



## **Report of the City of Beacon Charter Commission**

**March 8, 2017**

## **Members of the Commission**

Pamela Barrack (Co-Chair)

Agnes Campagnone

William Cornett

Marko Guzijan

Charles Kelly, (Co-Chair)

Peter Nocerino

John Rembert

Candi Rivera

Brooke Simmons

# **Report of the City of Beacon Charter Commission**

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## CHARTER REVIEW COMMISSION



Pamela Barrack, Co-Chair  
Agnes Campagnone  
William Cornett  
Candi Rivera  
Marco Guzijan

Charles Kelly, Co-Chair  
Peter Nocerino  
John E. Rembert  
Brook Simmons

March 27, 2017

Hon. Randy Casale  
Mayor  
City of Beacon  
City Hall  
Beacon, New York

Dear Mayor Casale:

Under cover of this letter, and in accord with the unanimous action of the Commission you appointed last July that we are honored to co-chair, we convey our recommendations for charter change in Beacon for consideration by you and City Council colleagues.

This charter review was undertaken to meet the requirement for periodic review in Article 9 of the current Beacon City Charter. Our proposals arise from a chapter by chapter consideration of the entire document; changes are recommended for ten of eleven articles.

We were joined on this commission by Agnes Campagnone, William Cornett, Marko Guzijan, Peter Nocerino, John Rembert, Candi Rivera and Brooke Simmons. To a person, their commitment to our city and willingness to engage in civil, informed discourse and debate greatly strengthened the product of our process.

We appreciate your personal engagement and contributions from your deep experience in city government, and the substantive ideas and excellent administrative coordination provided by City Administrator Anthony Ruggiero. We were assisted in by Gerald Benjamin at the Benjamin Center at SUNY New Paltz, and two undergraduate student interns: Nicole Cagar and Timothy Toomey. (Materials provided by the Benjamin Center and meeting minutes are appended to this report.) Excellent legal advice, guidance and drafting of recommended charter changes was provided by city's counsel, Nicholas Ward-Willis and his associate Drew Victoria Gamils of the firm Keane and Beane P.C..

Our commission had recommendatory power only. Implementation of any or all of the charter changes we forward here is entirely at the discretion of the City Council. Most may be effected by local law. If advanced by the Council, those that concern the compensation of elected official or their terms of office will require a public referendum.

We and our colleagues are, of course, available to you as your deliberative process regarding these proposed charter changes proceeds. Thank you for the opportunity to serve our city and contribute to its future growth and well-being.

Sincerely,

Pamela Barrack,  
Co-chair

Charles Kelly,  
Co-chair

## **Report of the City of Beacon Charter Commission**

In accord with the requirements of the Beacon city charter, and pursuant to a resolution passed by the City Council on July 18, 2016 Mayor Randy Casale appointed a commission to "...review the Charter and to make recommendations to the Mayor and the City Council for revision or amendment." (§9.04) Commission membership was bipartisan, included people with a range of public and private sector experience and reflected the diversity of the city's population. Members included: Pamela Barrack (Co-Chair), Agnes Campagnone, William Cornett, Marko Guzijan, Charles Kelly, (Co-Chair), Peter Nocerino, John Rembert, Candi Rivera and Brooke Simmons.

The city retained Gerald Benjamin of the Benjamin Center at SUNY New Paltz to support its work. Legal advice and support was provided by the city's counsel, Nicholas Ward-Willis and his associate Drew Victoria Gamils. The mayor and City Administrator Anthony Ruggiero attended commission meetings to inform its deliberations.

The mayor convened the commission for its initial meeting on September 15, 2016. A monthly meeting schedule was established, with more frequent meetings as the Commission approached the completion of its work during the first quarter of 2017. An initial presentation of possible recommendations for public consideration and comment occurred on March 8, 2017. This was followed by a presentation of the Commission's final report at a workshop meeting of the council on March 27, 2016.

All meetings were held at the Beacon City Hall. Commission meeting dates were September 15, October 6, November 3 and December 15 in 2016 and January 5 and 19 and February 6 in 2017. All meetings were advertised in accord with standard city practice, and open to the public. A record was kept of all meetings. Minutes were reviewed and approved by the commission.

Under Section 9.04 of the City Charter, the commission's powers are advisory. The role of the commissions is to make recommendations to the Mayor and the City Council, the Commission may not place matters directly on the ballot for approval. At its initial meeting the commission determined that it would make its recommendations in accord with a schedule that would allow the Council to put any recommendations on the ballot that it supported and that require approval by citywide referendum on the 2017 general election day, November 7, 2017.

The commission decided to undertake a comprehensive article-by-article review of the charter. It solicited ideas for charter changes from the city's current and former elected leaders and department heads, in a process coordinated by the city administrator. Gerald Benjamin organized presentations around these proposals for the commission's monthly meetings. The presentations considered the relative merits of the provisions under study in the Beacon charter and compared the City of Beacon's practices to practices adopted by other New York cities of similar size and available political science and public administration research. These presentation materials were provided in advance to commissioners, the mayor and the city administrator and posted to the city website, and are appended to this report. (See <http://www.cityofbeacon.org/Government/crc.htm>, last visited on January 24, 2017)

## History of the Beacon City Charter

By a majority of two to one, and after decades of failed efforts, the voters in the adjoining villages of Fishkill Landing (incorporated in 1864, reincorporated in 1878) and Mattewan (incorporated in 1886) voted on March 15, 1910 to combine and seek a charter for an as yet unnamed city. A small portion of the hamlet of Glenham in the Town of Fishkill was also included within the city limits. The name Beacon was subsequently adopted, after the display of signal fires on Beacon Mountain during the revolutionary war to warn General George Washington in Newburgh across the Hudson of the approach of the British forces.<sup>1</sup>

Influenced by the national progressive movement, which sought to make city government more “businesslike” and less partisan, advocates of Beacon’s incorporation proposed to the state legislature a charter that featured a commission form of government, a model newly devised in Galveston Texas following devastating flooding there just after the turn of the century. At the time that chartering the City of Beacon was being advocated, states across the country, including neighboring New Jersey, were by law providing their cities the option of adopting a commission form of government.<sup>2</sup> In 1913, in Pennsylvania, the commission form of government was actually mandated for smaller cities.<sup>3</sup> Beacon modeled its first charter on one adopted by Grand Junction, Colorado in 1909.

Other progressive ideas - including nomination for public office by primary, lawmaking by the use of the citizen initiative and referendum, and a process for recall of elected officials - were central to public debate about reform New York state government in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries. Because they targeted “political machines,” these were resisted by entrenched party stalwarts in Albany in both major political parties. Reform advocates were mostly Republicans.

There was no home rule process for city charter adoption in 1910, therefore an act of the state legislature was required to approve and implement the City of Beacon’s proposed charter. The Beacon charter was introduced in Albany amidst this broader debate by Assembly member John T. Smith and State Senator John F. Schlosser, both of whom were on Beacon’s Charter Commission.

In its original form the Beacon charter provided for a mayor, commissioner of accounts, commissioner of finance, commission of public works and commissioner of public safety. In addition to serving as department heads, commissioners sat together to comprise the city council, presided over by a mayor who headed the police and fire departments and was charged with “general oversight of all departments.” The five commissioners were to be elected citywide for four year terms by a system of “rank order” voting. All were part-time except the commissioner of accounts, who served also as clerk of the council, purchasing agent, assessor and tax collector. The draft charter included provisions for initiative referendum and recall.<sup>4</sup>

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<sup>1</sup> “Hudson Towns Consolidate.” *New York Times* March 26, 1910 p. 9. David Levine. “A History of Beacon as it Celebrates its Centennial in 2013” <http://www.hvmag.com/Hudson-Valley-Magazine/June-2013/A-History-of-Beacon-As-It-Celebrates-Its-Centennial-in-2013/> Last visited January 29, 2017

<sup>2</sup> See Ernest S. Griffith. *A History of American City Government: The Progressive Years and Their Aftermath, 1900-1920* (Published for the National Municipal League in New York: Praeger Publishers, 1974) p.59.

<sup>3</sup> Martin J. Schiesl. *The Politics of Efficiency* (Berkeley: University of California Press, 1977) p. 138.

<sup>4</sup> “For Commission Rule” *The New York Times* June 16, 1911, p.2.

Though he was a progressive and among the nation's leading reformers, Republican Governor Charles Evans Hughes vetoed Beacon Charter Bill, citing a "flaw" in the process for election of the governing commission.

The charter bill was reintroduced the next year by Smith, and Dutchess County's newly elected Democratic state senator, Franklin Delano Roosevelt, but another veto followed by Governor John A. Dix, a Democrat. A home rule advocate, Dix was critical of the large number of charters and the amount of charter amendment legislation taking the attention of the legislature. Cities had earlier been organized into three classes for their more general treatment in the state legislature.<sup>5</sup> A general law specifying structural governance options for second class cities (those with populations between 50,000 and 175,000) was passed in 1908. The governor sought a similar law for third class cities (those with populations below 50,000). He wrote in his veto message on July 25, 1911:

"I intend to recommend to the legislature in 1912, and have ready for its consideration a uniform charter for all cities of the third class. Such charter should be most carefully prepared and be broad enough in its provisions to permit any existing community or communities by voting upon the question to adopt its provisions and thereafter be governed by such law."<sup>6</sup>

Some regarded the use of a single model city charter to be applied to all New York's smaller cities as problematic. They thought Governor Dix's argument disingenuous, a mask for Democratic Party leadership resistance to some of the progressive reform elements of Beacon's proposal.<sup>7</sup> In fact, the "optional city charter act" introduced in 1912 provided five different alternatives for structuring city government: two mayor council systems with council members elected at large; one mayor council system with members elected from wards; a council manager system; and a "so called commission plan."<sup>8</sup>

This law failed of passage, but was reintroduced in 1913 with the support of Governor William Sulzer, also a Democrat.<sup>9</sup> Again it did not pass. But this time the governor did sign into law a separate act creating the City of Beacon.<sup>10</sup> Excluding from that charter provisions for initiative, referendum and recall - "western innovations" provocative for incumbent legislators of both parties - appears to have been the price of passage. In the first city election, a Citizens-Progressive ticket defeated a Union Ticket, comprised of Republican and Democratic Party candidates.<sup>11 12</sup>

In its third annual report the Beacon city government summarized the virtues of the commission form:

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<sup>5</sup> New York State Constitution of 1894. Article XII §2.

<sup>6</sup> New York State. *Public Papers of John Dix, Governor, 1911* (Albany: J.B. Lyons and Company, 1912) p 213. Note: Cities of the 3<sup>rd</sup> class were New York's smallest cities in population.

<sup>7</sup> Beacon's Commission Charter. *New York Times* July 31, 1911 p.6. "Gov. Dix's Beacon Veto." Letter of Henry Gates, *New York Times* August 2, 1911, p. 6.

<sup>8</sup> . New York State. *Public Papers of William Sulzer, Governor.* (Albany: J.B. Lyons and Company, 1913)

<sup>9</sup> . In a famously contentious process, and as a result of an intra-Democratic party fight, Sulzer became the only New York Governor ever to be impeached. See Mathew Lifflander. *The Impeachment of Governor William Sulzer* (Albany: SUNY Press, 2012).

<sup>10</sup> Chapter 539, *Laws of 1913*.

<sup>11</sup> . "Progressives Win Beacon" *New York Times* June 13, 1913, p. 18.

<sup>12</sup> "City of Beacon is Born" *New York Times* July 1, 1913 p.2.

“It is not claimed for Commission government that it is a panacea for all ills, but it is certainly a step in the right direction. It centers power in the hands of a few men. It gives administrators and new idea of the job. It takes away the old fiction that the city’s public business serves as the cradle of our liberty and substitutes toe conception of the city as a business enterprise.”<sup>13</sup>

The city’s original charter was revised in 1915, when Republicans recaptured control of state government.<sup>14</sup> Most changes were minor, however, a major provision was added to assure the city’s ability to levy the property tax, and specify the process for doing so.<sup>15</sup>

The commission form achieved considerable early success; before it fell out of favor, it was tried in about 500 different cities across the United States. But then the council manager form was developed and came to be preferred by The National Municipal League, the great center of organized effort for municipal reform and the force for the development professional of city management in America.<sup>16</sup> Detractors of the commission form said:

“(1) ....Commissioners chosen by the voters... too often lacked experience and competence for administrative work. (2) ...The plan combined legislative and executive functions in the same hands... (3)...it confused responsibility and scattered control between the commissioners as a body and as individuals. (4) Rivalry and lack of cooperation developed between the commissioners as well as log-rolling, deadlocks, and “deals.” The need of a coordinating official such as a mayor or manager was felt. (5) City employees sometimes engaged actively in politics in behalf of favorite department heads. And (6) under the plan the majority [in the city] alone, as a rule, obtained representation on the commission.”<sup>17</sup>

By 1938 there remained five cities with commission forms of government in New York State: Beacon, Glenn Cove, Mechanicville, Saratoga Springs and White Plains. Under “home rule” provisions earlier written into state law, in 1948 citizens of Beacon organized in a Rent Payers and Taxpayers Association petitioned for charter change.<sup>18</sup> Modeled on an earlier effort in Yonkers, they sought a professional city manager, a requirement for an experienced credentialed engineer to head of the city public works department and a council comprised of six members and a presiding mayor without executive authority. The council was to be elected at-large by proportional representation (PR).

Proportional representation proved to be a poison pill. Adopted by New York City in 1936, the use of this process for electing the New York City Council resulted in the election of communist members, and was systematically targeted for repeal by both major party leaders.<sup>19</sup> An attempt to amend the state

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<sup>13</sup> City of Beacon. *3<sup>rd</sup> Annual Report*, 1915 (Deposited in the Beacon Public Library)

<sup>14</sup> Chapter 547 *Laws of 1915*

<sup>15</sup> Chapter 547 *Laws of 1915*, Title 8.

<sup>16</sup> Frank Mann Stewart. *Half Century of Municipal Reform: The History of the National Municipal League* (Westport: Greenwood Press, 1950) pp. 74-75.

<sup>17</sup> Changes in American City Government.

<http://library.cqpress.com/cqresearcher/document.php?id=cqresrre1930060200>

<sup>18</sup> Poughkeepsie Journal July 7, 1948

<sup>19</sup> See Robert J. Kolsar. “Communism, Race, and the Defeat of Proportional Representation in Cold War America” Presented at New England Historical Association Conference Amherst College, Amherst, Massachusetts, April 20, 1996.

constitution to bar the use of proportional representation in elections failed at the polls in 1938.<sup>20</sup> In Beacon, the heads of both the Democratic and Republican Parties denounced the proposed charter as likely to lead to higher costs for city government, diminish the range of voter choice and elevate social, economic and religious divisions in the city. GOP chair Carelton H. Jones explicitly described proportional representation a “communist scheme.”<sup>21</sup> The proposed charter was defeated.

A charter commission was created in 1974 by the City Council under Mayor Robert L. Cahill, but it failed to reach an outcome. A second effort to adopt the city manager system occurred with the creation of a fifteen person bipartisan Charter Revision Commission for the City in 1985. It found that only 178 cities in the nation still operated with commission systems in 1983. According to a member of its executive committee, David Lemon, this commission held more than one hundred meetings over two years to develop a document that, in addition to a professional manager, it called for a seven person council with four members elected from wards and a mayor and two members elected at large.<sup>22</sup> The mayor would serve for four years, council members for two.

A vote on the proposal was scheduled for a special election in Jun of 1987. The city was described as gripped by “Chartermania.”<sup>23</sup> Advocates organized as Beacon Citizens for Charter Reform conducted a vigorous door-to-door campaign. Describing the commission form as a “dinosaur heading for extinction” the *Poughkeepsie Journal* supported the proposed charter. The papers’ editors cited Beacon’s need for full-time leadership, professional management, financial accountability and long term planning.<sup>24</sup> Opposition was organized as “Friends of Beacon.” Among the organized opponents were the city’s unionized employee’s, who said they were concerned about increased expense rising from the creation of new positions and continuous campaigning resulting from a two year term for the council. Some in the city government preferred the status quo; others thought a strong mayor form of government better for the city than the manager form. The charter was narrowly defeated at the polls.

Advocates persisted in the wake of this defeat. A Citizens Commission for Charter Revision was formed. It offered and won adoption of a hybrid plan based on the failed 1987 proposal; it incorporating a two year term for council members and strong mayor as the city’s chief executive.<sup>25</sup> This is the current Beacon City charter, adopted in 1989. A series of amendments were passed in 1991 and 1992, reflecting needs that arose from experience with early charter implementation. These are documented in the current draft of the charter. Further amendments were made in 1995, 1996, 1999, 2000, 2004, 2006, 2007, 2009, 2010, 2012, 2014, 20015 and 2016. As required by the charter, a commission was formed and met ten years after initial adoption of the new charter. It made no recommendations.<sup>26</sup>

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<sup>20</sup> [https://ballotpedia.org/New\\_York\\_Voting\\_by\\_Proportional\\_Representation,\\_Amendment\\_7\\_\(1938\)](https://ballotpedia.org/New_York_Voting_by_Proportional_Representation,_Amendment_7_(1938))

<sup>21</sup> *Poughkeepsie Journal* August 12,13 and October 3 1948.

<sup>22</sup> Letter to the Editor. The *Poughkeepsie Journal* MAY 23, 19187 P. 4A.

<sup>23</sup> *Poughkeepsie Journal* June 28 1987 p. 7A.

<sup>24</sup> “Time for a Change in the Beacon Charter,” *The Poughkeepsie Journal* June 21, 1987 P.18A.

<sup>25</sup> *Poughkeepsie Journal* October 29, 1989 p. 12B.

<sup>26</sup> Telephone interview with Judge Peter Forman, February 23, 2017. Judge Foreman was a member of this commission.

# **Charter Changes Proposed by the Charter Commission**

## **General**

Renumber of document throughout, to assure consistency in reference

Change language where necessary to make the charter gender neutral

Note: Article and section numbers used below are current, and do not reflect proposed renumbering.

Note: Many changes in charter detail are proposed by the commission to reflect current practice in the city, or to facilitate more efficient daily administration of the city government. Where a policy discussion is anticipated regarding proposed charter change, the commission offers here a brief summary of the reasoning behind its proposal. Additional supportive materials are available in the consultant's presentations, provided in the attached appendix.

## **Article 1**

1.07.B Alter slightly language regarding the procedure for sale of public property to remove ambiguity.

1.16 Remove ward descriptions from the charter. Ward boundaries to be set forth in the code, and connected to the decennial redistricting provision.

## **Article 2**

2.00.A. Change the word "compensation" to "composition"

Change the word "district" to "ward" wherever it appears in the charter to reflect local usage and for consistency.

2.00.D. Election Process – strike this language as no longer needed: “The first city election under this Charter shall be held on the first Tuesday in November in the year 1991 and in conformity with the Election Law. The terms of the officers so elected shall begin on January 1, 1992. Thereafter, regular elections shall be held as provided by this Charter, to elect successors to those officers whose terms are about to expire.”

2.00.D(2-3). At-large council members to be elected for four years, ward based members for two years.

The commission considered the potential value of staggered elections for at-large members of the council, to achieve greater continuity in government. New York's constitution requires that city elections be held in odd numbered years. A staggered election would therefore require four year terms for these members. The commission ultimately decided against staggering, as

members came to believe that this would elevate conflict in city government. The commission reasoned that the at-large members not elected simultaneously with the mayor would have an additional incentive to challenge him or her for that position because he or she might do so without risking his or her incumbency. This would increase the likelihood that he or she might use council meetings to establish a political rationale for such a challenge. During the course of their discussion, however, the commission members came to believe that four year terms for at-large members elected simultaneously with the mayor would be desirable for encouraging longer-term thinking and planning in city decision making, with the understanding that a majority in the council would remain with members elected from wards, elected for two years, who remain closely attune to neighborhood concerns and interests.

2.02 Remove health benefits for council members from the charter, accompanied by a \$2000 raise for council members and a proportional \$5,000 raise for the mayor. Members would be permitted to buy insurance through the city plan.

Provisions for health insurance benefits for elected officials in a city charter are rare. No other examples of this practice were found elsewhere in New York. Moreover, a majority of the commission believe that the city should not provide such benefits for part-time elected officials. The value of these benefits exceeds the salary for council members. Members who accept these benefits are therefore effectively compensated at a much higher rate than are colleagues who do not, creating an inequity. The commission proposes that elected officials be allowed to purchase health insurance through the city, and suggests a salary increase to help cover the cost of doing so. The proposed increase in the salary for the mayor is proportional to that for members of the council.

2.04 Strike this language as unneeded: “The Mayor shall submit a yearly planning report to the Council no later than June 1.”

2.14 Timing of Reporting Independent Audit – Change from April 30 to June 30.

2.16.A Revise language to require Mayor’s office to prepare the agenda the Friday before each meeting.

2.16.C. Workshop meetings: More precise language is provided regarding procedure for addition of items to the agenda by Council members.

2.26 Switch to electronic publication of ordinances

### **Article 3**

3.00.7 Change the deadline for Mayoral financial reporting from March 1 to May 1

3.00.(6) and (12) Purchasing authority – Alter to reflect current practice, adding purchasing to duties of administrator or his or her designee.

3.01A – Each time the Council reorganizes, by a date certain, the City Administrator will recommend and mayor specify persons who might serve as an acting administrator if the administrator is absent or unable to do so for 30 days or more. (Provision of additional compensation will be addressed in each specific circumstance.)

#### **Article 4**

Article 4 Language regarding individual departments will be retained. Language included at the time of the original adoption of charter to give assurance to existing departments and officials to be removed.

4.02 Add the word "firm" to the charter to make clear that the appointee as city attorney need not be a named individual person.

4.06 The commission recommended broadening language regarding qualifications required to be head of the city finance department to deepen the potential recruitment pool.

4.16 City Officers. The Commission agreed that certain offices need not be specified in the charter: e.g. Code Enforcement, Fire Inspection Coordinator

#### **Article 5.**

5.06.E. Language is added to assure that default budget, if necessary, conforms to state limits and requirements in law.

5.10.D Transfer of Appropriations: Change \$3,000 to \$7,500 threshold for mandatory review and action by the Council to give the administrator greater flexibility in daily management of the city government. This partly reflects the effects of inflation.

Section 5.14 Public moneys

Remove Section A as redundant and duplicative of other charter provisions (e.g. Section 4.06)

Retain Section B but reword to reflect the technology currently used to make payments and move to Section 5.12.

#### **Article 6**

Section 6.00 Comprehensive Plan— Alter Section A and remove sections C, D as duplicative of procedures specified in NY General City Law.

6.02.B. Delete Section 6.02.B as duplicative of State Law.

6.02.C. Add “resiliency and sustainable” operation of public facilities as goals.

### **Article 8.**

8.00 Bonding Process: Commission agrees to retain \$250,000 threshold for Permissive Referendum

### **Article 9**

Section 9.05 add term “quasi-contract” to accommodate results of recent litigation.

### **Article 10**

Remove unneeded transitional provisions.

### **Article 11**

Move Article 11 to come after Article 5 Financial Procedures.

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# Draft Charter with Proposed Changes

## Appendix I

## Chapter C. Charter

### Article 1. Title; Powers of City; Boundaries

#### Sec. 1.00. Short title.

This Charter shall be known and may be cited as "Charter of the City of Beacon."

#### Sec. 1.~~02~~01. Purpose.

The purpose of this Charter is to provide the legal framework for organizing and operating the government of the City of Beacon.

#### Sec. 1.~~04~~02. Corporate name.

The City of Beacon, hereinafter referred to as the "city," shall continue to be a municipal corporation in perpetuity, as heretofore established and as provided by law, under the name "City of Beacon."

#### Sec. 1.~~06~~03. Powers of the city.

The city shall have all powers granted to a city of its population under the constitution and laws of the State of New York, as fully and completely as though they were specifically enumerated in this Charter.

#### Sec. 1.~~07~~04. Authorization to sell or convey city-owned property.

The purpose of this chapter is to supersede General City Law § 23(2)(b) so as to authorize the public or private sale or lease of real property owned by or in the control of the city through public or private transaction.

