee investigating the budget process will also be brought out to full City Council on January 19, 2023.
5. The procedure for Special Act Charter Amendment is being held in Committee.
6. Local election's with early voting by mail was taken out with no action because it follows State Law.
7. Allowing the Mayor to appoint the chairman of the School Committee and a four year term for City Council was brought forward and not passed.
8. Job title, not necessarily a full-time job by one person is coming out to full City Council with no action on January 19, 2023 because it is covered by Section 11 of the Charter.
9. Changing language of up to three instead of, of three is coming out to City Council on January 19, 2023.
10. Unfunded obligations still needs to be discussed.
11. Procedure for reviewing labor contracts is coming out to City Council on January 19, 2023.
12. Expenses that should be charged to Enterprise Funds is being held in Committee.
13. Review of the Civil Service list is coming out to City Council on January 19, 2023.
14. Guidelines for taxpayer rate money used as donations is in Committee.
15. Threshold for write in votes equal to number of signatures required for nomination papers has already been covered and will be motioned out of Committee.
16. ILOT Payment equal to 2 ½% of assessed value or 2 ½% of gross revenue is still in Committee.

17. Clarifying City Councilor/or duly authorized Committee to investigate matters is coming out to City Council on January 19, 2023.
18. Water Commission/Board of Public Works is being held in Committee.

Councilor Flaherty stated there is only a few items left and hopes to possibly have a vote on the Special Act by the end of February.

Upon motion of Councilor Flaherty, it was
VOTED: for the Ad-Hoc Charter Committee to meet on February 1, 2023 at 5:00 PM with public participation opening at 5:30 PM and departing at 5:45 PM for another attendance at another meeting. The motion was seconded by Councilor Figy. Approved by Roll Call 2-0.

The vote on the foregoing was as follows:

Dave Flaherty	Yes
Ralph Figy	Yes

Upon motion of Councilor Flaherty, it was
VOTED: to take a 15 minute recess and resume at 6:00 PM. The motion was seconded by Councilor Figy. Approved by Roll Call 2-0.

The vote on the foregoing was as follows:

Dave Flaherty	Yes
Ralph Figy	Yes

Public Participation was opened at 6:00 PM by Councilor Flaherty.

Rich Roy, 55 Saint James Avenue:

Mr. Roy stated he doesn't think that in regards to letter H on tonight's agenda it would be happening if the new Mayor had not won the election. He further stated the Mayor's presence has brought on less fear. He continued that when a Westfield homeowner brings proof of wrong doing by a City Department to their elected officials it should be looked into rather than running to the Law Department and hiding. There is no statute of limitations on the building code. He continued that he paid a balance on something he didn't owe and had the case dismissed without prejudice. He voiced the concerns he had with the Building Department. He also voiced his concern with the Westfield plumbing inspector at the time that didn't inspect, and didn't cite the contractor for not having a plumbing license or plumbing permit. He stated he believes there is a mode of operation how citizens are handled with legitimate issues that are brought forward and proved. He continued he is owed some help with this situation and he hasn't gotten any. He stated it is not a legal matter and that is a city matter. He stated he believes that an individual City Councilor or elected person should be able to investigate without needing a vote including free public records requests. He believes there was a lot of fear when his issues arose and that is why his house is still broken. He stated his house is ruined and has dangerous code violations and believes no one on the City Council or previous Mayors care. He stated he has done what he can to fix some things but he is worried about if his wife or children want to sell the house in the future.

Councilor Flaherty responded that the new language will allow for the City Council to investigate any financial transaction of any office or department of the City government. This may include official acts or conduct of any official. This also includes Departments in the regular City budget, Enterprise

funds, Receipt Reserve Funds, Revolving Funds, Trustee Funds, business units and those that receive state or federal grants. It also includes those that are supervised by elected or appointed boards and/or commissions. This would give the City Council the power to investigate however it doesn't mean things can be changed or fixed.

Upon motion of Councilor Flaherty, it was
VOTED: to close public participation at 6:09 PM. Approved by Roll Call 2-0.

The vote on the foregoing was as follows:

Dave Flaherty Yes
Ralph Figy Yes

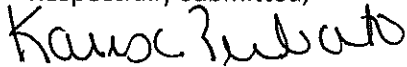
Councilor Flaherty stated the approval of the minutes from previous meeting will be held until the next meeting so they can be reviewed.

Upon motion of Councilor Flaherty, it was
VOTED: to adjourn at 6:09 PM. Approved by Roll Call 2-0.

