

MEMORANDUM

To: Portland Charter Commission

From: Technical Changes Subcommittee
Richard Ranaghan, Jr., Chair
Robert O'Brien, Commissioner
Thomas Valteau, Commissioner

Date: February 1, 2010

Re: Recommendations for Technical Changes from City Clerk,
Corporation Counsel and Finance Director

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The Technical Subcommittee received proposed technical changes from the City Clerk, Corporation Counsel and the Finance Director. We met with each of these department heads to review the proposals as follows: December 1, City Clerk; December 8, Corporation Counsel and December 29, Finance Director.

The chart which is attached summarizes all of the above changes. The Clerk's changes were to Articles IV (Elections) and V (Recall), the Finance Director's were to Article VII (Business and Financial Provisions), and the remainder were from Corporation Counsel. On the whole, the changes are intended to reflect either current practices and realities, or clarify current language.

Nearly all of the departments' recommendations were accepted by the Subcommittee with these exceptions: 1) did not approve deleting "by resolution" in the last paragraph of Article VII, section 6 (Appropriation Resolve); and 2) did not delete the reference in Article II, section 8 (Procedure) to forms of orders and taking of votes.

The issues which have been identified as more substantive than technical are as follows:

- 1) Authority of the mayor to name a mayor pro-tempore for an absence of 60 days or less – if the elected mayor is finally adopted, then the Commission may need to determine what would happen in the event of a long-term disability or inability (e.g. moves away) to serve. See Recommendation # 3.
- 2) Revision of the language related to collection of signatures on a petition for recall of a member of the council or school board. The current language requires the Clerk to oversee the collection of signatures at a set time and place and no distinction is made in the number of signatures needed for a district or at-large seat for either the affidavit to begin the process or the petition itself. The revision allows circulation of the petition for 30 days and reduces the number of signatures for a district seat to 175 for the affidavit (500 for at-large) and 750 for the petition to recall a district councilor or school member

(3000 for at-large). The circulation and certification process is similar to that provided in the city's initiative and referendum ordinance. See Recommendation # 18.

3) Clarification of when the city manager can appoint an acting manager in the event of absence and when the council appoints an acting manager, i.e. city manager appoints if absence is 60 days or less, and council would appoint if more than 60 days. See Recommendation # 20.

Please let me know if you have any questions.

**TECHNICAL CHANGES RECOMMENDED BY SUBCOMMITTEE
(DRAFT 1-11-10)**

No.	ARTICLE	Section	Proposed Change
1.	I - GRANT OF POWERS TO CITY	2 - Corporate existence retained	Delete the reference to a specific penalty amount and have this determined by the ordinances or by
2.	II – CITY COUNCIL	2 – Composition, election, tenure of office, compensation.	Clarify the final sentence of 2 nd paragraph and m section 4.
3.	II – CITY COUNCIL	3 – Chairman	Use mayor throughout. Add at the beginning of th of the mayor to name a mayor pro-tempore for t less. (Identified as substantive change)
4.	II – CITY COUNCIL	4 – Vacancies	Wording clarification; change 120 days to 127 d consistent with election provisions; delete the refe
5.	II – CITY COUNCIL	5 – Meetings of the council	Insert “or rule” after resolution (reflects longstand practice).
6.	II – CITY COUNCIL	6 – Special meetings	Permit notice of special meetings to be by electron
7.	II – CITY COUNCIL	7 – Quorum	Delete “a majority of” and insert “Five (5)” at notice for resumption of an adjourned meeting
8.	II – CITY COUNCIL	8 – Procedure	Add “in accordance with state law” to reference to
9.	III – SCHOOLS	2 – Chairman	Change to Chair or Chairperson
10.	III – SCHOOLS	3 – Organization	Add “as soon thereafter as possible” at the end o first meeting after election; define quorum as “Fi re adjournment of meetings and electronic notice
11.	III – SCHOOLS	5 – Vacancies	Allow Council to shorten the time frame for non (mirror council language); remove the reference to
12.	IV – ELECTIONS	3 – Wardens and Ward Clerks	Delete residency requirement; have qualifications MRSA)
13.	IV – ELECTIONS	5 – Form of nomination petition	Add “Notary Public” to those who can certify p Maine attorney to certify in the capacity of an atto
14.	IV – ELECTIONS	7 – Form of ballot	Make form of ballot consistent with voting machin Write-in votes to be governed by Title 21-A, MRS clerk to shorten the time frame for accepting a dec emergency, i.e., a candidate’s death, illness or mo the sample ballot. Change “shall” to “may” in reg local ballots
15.	IV – ELECTIONS	8 – Specimen ballot	Add specimen “or sample” ballots in first sentenc section 7; Make notice and posting requirements MRSA
16.	IV – ELECTIONS	9 – Count of ballots	Delete and add reference to counting ballots in acc MRSA.