- A. Authorization for sale or lease. The City Council may by a resolution adopted by majority vote, sell, convey, exchange, grant or release any city real estate or franchise belonging to or under the control of the city at public or private sale, and grant rights or interests in, over, under and across any real property in which the city has any right, title or interest, for such consideration and upon such terms and conditions as the City Council may deem proper, and with respect to the sale of surplus real property, such terms and conditions may include purchase money mortgages, installment contract sales and any other means of selling and financing.
- B. Procedure for sale at public auction. Real property owned by the city leased, sold or otherwise alienated by public sale shall be at public auction or by sealed bid to the highest bidder, under proper regulations as to the giving of security and after public notice of the time and place and terms of such sale has been published at least once in the official newspaper of the city at least one week prior to such sale.

**Sec. 1.~~0805~~. Vested rights and duties.**

All property, power, contracts, local laws, ordinances, rules, regulations, obligations and liabilities of the city existing at the time of adoption of this Charter, unless explicitly superseded by this Charter, shall be in no way affected or changed by its adoption. All actions and proceedings pending for or against the city at the time that this Charter takes effect shall be continued unless the parties shall otherwise stipulate.

**Sec. 1.~~0610~~. Construal.**

The powers of the city under this Charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general powers stated in this Article or provided by the laws of the State of New York.

**Sec. 1.~~1207~~. Intergovernmental relations.**

The city may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one (1) or more states or civil divisions or agencies thereof, as authorized by the Constitution and Laws of the State of New York.[1]

**Sec. 1.~~1608~~. Boundaries of the wards.**

The city shall be divided into four wards, the boundaries of which shall be set forth in the City Code and reviewed and adjusted as appropriate within six months after publication of the results of each Federal decennial census. ~~The current ward boundaries are as follows (all references to a street refer to its center line; all references to a compass point are approximate):~~

~~Ward One:~~

~~From the point on the western city boundary where it touches Red Flynn Drive; then~~

~~South on Red Flynn Drive, across the railroad overpass to Beekman Street; then~~

~~Northeast on Beekman Street to North Avenue; then~~

~~South on North Avenue to Main Street; then~~

~~East on Main Street to Fishkill Avenue; then~~

~~North on Fishkill Avenue to Verplanck Avenue; then~~

~~West on Verplanck Avenue to Matteawan Road; then~~

~~North on Matteawan Road to Camp Beacon Road; then~~

~~North on Camp Beacon Road and continuing in the same direction to the northern city boundary; then~~

~~10. Along the northern and western city boundaries back to the starting point.~~

~~Ward Two:~~

~~From the point on the western city boundary where it touches Red Flynn Drive; then~~

~~South on Red Flynn Drive, across the railroad overpass to Beckman Street; then~~

~~Northeast on Beckman Street to North Avenue; then~~

~~South on North Avenue to Main Street; then~~

~~East on Main Street to Teller Avenue; then~~

~~South on Teller Avenue to Wolcott Avenue; then~~

~~West on Wolcott Avenue to Sargent Avenue; then~~

~~South on Sargent Avenue to South Avenue; then~~

~~South on South Avenue to the midpoint of Fishkill Creek; then~~

~~South along the midpoint of Fishkill Creek to the southern city boundary; then~~

~~Along the southern and western city boundaries back to the starting point.~~

~~Ward Three:~~

~~From the point on the eastern city boundary where Mount Beacon Monument Road crosses; then~~

~~West on Mount Beacon Monument Road to East Main Street; then~~

~~West on East Main Street to Washington Avenue; then~~

~~North on Washington Avenue to Grove Street; then~~

~~West on Grove Street to Liberty Street; then~~

~~South on Liberty Street to East Main Street; then~~

~~West on East Main Street to Main Street; then~~

~~North on Main Street to Verplanck Avenue; then~~

~~West on Verplanck Avenue to Matteawan Road; then~~

~~North on Matteawan Road to Camp Beacon Road; then~~

~~North on Camp Beacon Road and continuing in the same direction to the northern city boundary; then~~

~~Along the northern and eastern city boundaries back to the starting point.~~

~~Ward Four:~~

~~From the point on the eastern city boundary where Mount Beacon Monument Road crosses; then~~

~~West on Mount Beacon Monument Road to East Main Street; then~~

~~West on East Main Street to Washington Avenue; then~~

~~North on Washington Avenue to Grove Street; then~~

~~West on Grove Street to Liberty Street; then~~

~~South on Liberty Street to East Main Street; then~~

~~West on East Main Street to Main Street; then~~

~~North on Main Street to Verplanck Avenue; then~~

~~West on Verplanck Avenue to Fishkill Avenue; then~~

~~South on Fishkill Avenue until it turns into Teller Avenue; then~~

~~South on Teller Avenue to Wolcott Avenue; then~~

~~West on Wolcott Avenue to Sargent Avenue; then~~

~~South on Sargent Avenue to South Avenue; then~~

~~South on South Avenue to the midpoint of Fishkill Creek; then~~

~~South along the midpoint of Fishkill Creek to the southern city boundary; then~~

~~Along the southern and eastern city boundaries back to the starting point.~~

## **Article 2. City Council**

### **Sec. 2.00. Composition; eligibility; election; terms.**

- A. ~~Compensation~~Composition. There shall be a City Council of six (6) members and a Mayor. The term "Council" or "City Council" shall include the Mayor unless said Mayor is excluded by express provision therefrom or by operation of law. Two (2) of the Council members will be elected at-large, and the remaining four (4) Council members will be elected from ~~districts~~ wards, the boundaries and dimensions of which shall be determined by the City Council, in conformity with constitutional requirements and the requirements of the Laws of the State of New York.
- B. Eligibility. Only qualified voters of the city shall be eligible to hold the office of Council members and Mayor. Any such elected officer of the city shall vacate ~~his-the~~ office upon removal of his/her domicile from the city and shall be disqualified from holding such office.
- C. Qualifications. Every elected or appointed city officer shall possess the qualifications prescribed by the Public Officers Law of the State of New York, except as otherwise provided in this Charter.
- D. Election and terms. ~~The first city election under this Charter shall be held on the first Tuesday in November in the year 1991 and in conformity with the Election Law. The terms of the officers so elected shall begin on January 1, 1992. Thereafter, regular elections shall be held as provided by this Charter, to elect successors to those officers whose terms are about to expire.~~
- (1) The Mayor shall be elected for a term of four (4) years.
- (2) ~~The-Ward based~~ Council members shall be elected for a term of two (2) years.
- (3) At-large Council members shall be elected for a term of four (4) years and elected simultaneously with the Mayor.
- (3)(4) Four (4) Council members shall each represent one (1) of the four (4) ~~districts~~ wards of the city, and a Council member representing such ~~district-ward~~ shall be domiciled and a qualified voter therein.

## **Sec. 2.~~0201~~. Compensation and expenses.**

The salary for each of the six (6) Council members shall be ~~nine-eleven~~ thousand dollars (\$~~911~~,000.) per annum, and for the Mayor ~~twenty-thirty-five~~ thousand five hundred dollars (\$~~2530,500~~.) per annum. The Council may determine the compensation of the Council members and for the Mayor by ordinance. This includes, but is not limited to, salary, health insurance and/or other fringe benefits. Council members and the Mayor shall receive their actual and necessary expenses incurred in the performance of their duties of office. In addition, the Council members and the Mayor shall have the option of receiving health insurance benefits, individual or family coverage, through the City of Beacon's health insurance plan. Council members and the Mayor shall be required to pay all premium costs associated with

~~health insurance coverage. The City's contribution toward the premium cost of providing this coverage, individual or family, shall be at the same percentage contribution rates as is provided to the City's department heads.~~

## **Sec. 2.0402. Mayor.**

The Mayor shall preside at meetings of the Council and shall be recognized as chief executive officer of the city government. The Mayor shall appoint the Council Secretary. The Mayor, with the consent of a majority vote of the Council, shall appoint all members to, and fill all vacancies on, all boards, commissions and similar bodies created and authorized by state law or this Charter. The Mayor may appoint, from time to time, such nonsalaried advisory committees as may be necessary to make nonbinding recommendations as to those matters which they are assigned to review. ~~The Mayor shall submit a yearly planning report to the Council no later than June 1.~~

## **Sec. 2.0603. Prohibitions.**

- A. Holding other office. Except where authorized by law, no Council member shall hold any other city office or employment during the term for which elected to the Council; and no former Council member shall hold any compensated appointive city office or employment until one (1) year after the expiration of the term for which elected to the Council.
- B. Appointments and removals. Neither the Council nor any of its members, with the exception of the Mayor, shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the Mayor or any subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the Mayor anything pertaining to appointment and removal of such officers and employees.
- C. Interference with administration. Except for the purpose of inquiries and investigations under Section 2.1206, neither the Council nor any of its members shall direct or otherwise manage any city officer or employee, other than through the City Administrator or Mayor.

## **Sec. 2.0804. Vacancies in elective office.**

- A. Creation of vacancies. A vacancy in an elective office shall exist when the person elected fails to qualify for the office within thirty (30) days thereafter, dies, resigns, ceases to be domiciled in the city and/or ward from which elected, is determined to be either mentally or physically incompetent to perform the duties for which that person was elected or is convicted of a felony or a crime involving a violation of oath of office or when a judgment of a court declares the election void, the office forfeited or vacant or when the person fails or refuses to file the official oath or undertaking as prescribed by law.

- B. Procedures. If a vacancy shall occur in any elective office of the city (with the exception of Mayor), otherwise than by expiration of term, the Mayor, with the consent of the majority of the City Council, shall appoint a duly qualified person to fill such vacancy until a successor is chosen in accordance with the Public Officers Law. If a vacancy in an elective office is not filled by the Mayor with Council approval within forty-five (45) days of its occurrence, the Council shall have the power to fill such vacancy by four (4) affirmative votes of the Council. In the event that no appointment is made to fill the vacancy as hereinbefore provided, the Council may call a special election to fill such vacancy for the unexpired term. Such a special election shall be held no later than ninety (90) days from the occurrence of the vacancy. If the vacancy shall occur in the office of Mayor, the City Council, by a majority vote of its members, shall appoint a duly qualified person to fill such vacancy until a successor is chosen in accordance with the provisions of the Public Officers Law. In the event that no appointment is made to fill the vacancy in the office of Mayor within forty-five (45) days of its occurrence, the Council may call a special election to fill such vacancy for the remainder of the unexpired term. Such a special election shall be held no later than ninety (90) days from the occurrence of the vacancy. During the interim, the person so appointed as Mayor pursuant to Chapter 23 of the Code of Ordinances shall perform the duties of Mayor until the vacancy is filled as hereinabove provided and shall assume the additional compensation for Mayor while assuming those duties.
- C. In the event there is a conflict with the language contained in either Chapter 19 or Chapter 23 of the Code of Ordinances, the terms of this section shall supersede the provisions in Chapters 19 and 23 of the Code of Ordinances entitled "Continuity of Government" and "Disaster Preparedness Committee," respectively.

## **Sec. 2.~~1905~~. Judge of qualifications.**

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of and removal from their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office other than those grounds causing an immediate vacancy, by operation of state law, shall be entitled to a public hearing on demand, after seven (7) days' written notice. Notice of such hearing shall be published in one (1) or more newspapers of general circulation in the city at least one (1) week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the courts. In determining the qualifications of its members, the Council shall use the standards set forth in the Public Officers Law and General Municipal Law, and such additional standards as may be enacted by Charter amendment or local law, provided that the same are not inconsistent with the Public Officers Law or General Municipal Law.

## **Sec. 2.~~1206~~. Inquiries and investigations.**

The Council shall have access to all information concerning any aspect of the affairs of the city, and may request such information in writing. The Council shall also have the power to make formal investigations into any aspect of the affairs of the city, and for such purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails to obey any subpoena or lawful directive of the Council pursuant to this section shall be punished as provided by law for contempt.

## **Sec. 2.~~1407~~. Independent audits.**

The Council shall obtain an independent audit of all financial accounts at least once annually. Such audits must be conducted by a certified public accountant who has no direct personal interest in the financial affairs of the city government or any of its officials. The annual audit must be reported to the Council and the public no later than ~~April 30~~ June 30 of each year.

## **Sec. 2.~~1608~~. Procedures.**

- A. Meetings. The Council shall meet regularly twice in every month at such times and places as the Council may prescribe by rule. The Mayor's office shall prepare and make public a written agenda ~~the Friday at least two (2) working days~~ before each regular Council meeting. Special meetings may be held on the call of the Mayor or of four (4) or more members, and whenever practicable, upon no less than twenty-four (24) hours' written notice to each member. All meetings shall be public; however, the Council may recess for the purpose of discussing, in a closed or executive session, those topics or items for which the Public Officers Law allows a closed session. The general subject matter for consideration must be expressed in the motion calling for such closed session. Final action thereon shall not be taken by the Council until the matter is placed on the agenda.
- B. Rules and journal. The Council shall determine its own rules and order of business and shall provide for keeping of a full and accurate journal of its proceedings and communications, which shall be a public record. They shall provide for public comments at all meetings.
- C. Workshops. In order to prepare for regular meetings, the Council may meet in informal public workshops. Workshop meetings shall be subject to the same requirements as regular meetings with respect to notice, public attendance, advance public agenda, and public record. No formal legislative decision may take place at a workshop. Any Council member may request the Mayor add an item to the workshop agenda and if not added to the Agenda, a Council member may at the next workshop meeting request that the item be added to the end of the Agenda upon approval of a majority of the Council. Any Council member may refer to workshop any item of business that has not been previously reviewed in workshop and/or any item of business discussed at a regular meeting which requires further discussion.

D. A majority of the whole number of the Council, including vacancies, abstentions and any members disqualified, shall constitute a quorum, and the same number shall be necessary to perform and exercise any power, authority or duty of the Council.

E. Official newspaper. The Council shall designate on an annual basis an official newspaper or newspapers, which may be a daily or weekly newspaper of general circulation in the City of Beacon.

**Sec. 2.1809. Action requiring an ordinance or local law.**

The Council shall have the power to enact ordinances for any lawful purpose, within its powers, as provided and authorized by § 20 of the General City Law or any other statute of the State of New York. The Council may enact local laws, for any purpose authorized under the laws of the State of New York, pursuant to the procedures set forth by the laws of the State of New York for such enactments.

**Sec. 2.2010. Ordinances in general.**

All proposed ordinances must be presented, in writing, by the Council at least one (1) meeting before adoption, except for emergency ordinances as provided in Section 2.2412. All ordinances, resolutions and charter amendments adopted by the Council shall be recorded in the journal.

**Sec. 2.2211. Franchises.**

No franchise or renewal thereof shall be granted except upon a public hearing, a notice of which shall be published at least three (3) weeks before the date set for the hearing. The request for such franchise or renewal shall be on file with the City Clerk for public inspection for the three (3) weeks prior to the date of the hearing.

**Sec. 2.2412. Emergency ordinance.**

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one (1) or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting emergency clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five (5) Council members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the

ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

## **Sec. 2.~~2613~~. Publication of ordinances and resolutions.**

The Council shall cause ~~a summary of the entire text of~~ every ordinance and of every resolution having the effect of law ~~to be printed in full in the minutes of the meeting at which they are introduced and adopted,; and of the entire text of each amendment to this Charter, to be published promptly in the official newspaper following its adoption before it becomes effective.~~ The full text of the ordinances, resolutions and charter amendments shall be published on the City website and made available to the public, free of charge, from the City Clerk. ~~The published notice shall specifically state that a full copy of the ordinance or resolution may be obtained, free of charge, from the City Clerk.~~

## **Article 3. Mayor; Administrator**

### **Sec. 3.00. Powers and duties of Mayor.**

- A. ~~4.~~ The Mayor shall appoint, subject to Council approval, all city employees, department heads and administrative officers provided for by this Charter, created by the Council, authorized or approved by the Council or required by State Law.
- B. ~~2.~~ The Mayor shall have the power to remove, suspend or terminate any and/or all city employees, department heads, and/or administrative officers where and when the Mayor deems it necessary, except as otherwise provided for by this Charter or personnel rules adopted pursuant to this Charter and/or state law.
- C. ~~3.~~ The Mayor may authorize any administrative officer who is subject to the Mayor's authority and supervision to exercise any of the Mayor's powers with respect to subordinates in that officer's department, office or agency.
- D. ~~4.~~ The Mayor shall direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this Charter or by law.
- E. ~~5.~~ The Mayor shall see that all laws, provisions of this Charter and acts of the Council subject to enforcement by the Mayor or by officers or subject to the Mayor's direction and supervision are faithfully executed.
- F. ~~6.~~ The Mayor shall direct the City Administrator to prepare the budget ~~prepare~~ and submit the annual budget and capital program to the Council.
- G. ~~7.~~ The Mayor shall submit to the Council and make available to the public by ~~March~~ May 1 each year a complete written report on the finances and administrative activities of the city as of the end of the prior year.

- H. ~~8.~~ The Mayor shall make such other reports as the Council may require concerning the operations of city departments, officers and agencies subject to the Mayor's direction and supervision.
- I. ~~9.~~ The Mayor shall keep the Council fully advised as to the financial condition and future needs of the city and make recommendations to the Council concerning the affairs of the city.
- J. ~~10.~~ The Mayor shall perform such other duties as are specified in this Charter or may be required by the Council.
- K. ~~11.~~ The Mayor shall sign ~~all~~ contracts when authorized and approved by the Council.
- L. ~~12. The Mayor shall designate a purchasing agent who shall be responsible for all city purchases.~~
- M. ~~13.~~ The Mayor, as the chief executive officer of the city government, shall represent the city at functions which require official representation.
- N. ~~14.~~ The Mayor shall notify the City Council of the expiration dates of all appointed positions that are subject to this provision, at least sixty (60) days prior to said expiration date. The Mayor shall also post a notice ~~at City Hall~~ on the City website and publicly announce all such expiration dates at the same time as Council notification. Resignations shall be announced at the first Council meeting following the receipt of said notice of resignation by the Mayor.
- O. ~~15.~~ Nominations and applications for such positions shall be accepted from both the Council and the public for a two-week period following said notification. Applications received by the Mayor prior to the notification set forth above shall also be considered for these positions.
- P. ~~16.~~ Proposed appointments by the Mayor will not be added to the agenda between the adjournment of a workshop session and the commencement of the following City Council meeting.

### **Sec. 3.01. Acting City Administrator.**

- A. Each year the City Administrator shall recommend to the Mayor two individuals qualified to fill in as Acting Administrator. At the beginning of the year, at the annual reorganization meeting, the Mayor shall publicly announce and approve the two individuals. If and when an Acting City Administrator is required to perform the duties of City Administrator, a resolution shall be approved by the City Council appointing one of the two individuals. Council hereby creates the position of Acting City Administrator who may be appointed by the Mayor, subject to Council approval, whenever the Mayor determines that an Acting City Administrator may be appointed, whenever the Mayor determines that:

- (1) The City Administrator is medically unable to perform his ~~or~~ / her duties full-time;
- (2) The City Administrator is or will be on a leave of absence or vacation for more than ~~five (5) days~~ thirty (30) days;
- (3) The City Administrator is prevented by an emergency from carrying out his ~~or~~ / her duties;
- (4) The City Administrator has resigned or is terminated.

B. Qualifications.

- (1) If the Acting City Administrator is expected to perform for less than three (3) consecutive months, the Acting Administrator shall possess a baccalaureate degree from an accredited college or university or at least one (1) year of special training in public administration and finance or at least three (3) years' successful experience in a responsible executive position in governmental administration, or any equivalent training or combination of experience and training sufficient to indicate capacity for effective governmental administration.
- (2) If the Acting Administrator is expected to or does perform in that capacity for more than three (3) consecutive months, the Acting City Administrator's qualifications shall be a baccalaureate degree from an accredited college or university and at least one (1) year of special training in public administration and finance and at least three (3) years' successful experience in a responsible executive position in governmental administration, or any equivalent training or combination of experience and training sufficient to indicate capacity for effective governmental administration.

C. Upon determination by the Mayor of the existence of any of the events set forth in Subsection A, the Mayor's appointment of the Acting City Administrator shall commence on a date designated by the Mayor. The Acting City Administrator shall have all the powers and perform all the duties of the City Administrator during any period of the City Administrator's absence.

D. The Acting Administrator shall terminate upon the City Administrator's resumption of his ~~or~~ / her duties full time.

E. The Acting City Administrator's compensation shall be determined by the Mayor, subject to Council approval.

F. The Mayor or the Council may require certification from a medical doctor that the City Administrator is able to resume full-time duties where the City Administrator's absence is due to medical reasons.

- G. The Acting City Administrator's term of appointment shall not exceed six (6) months unless reappointed by the Mayor with Council approval prior to the expiration of the six-month period.
- H. An appointment of an Acting City Administrator shall be made no later than sixty (60) days after any of the events set forth in Subsection A occurs, as may be determined by the Mayor.

### **Sec. 3.02. City Administrator.**

- A. The Mayor shall appoint a City Administrator subject to an affirmative vote of a majority of the Council members. The City Administrator shall serve at the pleasure of the Mayor. Prior to appointment, the City Administrator shall be qualified with a baccalaureate degree from an accredited college or university and at least one (1) year's special training in public administration and finance and by at least three (3) years' successful experience in a responsible executive position in governmental administration, or by any equivalent training or combination of experience and training sufficient to indicate capacity for effective governmental administration. The City Administrator shall attend all Council meetings and shall have the right to take part in discussion, but may not vote.
- B. The City Administrator shall, as directed by the Mayor:
  - (1) Supervise the operations of all departments and units of the city government. As the Supervisor of all department heads, the City Administrator has the authority to discipline any department head for cause, up to but not including termination.
  - (2) Prepare or cause to be prepared and submit to the Mayor an annual budget and a capital program pursuant to the provisions of Article 5 of the Charter and Code, and when the same has been approved by the Mayor and the Council, administer the operations under his/her jurisdiction and within those budgetary provisions.
  - (3) Report to the Mayor on the needs, finances and progress of the city in conforming to its Comprehensive Plan, with such recommendations for action by the Council.
  - (4) Promulgate a personnel and salary plan and, when it is approved by the Council, faithfully execute and adhere to its provisions, and in the same manner revise and update such plans as may be necessary.
  - (5) Negotiate, on behalf of the city, agreements with recognized employee representatives on conditions of employment, wages, employee sick leave, vacations, compensatory time off, health insurance, retirement plans and such other personnel matters as may be negotiated, and recommend to the Mayor necessary action thereon as they may deem necessary.

- (6) He/She shall see that all laws and provisions of the Charter and the Code and directions of the Council, subject to enforcement by him/her or officers subject to his/her supervision, are faithfully executed.
- (7) Promulgate a uniform purchasing plan for the procurement of all goods and services required in the administration of the city government, and when approved by the Mayor and the Council, faithfully administer the same.
- (8) Execute such purchasing and service contracts as may be required for the effective administration of the government and the care of its equipment and property under such general authorization as he/she may request and the Mayor and the Council may, by resolution, grant.
- (9) Authorize the attendance of city officials and employees at meetings, seminars and other such gatherings and functions, within budgetary limits or upon special action by the Council.
- (10) Authorize functions and duties not otherwise provided for by the Charter and Code, to units of his/her own choosing, and to transfer employees from one unit to another, temporarily or permanently, as he/she may deem appropriate.
- (11) Act promptly to deal with minor emergencies and breakdowns in city service, and assign administrative resources as available and needed to deal with major emergencies.
- (12) Pursue grant proposals that may benefit the city.
- (13) Carry out such related and nonconflicting duties as may be directed by the Mayor, or as the Council may, by resolution, empower the Mayor to assume, within the constraints imposed by the Charter and Code.
- (14) Approve each voucher, claim or account presented.
- (15) Sign all orders and vouchers for any material or services ordered, rendered, delivered or used.
- (16) Approve all bonds or other security and all public liability and property damage insurance policies required by this Charter and the Code of Ordinances to be given in favor of the city and its inhabitants.