The vote on the foregoing was as follows:

Dave Flaherty Yes
Ralph Figy Yes

Respectfully submitted,



Karisa Zerbato, Scribe

CITY OF WESTFIELD

IN CITY COUNCIL, _____, 2023

TITLE: CHARTER AMENDMENT PROCESS

A RESOLUTION AMENDING THE PROPOSED 2023 VERSION OF THE CHARTER OF THE CITY OF WESTFIELD.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTFIELD, AS FOLLOWS:

Add "Section #####. Charter Amendment Processes

- (a) The city may amend the charter following any process allowed by Massachusetts General Law.
- (b) If the City Council chooses to amend the charter using a Special Act, the following process must be followed:
 - a. The City Council President shall appoint an Ad-hoc Charter Amendment Committee to manage the charter amendment process.
 - b. The City Council shall create a working document entitled "Proposed Charter" which will incorporate the approved amendments into the version of the Charter that existed prior to the appointment of the Ad-hoc Charter Committee. The Proposed Charter shall be an internal working document until it is approved for submission as a special act in accordance with paragraph (f) below.
 - c. Proposed amendment topics shall be submitted by motion to the city council and referred to the Ad-hoc Charter Committee by majority vote.
 - d. The Ad-hoc Charter Committee, or the City Council, shall hold at least one public hearing for each topic. The public hearing(s) may include multiple topics, but each topic will be presented separately. The public may ask questions of fact, and express opinions in-favor or against each proposal.
 - e. The topics shall be investigated and deliberated by the Ad-hoc Charter Committee. The Ad-hoc Charter Committee shall make recommendations to the city council. If there is a positive recommendation for an amendment, the amendment shall be presented to the full City Council in the form of a Resolution to amend the Proposed Charter. The City Council may approve the resolution to amend the Proposed Charter by two-thirds majority vote.
 - f. When the amendment process is complete (as determined by the Ad-hoc Charter Committee), the Ad-hoc Charter Committee shall file the final

the Proposed Charter for no less than 10 days, and prepare a resolution to request a Special Act of the Legislature. The City Council may approve this resolution for a Special Act Charter by two-thirds majority vote. If the City Council does not approve this Special Act Charter request, the Ad-hoc Charter Committee may make further amendments and recommendations following the process defined in paragraphs c,d,e, and f.

- g. The Mayor may approve or deny the Special Act request in accordance with Massachusetts General Law.

Presented to the Mayor

Approved by the Mayor

For approval _____, 2023

_____, 2023

Kaitlyn Bruce, Interim City Clerk

Michael A. McCabe., Mayor

CITY OF WESTFIELD

IN CITY COUNCIL, _____, 2023

TITLE: FINANCIAL MANAGEMENT

A RESOLUTION AMENDING THE PROPOSED 2023 VERSION OF THE CHARTER OF THE CITY OF WESTFIELD.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTFIELD, AS FOLLOWS:

Add "Section ####. Financial Management and Budget Processes"

The city council may, by ordinance, create processes and policies for: financial management, the annual budget, and labor contract approval.

Presented to the Mayor

Approved by the Mayor

For approval _____, 2023

_____, 2023

Kaitlyn Bruce, Interim City Clerk

Michael A. McCabe., Mayor

CITY OF WESTFIELD

IN CITY COUNCIL, _____, 2023

TITLE: CITY COUNCIL INVESTIGATION

A RESOLUTION AMENDING THE PROPOSED 2023 VERSION OF THE CHARTER OF THE CITY OF WESTFIELD.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTFIELD, AS FOLLOWS:

- (a) Remove the following from "Section 26. Investigations by council"

"The city council, or any committee thereof duly authorized by the city council, may investigate a financial transaction of any office or department of the city government, the official acts and conduct of any official and, by similar investigation, secure information upon any matter."

- (b) Rename "Section 26. Investigations by council" to "Section 26. Appearance before council."

- (c) Add:

"Section ####. Investigations by City Council.

The city council, or any committee thereof duly authorized by the city council, may investigate a financial transaction of any office or department of the city government, the official acts and conduct of any official and, by similar investigation, secure information upon any matter. This authority to investigate shall apply to all offices and departments of the city including, but not limited to: departments that receive appropriations as part of the annual city budget process, Enterprise Funds, receipt reserved funds, revolving funds, trustee funds, business units, those that receive state or federal funding or grants, or those that are managed or supervised by elected or appointed boards or commissions.