17.	V – RECALL	1 – Applicability	Clarify when 1 year period when member cannot certification of petition by Clerk, no later than No member’s next election.
18.	V – RECALL	2 – Petition for recall	Revise language in entirety to distinguish between terms of number of signatures required for affidavit (and 125); permit circulation of petitions by qualified distinguish between at-large and district seats in to petition (3000 and 750); only district residents can petition. (Identified as substantive)
19.	VI – ADMINSTRATIVE OFFICERS	1 – Appointments	Delete reference to appointment of Board of Registration Appeals Board and governed by Title to limit of 20 on constables.
20.	VI – ADMINSTRATIVE OFFICERS	6 – Vacancy in office of city manager	Define vacancy as absence or disability of more than Council can appoint an acting manager; if 60 days acting manager. (Identified as substantive)
21.	VII – BUSINESS AND FINANCIAL PROVISIONS	1 – Accounts and records	Delete reference to city council selecting an accountant and disbursements in last sentence to “revenues, e reference a qualified “certified public” accountant
22.	VII. BUSINESS AND FINANCIAL PROVISIONS	2 – Reports	Revise to read as follows: The director of finance financial statements which reflect the financial condition department, and such other financial information as required. The director of finance shall produce a comprehensive which conforms to “Generally Accepted Accounting language.
23.	VII – BUSINESS AND FINANCIAL PROVISIONS	4 – Annual budget	Delete “estimates” in 1 st paragraph and delete 1 st s
24.	VII – BUSINESS AND FINANCIAL PROVISIONS	5 – Budget content	Add financial plan of city “general and enterprise”
25.	VII – BUSINESS AND FINANCIAL PROVISIONS	7 – Surpluses	Rename as “Unexpended appropriations”; change “unexpended appropriations”; change “surplus balance account.”
26.	VII – BUSINESS AND FINANCIAL PROVISIONS	9 – Bond issues	Add at the end of 1 st paragraph “or any other p permit posting to be by publicly available elec “daily” newspaper of general circulation to be circulation
27.	VII – BUSINESS AND FINANCIAL PROVISIONS	11 – Sinking fund	Delete entirely
28.	VII – BUSINESS AND FINANCIAL PROVISIONS	12 – Payments	Delete 1 st sentence in entirety; require finance financial controls to ensure that” payments a reference to use of “warrant”.

29.	VII – BUSINESS AND FINANCIAL PROVISIONS	14 – Collection and custody of city monies	Reference “federally insured” banking insituti credit union or unions”; delete reference to being
30.	VII – BUSINESS AND FINANCIAL PROVISIONS	15 – Cumulative reserve fund	Rename “Fund balance”; re-write the provision to Accumulation of funds derived from balances with operating funds appropriations, or a portion thereof, is the purpose of enabling the city to pay losses incurred policies, either due to self insurance provisions or insu anticipated settlements, liabilities or future expenditure finance director. The city council may appropriate ad Such amounts shall be used for the purposes herein set of the city’s fund balances.
31.	VII – BUSINESS AND FINANCIAL PROVISIONS	16 – Voter referendum	Revise by deleting the “the larger of \$900,000.00 larger of \$1,350,000.00 or” in paragraph (a)(2).

Proposed changes which the Subcommittee flags as substantive changes:

- No. 3, Article II, Section 3.
- No. 18, Article V, Section 2.
- No. 20, Article VI, Section 6.

Proposed changes which were rejected by the Subcommittee:

- Deletion of “by resolution” in the last paragraph of Article VII, section 6 (Appropriation Resolve); and
- Deletion of the reference to forms of orders and taking of votes in Article II, section 8 (Procedure).