### **Sec. 3.~~0403~~. Removal of Administrator.**

The Mayor, with the consent of the council, may remove the Administrator from office in accordance with the following procedures:

- (1) The Mayor shall submit to the Council a preliminary resolution which must state the reason for removal and may suspend the Administrator from duty for a period not to exceed thirty (30) days. A copy of the resolution shall be delivered promptly to the Administrator.
- (2) Within fifteen (15) days after a copy of the resolution is delivered to the Administrator, the Administrator may file with the Council a written response to the preliminary resolution.
- (3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members, at any time after the expiration of fifteen (15) days from the date when a copy of the preliminary resolution was delivered to the Administrator. The Administrator shall continue to receive his/her salary until the effective date of a final resolution of removal.

### **Sec. 3.~~05~~04. Acting Mayor.**

~~A. Title. This local law shall be entitled “A Local Law Adding to the City Charter Section 3.05 to the Powers and Duties of the Mayor to Appoint an Acting Mayor.”~~

B.A. Intent and purpose. This local law provides for the creation of the position of Acting Mayor, who shall be appointed by the Mayor to assure that the office and powers of the Mayor are properly executed in the absence of the Mayor from office or where the Mayor’s disability causes his/her absence, preventing the Mayor from executing the functions of the Mayor’s office.

~~C.B.~~ B. Appointment of Acting Mayor.

- (1) The City Council hereby creates the position of Acting Mayor, who shall be appointed by the Mayor, subject to City Council approval, within three (3) months of the City of Beacon’s reorganization meeting.
- (2) In the event of a tie vote of the City Council on the approval of the Mayor’s appointment of an Acting Mayor, the Mayor’s appointment shall stand.

~~D.C.~~ C. Qualifications of Acting Mayor. The Acting Mayor shall be a member of the City Council at the time of appointment.

~~E.D.~~ D. Duties of Acting Mayor. The Acting Mayor shall have all the powers and perform all the duties of the Mayor during any period of the Mayor’s absence from office and shall be entitled to cast one (1) vote as Acting Mayor and no vote as a Council member.

~~F.E.~~ E. Term of service. The Acting Mayor shall cease serving as Mayor upon the termination of the Mayor’s absence and resumption by the Mayor of his/her mayoral duties.

G.F. Compensation. The Acting Mayor will not receive compensation for services as Mayor.

H.G. Determination. The determination of whether a vacancy exists in the elective office of Mayor shall be made as set forth in City Charter Section 2.~~08-04~~ and the Public Officers Law. If there is a conflict between the language of this local law and Section 2.~~08-04~~ or the Public Officers Law, the terms of Section 2.~~08-04~~ or the Public Officers Law shall supersede the provisions of this law.

I.H. Effective date. This law shall take effect immediately upon its filing in the office of the Secretary of State.

## **Article 4. Administrative Departments**

### **Sec. 4.00. General provisions.**

- A. Creation of departments. The Council may establish city departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies.
- B. Personnel system. All appointments and promotions of city officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence, and according to the provisions and requirements of the Civil Service Law.
- C. Salaries. The Mayor shall fix reasonable salaries of all department heads and nonelected, nonaffiliated personnel, within the budgetary limits set by the Council.
- D. The Mayor and City Council shall approve in advance the creation of all employment positions within the City of Beacon, by roll call vote. Prior to such vote, the Mayor shall provide the Council with the position title, rate of pay, description of duties to be performed and the planned date of hire.

### **Sec. 4.~~0201~~. City Attorney.**

The City Attorney shall be a law firm or an attorney and counselor at law, duly licensed to practice law in the State of New York for at least five (5) years prior to appointment. The City Attorney shall be appointed by the Mayor with the consent of the Council. The City Attorney shall serve at the pleasure of the Mayor for a term that shall not exceed four (4) years and shall commence with the appointment of the Mayor at the beginning of the Mayor's term of office. The City Attorney shall be the legal advisor of the Mayor and Council and all city departments, boards and commissions. The City Attorney shall conduct all cases in court wherein the City shall be a party plaintiff or defendant or a party in interest and shall perform such other duties as are required by law.

### **Sec. 4.~~0402~~. City Clerk.**

The City Clerk shall:

- A. Perform all duties assigned to the position by law, unless modified in the City Code, and such other duties as requested by the City Administrator.
- B. Act as the City's custodian of records, the Records Access Officer, and receive all documents filed with the City.
- C. Be the depositor and custodian for all performance bonds.
- D. Give notice of all City Council meetings to members and the public, and shall be the custodian of the journal of its proceedings.
- E. Act as the City Registrar and issue dog licenses.
- F. File all propositions submitted to the citizens of Beacon, together with the affidavits of publication and posting thereof as required in the Code of Ordinances and resolutions adopted by the City Council.
- G. File such other reports, records, oaths, documents and instruments as are required to be filed by the laws of the State of New York and the provisions of the Beacon Code of Ordinances and City Charter.

#### **Sec. 4.~~0603~~. Department of Finance.**

There shall be a Department of Finance, the head of which shall be the Director of Finance, which shall be responsible for the management and disbursement of all City revenues and other assets. The individual so appointed to the position of Director of Finance shall have attained certification as a certified public accountant, or shall have a graduate degree in law, business, or public administration with a minimum of five years experience in public finance; or shall possess ~~or an~~ equivalent qualifications, certification ~~or and~~ experience ~~and shall possess the experience and qualifications~~ necessary to perform the duties of the office. Whether a candidate meets the requisite experience and qualifications to serve as Director of Finance shall be determined by the City Administrator.

#### **Sec. 4.~~0804~~. Department of Public Works.**

~~There shall be a~~ Public Works Department as organized, ~~and staffed upon the effective date of this Charter shall continue until otherwise provided by local law or ordinance.~~

#### **Sec. 4.~~1005~~. Fire Department.**

The Fire Department shall be organized and staffed as set forth in City Code Chapter 31 and any amendments thereto ~~and shall continue until otherwise provided by law or ordinance.~~ There shall be a full-time Fire Chief, who shall be a paid employee of the City appointed by the Mayor, subject to the consent of the Council. There shall also be one (1) or more unpaid

Assistant Fire Chiefs, to be known as First Assistant Fire Chief and so on, who shall be appointed from the ranks of the volunteer firefighters pursuant to the provisions set forth in City Code § 31-9 and any amendments thereto.

**~~Sec. 4.10.1. Fire and Inspection Coordinator.~~**

~~The position of Fire and Inspection Coordinator may be appointed by the Mayor with the consent of the City Council. The Fire and Inspection Coordinator shall:~~

- ~~1 At the Fire Chief's direction, supervise and assign daily work activities to paid career firefighters.~~
- ~~2 At the Fire Chief's direction, assign Fire Department personnel to cover vacation, holiday, personal leave and other approved time off, together with reviewing and approving or denying all leave requests.~~
- ~~3 Coordinate and supervise fire inspections of multiple dwellings and other occupancies in consultation with the Building Department.~~
- ~~4 At the Fire Chief's direction, monitor performance and conduct regularly scheduled performance evaluations of all paid career firefighters.~~
- ~~5 At the Fire Chief's direction, coordinate and supervise paid career firefighter's training.~~
- ~~6 Participate in fire suppression and emergency medical treatment activities, as required.~~
- ~~7 Perform new construction inspections, zoning law administration, code enforcement duties, fire inspections and building plan review, as required.~~
- ~~8 Complete required reports relative to personnel, training, zoning law administration, code enforcement duties, construction inspections, and fire inspections.~~
- ~~9 Enter and inspect any such building, structure or premises in the City of Beacon and may perform any other act or duty necessary for the proper enforcement of the codes, ordinances and law of the City of Beacon.~~
- ~~10 Issue all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to ensure compliance during the entire course of construction with the requirements of such laws, ordinances or regulations.~~
- ~~11 Issue summons and appearance tickets for violations of the codes, ordinances and local laws of the City of Beacon.~~

~~12 Be designated as a career firefighter in the City of Beacon Fire Department.~~

~~13 Perform related work and duties as required.~~

#### **Sec. 4.~~1206~~. Police Department.**

~~The Police Department, as organized and staffed upon the effective date of this Charter, shall continue until otherwise provided by local law or ordinance.~~ The executive head of the Police Department shall be the Chief of Police, who shall be appointed by the Mayor, with the consent of a majority of the Council, pursuant to the Civil Service Law.

#### **Sec. 4.~~1407~~. Office of Assessor.**

The Assessor shall be appointed by the Mayor with consent of a majority of the Council for a term as provided by the New York Real Property Tax Law. The office of Assessor shall meet the qualification standards set forth in the Real Property Tax Law.

#### **~~Sec. 4.16. City Officers.~~**

~~The positions of Code Enforcement Officer, inspectors and other officers of the city as existing on the effective date of this Charter shall continue until otherwise provided by local law or ordinance. Every city officer shall, before he enters upon the duties of his office, take, subscribe and file with the City Clerk the constitutional oath of office.~~

### **Article 5. Financial Procedures**

#### **Sec. 5.00. Fiscal year.**

The fiscal year of the city shall begin on the first day of January and end on the last day of December.

#### **Sec. 5.~~0201~~. Submission of budget and budget message.**

At the first regular meeting in October of each year the Mayor shall submit to the Council a proposed budget for the ensuing fiscal year and an accompanying message.

#### **Sec. 5.~~0402~~. Budget message.**

The budget message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenues, together with the reasons for such changes, summarize the city's debt position and include such other material as deemed appropriate.

#### **Sec. 5.~~0603~~. Budget.**

- A. Specifications. The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Mayor deems appropriate or the Council may require. The budget shall utilize the most feasible combination of expenditure classification by funds, organization unit, program, purpose or activity and object. It shall begin with a clear general summary of its contents and shall show in detail all estimated income, including the proposed tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year. It shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:
- (1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures.
  - (2) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each.
  - (3) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the city and the proposed method of its disposition. Subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.
  - (4) All equipment budget lines must include a separate itemized list of proposed equipment purchases for that budget year with proposed expenditures for each piece of equipment. No equipment may be purchased during the course of the fiscal year that is not included on said itemized list, unless the Council approves, upon a roll-call vote, any addition or deletion from said list.
- B. Balanced budget. The total of proposed expenditures shall not exceed the total of estimated income.
- C. Notice and hearing. The Council shall publish in the official newspaper of the city and one (1) or more newspapers of general circulation in the city the general summary of the budget and a notice stating:
- (1) The times and places where copies of the message and budget are available for inspection by the public; and
  - (2) The time and place, not less than two (2) weeks after such publication, for a public hearing on the budget.

- D. Amendment before adoption. After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service.
- E. Adoption. The Council shall adopt the budget on or before the 31st day of the last month of the fiscal year. In the event that the Council fails to adopt a budget by said date, then, in such event, the proposed budget of the Mayor shall, by operation of law, become the budget for the ensuing fiscal year. If the default budget provides for a tax levy in excess of the allowable levy limit, the City Council shall pass a resolution to reduce the amount of the tax levy to an amount that complies with the allowable levy limit. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated. The property tax therein proposed shall constitute a levy.
- F. Quarterly reports. The Mayor shall submit to the Council a written summary of the quarterly financial report each year in April, July and October.

**Sec. 5.0804. Capital program and action.**

- A. Submission to council. The Mayor shall submit to the Council a five-year capital program by May 31 of each year.
- B. Notice and hearing. The Council shall publish in the official newspaper of the city and in one (1) or more newspapers of general circulation in the city the general summary of the capital program and a notice stating:
  - (1) The times and places where copies of the capital program are available for inspection by the public; and
  - (2) The time and place, not less than two (2) weeks after such publication, for a public hearing on the capital program.
- C. Adoption. The Council, by resolution, shall adopt the capital program with or without amendment after the public hearing and on or before the 31st day of July of each year.

**Sec. 5.0510. Amendments after adoption.**

- A. Supplemental appropriations. If during the fiscal year the Mayor certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council, by ordinance, may make supplemental appropriations for the year up to the amount of such excess.
- B. Emergency appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. To the extent that there are no available unappropriated revenues to meet such appropriations, the

Council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

- C. Reduction of appropriations. If at any time during the fiscal year it appears probable to the Mayor that the revenues available will be insufficient to meet the amount appropriated, he/she shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him/her and his/her recommendations as to any steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit, and for that purpose it may by ordinance reduce one (1) or more appropriations as allowed by law.
- D. Transfer of appropriations. All budget transfers of moneys, except transfers within a department as provided below, must be approved by the City Council upon a roll-call vote, for each requested transfer. No transfers may be made within a department involving accounts for payroll, employee benefits and equipment purchases. In addition, budget transfers of any unencumbered appropriation balance which exceeds ~~three-seven~~ thousand five hundred dollars (\$37,500.) must also be approved by the City Council upon a roll-call vote for each requested transfer.

#### **Sec. 5.1206. Administration of budget.**

- A. Payment and obligations prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made, and unless the Mayor or his/her designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal. Such illegal authorization or payment shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he/she shall also be liable to the city for any amount so paid.

#### **~~Sec. 5.14. Public moneys.~~**

- ~~A. The Mayor, or an officer designated by the Mayor, shall, under the power and control of the City Council, have the direct management of the revenue of the city, except as otherwise provided by this Charter or by ordinance. The Mayor, or his designate, shall be ex-officio City Treasurer, with the usual duties and powers of that office.~~
- B. No city officer or employee shall utilize an automatic signature ~~a signature stamp or signature plate~~ in processing checks to pay bills and vouchers incurred by the City of Beacon, except in the case of payroll or accounts-payable checks.

### **Sec. 5.~~1608~~. No liability without appropriation.**

Except as herein otherwise specifically provided, the city expenditures in any one (1) year shall not be increased over and above the amount provided in the budget duly adopted by the City Council pursuant to Section 5.~~06-03~~ herein. No contract involving the expenditure and no expenditure for any improvement to be paid out of the general or special funds of the city or for defraying the expenses and liabilities of the city shall exceed in any one (1) year the amount provided in said budget to be paid out of the said general and special funds so appropriated and set apart, but the said general funds shall be maintained for, used and devoted to be particular purposes specified in said budget, except that the unexpended balance in any budget appropriation may, by motion, be transferred to any other budget appropriation contained in said duly adopted budget.

### **Sec. 5.~~1809~~. Unlawful to incur expense unless appropriation made.**

It shall not be lawful for any department or officer of the city to incur or contract any expense or liability for or on behalf of the city unless such an appropriation shall have been made concerning such expenses. Such contract shall be ab initio null and void as to the city for any other or further liability; provided, first, that nothing herein contained shall prevent the city from providing from sums made available for such purposes pursuant to the Local Finance Law for the payment of any expense the necessity of which is caused by any casualty, accident or unforeseen contingency arising after the passage of the Budget; and provided, second, that the provisions of this section shall not apply to or limit the authority conferred pursuant to the Local Finance Law nor for moneys to be collected by special assessments for local improvements. It shall be lawful for the City Council upon the happening of any emergency and upon the declaration of such emergency by resolution of the Council to appropriate from any unexpended funds not otherwise designated for specific purposes by law sufficient funds for the payment of any expenses created by such emergency.

## **Article ~~116~~. Collection of Taxes**

### **Sec. ~~116.00~~. Levy and collection of taxes.**

Any and all issues relating to the collection of Beacon City taxes are hereby governed by the applicable provisions of the New York State Real Property Tax Law, Article 9, entitled, "Levy and Collection of Taxes," as the same may be amended from time to time.

### **Sec. ~~116.021~~. Procedures for enforcement of collection of delinquent taxes.**

Any and all issues relating to the enforcement of collection of delinquent taxes are hereby governed by the applicable provisions of the New York State Real Property Tax Law, Article 11, entitled, "Procedures for Enforcement of Collection of Delinquent Taxes," as the same may be amended from time to time.

## Article ~~67~~. Planning

### Sec. ~~67.00~~. Comprehensive Plan.

- A. Content. The Council shall adopt ~~the a Comprehensive Plan and amend it from time to time pursuant to General City Law Section 28-a existing Master Plan, or shall amend the same, to constitute a Comprehensive Plan~~ to govern the future physical development of the city.
- B. Periodic update. Separate from any individual amendments, the Council shall periodically undertake a full update of the Comprehensive Plan, at least every 10 years. The Council may delegate such responsibility either to the Planning Board or to a special committee whose members the Mayor shall appoint and the Council approve.
- ~~C. Adoption. Upon receipt of a proposed Comprehensive Plan or proposed modification of the existing plan, the Council shall, by resolution, refer such proposal to the City Planning Board, which shall within a time specified by the Council report its recommendations thereon. After receipt of the recommendations of the Planning Board, the Council shall hold a public hearing on the proposal and shall thereafter adopt it by resolution with or without amendment.~~
- ~~D. Effect. The Comprehensive Plan shall serve as a guide to all future Council action concerning land use and development regulations, community development programs and expenditures for capital improvements.~~

### Sec. ~~67.0201~~. Implementation of Comprehensive Plan.

- A. Land use and development regulations. The Council may by ordinance adopt land use and development regulations, including, but not limited to an official map and zoning and subdivision regulations.
- ~~B. Annual report on comprehensive implementation. At the beginning of each year, to review progress on implementation of the current Comprehensive Plan, including an enumeration of actual changes in the prior year and expected changes in the current year.~~
- ~~C. B.~~ Community development. The Council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for: (1) the alleviation or prevention of slums, obsolescence, blight or other conditions of deterioration, (2) low-income housing, ~~and~~ (3) the achievement of the most appropriate use of the land, ~~and (4) promotion of sustainability and resiliency in capital projects.~~
- ~~D. C.~~ Council action. Before acting on any proposed ordinance concerning land use and development regulations, community development or expenditures for capital improvements, where such ordinance refers to a matter covered by the Comprehensive

Plan, the Council shall refer the proposal to the City Planning Board, which shall, within a time specified by the Council and prior to public hearing on the proposed ordinance, report its recommendations thereon. In the event that such ordinance is contrary to the Comprehensive Plan, then and in that event, the ordinance shall not take effect until such time as the Comprehensive Plan is amended following such public hearing.

#### **Sec. ~~67.0402~~. Planning Board.**

There shall be a City Planning Board consisting of seven (7) members appointed by the Mayor, with the consent of the City Council, for terms of three (3) years, from among the qualified voters of the city. Members of the Board shall hold no other city office. The Board shall make recommendations to the Mayor and the City Council on all matters affecting the physical development of the city, shall be consulted on the Comprehensive Plan and the implementation thereof as provided in Sections ~~67.00~~ and ~~67.02-01~~ and shall exercise all other responsibilities as may be provided by law.

#### **Sec. ~~67.0603~~. Zoning Board of Appeals.**

There shall be a Zoning Board of Appeals consisting of five members appointed by the Mayor, with the consent of the City Council, for terms of three years, from among the qualified voters of the city. Members of the Board shall hold no other city office. The Board shall hear and determine appeals from administrative decisions, petitions for variances and such other matters as may be required by the Council or by the laws of the State of New York.

### **Article ~~78~~. Nominations and Elections**

#### **Sec. ~~78.00~~. Regular election.**

The regular city election shall be held on the first Tuesday of November in each odd-numbered year.

#### **Sec. ~~78.02~~. Nominations and elections.**

All city nominations for election to city office and all elections shall be conducted in accordance with the Election Law of the State of New York and shall be held at such time as may be specified by said Election Law.

#### **Sec. ~~78.0403~~. Qualification of voters.**

All citizens qualified by the laws of the State of New York to vote in the city and who satisfy the requirements for registration prescribed by law shall be qualified voters of the city within the meaning of this Charter.

#### **Sec. ~~78.0604~~. Procedures for elections.**

Candidates for the at-large seats on the City Council must be so designated. Candidates for the ward seats must be domiciled in the ward from which they are seeking election, and only qualified electors shall be eligible to hold such office.

## **Article 89. Finances, Taxation, Local Assessments and Improvements**

### **Sec. 89.00. Indebtedness and taxation.**

The city shall have the power to contract indebtedness for any municipal purpose, if authorized by the Local Finance Law of the State of New York or any other state law, to accomplish any lawful purpose to the extent authorized for such purpose and subject to the provisions of this Charter. The city shall have the power to raise money to defray the cost of the carrying on of the general government and for the doing of any of the things authorized by law, by general taxation and by local assessment where authorized, not to exceed the amounts otherwise provided by law.

### **Sec. 89.0201. Bond referendum.**

Any bond ordinance hereafter adopted by the Council authorizing the issuance of bonds of the city, other than bond ordinances expressly excepted hereafter, shall be subject to a permissive referendum to be called and conducted under the same procedures for permissive referenda set forth in the Municipal Home Rule Law.

### **Sec. 89.0403. Notice of adoption.**

Notwithstanding the provisions of the Municipal Home Rule Law, the City Clerk shall, within ten (10) days after the adoption of any bond ordinance which is subject to a permissive referendum, publish a notice in the official newspaper of the city, which notice shall state the date of adoption of such bond ordinance and that such bond ordinance was adopted subject to a permissive referendum and shall contain a summary of such ordinance and state that a full copy of said ordinance is available, free of charge, from the City Clerk.

### **Sec. 89.0604. Referendum procedures.**

Any bond ordinance which is subject to a permissive referendum shall not take effect until the time limits for a permissive referendum as provided in the Municipal Home Rule Law have expired without a petition being presented, or until approved by an affirmative vote of a majority of the qualified electors of the city after the filing of a petition pursuant to the Municipal Home Rule Law. If a petition be filed as provided by the Municipal Home Rule Law, a proposition for approval of the bond ordinance therein described shall be submitted at the next general election in the city unless the Council, within thirty (30) days after the filing, shall direct by resolution that such proposition be submitted at a special election which shall be held not less than ninety (90) days nor more than one hundred twenty (120) days after the filing of such petition.

Any such petition may be made upon separate sheets, and the signatures to each shall be signed and authenticated in the manner provided by the Election Law for the signing and authentication of designating petitions insofar as applicable. The several sheets so signed and authenticated, when fastened together and offered for filing, shall be deemed to constitute one (1) petition. The City Clerk shall examine each such petition so filed with ~~him~~ the City Clerk and shall, not later than thirty (30) days after the date of filing, transmit to the Council a certificate that he/she has examined it and found that it complies or does not comply, as the case may be, with the requirements of the law. If, within thirty (30) days after the filing of any such petition, a written objection thereto is filed with the Supreme Court, or any Justice thereof, of the judicial district in which the city is located, such Court or Justice shall determine any question arising thereunder and make such order as justice may require. Such proceeding shall be heard and determined in the manner prescribed by § 335 of the Election Law.[1]

In the event that the Council shall determine to submit a proposition for the approval of a bond ordinance at a special election, the Council shall, in a resolution making the determination, specify the date of such special election, whether voting machines or paper ballots will be used, the persons to act as election inspectors as hereinafter provided, the hours during which the polls will remain open at such special election, which shall include at least three (3) consecutive hours between 7:00 in the morning and 7:00 in the evening, the polling place or places therefor and the text of the proposition to be submitted thereat. The City Clerk shall cause notice of any such special election to be published once in the official newspaper of the city not less than ten (10) nor more than twenty (20) days before the date of such election, which notice shall state the date of the election, the hours during which the polls will remain open, the polling place or places and the text of the proposition to be submitted thereat. Such notice shall also contain an abstract of the bond ordinance referred to in such proposition, briefly summarizing the subject matter thereof. The Council shall select from the election inspectors previously designated for general election purposes pursuant to the Election Law not fewer than two (2) nor more than four (4) persons to act as election inspectors for each polling place at which such a special election shall be held. In other respects, such special election shall be conducted, the votes canvassed and the results certified and returned so far as practicable in the manner prescribed by the Election Law to the extent not inconsistent with this section.

The qualifications for voting on a proposition for the approval of a bond ordinance submitted at either a special or general election pursuant to this section shall be the same as the qualifications for voting upon the election of city officers.

#### **Sec. ~~82.0805~~. Notice of referendum.**

In the event that a proposition for the approval of any bond ordinance shall be submitted at an election pursuant to this Article, the City Clerk shall cause a notice of such submission to be published once not less than ten (10) nor more than twenty (20) days before the date of such election, which notice shall set forth the text of such proposition, summarizing the subject matter thereof and stating that a true copy of the same may be obtained, free of charge, from the City Clerk.