Presented to the Mayor

Approved by the Mayor

For approval _____, 2023

_____, 2023

Kaitlyn Bruce, Interim City Clerk

Michael A. McCabe., Mayor

CITY OF WESTFIELD

IN CITY COUNCIL, _____, 2023

TITLE: BOARD OR COMMISSION VACANCY

A RESOLUTION AMENDING THE PROPOSED 2023 VERSION OF THE CHARTER OF THE CITY OF WESTFIELD.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTFIELD, AS FOLLOWS:

Append the following to Section 10:

“If a vacancy occurs on any of the boards or commissions appointed by the mayor, and the mayor does not nominate a replacement within 90 days of the vacancy, the City Council may appoint by a two-thirds vote any qualified registered voter to serve for the remainder of the unexpired term. When making appointments, the City Council President shall sign and file with the city clerk a certificate in the following form:

CERTIFICATE OF APPOINTMENT

The City Council hereby appoints (name of appointee) to the position of (name of office) and certifies that, in our opinion, (name of appointee) is a recognized expert in the work which will devolve upon (name of appointee) and that we make this appointment solely in the interest of the city.

CITY COUNCIL PRESIDENT

or in the following form, as the case may be:

CERTIFICATE OF APPOINTMENT

The City Council hereby appoints (name of appointee) to the position of (name of office) and certify that, in our opinion, (name of appointee) is a person specially fitted by education, training or experience to perform the duties of said office, and that we make this appointment solely in the interest of the city.

CITY COUNCIL PRESIDENT”

Presented to the Mayor

Approved by the Mayor

For approval _____, 2023

_____, 2023

Kaitlyn Bruce, Interim City Clerk

Michael A. McCabe., Mayor

CITY OF WESTFIELD

IN CITY COUNCIL, _____, 2023

TITLE: DEPARTMENT HEADS TERMS AND SALARY

A RESOLUTION AMENDING THE PROPOSED 2023 VERSION OF THE CHARTER OF THE CITY OF WESTFIELD.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTFIELD, AS FOLLOWS:

Replace the phrase "term of 3 years" with "term of up to 3 years" in Section 9 paragraphs 9, 10, 11, 12, 13; and, in paragraphs 5 and 18 as is relates to "Superintendents".

Add paragraph 19 as follows: "The appointing authority for a department head shall negotiate the salary of the department head subject to appropriations and any applicable labor agreements."

Add paragraph 20 as follows: "The City Council may create hiring processes, and requirements for employee personal service agreements, by ordinance."

Presented to the Mayor

Approved by the Mayor

For approval _____, 2023

_____, 2023

Kaitlyn Bruce, Interim City Clerk

Michael A. McCabe., Mayor



CITY OF WESTFIELD

IN CITY COUNCIL, _____, 2023

TITLE: CIVIL SERVICE

A RESOLUTION AMENDING THE PROPOSED 2023 VERSION OF THE CHARTER OF THE CITY OF WESTFIELD.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTFIELD, AS FOLLOWS:

(a) Replace the second paragraph of Section 32 with:

“The civil service laws shall not apply to the following positions in the city: clerical positions in the offices of the city clerk, elections and registration; sealer of weights and measures for so long as the sealer of weights and measures remains a part-time position; assistant assessor; appraiser; assistant city auditor; deputy water superintendent; deputy superintendent of public works; all positions within the law department; all positions within the engineering department which require a college degree in engineering; all positions within the personnel department; all inspector positions within the building department; planner within the community development department; school department business manager; and, subject to section 3 of chapter 168 of the acts of 1998, any individual *appointed* to serve as chief operating officer and day-to-day administrative head of a department including, but not limited to, superintendent of public works, superintendent of water resources, police chief, fire chief, director of parks and recreation, and director of health but excluding the school and gas and electric light departments.”

Presented to the Mayor

Approved by the Mayor

For approval _____, 2023

_____, 2023

Kaitlyn Bruce, Interim City Clerk

Michael A. McCabe., Mayor

CITY OF WESTFIELD

IN CITY COUNCIL, _____, 2023

TITLE: BALLOT QUESTION FOR MAYOR

A RESOLUTION AUTHORIZING A BALLOT QUESTION RELATED TO A FOUR-YERM YERM FOR THE OFFICE OF MAYOR.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTFIELD, AS FOLLOWS:

The following question shall be presented to the voters at the November 2023 General Election:

“Shall the term of office of mayor of the city of Westfield be four years?”

Presented to the Mayor

Approved by the Mayor

For approval _____, 2023

_____, 2023

Kaitlyn Bruce, Interim City Clerk

Michael A. McCabe., Mayor