**Sec. ~~89.1006~~. Exceptions to referendum.**

The provisions of this Article pertaining to permissive referenda shall not apply to any bond ordinance authorizing the issuance of bonds in an amount of two hundred fifty thousand dollars (\$250,000.) or less, nor to any bond ordinance authorizing the issuance of bonds for capital improvements of which more than fifty per centum (50%) of the cost thereof is to be levied by assessments upon property especially benefited thereby, nor to any bond ordinance authorizing the issuance of bonds for the payments of judgments or compromised or settled claims against the city or awards or sums payable by the city pursuant to a determination by a court, officer, body or agency acting in an administrative or quasi-judicial capacity, or providing for the construction or maintenance of sewer treatment facilities or water pollution control facilities.

**Sec. ~~89.1207~~. State and county taxes.**

Payment of all taxes for state and county purposes shall be made as collected, or by the end of the calendar year for which the warrant for the same is delivered, whichever shall occur first, without interest or penalty.

**Article 910. General Provisions**

**Sec. 910.00. Personal financial interest.**

No officer or employee of the City of Beacon shall engage in any conduct constituting a conflict of interest or a prohibited action, as provided in Article 18 of the General Municipal Law of the State of New York, nor shall such officer or employee fail to disclose any interest required to be disclosed under such law. In addition to any penalty provided by state law, such officer or employee who shall knowingly and intentionally violate this section shall be removed from office or employment in the manner provided by law or by this Charter.

**Sec. 910.0201. Prohibitions.**

A. Activities prohibited.

- (1) No person shall be appointed to or removed from or in any way favored or discriminated against with respect to any city position or appointive city administrative office because of age, handicap, race, sex or political or religious opinions or affiliations.
- (2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this Charter or the rules and regulations made thereunder or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

- (3) No person who seeks appointment or promotion with respect to any city position or appointive city administrative officer shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his/~~her~~ test, appointment, proposed appointment, promotion or proposed promotion.
- (4) No person shall orally, by letter or otherwise solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose whatever from any person holding any compensated appointive city position.
- (5) No person who holds any elected or compensated appointive city position shall solicit any contribution to the campaign funds of any political party or any candidate for public office during working hours, nor shall such person at any time use the name of the city or his/~~her~~ office for such purposes.

B. Penalties. Any officer or employee of the city who shall: (1) make a false or deceptive report or statement in the course of his/~~or~~ her duties; (2) receive compensation except for payment from the city for performance of any official duty; or (3) accept or receive any gratuity from any person whose interest may be affected by his/~~her~~ official action shall be guilty of a misdemeanor and, if convicted, shall forfeit his/~~or~~ her office or employment immediately upon conviction.

#### **Sec. ~~910.042~~. Charter review.**

The Mayor, with the consent of the City Council, shall appoint a commission at least every ten (10) years after the effective date of this Charter to review the Charter and to make recommendations to the Mayor and the City Council for revision or amendment.

#### **Sec. ~~910.0603~~. Amendment ~~or~~ repeal Procedures.**

This Charter shall only be amended by adoption of a local law pursuant to the procedures set forth in the Municipal Home Rule Law.

#### **Sec. ~~910.0804~~. Penalty for violation.**

Any person who shall violate any of the provisions of this Charter for the violation of which no punishment has been provided herein shall be deemed guilty of a violation and, upon conviction thereof, shall be punished by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment not exceeding fifteen (15) days, or by both such fine and imprisonment.

#### **Sec. ~~910.1005~~. Limitation of actions against city.**

No action or proceeding to recover or enforce any claim, debt or demand against the city shall be brought until the expiration of thirty (30) days after the same has been presented, in writing, to the City Council. All actions brought against the city, upon any contractual liability, express, ~~or~~ implied or quasi-contract, must be begun within one (1) year from the time when the cause

of action accrued; or, for injury to a person or property because of negligence, within one (1) year from the time of receiving such injuries; and, in all other cases, within six (6) months after the cause of action accrued. No civil action shall be maintained against the city for damages or injuries to persons or property sustained in consequence of the existence of snow or ice upon any sidewalk, crosswalk, street, path or place or in consequence of any street, highway, bridge, culvert, sidewalk, crosswalk, grating, opening, drain or sewer being of faulty design or construction, defective, out of repair, unsafe, dangerous or obstructed unless, previous to the occurrence resulting in such damages or injuries, written notice of the existence of such snow or ice at the particular place or of the defects or unsafe, dangerous or obstructed condition of the particular place shall have been filed in the office of the City Administrator of the city, and it shall be made to appear that there was a failure or neglect within a reasonable time after the filing of such notice to remedy the condition.

No civil action shall be maintained against the City of Beacon for damages or injuries to person or property sustained in consequence of the existence of a defect in any of the playground equipment, playing fields, paths, grounds of any playground or public park owned, operated or maintained by the City of Beacon or for a defect in any such equipment, place or facility maintained at a public bathing beach, skating rink or pond owned, operated or maintained by the City of Beacon unless, prior to the occurrence resulting in such damage or injury, written notice of the existence of such defect relating to the particular equipment, playing fields, paths, grounds of any playground or public park owned, operated or maintained by the City of Beacon shall have been filed in the office of the City Administrator of the city and unless it shall be made to appear that there was a failure or neglect to remedy or repair such alleged defect or condition in the equipment, facility or place or to cause the equipment, facility or place to be otherwise made reasonably safe within a reasonable time after the filing of such notice.

All claims against the city for damages or injuries to person or property alleged to have been caused by the misfeasance or negligence of the city or any of its officers or employees shall be presented to the City Council, in writing, within thirty (30) days after the happening of the accident or injury out of which the claim arose. Such writing shall describe the time when, the particular place where and the circumstances under which the damages or injuries were sustained and the cause thereof; it shall also state, so far as then practicable, the nature and extent of the damages or injuries; shall also state the place of residence of the claimant by street and number, and, if there be no street or number, it shall contain such statement as will disclose the place of residence; and all such claims shall be verified by the oath of the claimants. The omission to present such claim within thirty (30) days from the date when such alleged injuries were received and to commence an action within one (1) year from the time of such alleged injuries shall be a bar to any claim or action therefor against the city; but no action shall be brought upon any such claim until thirty (30) days have elapsed after the presentation of the claim to the City Council.

Nothing contained in this section shall be held to repeal or modify any existing requirement or statute of limitations which is applicable to this class of actions, but on the contrary shall

be held to be an additional requirement to the rights to maintain such action, nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence nor to impose upon the city any greater duty or obligation than that it shall keep its streets and public places in a reasonably safe condition for public use and travel.

The place of trial of all actions or proceedings against the city or any of its officers, boards or departments shall be the County of Dutchess.

## **Article 10. Transitional Provisions**

### **Sec. 10.00. Charter replacement.**

~~This Charter shall replace the previous City Charter in its entirety.~~

### **Sec. 10.02. Transitional provisions.**

~~Nothing in this Charter, except as otherwise specifically provided, shall affect or impair the rights or privileges of persons who are city officers or employees at the time of its adoption.~~

### **Sec. 10.04. Rights of officers and employees.**

~~A. All elected officials shall continue to hold their respective offices until January 1, 1992, and shall perform the duties of their respective offices as prescribed herein.~~

~~B. Appointed officials whose offices are continued pursuant to this Charter shall continue to hold their respective offices until the expiration of the term for which they were originally appointed and shall perform the duties of their respective offices as prescribed herein and shall be subject to removal only as originally provided at the time of their appointment.~~

~~Continuation of powers and duties. Any powers which are conferred and duties which are imposed upon an officer, board, commission or department under any laws of the State of New York or by any ordinance or local law in force at the time this Charter takes effect shall be retained and exercised by the officer, board, commission or department except as amended by the provisions of this Charter.~~

~~C. Continuation of status and classification. All officers and employees of the city who shall hold office or be employed subject to Civil Service Law and Rules when this Charter shall take effect shall continue in their respective positions and employment and in their respective civil service classifications and status as officers or employees of the city, consistent with the provisions of this Charter.~~

### **Sec. 10.06. Transfer of officers and employees.**

~~Pursuant to the provisions of this Charter, any functions, powers or duties heretofore exercised by an officer, department, board, commission or agency, including the officers and~~

~~employees in the classified civil service, who are engaged in the performance of such functions, powers or duties at the time this Charter takes effect shall be transferred to the office, department, board, commission or agency to which such functions, powers or duties are assigned by this Charter without examination and without affecting existing compensation, pension or retirement rights, privileges or obligations of such officers and employees.~~

~~All records, property and equipment whatsoever of any office, department, board, commission or agency the powers and duties of which are assigned to any other office, department, board, commission or agency by this Charter shall be transferred and delivered to the office, department, board, commission or agency to which such powers and duties are assigned.~~

#### **~~Sec. 10.08. Transfer of powers.~~**

~~If a city department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the city department, office or agency designated in this Charter or, if the Charter makes no provision, designated by the City Council.~~

#### **~~Sec. 10.10. Severability.~~**

~~If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.~~

#### **~~Sec. 10.12. Effect of Charter on existing provisions.~~**

~~All existing city ordinances, resolutions, orders and regulations shall continue to be in full force and effect after the effective date of this Charter, except as to those matters which are expressly and specifically addressed by this Charter. All local laws previously enacted shall remain in full force and effect.~~

#### **~~Sec. 10.14. Repealer and savings clause.~~**

~~All existing city ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are hereby repealed only to the extent to which they are directly repealed or annulled by this Charter. Otherwise, all such existing city ordinances, resolutions, orders and regulations adopted pursuant thereto shall continue to be in full force and effect after the adoption and effective date of this Charter.~~

#### **~~Sec. 10.16. Effective date of new Charter.~~**

~~Upon the adoption of this Charter at the referendum or election held in 1989, it shall thereupon become effective insofar as and to the extent that it governs and controls the election of the Mayor, Council members, City Judge and county legislators in the primary and general elections of 1991. In all other respects this Charter shall become effective on the first day of January 1992.~~

**~~Sec. 10.18. Code review task force.~~**

~~Upon adoption of this Charter, the City Council shall appoint, within ninety (90) days thereafter, a task force to review the administrative codes and local laws of the City of Beacon for consistency with this Charter and to make written recommendations to the City Council to prepare the existing government for the transition to the new form of government adopted under this Charter.~~

**~~Article 11. Collection of Taxes~~**

**~~Sec. 11.00. Levy and collection of taxes.~~**

~~Any and all issues relating to the collection of Beacon City taxes are hereby governed by the applicable provisions of the New York State Real Property Tax Law, Article 9, entitled, "Levy and Collection of Taxes," as the same may be amended from time to time.~~

**~~Sec. 11.02. Procedures for enforcement of collection of delinquent taxes.~~**

~~Any and all issues relating to the enforcement of collection of delinquent taxes are hereby governed by the applicable provisions of the New York State Real Property Tax Law, Article 11, entitled, "Procedures for Enforcement of Collection of Delinquent Taxes," as the same may be amended from time to time.~~

# Commission Meeting Minutes

## Appendix II

## Minutes

### Beacon City Charter Commission

Thursday September 15, 2016 7:00-9:00 pm

Present: Co-Chair Charles Kelly, Commissioners Agnese Campagnone, Candi Rivera, Brooke Simon, \_\_\_\_\_, City Administrator Anthony Rugerrio, Mayor Randy Casale,

Gerald Benjamin (consultant) Nicole Cagar (student assistant) ...

Absent:

The meeting was called to order at 7:05 by Co-Chair Charles Kelly. The floor was turned over to Gerald Benjamin.

Gerald Benjamin indicated that, with the help of City Administrator Anthony Ruggiero, he had gathered and organized all the charter issues identified by the commission member and city officials. He proposed to use the meeting to take up the issues identified in the first two articles in the charter. After discussion of each one, the commission could decide if it agreed on a proposed change, or if further study would be needed. He reminded the commission that this process was ongoing; other issues might be later identified and discussed concerning these articles of the charter.

Matter marked in red is decided.

Matter marked in blue requires further consideration.

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#### I. Article 1

##### A. Section 1.16 Does definition of ward boundaries need to be in the charter?

Members agreed to remove ward descriptions from the charter and asked that the city attorney draft language to this effect. Boundaries might be connected to redistricting provision, with map boundaries put on city website

##### B. 1.07.A-B Procedure for sale of public property – alter language slightly

- a) Procedure for sale at public auction. Real property owned by the city leased, sold or otherwise alienated by public sale shall be at public auction or by sealed bid to the highest bidder

#### II. Article II

##### A. The Council

- 1. Correct typographical error - 200A. Change 'compensation' to "composition"

2. Change "district" to "ward" wherever it appears in the cahrtter to reflect local usage and for consistency.
- B. At-large election of council members staggered election – Further consideration – Additional research and examples to be provided
- C. At large election – specify contests to positions, with winners determined for specific seats, and not form citywide rank ordering - Further consideration - additional research and examples to be provided.
- D. 2.00 D. Election Process – strike this language: The first city election under this Charter shall be held on the first Tuesday in November in the year 1991 and in conformity with the Election Law. The terms of the officers so elected shall begin on January 1, 1992. Thereafter, regular elections shall be held as provided by this Charter, to elect successors to those officers whose terms are about to expire.
- E. Term Limitation: - Not needed. Experience show that turnover in office is adequate. No further consideration will be given to this.
- F. 2.02 Compensation of elected officials and compensation commission. Requires further consideration
- G. 2.04 Strike this language as unneeded: The Mayor shall submit a yearly planning report to the Council no later than June 1.
- H. 2.08. Vacancies:
  1. No change to process to fill permanent vacancies.
  2. Continue to consider provisions for creation and termination of temporary vacancies (e.g. due to illness)
- I. 2.14 Timing of Reporting Independent Audit – Change from April 30 to June 30.
- J. 2.16C. Workshop meetings: draft more precise language regarding procedure for adding items to the agenda.
- K. 2.26. Publication of ordinances. Continue to consider whether electronic publication on the city website may be substituted for newspaper publication.

**Minutes**  
**Beacon Charter Commission**  
**Thursday, October 6, 2016 7-9:10 pm**

Present: Co-Chair Charles Kelly, Commissioners Agnes Campagnone, Candi Rivera, Brooke Simmons, William Cornett, Peter Nocerino.

City Administrator: Anthony Ruggerio,

Mayor: Randy Casale,

Gerald Benjamin (consultant)

Nicole Cagar (student assistant)

Absent: Commissioners Marko Guzijan, John Rembert

The meeting was called to order at 7:07 by Co-Chair Charles Kelly.

The floor was turned over to Gerald Benjamin.

Gerald Benjamin indicated that, in consultation with the co-chairs, we decided to proceed through the change agenda, and then return to matters identified as requiring additional attention. He reminded members that if they wished bring additional issues to attention of the commission, all they need do is inform one of the co-chair.

Commissioner Campagnone moved to accept the minutes. Commissioner Cornett seconded. The minutes were unanimously accepted.

- 
- I. Section 3.1 Appointing Powers of the Mayor – The Commission discussed whether a charter provision was required for appointing all full- and part-time employees. A special concern was the need for council action on part-time and seasonal employees. An alternative draft charter provision will be prepared to provide the basis for further discussion.
  - II. Section 3.4. Compare to 3.02B.a. Powers for supervision of the government by mayor and administrator need clarification to establish clear lines of authority. Alternative draft to be provided.
  - III. Section\_\_\_\_. Purchasing authority – Alter to reflect current practice (Alternative: add to duties of administrator)
  - IV. Section 3.14, .15, Appointment to volunteer boards. Goal is to broad recruitment base and keep council informed of vacancies. Alter language to reflect current practice.
  - V. Section 3.05 - Title – Acting Mayor to Deputy Mayor. Title change not supported.

- VI. Section 3.05. After considerable discussion and consideration of practice in selected other jurisdictions, Commission seeks language to provide for an alternative method for determination of inability of the Mayor and availability to return to performance of duties when he or she may be unable or unwilling to do so. Language will be provided.
- VII. Section 3.01- Acting City Administrator – Commission considered revising and moving this text for clarity, and discussed duration of time before Acting Administrator was needed. Current provision – 5 days – generally regarded as too short. Some language was proposed for deletion as duplicative. The Administrator, most Commissioners agreed, should retain authority to designate the Acting Administrator for a period of limited duration, after which the Administrator was expected to return. A temporary appointment to a vacancy remained the prerogative of the Council. This distinction is clear in the charter. The commission was going to further consider this question.
- VIII. Section 4.02 The word "firm" is to be added to the charter to make clear that the appointee as city attorney need not be a named individual person.
- IX. Section 4.04 -.10, .12. Language regarding individual departments will be retained. Language to give assurance at earlier transition may be removed.
- X. Section 4.16 City Officers. The Commission agreed that certain offices need not be specified in the charter: e.g. Code Enforcement, Fire Inspection Coordinator.
- XI. Generally – The Commission recommended that language in charter should be made gender neutral
- XII. Section \_\_\_\_\_. The commission agreed that language should be broadened regarding qualifications required to be head of the city finance department. Draft language will be provided.
- XIII. Section. 5.06 - Budget detail did not appear to be excessive. Further comparative research will consider this matter.

Respectfully submitted

Nicole Cagar

**Minutes  
Beacon Charter Commission  
Thursday, November 3, 2016 7- 8:27 pm**

Present:

Co-Chair Charles Kelly, Co-Chair Pamela Barrack, Commissioners Candi Rivera, William Cornett, Peter Nocerino, Marko Guzijan

City Administrator: Anthony Ruggiero

Mayor: Randy Casale

Nicholas M. Ward-Willis - Counsel

Gerald Benjamin (consultant)

Nicole Cagar (student assistant)

Absent: Commissioners: John Rembert, Agnes Campagnone, Brooke Simmons

Meeting was called to order at 7:10 by Co-Chair Pamela Barrack

Commissioner Cornett motioned to approved minutes, second by \_\_\_\_\_, unanimously accepted

Floor was turned over to Gerald Benjamin

Gerald Benjamin provided a list of matters laid over for additional consideration at the first and second commission meetings. Process for appointment to voluntary boards was added. He urged commission to bring up any topics missed.

\_\_\_\_\_

I. Section 5.06— Detail in charter on budget process. Will present next time on budget process comparisons.

II. Section 5.08 Capital Program Timing. No change

III. Section 5.10D Transfer of Appropriations: Proposed Changes— Proposal change \$3,000 to \$10,000 (threshold) Commission seeks flexibility. Language will be developed to create a \$10,000 threshold and allow annual review and change at organizational meeting.

IV. Section 5.14 Public monies— Suggests deletion as duplicative. Charter will be reviewed to determine if this is in fact redundant. If so, it will be removed. If not, it will be retained.

Section 5.14 public monies- propose deletion— Apparently added to thwart fraud. Appears to be duplicative of Sections 4.06, 5/14a and 5/14b, adopted later. Commission seeks further information from finance officer. If duplicative may be removed, possibly with additional language in section 4.06 to assure fiscal integrity in disbursements.

V. Section 6- Comprehensive Plan — question of should it be in the charter.  
No change.

VI. Section 6.0 Update Comprehensive Plan process in Charter- No change.

VII. Section 6.02 Implementation of Comprehensive Plan— Language Proposed for Removal- take out parts B,C,D suggestion by Ruggiero. Commission agreed to clean up/review language

VIII. Section 8.00 Bonding Process: Commission generally agrees to retain, with possible increase of \$250,000 threshold for Permissive Referendum.

IX. Ethical Standards— Commission agreed generally that Ethics Provision is current. Mayor questions bar to dual volunteer committee service and one year waiting period after service in elective office until eligible for city appointment. These specifics will be reviewed for possible revision.

X. Political Leaders as Office Holders/ Criteria for Considering Dual Office Holding. Research shows that this cannot be barred in the charter.

Respectfully submitted,

Nicole Cagar

**Minutes**  
**Beacon Charter Commission**  
**Thursday, December 15, 2016 7-9:15 pm**

Present: Co-Chair Charles Kelly, Co-Chair Pamela Barrack, Commissioners William Cornett, John Rembert, Peter Nocerino, Brooke Simmons, Agnes Campagnone, Marko Guzijan  
City Administrator: Anthony Ruggiero  
Mayor: Randy Casale  
Gerald Benjamin (consultant)  
Nicole Cagar (student assistant)

Absent: Commissioners Candi Rivera, Counsel- Nicholas M. Ward-Willis

Meeting was called to order at 7:02

Commissioner William Cornett moved to accept minutes. They were accepted without objection.

Floor was turned over to Gerald Benjamin

Gerald Benjamin sent materials to support discussion of items laid over for further consideration and a primer on the budget process. A powerpoint on Beacons' budget process will be ready for the next meeting. The Benjamin Center will prepare draft report of their actions for the commission's review, modification and approval.

The presentation for the City Council was set for March.

- 
1. The commission discussed four year terms and staggered elections. It agreed upon staggered four year terms for at-large council members only, to begin in the next mayoral election year.
  2. **Determining Compensation of Elected Officials**
    - a. Provision of health insurance benefits for council members is currently provided for in the charter (Section 2.02). This is unusual. There was strong sentiment in the commission against part-time elected officials receiving these benefits. There was further discussion regarding whether the current language of the charter regarding payment of elected officials included compensation that was not "Salary." This needs to be clarified by the city attorney. Commission agreed to consider recommending distributing the amount currently paid by the city to cover health insurance for council members to them as salary, but not covering the cost of insurance. Data on this will be provided by the city manager. There was some discussion that such a step would diminish the incentive for running for office. Another view was that it would result in greater equity in compensation for elected council members.

3. Vacancies in Elected Office- Proposed Revision—This addresses inability to serve when the incumbent does recognize or initiate the process. Some members believe that the problem is rare, and we were trying to fix something that was not broken. **Will be laid over for consideration.**
4. Publication of Ordinances-- **Laid over for consideration after additional information is provided by counsel.**
5. Appointment of Employees Subject to Council Review- Alternative Draft—Accepted by the commission pending review by counsel
6. Acting City Administrator- Alternative Provision- **Requires more study** and shifts who selects Acting City Admin. Rembert suggests that City Admin recommends and Mayor gets final approval. City Administrator Ruggiero and Mayor Casale agree to have a conversation and draft language. Benjamin agrees to write Mayor's role more clearly in proposed draft language.
7. Purchasing Agent-- Proposed draft- Accepted pending review by counsel
8. Departments—Linked more directly to code in charter. Commission will recommend no change
9. Edit charter to make it gender neutral- Commission unanimously agrees
10. Director of Finance—Commission agrees to alternative draft pending counsel review.-
11. Detail in Charter on budget process- for next meeting
12. Management of Public Monies- for next meeting
13. **Resiliency and Sustainability**- issues of sea level rise
  - a. Community Development- Possible Charter Amendment- include resiliency and sustainable as capital planning values
14. **Remove unneeded transitional provisions**- Benjamin recommends that counsel looks at language.

Respectfully submitted,

Nicole Cagar

## **Minutes**

### **Beacon City Charter Commission**

**Thursday January 19, 2017 7:00-9:30 pm**

Present: Co-Chair Charles Kelly, Co-Chair Pamela Barrack, Commissioners Agnese Campagnone, Candi Rivera, Brooke Simmons, John Rembert, Peter Nocerino, Marko Guzijan, Counsel- Drew Victoria Gamels

Mayor: Randy Casale

Dr. Gerald Benjamin (consultant)

Timothy Toomey (student assistant)

Absent: City Administrator Anthony Ruggiero, Commissioner William Cornett, Counsel Nicholas M. Ward Willis

The meeting was called to order at 7:00 by Co-Chair Charles Kelly.

Co-Chair Charles Kelly moved to accept the minutes. They were accepted without objection.

The floor was turned over to Gerald Benjamin.

Gerald Benjamin presented PowerPoints on charter provisions concerning budgeting and matters laid over by the commission for further consideration. Minutes are limited to items on which action was taken or may still be taken.

The Benjamin Center will prepare a list of commission recommendations for charter changes before the February 2<sup>nd</sup> meeting.

The commission decided that February 2, 2017 will be a regular commission meeting. February 16, 2017 will be a public meeting to discuss the proposed changes.

The commission report will be submitted to the city council by March 6 or 20, 2017.

Matter marked in red is decided.

Matter marked in blue requires further consideration.

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## **I. Budgeting in the Beacon Charter**

### **1. Budgeting – Who?**

- a. There appears to be a contradiction in §300 and §302 regarding shared responsibility for budget preparation between the mayor and administrator.
- b. Change the deadline for Mayoral financial reporting from March 1 to May 1 in §300.7

- c. .
- 2. **Budgeting- Presentation of Budget and Message to the Council**
  - a. The mayor's budget is the default option if the council does not adopt the budget. But current state law requires a super-majority if a budget exceeds the cap. What happens if the mayor's proposed budget is the default, exceeds the cap and there is no council vote? An alternative: prior year's budget as the default option. **The counsel will research the process to override the cap as Beacon's charter pre dates the implementation of the cap. \*\*\*\*\*.** . .
- 3. **Transfers – Limited to Certain Line-items, and Threshold for Council Authorization**
  - a. **§510.D. Change \$3,000 to \$5,000.** The commission adjusted this number with use of an inflation calculator.
- 4. **Payment Pursuant to Appropriations Only, Criminal Liability for Violation – Duplication?**
  - a. **There is duplication amongst §5.12, 5.16, and 5.18. Dr. Benjamin recommends reconciling these sections to provide clarity. Counsel to consider.**

## **II. Matters Laid Over for Further Consideration**

- 1. **Compensation of Elected Officials**
  - a. **The commission voted to remove health benefits for council members from the charter, accompanied by a \$2000 raise for council members and a proportional raise for the mayor. Members would be permitted to buy insurance through the city plan.**
- 2. **§ 2.08 Vacancies in Elective Office – Proposed Revision**
  - a. **The commission decided that better language is needed regarding medical decisions on inability to serve and return to work for elected officials to avoid politicizing the proposed revision. The counsel will look into this.**
- 3. **Publication of Ordinances**
  - a. **Can electronic publication substitute for use of newspapers as now required in the charter, or must it be supplemental? With advice of counsel, the commission decided to substitute electronic notice of ordinances for print publication. This will result in cost savings for the City.**
- 4. **Community Development – Resiliency and Sustainability**
  - a. **The commission decided on adding language to §6.02c. to include resiliency and sustainable operations of public facilities as goals.**
- 5. **§3.01A – Acting City Administrator**
  - a. **The City Adminisrator will recommend and mayor appoint an acting adminisrator to serve if the administrator is absent or unable to do so for a specified time.**
  - b. **Five days, the current provision, was regarded as too short an absence to require an acting administrator. Two weeks was mentioned. Time must be specified. Provision of additional compensation will be addressed in each specific circumstance.**
- 6. **§10. Remove unneeded transitional provisions**

- a. Commission approved. Counsel agreed at a previous meeting, and must specify detail.

Respectfully submitted,

Timothy Toomey

## Minutes

### Beacon City Charter Commission

Thursday February 16, 2017 7:07-8:45 pm

Present: Co-Chairs: Charles Kelly, Pamela Barrack. Commissioners: William Cornett, John Rembert, Peter Nocerino, Brooke Simmons. City Administrator: Anthony Ruggiero. Counsel: Drew Victoria Gamels. Gerald Benjamin (consultant) Timothy Toomey (student assistant)

Absent: Commissioners: Agnes Campagnone, Candi Rivera, Marko Guzijan, and Mayor Randy Casale

The meeting was called to order at 7:07 by Co-Chair Charles Kelly. The floor was turned over to Gerald Benjamin.

Gerald Benjamin provided a copy of the draft charter commission report and of the proposed amended charter prepared by Counsel Drew Gamels. Commission members reviewed the text of the draft report, and suggested that the Benjamin Center revise it to provide further detail as to why the Commission recommended those proposed charter changes that are likely to be most controversial. This will be done. Gerald turned the floor over to Ms. Gamels. She led a discussion of reformatting the charter, gender neutral language and each proposed change. Final decisions were reached on matters still before the Commission, as noted below.

A presentation to the public will be held on March 8, 2016 at 7 P.M. at City Hall. There will be a presentation to a workshop meeting of the City Council on March 27, 2016 at 7 P.M.

Matter marked in **red** is decided.

Matter marked in **blue** requires further consideration.

Note: Article and section numbers used below are current, and do not reflect proposed renumbering.

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#### I. Article 1

**1.07.B Alter slightly language regarding the procedure for sale of public property to remove ambiguity.**

**1.16 Remove ward descriptions from the charter. Ward boundaries to be set forth in the code, and connected to the decennial redistricting provision.**

#### II. Article II

**200A. Change the word "compensation" to "composition"**

Change the word "district" to "ward" wherever it appears in the charter to reflect local usage and for consistency.

2.00 D. Election Process – strike this language as no longer needed: “The first city election under this Charter shall be held on the first Tuesday in November in the year 1991 and in conformity with the Election Law. The terms of the officers so elected shall begin on January 1, 1992. Thereafter, regular elections shall be held as provided by this Charter, to elect successors to those officers whose terms are about to expire.”

2.00D.b. At-large council members to be elected for four years, ward based members for two years.

\*\*\*\*\*The Benjamin Center will provide information as to why this decision was made.

2.02 Remove health benefits for council members from the charter, accompanied by a \$2000 raise for council members and a proportional raise for the mayor (to \$35,000). Members would be permitted to buy insurance through the city plan.

\*\*\*\*\*The Benjamin Center will provide information as to why this decision was made.

2.04 Strike this language as unneeded: “The Mayor shall submit a yearly planning report to the Council no later than June 1.”

2.14 Timing of Reporting Independent Audit – Change from April 30 to June 30.

2.16C. Workshop meetings: More precise language added regarding procedure for addition of items to the agenda by Council members.

2.26 Switch to electronic publication of ordinances

Note: City administrator will review current practice regarding publication of full text of ordinances in minutes of Council meetings).

### III. Article III

300.7 Change the deadline for Mayoral financial reporting from March 1 to May 1

300.12 Purchasing authority – Alter to reflect current practice, adding purchasing to duties of administrator or his or her designee.

3.01A – Each time the Council reorganizes, by a date certain, the City Administrator will recommend and mayor specify persons who might serve as an acting administrator if the administrator is absent or unable to do so for 30 days or more. (Provision of additional compensation will be addressed in each specific circumstance.)

#### IV. Article IV

4.02 Add the word "firm" to the charter to make clear that the appointee as city attorney need not be a named individual person.

4.04 -.10, .12. Language regarding individual departments will be retained. Language included at the time of the original adoption of charter to give assurance to existing departments and officials to be removed.

4.06 The commission recommended broadening language regarding qualifications required to be head of the city finance department to deepen the potential recruitment pool.

4.16 City Officers. The Commission agreed that certain offices need not be specified in the charter: e.g. Code Enforcement, Fire Inspection Coordinator

#### V. Article V

5.06E. Language is added to assure that default budget, if necessary, conforms to state limits and requirements in law.

5.10D Transfer of Appropriations: Commission decided after conversation via unanimous vote to change the threshold for required Council review and action from \$3,000 to \$7,500). This gives the administrator greater flexibility in daily management of the city government.

5.14B. Strike this language as unneeded: "signature stamp or signature plate." Change to "Automatic Signature"

#### VI. Article VI

6.02 Comprehensive Plan— Alter Section A and remove sections C, D as duplicative of procedures specified in NY General City Law.

6.02c. Add "resiliency and sustainable" operation of public facilities as goals.

#### VI. Article VIII

8.00 Bonding Process: Commission agrees to retain \$250,000 threshold for Permissive Referendum. Removed "With possible increase of."

#### VIII. Article IX

9.05 add term "quasi-contract" to accommodate results off recent litigation.

IX. Article X

Remove unneeded transitional provisions.

Respectfully Submitted,

Timothy Toomey

## Minutes

### Beacon City Charter Commission

Thursday March 8, 2017 7:05-8:25 pm

Present: Co-Chairs: Charles Kelly, Pamela Barrack. Commissioners: William Cornett, John Rembert, Peter Nocerino, Brooke Simmons, Marko Guzijan, and Agnes Campagnone. City Administrator: Anthony Ruggiero. City Mayor Randy Casale. Counsel: Drew Victoria Gamels. Gerald Benjamin (consultant) Timothy Toomey (student assistant)

Absent: Commissioner Candi Rivera.

A presentation to a workshop meeting of the City Council will be held on March 27, 2016.

The meeting was held to gather public comment on the draft report of the Commission and seek additional ideas for charter change that might be suggested by citizens of the city.

The meeting was called to order at 7:05 by Co-Chair Pamela Barrack. Ms. Barrack provided a brief overview of the charter commission's work, discussing what was accomplished during the meetings. She then turned the floor over to Co-Chair Charles Kelly who provided an overview of the process and thanked the members for participating. The floor was turned over to Gerald Benjamin.

Dr. Benjamin thanked the commission for its exceptionally thorough review of the charter. He presented power points explaining the function of a city charter and the commission's proposals.

Co-Chair Charles Kelly opened the floor to public questioning.

Ms. Peggy Ross, a member of the City Council, asked for an estimate of dates for the proposed changes to be implemented. Gerald Benjamin responded that all actions were subject to approval by the City Council. The process was timed to assure the Council ample time for their deliberation, and access to the ballot in November of 2017, if that was required. Charles Kelly responded that the proposed removal of healthcare coverage for council members, the proposed salary increase for them and changed terms for at-large Council members were the matters that would require a referendum vote. If approved, a term increase would be effected in a Mayoral election year. Counsel Gamels noted that other proposals could be effected passing local laws.

Justin Riccobono asked for further information regarding changing the default budget adoption process to accommodate the state tax cap. Gerald Benjamin explained that the default process provides for effecting the Mayor's budget if the Council does not act timely upon it. The new provision required the Council to retroactively adjust a default budget adopted without its action to conform to the cap. This provides an added incentive for the Council to act timely. Mayor Casale noted the financial director advises on the cap.

Justin Riccobono asked for information on current costs of insurance for Council members. Charles Kelly noted it costs the city \$47,000 for the 3 members that take the insurance. He noted

that the proposed pay increases would cost the city \$17,000, yielding a net saving the city of \$30,000.

Barry Pendleton voiced opposition to lengthening the term of the council member at large seats. He stated 4 year terms were used under the abandoned commission system and argued that this would create a stagnant council and new ideas are needed. He also questioned if term limits were discussed. Chair Kelly assured that they were. He further questioned the practice of providing health benefits to council and the mayor. Lastly, he questioned the change of electronic publication of ordinances. Counsel Gamils noted that this change affected only matters that had passed the Council, not matters under consideration; public notices of these will still be published in the press, as required by law.

Reuben Simmons questioned why the financial threshold for discretionary action by the City Administrator remained relatively low. Charles Kelly explained how the increase was made by using a cost of living adjustment. He further noted that it was his experience that city council members gain insight into the city operations through review of budget changes.

Justin Riccobono voiced support for increasing the term for at-large ward council seats as these councilmembers must cover the entire city during a campaign as compared to a council member who has to focus solely on his or her ward. Charles Kelly noted the 4-year term makes it easier to recruit council members.

Agnes Campagnone sought to clarify Barry Pendleton's position regarding the proposed 4-year term for councilmember at large. She explained reasoning behind the proposed decision. Mr. Pendleton questioned if any other municipalities administer health benefits to public officials. Gerald Benjamin responded that including health benefits for public officials in city charters it is very rare; he said he knows of no other case. Practices for providing benefits to elected officials vary from place to place. This is usually handled as a budgetary matter, he said. Brooke Simmons explained rationale behind the pay increase for council members as incentive for individuals to run for office.

Anthony Tseng commented regarding the proposed healthcare change. He questioned if e-mails between a citizen and the mayor or council would be put on the record. Mayor Casale advised Mr. Tseng that his comments would best be made at a city council meeting.

Co-Chair Charles Kelly asked for a motion to close the public comment period and reconvene. It passed unanimously

A motion was passed to recommend all proposed charter changes in the draft charter as presented in the meeting, with errors in detail identified by Counsel Gamils adjusted in accord with her summary of them to the commission. It passed unanimously.

A motion was made to accept the draft report, with small edits additions to the history section, as summarized by Dr. Benjamin. It was approved unanimously.

Respectfully Submitted,  
Timothy Toomey

# Benjamin Center Presentation Material

## Appendix III

## The Beacon City Charter



Gerald Benjamin  
August, 2016



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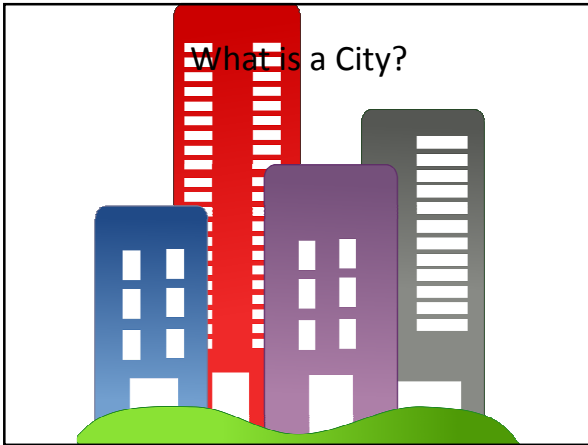
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## What is a City?



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## What is a city?

- A City is
  - A municipal corporation
  - created by state law (the charter)
  - in a densely settled place
  - at local request
  - to provide necessary or desired public services
  - that otherwise may not be offered
  - by existing local governments
  - under general law
- Note: This is a matter of legal status, not size of place

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### What is a city charter?

- A city charter is an act of the sovereign:
  - the colonial government (before the American Revolution) or
  - the state government
- Creating the city
- Structuring its government
- Empowering its government
- Directing its government
- Placing limits on its government

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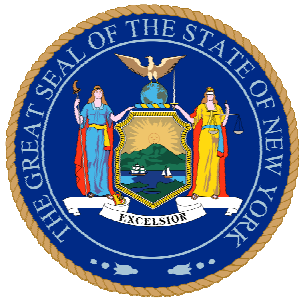
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### Cities as “Creatures of the State”

- A city cannot come into existence without an action of the state government
- New York
  - has chartered 65 cities
  - Beacon, comprised of the villages of Matteawan and Fishkill Landing and part of the hamlet of Glenham, was chartered in 1913
  - But 3 no longer exist (Brooklyn, Williamsburg and Long Island City)
  - The last, Rye, was created in 1942
  - So we have 62 cities in New York

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## Beacon's first charter

- An act of the state legislature
  - Chapter 539 Laws of 1913 (46 pages)
    - The Commission System
      - Five commissioners elected at large constitute the Council
      - Mayor has overall supervisory responsibility
      - Commissioners , accounts, finance, public works and public safety

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## General purpose local government layering in New York State

### Within cities

- Counties
  - Cities

### Outside cities

- Example 1
  - Counties
  - Towns
- Example 2
  - Counties
  - Towns
  - Villages

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### “Home Rule”

#### Restrictions on the Legislature

- 1894 – State Constitution - Article XII §2 –
- 1907 – State Constitutional Amendment
- 1923 – State Constitution
  - Legislature may act regarding “property, affairs or government” of any city only by general law
  - Special law – applying to one city – Governor must declare an emergency – 2/3 in each house to pass

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### Home Rule

#### Article IX – NYS Constitution

- Centuries of struggle for city autonomy
- “Sword and Shield”
- Sword – A right to local self-government
- Shield – Protection against state interference in “property, affairs and government of localities

Except – State is generally favored when localities and state government clash

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### Beacon's Current Charter 10 Article Framework

1. Assertion of powers, purpose (some misc.)
2. The Council
3. Mayor and Administrator
4. Departments
5. Budgeting and Fiscal Processes
6. Planning
7. Nomination and Election
8. Taxing and Borrowing
9. General – (e.g. Ethics, Charter Review)
10. Transition

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### Beacon's Current charter (basic government structure)

- Adopted under Article IX – NYS Constitution
- Effective 1989
- Strong Mayor – 4 year term - No separation of powers
- Seven member council – 2 year term
- 2 at-large, 4 from wards defined in charter
- City Administrator – Appointed by Mayor and serves at his pleasure – advice and consent of Council

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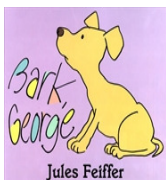
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### Beacon Charter "The Dog that Didn't Bark"



"What's not there that might be a good idea to include, and how do we find that out?"

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Beacon Charter – Provides for Periodic  
Convening of a Charter Review Commission

Section 9.04

- Review: “The Mayor, with the consent of the City Council, shall appoint a commission at least every ten (10) years after the effective date of this Charter to review the Charter”
- Recommend: “and to make recommendations to the Mayor and the City Council for revision or amendment.”
- Note: No direct ballot access

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Revision or amendment

- Revision – a new charter
- Amendment – alteration of specific provision or provisions

Note: An amendment may be an:

- addition
- deletion
- alteration

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Amendment or Repeal

- Beacon Charter – Section 9.04 added in 1991)  
“This Charter shall only be amended by adoption of a local law pursuant to the procedures set forth in the Municipal Home Rule Law.”

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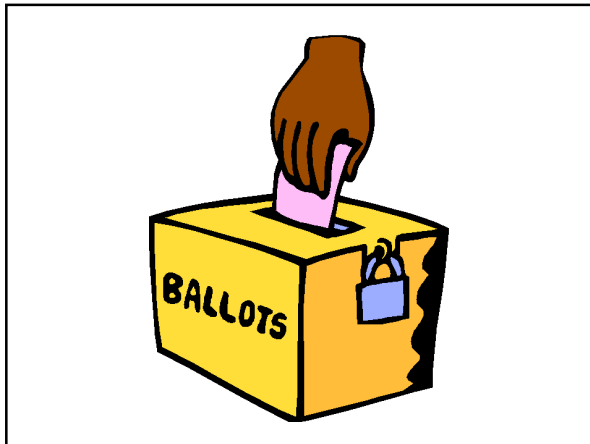
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### Referendum requirement

Municipal Home Rule Law - §23 & 24

- Mandatory Referendum (generally)
  - adopt a new charter,
  - create or eliminate elective offices,
  - alter powers of elected officials,
  - alters electoral process,
  - changes council size,
  - redistricts,
  - diminishes compensation or alters conditions of employment for officers
- Permissive Referendum (selected examples)
  - suspension of certain process requirements for doing business,
  - alter assessment practices
  - increasing compensation of officials

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### The Commission Process

- Establishing a timeline and schedule
- Learning and understanding the current charter
- Considering satisfaction with the charter
- Identifying and considering charter-related issues that may have arisen within and outside city government
- Seeking best practices for city charters that may have developed since the charter was last reviewed
- Identifying and considering alternatives, strengths and weaknesses
- Determining recommendations
- Transparency and public education

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# Alternative Local Governmental Structures

Presentation to the City of Beacon Charter Commission  
Gerald Benjamin, The Benjamin Center, SUNY New Paltz

August, 2016

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## New Yorkers have a constitutional right to local self-government through an elected local legislature

- Article IX.1.(a) Of the NYS Constitution provides:  
"Every local government, except a county wholly included within a city, shall have a legislative body elective by the people thereof."

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## All General Purpose Local Governments in New York State Have Boards in Which Governing Power Resides

- In counties - Boards of Supervisors or Legislatures
- In towns – Town Boards
- In villages – Boards of Trustees
- In cities – City Councils

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**Most Commonly, All Governing Power is Concentrated in these Boards**

- This is a legislative system
- "Legislative" and "Executive" powers are located in the same institution
- This is **not** like the separation of powers system that we are used to in state and national government (more about this later)

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**Beacon's Common Council is the constitutionally guaranteed local legislature**

- Seven Members
  - The Mayor – elected for four years
  - Two Council Members elected at-large for two years
  - One Council member resident in and elected from each of 4 Districts for two years
- All elected officials must run in odd numbered years (NYS Constitution)
- Powers (see below)

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**But in Cities, Councils are variously empowered depending upon the provisions of the city charter**

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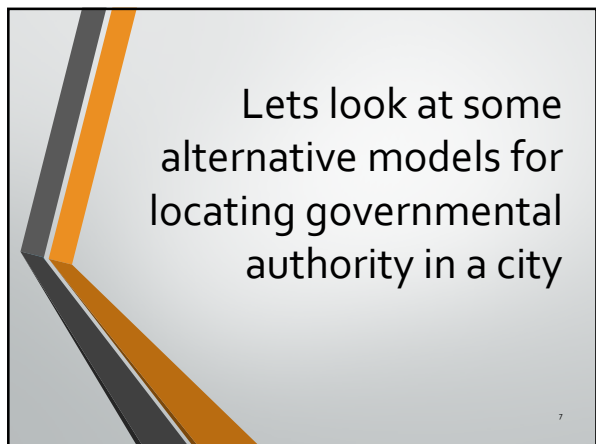
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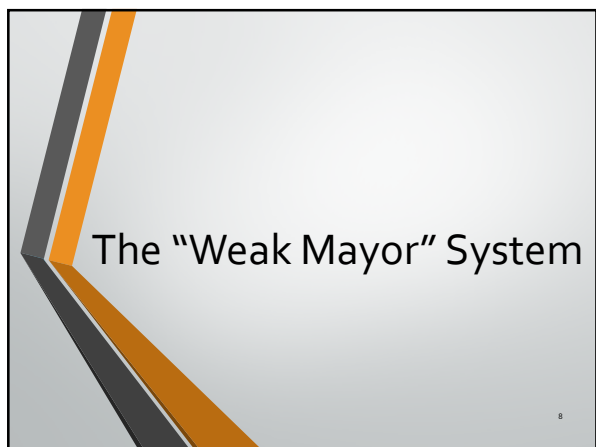
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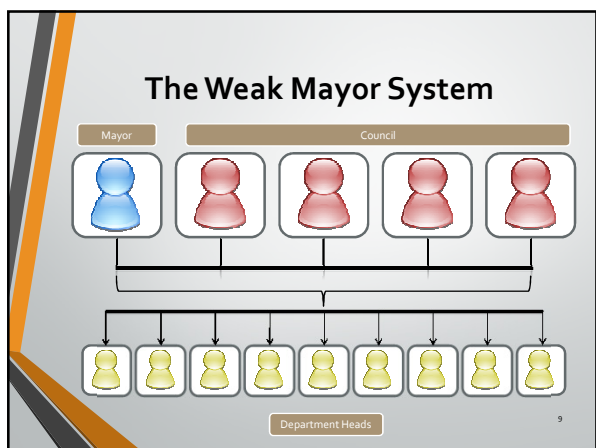
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One Board Member is Designated to Facilitate the Board's Work – Usually in Cities He or She is Called the Mayor

Council	Mayor
<ul style="list-style-type: none"> <li>Usually members work part-time</li> <li>Retains almost all governing authority as a group, for example:                             <ul style="list-style-type: none"> <li>Makes policy by local law and resolution</li> <li>Hires department heads</li> <li>Adopts budget and makes most budget changes</li> <li>Oversees administration</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Is a board member</li> <li>Has one vote, as do all other Board members</li> <li>Usually works part-time</li> <li>Presides over meetings</li> <li>Represents the jurisdiction                             <ul style="list-style-type: none"> <li>At ceremonial occasions</li> <li>In meetings with outside officials and groups</li> </ul> </li> <li>Performs specified duties to facilitate the Board's work (e.g. initially prepares a budget)</li> </ul>

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There are Several Ways to Pick the Presiding Officer

- Election at-large from the entire city (may be the Mayor or an at-large member)
- Election in a district or at-large, with designation by a vote of the entire board (Poughkeepsie now)
- Rotation of responsibility (and title) among members of the board, elected at-large or in districts

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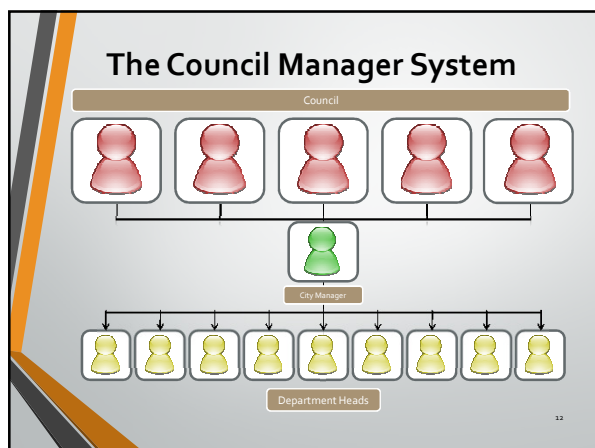
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### The Council Manager System

- The Council Retains all Legislative Powers and ultimate governing authority, including:
  - Passing local laws
  - Adopting a budget
  - Authorizing borrowing
  - Overseeing performance of government
- The Council Hires a qualified professional to act as the City's Chief Executive
- The executive, with powers specified in the charter, operates the government, overseen by the Council, operates the government
- The executive is not a Council member

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### A Progressive –Era Legacy

- Council elected at-large
- Longer terms of office
- Appointed professional manager
- Non-partisan elections (hostility to party politics)
- Election in off years

Note: less fully realized in New York State

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### Core Value Assumptions

- City government provides basic services essential to daily life, therefore:
  - City Government should not be “political”
  - City government should be “run like a business”

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**The Council-Manager Plan is a Partial Separation of Powers System developed on the Corporate model**

- Council is "Board of Directors"
  - Makes Policy
  - Oversees Performance
  - Responsible to "Stockholders" (Voters)
- Manager is "CEO" who:
  - Appoints department heads
  - Prepares budget
  - Directs day-to-day operations
  - Recommends policy
  - Is accountable to the board for government's performance

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**Strengths and Weaknesses of Council-Manager System**

**Strengths**

- Trained, experienced professional management of the city government – "Neutral Competence"
- Chief executive not the voice of single local party or interest
- Charged with pursuing the well being of the entire community
- Well situated to draw upon "best practices" from across the state and nation
- Avoids concentrating political power in one person

**Weaknesses**

- Not deeply rooted in community, and committed to it
- Career is not locally focused. Likely to "move on" as career develops
- No "democratic legitimacy" for policies arising from election
- Not as visibly identifiable to all in the jurisdiction
- Continuation subject to vagaries of Council politics

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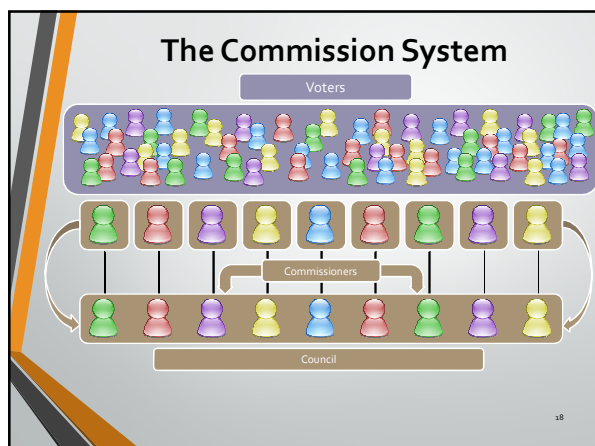
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### The Commission System – Largely abandoned progressive experiment – long used in Beacon

- Voters, voting at-large, elect heads of major departments
- Department heads work full-time
- These department heads, sitting together, constitute the City Council
- Weaknesses
  - No strong center of city-wide executive authority
  - Log rolling in budgeting and administration
  - Divergence between formal and actual power
- Mostly abandoned where tried, and now rarely in use (In New York State, currently used in Saratoga Springs)

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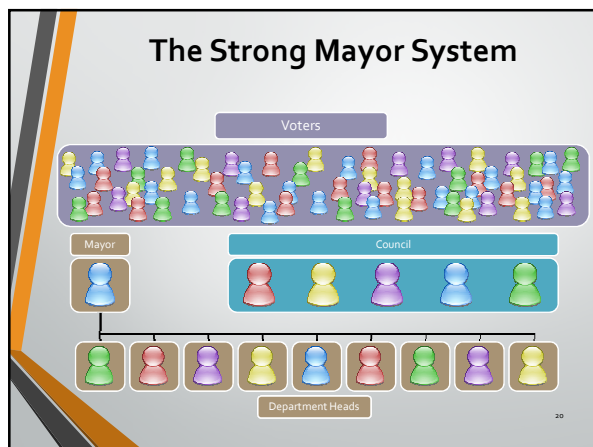
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### The “Strong Mayor” System

- Modeled on national and state government
- A full separation of powers system
- Voters elect an executive, the mayor, and vest him or her with “executive” powers
- Voters elect a Council, and vest it with legislative powers
- Executive has no vote in the legislature

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### Strengths and Weaknesses of Strong Mayor System

#### Strengths

- Must be deeply rooted in community to be elected
- Program validated and legitimized by election
- Can call upon an already developed strong base of local support
- Visible and accountable to citizens directly

#### Weaknesses

- May not be competent to manage a large, complex organization
- Power too concentrated in a single person
- Increases prospect of inter-institutional conflict
- May be less responsive to groups outside of his or her political base
- Personal political ambition may conflict with best interests of community

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### Hybrid Systems in City Charters are Common

- Many cities have incrementally evolved hybrid combinations of progressive and non-progressive era elements:
  - Terms of office
  - Use of wards and/or at-large elections
  - Partisan or non-partisan election
  - Location of executive authority

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### Beacon's Hybrid System – A Mayoral Bridge

#### Executive Side

- Both:
  - Strong mayor &
  - Professional Administration

#### Legislative Side

- No separation of powers: Mayor as full voting member and presiding officer of the council

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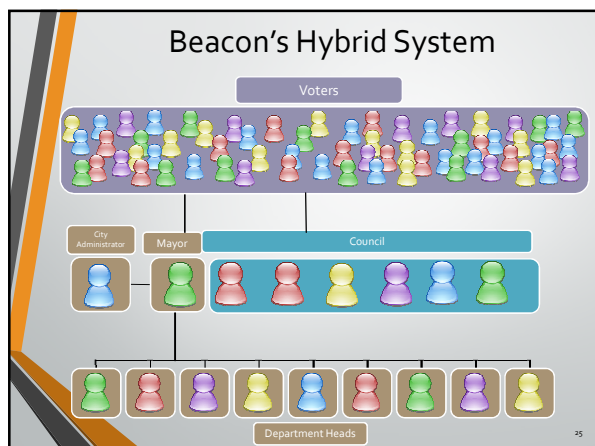
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### Beacon – Mayor's Powers

<h4>Executive</h4> <ul style="list-style-type: none"> <li>• Is the chief executive</li> <li>• Appoints and removes the Administrator and department heads</li> <li>• Exercises administrative authority</li> <li>• May delegate his or her admin. Powers</li> <li>• Must report to the Council and keep it informed on operations and finances</li> <li>• Manages the city's budget</li> <li>• Signs contracts</li> <li>• Designates a purchasing officer</li> <li>• Formally represents the city</li> </ul>	<h4>Legislative</h4> <ul style="list-style-type: none"> <li>• Presides</li> <li>• Prepares the agenda</li> <li>• May call a special meeting</li> <li>• Appoints the Council Secretary</li> <li>• Appoints to and fills vacancies on boards and commissions</li> <li>• Appoints to vacancies in elected offices until filled by election</li> <li>• Makes an annual report</li> <li>• Submits a budget and budget message</li> <li>• Submits capital plan</li> <li>• Provides quarterly financial reports</li> </ul> <p><small>Note: No veto or item veto</small></p>
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### Beacon – Council's Powers

- Adopts rules, keeps journal
- Judges qualification of own members
- 4 members may call a special meeting
- May hold workshops
- Advice and Consent to mayoral appointments
- Fill vacancies in elective office absent mayoral action
- Pass local laws, ordinances, resolutions
- Adopts and amends budget
- Adopts and amends capital program
- Make inquiries and investigations and otherwise require information
- Authorize an independent audit (required)

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## Beacon Administrator's Powers

*As directed by the Mayor:*

- Supervise departments
- Prepare budget
- Prepare capital plan
- Administer budget and capital plan
- Advise Mayor of "needs of the city"
- Promulgate personnel and salary plan
- Negotiate for the city as needed
- Execute contracts
- Authorize the attendance of city officials and employees at meetings, seminars and other such gatherings and functions.
- Reorganize and reallocate government resources
- Pursue grant opportunities to that may benefit the city.
- Carry out such related and non-conflicting duties as may be directed by the Mayor, or as the Council
- Approve each voucher, claim or account presented and sign all orders and vouchers
- Approve all bonds or other security and all public liability and property damage insurance policies

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## Questions?

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## Beacon Charter Review

Issues Identified by City Officials & Commission Members – Charter Articles I and II

Gerald Benjamin – The Benjamin Center -September 13, 2016

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## Issues and Questions Beacon City Charter Articles I & II

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## Article I

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## Section 1.16

### Definition of Ward Boundaries in the Charter

- Definition of ward boundaries in the Charter is not required. These boundaries may be defined every 10 years by local law, in connection with the redistricting process.
- e.g. Poughkeepsie Charter §2.01. "There shall be a common council composed of one councilmember elected from each of the wards of the city established from time to time by local laws of reapportionment."
- e.g. Newburgh charter §C1.21.A. "Within 180 days of the adoption at the November 2011 general election of a proposition for the establishment of a seven-member City Council comprised of a Mayor and two Council members to be elected by the qualified voters of the City and four Council members to be elected by the qualified voters in each of four wards into which the City is to be divided, there shall be established a commission on districting to divide the City into four single-member wards. The wards shall be drawn to be compact and contiguous and in compliance with the established standards of state and federal law for equal and fair representation of all people in the City of Newburgh."

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## Negotiated Sale

Specifically authorized in Law , within defined parameters

Some Reasons:

- No market for the property
- A public purpose is served (e.g. neighborhood renewal, moderate income housing)

- A needed tool for city officials
- Danger of self-dealing, patronage, corrupt behavior

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## Article II

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### The Council:

- §200. *Compensation*. [Should be "Composition"] "There shall be a City Council of six (6) members and a Mayor. The term "Council" or "City Council" shall include the Mayor unless said Mayor is excluded by express provision therefrom or by operation of law. Two (2) of the Council members will be elected at-large, and the remaining four (4) Council members will be elected from districts, the boundaries and dimensions of which shall be determined by the City Council, in conformity with constitutional requirements and the requirements of the Laws of the State of New York."

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### At-large election of council members –

#### Advantages

- More to consider city-wide ("general") interests
- Broadens recruitment base – allows recruiting all leadership from entire city
- Success of women more likely

#### Disadvantages

- Diminishes connection to constituents
- Elections more expensive
- May recruit all leadership from one part of the city
- A potential barrier to minority representation – may raise federal Voting Rights Act concerns

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### Ward-based election of council members

#### Advantages

- Better connection to constituents
- Responsive to neighborhood concerns
- Diminished campaign costs
- More likely to reflect diversity
- Familiar to voters

#### Disadvantages

- More parochial in perspective and concerns
- Requires districts and redistricting – an additional expense and source of contention
- Restricts recruitment base

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### Nomination and election rules or practices for at-large seats to mitigate disadvantages

- **Nominating process** on a regional basis can prevent geographic concentration or racial/ethnic group disadvantage of elected members. (Charter-based, Party process, informal agreement, or traditional practice.)
- **Electoral rules**, specified in the charter, may shape contests and outcomes
  - Citywide contest with rank-ordered plurality winners
  - Contests for specified seats, with plurality winner for each contest

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### Mixed Systems: Wards and Districts

- Mixed systems made up of at-large and district based council members seek the advantages of both.
- Usually results in larger council size
- Role of at-large members may be equivalent to that of ward members or differently defined

2/21/2017

Benjamin - CKREO - Newburgh - Council Options

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### Mid-sized City Councils in New York – Members elected both at-large and from wards

#### Mayor on Council, Manager

- Amsterdam
- Auburn (Manager)
- Beacon
- Jamestown
- Lockport
- Middletown
- Newburgh (Manager)
- North Tonawanda

#### Strong Mayor/ Separation of Powers

- Kingston
- Lackawanna
- Rome\*

- \*Operates with a Board of Estimate




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## Staggered Terms – Advantages and Disadvantages

### Advantages

- Continuity
- Tests citywide sentiment in altered contexts
- Brings a different mix of time perspectives to the council
- Because of turnout differences, may represents a different mix of votes

### Disadvantages

- May add status imbalance to council (if two council members have four year terms, and four two year terms)
- Effect is unpredictable, based on political context - may marginal or alter council majority
- Fairness of indirect referendum on performance of others

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## 2.00.D.b. staggered 3 or 4 year terms for council?

- City elections must be held in Odd numbered years. As a practical matter this limits term lengths to an even number of years in New York. (NYS Constitution Article XIII. §8.)
- Stagger would require four year terms. This must be accomplished by charter change, with ratification at popular referendum.
- Staggered terms
  - practically difficult for ward-based elections because of the requirement for decennial redistricting.
  - Staggering at-large seats would not present this difficulty.
- Issues:
  - Would the city seek four year terms for all council seats, or just at large seats?
  - What would be staggered with what? May elect two at-large members in different year as Mayor or each at-large member in a different year
  - Would election of the Mayor be simultaneous with the election of one at-large member, or all the Council but one member?

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## Election Process – Redundant?

§2.00D. "Election and terms. The first city election under this Charter shall be held on the first Tuesday in November in the year 1991 and in conformity with the Election Law. The terms of the officers so elected shall begin on January 1, 1992. Thereafter, regular elections shall be held as provided by this Charter, to elect successors to those officers whose terms are about to expire. [Amended 7-1-1991 by L.L. No. 5-1991]"

- No need to provide for timing of first election.
- State election law governs elections. No need to confirm this in the charter.

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### Term limitation

- Common for executives in national and state government in the United States – Usually two four year terms
- Adopted in many states for their legislatures in the 1990's. Almost always achieved through the initiative process – legislatures do not limit themselves
- States not permitted to limit Congressional terms (U.S. Term Limits, Inc. v. Thornton, 514 U.S. 779 (1995))

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Four of twenty two New York State cities, with populations ranging from 10,000 to 20,000, have term limits for their mayors

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### Populations 10,000-14,999

City	Population	Length of Term	Term Limit
Watervliet	10,259	4 years	N
Canandaigua	10,567	2 years	N
Corning	11,146	2 years	N
Ogdensburg	11,177	4 years	N
Oneida	11,335	2 years	N
Fulton	11,852	4 years	N
Dunkirk	12,518	4 years	N
Geneva*	13,264	n/a	n/a
Oneonta	13,890	4 years	N
Olean	14,408	4 years	N
Glens Falls	14,696	4 years	Yes, 2 terms
*City Manager			

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### Populations 15,000-20,000

City	Population	Length of Term	Term Limit
Tonawanda	15,113	4 years	N
Batavia*	15,472	n/a	n/a
Beacon	15,488	4 years	N
Gloversville	15,580	4 years	n/a
Rye	15,713	4 years	N
Cohoes	16,153	4 years	N
Lackawanna	18,116	4 years	Y, 8 consecutive years
Oswego	18,140	4 years	Y**
Amsterdam	18,485	4 years	N
Cortland	19,271	4 years	N
Plattsburgh	19,911	3 years	Y, 8 consecutive years
*City Manager			
**Can't serve more than 10 consecutive years, no limit if staggered			

### Term limits – Questions to answer

- Length of term?
- Number of terms?
- Absolute or stopping out?
  - Stopping out period?
- Eligibility for other offices?

### Term Limits - Pro and Con

#### Pro

- Prevents careers in a single office
- Diffuses power
- Diminishes prospects for corruption
- Enhances competition in politics
- Accelerates ethnic succession.
- May advantage women and minorities

#### Con

- Diminish experience in elected leadership
- Shifts power from elected officials to professionals
- Shifts focus from government to politics
- An incentive for corrupt behavior
- Is undemocratic

### Mayor – Yearly Planning Report to the Council

§204. “The Mayor shall submit a yearly planning report to the Council no later than June 1.”

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### Vacancy in office- When does a vacancy occur?

#### Permanent

- Death
- Resignation
- Departure
- Felony conviction
- Voided election (Judicial act)
- Failure to accept office
- Failure to perform (not in Beacon)

#### Temporary

- Unavailability
- Inability to perform
- Beacon’s provisions for acting mayor (Charter §3.05)

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### Permanent Vacancy Provision - Principles

#### Principles

- Clear definition to determine if vacancy exists
- Elected offices should be filled ASAP by election
- Persons or places should not go unrepresented for significant periods of time
- Avoid deadlock for partisan or other reasons (Contingency provisions)

Note: Timing of vacancy significant

#### Alternatives

- Temporary appointment
  - Until next election
  - Until special election
  - Until expiration of term
- Appointing authority
  - The mayor
  - The council
  - Another entity (legal vs. actual)

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### Temporary Vacancy – Inability - Issues

- Cause
  - Absence
    - Still needed
    - Limited use
  - Inability – Medical (Physical, psychological)
- When is there a vacancy?
  - Self determination
  - Determination by another
    - Body (Council)
    - Committee
    - Physician
- When does the vacancy terminate?
  - Self determination
  - Determination by another
  - Physician

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### 2.08 Vacancies – consistence with code

- Continuity
- Disaster preparedness

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### 2.02 compensation of elected officials

- Most city council members in New York State do not serve full-time
- It is not uncommon for compensation for city council members to be specified in city charters
- But specifying compensation in the charter makes changing it harder
- The provision of medical benefits for council members (or alternative compensation for those who opt out of receiving these benefits) has been a persistent issue in New York State
- It is uncommon for charter provisions for compensation of the City Council members to include payment for benefits.
- Some places are considering regular compensation review by a “neutral” third party

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## Poughkeepsie – Proposed Salary Review Commission

### • Section 4.03 Salary Review Commission

“There shall be a seven member Salary Review Commission. No later than May 31st in the year prior to the first mayoral election year following adoption of this charter, and every four years thereafter, the mayor shall appoint three members of the Salary Review Commission, and the common council shall appoint three members to a Salary Review Commission. Those six members shall elect one additional member at the Salary Review Commission’s first meeting, convened at the call of the mayor in the immediate following June. The Salary Review Commission shall review the salaries and, as it deems necessary, recommend salary adjustments for all city elected officials no later than January 1st in the year of the general election in which those offices are next scheduled to be filled. As required by the Commission, the mayor shall make available from city departments the information and expertise necessary to inform its deliberations.”

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## Function: Mayor yearly planning report to council. §2.04

- “The Mayor shall submit a yearly planning report to the Council no later than June 1.”

Why?

- Accountability

But

- the substance of the report is undefined

- and there are many other reporting requirements upon the mayor in Article III:

- [6.](#) The Mayor shall prepare and submit the annual budget and capital program to the Council.
- [7.](#) The Mayor shall submit to the Council and make available to the public by March 1 each year a complete written report on the finances and administrative activities of the city as of the end of the prior year.
- [8.](#) The Mayor shall make such other reports as the Council may require concerning the operations of city departments, officers and agencies subject to the Mayor’s direction and supervision. (Amended 3-16-1993 by L.L. No. 2-1993.)
- [9.](#) The Mayor shall keep the Council fully advised as to the financial condition and future needs of the city and make recommendations to the Council concerning the affairs of the city.
- [10.](#) The Mayor shall perform such other duties as are specified in this Charter or may be required by the Council.”

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## §2.14 Timing of Reporting Independent Audit

“The Council shall obtain an independent audit of all financial accounts at least once annually. Such audits must be conducted by a certified public accountant who has no direct personal interest in the financial affairs of the city government or any of its officials. The annual audit must be reported to the Council and the public no later than April 30 of each year.”

- Proposal is change to June 30

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### §2.12A Special meetings

- Conveners - Assure that either Mayor and/or Council members may act
  - Mayor –
  - Subset of council (number varies, smaller than a majority, but need to avoid frivolous meetings)
- Agenda – Usually limited to subject of notice
- Notice –
  - Method (Print, electronic)
  - Advance timing
  - Contingent "out clause" regarding timing

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### 2.16 A Notice of special meeting - add electronic method

"Meetings. The Council shall meet regularly twice in every month at such times and places as the Council may prescribe by rule. The Mayor's office shall prepare and make public a written agenda at least two (2) working days before each regular Council meeting. Special meetings may be held on the call of the Mayor or of four (4) or more members, and whenever practicable, upon no less than twenty-four (24) hours' written notice **by memorandum or e-mail** to each member. All meetings shall be public; however, the Council may recess for the purpose of discussing, in a closed or executive session, those topics or items for which the Public Officers Law allows a closed session. The general subject matter for consideration must be expressed in the motion calling for such closed session. Final action thereon shall not be taken by the Council until the matter is placed on the agenda."

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### § 2.26 Electronic Public Notice of Ordinances and resolutions

- "The Council shall cause a summary of every ordinance and of every resolution having the effect of law, and of the entire text of each amendment to this Charter, to be published promptly in the official newspaper following its adoption before it becomes effective. The full text of the ordinances, resolutions and charter amendments shall be made available to the public, free of charge, from the City Clerk. The published notice shall specifically state that a full copy of the ordinance or resolution may be obtained, free of charge, from the City Clerk."
- Website posting would save the city \$2000 per year.
- Query regarding whether FOIL is required for full copies. Appears not to be required.

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### POL §104.2 Public Officers Law – Example of electronic aspect of Public Notice

- § 104. Public notice. 1. Public notice of the time and place of a meeting scheduled at least one week prior thereto shall be given or electronically transmitted to the news media and shall be conspicuously posted in one or more designated public locations at least seventy-two hours before such meeting.
- 2. Public notice of the time and place of every other meeting shall be given or electronically transmitted, to the extent practicable, to the news media and shall be conspicuously posted in one or more designated public locations at a reasonable time prior thereto.
- 3. The public notice provided for by this section shall not be construed to require publication as a legal notice.

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### 2.16C Workshop meetings of the Council—members power to refer

“Any Council member may refer to workshop any item of business that has not been previously reviewed in workshop and/or any item of business discussed at a regular meeting which requires further discussion.”

- To whom? (The mayor)
- By what deadline? (Up to 24 hours prior to the scheduled convening)
- Deadline for consideration? (That meeting, by the next meeting, consent for postponement)

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### 2.20 Ordinances and Local Laws

1. Municipal action by local law is superior to legislation by ordinance, resolution, rule or regulation, because the local law power is granted by the State Constitution, and not merely delegated by the State Legislature in statute.
2. According to the office of state Secretary of State, “The courts have recognized the difference between a local law and an ordinance, resolution or other similar act of a legislative body, not only in form but also in substance.”  
[http://www.dos.ny.gov/lq/publications/Adopting\\_Local\\_Laws\\_in\\_New\\_York\\_State.pdf](http://www.dos.ny.gov/lq/publications/Adopting_Local_Laws_in_New_York_State.pdf) p. 10.
3. The Beacon charter makes an appropriate distinction between ordinances and local laws. (Sections 2.18, 2.20).
4. This suggests that references to ordinances in sections 2.20, 2.24 and 2.26 of the charter might also include reference to local laws.

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Section 3.05. Deputy Mayor

- In ability
- absence

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Departments – refer to section in code

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Section 4.16 city officers – why havethis  
provison

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5.06 is detail on budget needed

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5.06 public notice requirements – update,  
access - updte

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5.16 Public monies- responsibility

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6.0 Comp plan in charter

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8.00 bonding process

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9.02 ethical standards

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2.26 Publication of ordinances – electronic notice

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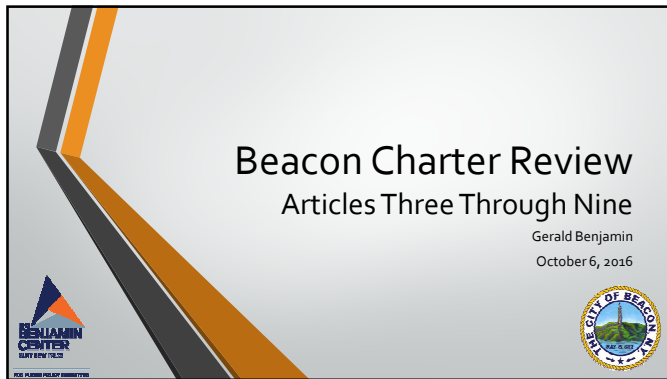
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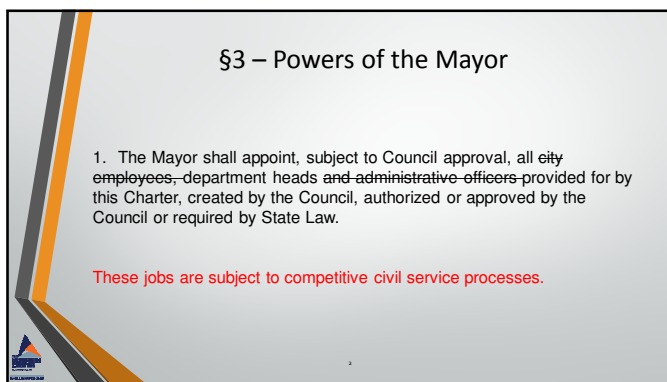
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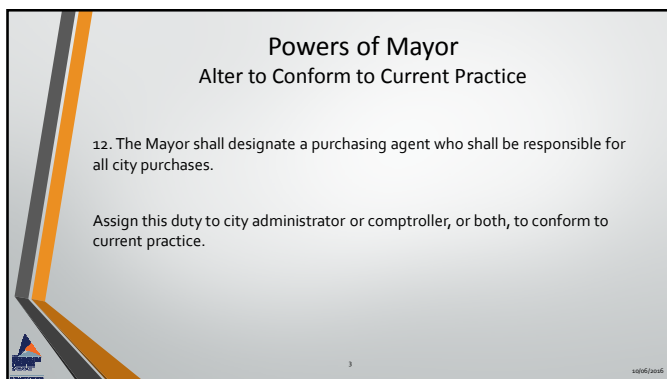
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## Powers of the Mayor - Alternative

4- The Mayor shall direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this Charter or by law.

Remove as in conflict with 3.02.B.a:-

- B. The City Administrator shall, as directed by the Mayor:
  - a. Supervise the operations of all departments and units of the city government. As the Supervisor of all department heads, the City Administrator has the authority to discipline any department head for cause, up to but not including termination.
  - .
  - .
  - .
  - q. act as a purchasing agent who shall be responsible for all city purchases.

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10/16/2016

## Powers of Mayor – Suggested as Superfluous

- 14. The Mayor shall notify the City Council of the expiration dates of all appointed positions that are subject to this provision, at least sixty (60) days prior to said expiration date. The Mayor shall also post a notice at City Hall and publicly announce all such expiration dates at the same time as Council notification. Resignations shall be announced at the first Council meeting following the receipt of said notice of resignation by the Mayor. [Added 8-3-1992 by L.L. No. 12-1992]
- 15. Nominations and applications for such positions shall be accepted from both the Council and the public for a two-week period following said notification. Applications received by the Mayor prior to the notification set forth above shall also be considered for these positions. [Added 8-3-1992 by L.L. No. 12-1992]

5

10/16/2016

## §3.05 – Acting Mayor

- Suggest change of title to "Deputy mayor" throughout this section

6

10/16/2016

## Acting Mayor – Questions

- When is the mayor “absent”?
- Is absence a problem in an information age?
- When is the mayor “disabled” and therefore prevented from executing the duties of the office?
  - When the mayor says so?
  - When a third party says so?
  - Who is told, and how?
- When does an absence or disability cease?
  - When the mayor says so?
  - When a third party says so?
  - Who is told, and how?

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## U.S. Constitution – 25<sup>th</sup> Amendment

### Section 3:

Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

### Section 4:

Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

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## Albany

- 3.01c.2. Within 30 days after first taking office, the Mayor shall designate a deputy to perform any of the Mayor's duties, with the exceptions outlined above, during a limited period of absence or inability to perform, by filing a written notice **with the City Clerk**. [Added at referendum 11-7-2006]

Note: Exception appears to be re: appointment and removal of department heads.

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## Ulster County

- C.29.A. The County Executive shall designate in writing, and in order of succession, the person or persons who shall serve as Acting County Executive in the event that he or she resigns, dies or certifies in writing and files with the County Clerk a statement that he or she is unable to perform and/or exercise the powers and duties of the office of County Executive, or in the event that, upon advice sought by a majority of the whole number of members elected to the Ulster County Legislature by formal action not subject to veto by the County Executive, his or her inability to serve is certified by qualified and competent medical authority

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## §3.01A – Acting City Administrator

Revise for Style and Move Text

- (1) Whenever by reason of sickness, leave of absence, or vacation for more than 5 days, the City Administrator shall be prevented from attending to the duties of office, the City Administrator shall, with the approval of the City Council, designate one subordinate as Acting City Administrator Manager. Said Acting City Administrator shall possess all the powers of the City Administrator during the period of appointment, but shall not exercise any powers of appointment or removal from office unless such sickness, absence or disability shall have continued for a period of 60 days. The City Administrator may change such designation at any time with the approval of the Common Council.
- If such disability or absence occurs without the City Administrator having designated an Acting City Administrator or if the office of City Administrator becomes vacant, the City Council shall appoint an Acting City Administrator with all of the powers herein set forth. Such Acting City Administrator may hold office pending the termination of the disability or absence of the City Administrator or the appointment of a City Administrator, as the case may be.

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## Acting City Administrator

### Qualifications & Move text (no change in substance)

- (2) If the Acting Administrator is expected to or does perform in that capacity for more than three (3) consecutive months, the Acting City Administrator's qualifications shall be a baccalaureate degree from an accredited college or university and at least one (1) year of special training in public administration and finance and at least three (3) years' successful experience in a responsible executive position in governmental administration, or any equivalent training or combination of experience and training sufficient to indicate capacity for effective governmental administration

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### Acting City Administrator Proposed for Deletion

- Upon determination by the Mayor of the existence of any of the events set forth in Subsection A, the Mayor's appointment of the Acting City Administrator shall commence on a date designated by the Mayor. The Acting City Administrator shall have all the powers and perform all the duties of the City Administrator during any period of the City Administrator's absence.
- D. The Acting Administrator shall terminate upon the City Administrator's resumption of his or her duties full time.
- E. The Acting City Administrator's compensation shall be determined by the Mayor, subject to Council approval.
- F. The Mayor or the Council may require certification from a medical doctor that the City Administrator is able to resume full-time duties where the City Administrator's absence is due to medical reasons.
- H. An appointment of an Acting City Administrator shall be made no later than sixty (60) days after any of the events set forth in Subsection A occurs, as may be determined by the Mayor.
- Note: section A concerns illness, leave of absence, vacation for more than five days



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10/16/2016

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### §4.02 – City Attorney

Add language to specify that attorney may be a “firm”



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10/16/2016

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### §4.04-§ 4.10, § 4.12-§4.14 – Departments

Make specific reference to relevant code in sections on departments



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10/16/2016

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	Beacon	Kingston	Poughkeepsie	Peekskill	Middletown	Newburgh
City Attorney	✓			✓		✓
City Clerk	✓	✓		✓		✓
Department of Finance	✓			✓		✓
Department of Public Works	✓	✓		✓	✓	✓
Fire Department	✓	✓		✓	✓	✓
Fire and Inspection Coordinator	✓					
Police Department	✓	✓		✓	✓	✓
Office of Assessor	✓	✓		✓	✓	✓
City Officers	✓	✓	✓	✓	✓	✓
Comptroller	✓		✓	✓	✓	✓
Corporation Counsel	✓	✓		✓	✓	✓
Parks and Rec. department	✓	✓		✓	✓	✓
Water Department	✓		✓	✓	✓	✓
City Planner/Department	✓			✓	✓	✓
City Engineer/Office	✓			✓	✓	✓
Purchasing Dept/Assistant	✓	✓				✓
City Historian	✓					✓
City Judge	✓	✓	✓	✓	✓	✓
Community Development Director		✓				✓
Registrar of Vital Statistics	✓					✓
Dog & Animal Control		✓				✓
Zoning Board of Appeals	✓			✓		✓
City Manager				✓	✓	✓
City Administrator	✓		✓			✓
City Chamberlain						✓
Department of Human Services				✓		✓

#### Charter Based Positions, Departments and Boards

It is important to note that Cities like Poughkeepsie (which has a Fire Department, Police Department, ZBA, etc.) define the powers and duties of many of these positions, departments, and boards in the Administrative Code.

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### Is Detail on Departments in the Charter Needed? – Poughkeepsie Alternative

ARTICLE IV  
DEPARTMENTS, OFFICES AND OTHER UNITS OF CITY GOVERNMENT  
Section 4.01  
Departments, Offices and Other Units; Officers; Terms

The common council may create, merge, consolidate and terminate such departments under the direction of commissioners, and such offices and other units of the executive branch, and prescribe their duties and responsibilities, as it may deem appropriate from time to time, or as may be required by state or federal law, this charter or the code. Except as otherwise provided in this charter, the head of each such department, office or unit shall be appointed by the city administrator, subject to confirmation by the mayor, and subject to such qualifying conditions as may be prescribed in the code. Except as otherwise required by state law or this charter, the head of each such department, office or unit shall be directly responsible to and serve at the pleasure of the city administrator. Except as otherwise provided in this charter, the head of each such department, office or unit shall devote his or her entire professional or business time to the duties of his or her office and shall neither conduct nor undertake to perform any other public or private professional or business service or employment.

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### §4.16 – City Officers

- The positions of Code Enforcement Officer, inspectors and other officers of the city as existing on the effective date of this Charter shall continue until otherwise provided by local law or ordinance.
- Q: Does Code Enforcer need to be in Charter? **NO**
- What is the intention of this section? **Appears to be continuity and reassurance.**
- Should it say who and what positions are considered city officers? **This may be defined. Generally, in local government, department heads and elected officials.**
- Is an account clerk an officer? **Not usual.**
- Every city officer shall, before he enters upon the duties of his office, take, subscribe and file with the City Clerk the constitutional oath of office.
- Raises issue of gender specific language.**
- Provided for by §62. NYS Civil Service Law**

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#### §4.10.1 – Fire and Inspection Coordinator

Proposal to strike this section

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#### §5.06 – Is detail on budget needed?

- Detail on budget process in the Beacon City Charter is not excessive
- Form of budget described in such general language as to be discretionary with Mayor.
- Timeline for budgeting is minimally specified (e.g. intra-governmental process)
- Time for council consideration is sufficient
- Five year capital budget is best practice
- Link Five year capital budget to
  - criteria
  - planning (But see §6.00.D.)
  - year-to-year carry-over priorities (not specified)
- Public hearing notice in newspaper only
- Utilities
- No line-item veto

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#### §5.08 – Capital Program and Action

A. & C. Change proposal and adoption date from May 31 and July 31 to be coterminous with date of adoption of budget.

Q: Does this give council sufficient time to focus on this plan, and review it?

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### §5.10D – Transfer of Appropriations Proposed Changes

- Transfer of appropriations. All budget transfers of moneys, except transfers within a department as provided below, must be approved by the City Council upon a roll-call vote, for each requested transfer. No transfers may be made within a department involving accounts for payroll and employee benefits, ~~and equipment purchases.~~ In addition, budget transfers of any unencumbered appropriation balance which exceeds ten (\$10,000) ~~three thousand dollars (\$3,000.)~~ must also be approved by the City Council upon a roll-call vote for each requested transfer. [Amended 6-15-1992 by L.L. No. 6-1992]
- **Proposal extends administrative discretion.**

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### §5.14 Public monies

- ~~The Mayor, or an officer designated by the Mayor, shall, under the power and control of the City Council, have the direct management of the revenue of the city, except as otherwise provided by this Charter or by ordinance. The Mayor, or his designate, shall be ex officio City Treasurer, with the usual duties and powers of that office.~~
- **Propose deletion and assignment in the charter, in accord with practice, to Mayor, Administrator and Finance officer**

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### §5.14 – Public Monies

- B. No city officer or employee shall utilize a signature stamp or signature plate in processing checks to pay bills and vouchers incurred by the City of Beacon, except in the case of payroll or accounts payable checks.
- **Propose deletion**

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## §6 – Comprehensive Plan

- Q: Should this be in the charter?
- This is often the practice in small cities but is discretionary.
- Level of detail about process varies.

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## Mention of Planning Board in Charter

City	Yes	No	Brief Mention
Watervliet	✓	✓	
Canandaigua	✓		n/a
Corning			
Ogdensburg	✓		✓
Oneida			✓
Fulton	✓		
Dunkirk	✓		
Geneva	✓		
Oneonta			✓
Olean	✓		
Glens Falls	✓		
Tonawanda		✓	
Batavia	✓		
Beacon	✓		
Gloversville	✓		
Rye	✓		
Cohoes	✓		
Lackawanna	✓		
Oswego	✓		
Amsterdam	✓		
Cortland	✓		
Plattsburgh	✓		✓

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## Findings

- We found that 15 out of 22 cities with populations ranging from 10,000-20,000 had a section in their charter dedicated to discussing the Planning Board/Commission in their city
- 2 cities did not have mention of a Planning Board/Commission
- 4 cities had a brief mention of a Planning Board/Commission

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## City of Rye – Planning Commission

- § C18-1.A. There shall be a Planning Commission to consist of seven members to be appointed by the Mayor with the approval of the Council. One member of the Commission shall be a member of the Council other than the Mayor, and six shall be persons who are not elected or paid officers or employees of the city. The Mayor annually shall designate a member of said Planning Commission to act as Chairman thereof, or on the Mayor's failure so to do, the Planning Commission shall elect a Chairman from its own members. The Council member shall not be Chairman of the Commission.
- B. The terms of office of members of the Planning Commission shall be for three years or the expiration of the term of their predecessors in office, whichever occurs first, except that the Council member shall be appointed for a term of two years or the expiration of the term of his or her predecessor in office, whichever occurs first.
- § C18-2 Powers and duties.
- The Planning Commission shall have the power and duties granted and imposed by the General City Law, including powers authorized by § 37, as limited by § 197-39 of the Code of the City of Rye and such other powers and duties as may be prescribed by law or the Council. In addition thereto, there is specifically granted and imposed upon it all powers and duties which under the General City Law and other statutes, as the same may from time to time be amended, the Council is empowered to confer or impose upon the Planning Commission, except as may otherwise be provided by the Council.

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## §6.o - Update Comprehensive Plan in Charter

- B. Periodic update. Separate from any individual amendments, the Council shall periodically undertake a full update of the Comprehensive Plan, at least every 10 years. The Council **may delegate such responsibility either to the Planning Board or to a special committee** whose members the Mayor shall appoint and the Council approve.
- C. Adoption. Upon receipt of a proposed Comprehensive Plan or proposed modification of the existing plan, **the Council shall, by resolution, refer such proposal to the City Planning Board, which shall within a time specified by the Council report its recommendations thereon.** After receipt of the recommendations of the Planning Board, the Council shall hold a public hearing on the proposal and shall thereafter adopt it by resolution with or without amendment.

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## §6.02 – Implementation of Comprehensive Plan Language Proposed for Removal

- B. — Annual report on comprehensive implementation. At the beginning of each year, to review progress on implementation of the current Comprehensive Plan, including an enumeration of actual changes in the prior year and expected changes in the current year. [Added 4-2-2007 by L.L. No. 7-2007]
- C. — Community development. The Council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for: (1) the alleviation or prevention of slums; obsolescence, blight or other conditions of deterioration; (2) low-income housing; and (3) the achievement of the most appropriate use of the land.
- D. — Council action. Before acting on any proposed ordinance concerning land use and development regulations, community development or expenditures for capital improvements, where such ordinance refers to a matter covered by the Comprehensive Plan, the Council shall refer the proposal to the City Planning Board, which shall, within a time specified by the Council and prior to public hearing on the proposed ordinance, report its recommendations thereon. In the event that such ordinance is contrary to the Comprehensive Plan, then and in that event, the ordinance shall not take effect until such time as the Comprehensive Plan is amended following such public hearing.

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## \$8.00 – Bonding: Permissive Referendum and Detail in Charter Tracking State Law

### Charter

- 8.0 Authority to borrow
- 8.02-08 Permissive referendum and process – MHR
- 8.06 – Referendum process – generally tracks state law – some differences in calendar
- 8.10 Exception from referendum
  - Under \$250G
  - More than 50% charged to benefited properties
  - To pay a judgement
  - Sewer and water facilities

### State Law

- Local Finance §34.a-b. Bond referenda discretionary with cities
- Referendum process in state MHR and Election Laws
- LF Law bars referendum if borrowing:
  - to pay judgements
  - To make Water or sewer improvements to comply with Public Health Law

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## Ethical Standards

- Beacon Charter - §9.0-02 (Read with – Ch. 29 - Beacon City Code)
- Provisions date to early 1990's
- Ethics is a serious current concern in New York state and local government
- A provision was recently prepared for the City of Johnstown that is separately provided as a basis for comparison

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10/16/2016

## Political Leaders as Office Holders

- A political leader is elected under provisions of state law.
- City government positions are elected.
- There is no statutory or regulatory bar to holding both of these offices simultaneously. (Unlike for judges, who may not hold party office).
- Guidance may be found in the Court of Appeals holding in *People ex rel. Ryan v. Green*, 58 N.Y. 295 (1874):
- "Incompatibility between two offices, is an inconsistency in the functions of the two. . . . The offices must subordinate, one the other, and they must, per se, have the right to interfere, one with the other, before they are incompatible at common law."

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10/16/2016

## Criteria for Considering Dual Office Holding

- (1) Is one office subject to the appointive power of the other?
- (2) Do one or both of the offices fall under a statutory provision forbidding or permitting their occupancy by one person at the same time?
- (3) Are the offices incompatible at common law?
- Richard B. Lillich and Jack A. Linton. "Incompatible Municipal Offices in New York" *Fordham Law Review* (1959)

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## Dual Office Holding and the Charter

Source: Jim Cole, Special Counsel NYS Assn. of Towns (Formerly Office of the NYS Attorney General) *Municipal Lawyer*, Summer 2004.

### Code of Ethics

Section 806 of the General Municipal Law requires every municipality to adopt a code of ethics setting forth the standards of conduct reasonably expected of its officers and employees. A code of ethics can include in its provisions a prohibition on holding certain offices or positions of employment. Additional authority for such a prohibition is the grant of home rule authority in section 10 of the Municipal Home Rule Law, which permits local governments to enact local laws, consistent with the Constitution and general state laws, relating to their property affairs or government and the powers, duties, qualifications, and other terms and conditions of employment of their officers and employees.<sup>13</sup>

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## NYC Charter

- Section 1115. **Officer not to hold any other civil office.**
- Any person holding office, whether by **election** or appointment, who shall, during such person's term of office, accept, hold or retain any other other civil office of honor, trust or emolument under the government of the United States, except commissioners for the taking of bail, or of the state, except the office of notary public or commissioner of deeds or officer of the national guard, or who shall hold or accept any other office connected with the government of the city, or who shall accept a seat in the legislature, shall be deemed thereby to have vacated any office held by such person under the city government; except that the mayor may accept, or may in writing authorize any other person holding office to accept, a specified civil office in respect to which no salary or other compensation is provided. No person shall hold two city or county offices, except as expressly provided in this charter or by statute; nor shall any officer under the city government hold or retain an office under a county government, except when such officer holds such office ex officio by virtue of an act of the legislature, and in such case shall draw no salary for such ex officio; provided, however, that any member of the police force or any member of the fire department may hold office as a member of a board of education outside of the city of New York if otherwise qualified to serve thereon

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### 3.200 NYS Election Law

- 4. No person shall be appointed as election commissioner or continue to hold office who is not a registered voter in the county and not an enrolled member of the party recommending his appointment, or who holds any other public office, except that of commissioner of deeds, notary public, village officer, city or town justice, member of a community board within the city of New York or trustee or officer of a school district outside of a city.
- 6. An election commissioner shall not be a candidate for any elective office which he would not be entitled to hold under the provisions of this article, unless he has ceased by resignation or otherwise, to be commissioner prior to his nomination or designation therefor. Otherwise such nomination or designation shall be null and void.



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Questions?

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## Beacon Charter Review

Gerald Benjamin  
October 6, 2016

Further Information

### At-Large Races: Designated Seats Staggered Elections

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### Board of Education – Nomination to Specific positions for at-large election

- § 2018. a. In all union free school districts candidates for the office of member of the board of education shall be nominated by petition. ***Each vacancy upon the board of education to be filled shall be considered a separate specific office.*** A separate petition shall be required to nominate a candidate to each separate office.
- b. At any school election in such district, the electors may adopt a proposition providing that, in all subsequent elections, vacancies upon the board of education shall not be considered separate specific offices and that the nominating petitions shall not describe any specific vacancy upon the board of education for which the candidate is nominated.
- c. In all common school districts, candidates for the office of member of the board of trustees shall be nominated by petition. Such petition shall not describe any specific vacancy on the board of trustees.

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### Staggered Elections – Examples from New York Cities

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### NYS Constitution – City Elections

- **[Election and term of city and certain county officers]**

Article XIII> §8. All elections of city officers, including supervisors, elected in any city or part of a city, and of county officers elected in any county wholly included in a city, except to fill vacancies, shall be held on the Tuesday succeeding the first Monday in November in an odd-numbered year, and the term of every such officer shall expire at the end of an odd-numbered year. This section shall not apply to elections of any judicial officer. (New. Added by amendment approved by vote of the people November 2, 1965.)

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### Ogdensburg – Council from wards - Staggered Elections

- § C-5. City Council; Mayor. A. Composition. There shall be a City Council of seven members, six are to be known as "Councillors" and one is to be known as "Mayor." All members of the City Council shall be nominated and elected at large.
- § C.5.C.1(b) Regular elections of Councillors shall be held at the general election in every odd numbered year and Councillors shall be elected for terms of four years. Three Councillors shall be elected each odd-numbered year. A Mayor shall be elected at the general election of 1995 and every other odd-numbered year for a term of four years.

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### City of Olean – Staggering with two year terms

- [Sec. 2.043](#)**Terms of office.** Councilmembers are elected for terms of two years, except that the councilmembers elected from wards I, III and V at the November 1993 general election shall have terms of one year. Thereafter councilmembers elected from such wards shall be elected for terms of two years.
- But See NYS Constitution, XIII, §8. [Election and term of city and certain county officers] All elections of city officers, including supervisors, elected in any city or part of a city, and of county officers elected in any county wholly included in a city, except to fill vacancies, shall be held on the Tuesday succeeding the first Monday in November in an odd-numbered year, and the term of every such officer shall expire at the end of an odd-numbered year. This section shall not apply to elections of any judicial officer. (New. Added by amendment approved by vote of the people November 2, 1965.)

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## Staggering with ward-based districts If redistricting is required

- Ward I - 2023 – 2027 – 2031 – 2033 (if new districts) – 2037
  - 4 years      4 years      2 years      4 years
- Ward II 2023 – 2025 – 2029 – 2033 (if new districts) - 2035
  - 2 years      4 years      4 years      2 years
- Begin in an odd numbered year following redistricting
- Employ 4 year terms
- Start half the seats with a two year term to achieve staggering
- Then all terms become four years
- Reconsider ward lines after next census
- If no change is needed, use same wards – 4 year terms
- If change is needed, hold election in new wards
- Start process over to preserve staggering

## Oneonta – Mayor at-large; Council from wards– all 4 years – executive and legislature staggered

- **§ C-9Terms.** The Mayor shall be elected by the voters of the City at large and one Council Member shall be elected by the voters of each ward. The term of office of the Mayor and Council Members shall be four years. The offices of Mayor and Council Member shall be filled at the general election preceding the expiration of the term of each such office. ***The first election for Mayor under this Charter shall be held on the first Tuesday in November in the year 2013. The first election for Council Members under this Charter shall be held on the first Tuesday in November in the year 2015.*** The regular election of the Mayor and each Council Member shall be held every four years; existing terms shall continue uninterrupted by this Charter. The term of office of each officer elected at a general City election shall commence on the first day of January following such election unless otherwise stated in this Charter.

## Plattsburgh – Ward-Based Elections Staggered – Three year terms

C.2.1.C In the 2016 general election Councilors shall be elected to the following terms:

- 1. In the 2016 general election, two councilors, one from ward three (3) and one from ward six (6), shall be elected to two (2)-year terms commencing on January 1, 2017 and ending on December 31, 2018. In the 2018 general election and thereafter, candidates for such seats shall be elected to 3-year terms.
- 2. In the 2016 general election, two councilors, one from ward one (1) and one from ward four (4), shall be elected to three (3)-year terms commencing on January 1, 2017 and ending on December 31, 2019. In the 2019 general election and thereafter, candidates for such seats shall be elected to 3-year terms.
- 3. In the 2016 general election, two councilors, one from ward two (2) and one from ward five (5), shall be elected to four (4) year terms commencing on January 1, 2017 and ending on December 31, 2020. In the 2020 general election and thereafter, candidates for such seats shall be elected to 3-year terms.

## Plattsburgh

Plattsburgh Council Election Staggering Plan Implementation						
Six Wards - Staggered Elections- Three year Terms						
Ward	Year	2016	2017	2018	2019	2020
1		3 years			3 years	
2		4 years				3 years
3		2 years		3 years		
4		4 years				3 years
5		3 years			3 years	
6		2 years		3 years		

Note: Requires election in even numbered years - unconstitutional

## Cortland- Staggering for Appointed Offices

- **§ C24-4. Terms to be staggered.**
- The terms for all members of boards and commissions shall be staggered so that new or reappointments are made each year and the numbers of members appointed each year are as close to equal as possible.

## Lackawanna- 5 councilmen from each ward, 1 elected At-Large

- **§ 3.1. Composition and power generally.**
- **[Amended at general election 11-8-1994]**
- The legislative power of the City shall be exercised by a Council consisting of five Councilmen. One Councilman shall be elected from each ward of the City and a Council President shall be elected from the City at large. The Council President and the Councilman from the Fourth Ward shall be elected for a term of four years beginning January 1, 1980. The Councilmen from the First, Second and Third Wards shall be elected for a term of four years beginning January 1, 1982. Thereafter all Councilmen shall be elected for four-year terms. No Councilman shall serve for more than two consecutive four-year terms.

## Conclusion

- We found that 5 out of the 22 cities in New York State with a population range from 10,000-20,000 have staggered elections for the Mayor and Council.
- Two cities have practices that appear to violate the NYS Constitution
- One city uses staggered appointments for boards and commissions.

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## Municipal Ethics: Policy Choices

Beacon Charter Commission  
November, 2016

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## Ethics – Sources of Standards

- General municipal Law – Article 18
- Local ethics law
- Common Law re: Conflicts of Interest – e.g. avoidance of appearance of impropriety. Courts have invalidated municipal actions where the decisive votes on an application have been cast by board members who either are employed by the applicant or who would financially benefit from the granting of the application.

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## Municipal Ethics Provision: Purpose, Reach and Character

- Purpose:
  - to promote high standards of official conduct and to foster public confidence in government.
  - To prohibit the use of municipal office for private gain
- Reach: must not permit conduct prohibited by Article 18 of the General Municipal Law, but may be stricter than Article 18.
- Character:
  - sensible, comprehensive and comprehensible
  - Include common sense disclosure
  - Provide for effective administration by an independent ethics board

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## Beacon Provisions

- [§ 9.00 Personal financial interest.](#)
- No officer or employee of the City of Beacon shall engage in any conduct constituting a **conflict of interest** or a **prohibited action**, as provided in **Article 18 of the General Municipal Law** of the State of New York, nor shall such officer or employee **fail to disclose any interest** required to be disclosed under such law. In addition to any **penalty provided by state law**, such officer or employee who shall **knowingly and intentionally** violate this section shall be **removed from office or employment** in the manner provided by law or by this Charter.

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## Beacon Charter

- [§ 9.02 Prohibitions.](#)
- [A.](#) Activities prohibited.
- [1.](#) Favored or discriminated against with respect to any city position or appointive city administrative office because of age, handicap, race, sex or political or religious opinions or affiliations.
- [2.](#) willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment...or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.
- [3.](#) Directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.
- [4.](#) Solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose whatever from any person holding any compensated appointive city position.
- [5.](#) Solicit any contribution to the campaign funds of any political party or any candidate for public office during working hours, or ...use the name of the city or his office for such purposes.
- [B.](#) Penalties. Any officer or employee of the city who shall: (1) make a false or deceptive report or statement in the course of his or her duties; (2) receive compensation except for payment from the city for performance of any official duty; or (3) accept or receive any gratuity from any person whose interest may be affected by his official action shall be guilty of a misdemeanor and, if convicted, shall forfeit his or her office or employment immediately upon conviction.

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## Beacon Code - Ethics

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## Ethics - Six Policy Focal Points

- 1. How much should be in the charter?
- 2. Incorporation of all or part of Article 18 of the New York State General Municipal Law be incorporated into Article 9 of the City Charter.
- 3. Should an Ethics Board be established?
- 4. If an Ethics Board is established:
  - How should the Board be structured?
  - Will the board give advisory opinions only (reactive) or will it receive and investigate complaints from any person or entity (Proactive)?
  - What other powers and duties should be given to the Board.
- 5. Will annual financial disclosure be required?
- 6. If required, what type of disclosure and by whom?

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## Ethics: Misuse of Office

- 1. Misuse of Office. A city officer or employee shall not use his or her official position or office, or take or fail to take any action, in a manner that he or she knows or has reason to know may result in a personal financial benefit for any of the following:
  - (a) the city officer or employee;
  - (b) his or her outside employer or business;
  - (c) a member of his or her household;
  - (d) a customer or client;
  - (e) a relative;
  - (f) a person or entity with whom or with which the city officer or employee has had a financial relationship of \$1,000 or more within the previous twelve months;
  - (g) a person or entity from whom or from which the city officer or employee has received a gift, or any goods or services for less than fair market value, during the previous twelve months;
  - (h) a person or entity from whom the city officer or employee has received election campaign contributions of more than one thousand dollars in the aggregate during the previous twenty-four months; or
  - (i) a not-for-profit organization of which the city officer or employee is a director, officer, or employee.
- Note: "City officer or employee", "customer or client," "gift," "outside employer or business," "relative" and other terms used throughout this section may require further definition.

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## Ethics: Recusal and Disclosure

- Recusal and disclosure. A city officer or employee shall promptly recuse himself or herself from acting on a matter before the City when acting on the matter, or failing to act on the matter, may financially benefit any of the persons or entities set forth in subdivision 1 of this section.
- Whenever a city officer or employee is required to recuse himself or herself under this section, he or she:
  - (a) shall promptly inform his or her immediate supervisor, if any;
  - (b) shall promptly file with the City Clerk a signed statement disclosing the nature and extent of the prohibited action or, if a member of a board, shall state that information upon the public record of the board; and
  - (c) shall immediately refrain from participating further in the matter.
- The City Clerk shall promptly cause a copy of the disclosure statement to be filed with the Board of Ethics.

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### Ethics: Misuse of City Resources

Misuse of City resources. A city officer or employee shall not use City letterhead, personnel, equipment, supplies, or resources for a non-city purpose nor engage in personal or private activities during times when he or she is required to perform work for the City.

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### Ethics: Gifts

Gifts. A city officer or employee shall not solicit or accept a gift from any person or entity who or which the officer or employee knows or should know has sought or received a financial benefit from the City within the previous twenty-four months.

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### Ethics: Gratuities

Gratuities. A city officer or employee shall not request or accept anything from any person or entity other than the City for doing his or her City job

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### Ethics: Representation and Appearances

- Representation. A city officer or employee shall not represent any person or entity in any matter that person or entity has before the City nor represent any person or entity in any matter that involves the City. A part-time city officer or employee shall not represent any person or entity in any matter that person or entity has that is before the officer's or employee's City agency nor represent any person or entity in any matter that involves the officer's or employee's City agency.
- Appearances. A city officer or employee shall not appear before any agency of the City, except on his or her own behalf or on behalf of the City. A part-time city officer or employee shall not appear before his or her City agency, except on his or her own behalf or on behalf of the City.

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### Ethics: Political Solicitation

- Political solicitation of subordinates. A city officer or employee shall not knowingly request or knowingly authorize anyone else to request any subordinate of the city officer or employee to participate in an election campaign or contribute to a political committee.

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### Ethics: Future Employment

- Future employment. A city officer or employee shall not seek or obtain any non-city employment with any person or entity he or she is dealing with in his or her City job.

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### Ethics – Revolving Door

- Revolving door. For one year after leaving City service, a former city officer or employee shall not communicate with his or her former City agency, except on his or her own behalf, and shall never accept anything of value to work on any particular matter that he or she personally and substantially worked on while in City service. Notwithstanding the foregoing, the Board of Ethics may grant a waiver of this provision to enable the City to contract with the former city officer or employee to serve as a consultant for the City where the Board determines that the consulting relationship was not intended to circumvent other prohibitions in this Article and would not otherwise result in a conflict of interest under this Article.

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### Ethics – Inducement of Others

Inducement of others. A city officer or employee shall not intentionally or knowingly solicit, request, aid, induce, or cause another officer or employee of the City to engage in conduct or acquire an interest that violates any of the provisions of this section

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### Ethics: Use of Confidential Information

- No city official or employee shall, without proper legal authorization, disclose confidential information concerning the City or use it for any non-City purpose, even after leaving City service, nor shall such information be used to advance the City officer or employee's [individual's] financial or other private interest or the financial or other private interest of an immediate family member or private employer or business associate of the City officer or employee."

NOTE: THE TERMS IMMEDIATE FAMILY MEMBER AND PRIVATE EMPLOYER OR BUSINESS ASSOCIATE MAY REQUIRE FURTHER DEFINITION.

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## Focal Point #2

Should the ethics provisions of Article 18 of the New York State General Municipal Law be incorporated into Article 9 of the City Charter, and, if so, how that should be done (slide 21, below – Interest in Contract, Disclosure, Violation).

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## Interest in Contract, Disclosure, Violation

- INTEREST IN CONTRACT, DISCLOSURE, VIOLATION
- A. No City officer or employee may have an interest in a contract that is prohibited by § 801 of the New York State General Municipal Law.
- B. Every City officer and employee shall disclose interests in contracts with the City at the time and in the manner required by § 9.5 of this Article and Section 803 of the General Municipal Law.
- C. Any City officer or employee who willfully and knowingly violates the conflict of interest and disclosure provisions of Sections 801 and 803 shall be guilty of a misdemeanor

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## Focal Points #3,4

3 . Should an Ethics Board be established?

4. If an Ethics Board is established:

- How should the Board be structured?
- Will the board give advisory opinions only (reactive) or will it receive and investigate complaints from any person or entity (proactive)?
- What other powers and duties should be given to the Board (slides 23-26).

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### The Board: See Models Provided

- Appointed by the Mayor with the advice and consent of the City Council
- Size = Odd number (e.g. 5)
- Term = fixed (e.g. four years)

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### The Board: Proactive or reactive

#### Proactive

- Initiate inquiries, receive and investigate complaints from all internal or external sources, to determine if ethics violations exist

#### Reactive

- Respond to queries concerning ethics from municipal officers or employees

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### A Pro-active Board?

#### Yes

- Greater incentive for employees to comply
- Symbol of stronger commitment to ethical values in government
- Transparency in government required in democracy
- More likely that board will not atrophy

#### No

- More potentially invasive of privacy
- Disincentive to serve in government as employee or volunteer

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### Ethics Board: Duties

- In response to request, provide legal advice on ethics law requirements
- Administer disclosure requirements
- Train officers or employees regarding ethics law requirements
  - gifts
  - moonlighting
  - post-employment constraints

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### Focal Points #5,6

5. Will annual financial disclosure be required?

6. If required, what type of disclosure and by whom?(slides 28-29).

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### Disclosure Requirements

- Transactional disclosure: place on the public record a conflict of interest and recusal from participating in a matter in an official capacity or as a member of the public.
- Applicant Disclosure: specifying the nature and interest of any municipal officer or employee in the person or entity making a land use application.
- Annual Financial Disclosure: in accord with requirements of General Municipal Law - desirable though not required in a municipality of Johnstown's size

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## Further consideration of items laid over by the commission

Gerald Benjamin and Nicole Cagar  
The Benjamin Center  
December 15, 2016



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### 1. Nomination to and/or election from specific seats in at-large systems

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### Nomination and election rules or practices to mitigate alleged disadvantages of at-large election

- **Nominating process** on a regional basis can prevent geographic concentration or racial/ethnic group disadvantage of elected members. (Charter-based, Party process, informal agreement, or traditional practice.)
- **Electoral rules**, specified in the charter, may shape contests and outcomes
  - Citywide contest with rank-ordered plurality winners
  - Contests for specified seats, with plurality winner for each contest

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### NY Example – Local Boards of Education – Nomination to specific at-large positions

- Education Law § 2018.
- a. In all union free school districts candidates for the office of member of the board of education shall be nominated by petition. *Each vacancy upon the board of education to be filled shall be considered a separate specific office.* A separate petition shall be required to nominate a candidate to each separate office.
- b. At any school election in such district, the electors may adopt a proposition providing that, in all subsequent elections, vacancies upon the board of education shall not be considered separate specific offices and that the nominating petitions shall not describe any specific vacancy upon the board of education for which the candidate is nominated.
- c. In all common school districts, candidates for the office of member of the board of trustees shall be nominated by petition. Such petition shall not describe any specific vacancy on the board of trustees.

10/6/06 Pages

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### 2. Staggered terms

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### Pros and Cons of Staggered Terms

Advantages:

1. Continuity – all seats can't turn-over at once
2. Tests citywide sentiment more frequently and in altered contexts
3. Brings a different mix of time perspectives to the council
4. Because of turnout differences, may represents a different mix of voters

Disadvantages:

1. May add status imbalance to council (if two council members have four year terms, and four two year terms)
2. Effect is unpredictable, based on political context - may alter partisan composition of council majority
3. Accuracy/fairness of "indirect referendum" on performance of council

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Staggering with at-large elections is easier than in ward systems because it requires no coordination with decennial redistricting




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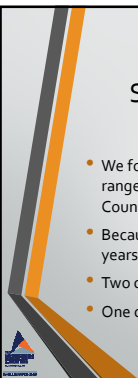
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### Staggered Elections in Small NYS Cities

- We found that 5 out of the 22 cities in New York State with a population range from 10,000-20,000 have staggered elections for the Mayor and Council.
- Because the NYS Constitution requires city elections to be in odd-numbered years, staggering requires four year terms
- Two cities have practices that appear to violate the NYS Constitution
- One city uses staggered appointments for boards and commissions.



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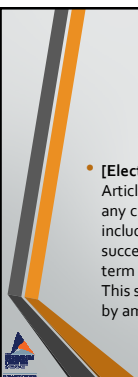
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### NYS Constitution – City Elections

- **[Election and term of city and certain county officers]**  
Article XIII> §8. All elections of city officers, including supervisors, elected in any city or part of a city, and of county officers elected in any county wholly included in a city, except to fill vacancies, shall be held on the Tuesday succeeding the first Monday in November in an odd-numbered year, and the term of every such officer shall expire at the end of an odd-numbered year. This section shall not apply to elections of any judicial officer. (New. Added by amendment approved by vote of the people November 2, 1965.)



10/10/16 Page 3

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### Ogdensburg – Council from wards - Staggered Elections

- § C-5. City Council; Mayor. A. Composition. There shall be a City Council of seven members, six are to be known as "Councillors" and one is to be known as "Mayor." All members of the City Council shall be nominated and elected at large.
- § C.5. C.1(b) Regular elections of Councillors shall be held at the general election in every odd numbered year and Councillors shall be elected for terms of four years. Three Councillors shall be elected each odd-numbered year. A Mayor shall be elected at the general election of 1995 and every other odd-numbered year for a term of four years.

10/6/16 Page 4

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### City of Olean – Staggering with two year terms

- Sec. 2.043 Terms of office.** Councilmembers are elected for terms of two years, except that the councilmembers elected from wards I, III and V at the November 1993 general election shall have terms of one year. Thereafter councilmembers elected from such wards shall be elected for terms of two years.
- But See NYS Constitution XIII, §9. [Election and term of city and certain county officers] All elections of city officers, including supervisors, elected in any city or part of a city, and of county officers elected in any county wholly included in a city, except to fill vacancies, shall be held on the Tuesday succeeding the first Monday in November in an odd-numbered year, and the term of every such officer shall expire at the end of an odd-numbered year. This section shall not apply to elections of any judicial officer. (New. Added by amendment approved by vote of the people November 2, 1965.)

10/6/16 Page 5

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### Staggering model: ward-based districts If redistricting is required

- Ward I - 2023 – 2027 – 2031 – 2033 (if new districts) – 2037
  - 4 years 4 years 2 years 4 years
- Ward II 2023 – 2025 – 2029 – 2033 (if new districts) - 2035
  - 2 years 4 years 4 years 2 years

- Begin in an odd numbered year following redistricting
- Employ 4 year terms
- Start half the seats with a two year term to achieve staggering
- Then all terms become four years
- Reconsider ward lines after next census
- If no change is needed, use same wards – 4 year terms
- If change is needed, hold election in new wards
- Start process over to preserve staggering

10/6/16 Page 6

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## Oneonta – Mayor at-large; Council from wards– all 4 years – executive and legislature staggered

**§ C-9 Terms.** The Mayor shall be elected by the voters of the City at large and one Council Member shall be elected by the voters of each ward. The term of office of the Mayor and Council Members shall be four years. The offices of Mayor and Council Member shall be filled at the general election preceding the expiration of the term of each such office. *The first election for Mayor under this Charter shall be held on the first Tuesday in November in the year 2013. The first election for Council Members under this Charter shall be held on the first Tuesday in November in the year 2015.* The regular election of the Mayor and each Council Member shall be held every four years; existing terms shall continue uninterrupted by this Charter. The term of office of each officer elected at a general City election shall commence on the first day of January following such election unless otherwise stated in this Charter.

10/10/16

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## Plattsburgh – Ward-Based Elections Staggered – Three year terms

C.2.1.C In the 2016 general election Councilors shall be elected to the following terms:

- 1. In the 2016 general election, two councilors, one from ward three (3) and one from ward six (6), shall be elected to two (2)-year terms commencing on January 1, 2017 and ending on December 31, 2018. In the 2018 general election and thereafter, candidates for such seats shall be elected to 3-year terms.
- 2. In the 2016 general election, two councilors, one from ward one (1) and one from ward four (4), shall be elected to three (3)-year terms commencing on January 1, 2017 and ending on December 31, 2019. In the 2019 general election and thereafter, candidates for such seats shall be elected to 3-year terms.
- 3. In the 2016 general election, two councilors, one from ward two (2) and one from ward five (5), shall be elected to four (4) year terms commencing on January 1, 2017 and ending on December 31, 2020. In the 2020 general election and thereafter, candidates for such seats shall be elected to 3-year terms.

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## Plattsburgh

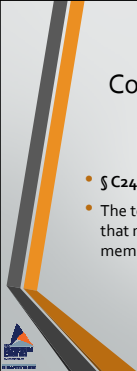
Plattsburgh Council Election Staggering Plan Implementation  
Six Wards - Staggered Elections- Three year Terms

Ward	Year	2016	2017	2018	2019	2020
1		3 years			3 years	
2		4 years				3 years
3		2 years		3 years		
4		4 years				3 years
5		3 years			3 years	
6		2 years		3 years		

Note: Requires election in even numbered years - unconstitutional


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## Cortland- Staggering for Appointed Offices

- § C24-4. Terms to be staggered.
- The terms for all members of boards and commissions shall be staggered so that new or reappointments are made each year and the numbers of members appointed each year are as close to equal as possible.



10/10/16

Page 10

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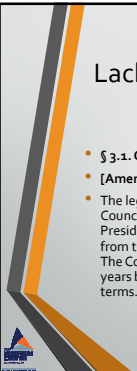
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## Lackawanna- 5 councilmen from each ward, 1 elected At-Large

- § 3-1. Composition and power generally.
- [Amended at general election 11-8-1994]
- The legislative power of the City shall be exercised by a Council consisting of five Councilmen. One Councilman shall be elected from each ward of the City and a Council President shall be elected from the City at large. The Council President and the Councilman from the Fourth Ward shall be elected for a term of four years beginning January 1, 1980. The Councilmen from the First, Second and Third Wards shall be elected for a term of four years beginning January 1, 1982. Thereafter all Councilmen shall be elected for four-year terms. No Councilman shall serve for more than two consecutive four-year terms.



10/10/16

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## 3. Determining Compensation of Elected Officials

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## §2.02 Compensation of elected officials and compensation commission

- Most city council members in New York State do not serve full-time
- It is not uncommon for compensation for city council members to be specified in city charters
- But specifying compensation in the charter makes changing it harder
- The provision of medical benefits for council members (or alternative compensation for those who opt out of receiving these benefits) has been a persistent issue in New York State
- It is uncommon for charter provisions for compensation of the City Council members to include payment for benefits.
- Some places are considering regular compensation review by a "neutral" third party

## Poughkeepsie – Recently Adopted Salary Review Commission

- Section 4.03 Salary Review Commission

"There shall be a seven member Salary Review Commission. No later than May 31st in the year prior to the first mayoral election year following adoption of this charter, and every four years thereafter, the mayor shall appoint three members of the Salary Review Commission, and the common council shall appoint three members to a Salary Review Commission. Those six members shall elect one additional member at the Salary Review Commission's first meeting, convened at the call of the mayor in the immediate following June. The Salary Review Commission shall review the salaries and, as it deems necessary, recommend salary adjustments for all city elected officials no later than January 1st in the year of the general election in which those offices are next scheduled to be filled. As required by the Commission, the mayor shall make available from city departments the information and expertise necessary to inform its deliberations."

Poughkeepsie City Charter Article II

2/12/2017

## Ulster County – Periodic Compensation Review Committee

- Size, terms, appointing process, chair selection
  - Five members – 3 year terms
  - Three selected by the County Legislature with at least one member from the party with the second most number of legislative members two, not of the same political party, appointed by the County Executive.
  - As soon as practicable after April 1 of the year, members shall be called together by the County Executive to select a Chairman from amongst their number.
- Qualifications, compensation, terms, term limits and vacancies.
  - No county elected or appointed official or persons compensated in whole or in part from County funds at the time of his or her appointment and during his or her term of membership.
  - No compensation for services rendered but entitled to their reasonable and necessary expenses
  - No Committee member shall serve more than eight years.
  - Vacancies shall be filled and the appointments of successors shall be made by the appointing authority responsible for the original appointment.
- Review the salaries of all elected officials for whom salary is determined by county government at least every second year after its first meeting.
  - One required public hearing
  - Provide its recommendations and the rationale for them to the County Executive and the County Legislature no later than June 30 of the same year in which it convened.
  - Immediately upon their delivery to the County Executive and the County Legislature, the recommendations of the Committee are filed with the Clerk of the Ulster County Legislature and posted on the County website.
  - All changes in salaries for elected officials shall be made by local law




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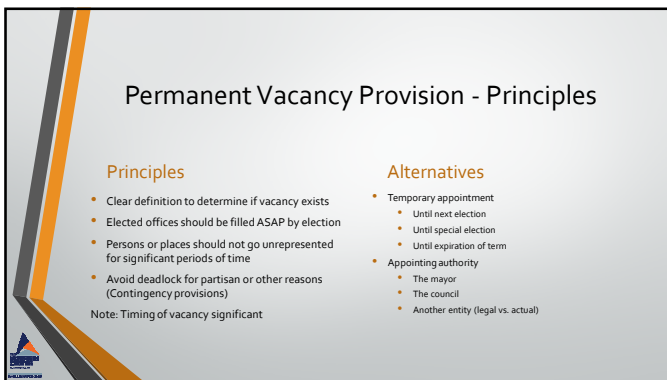
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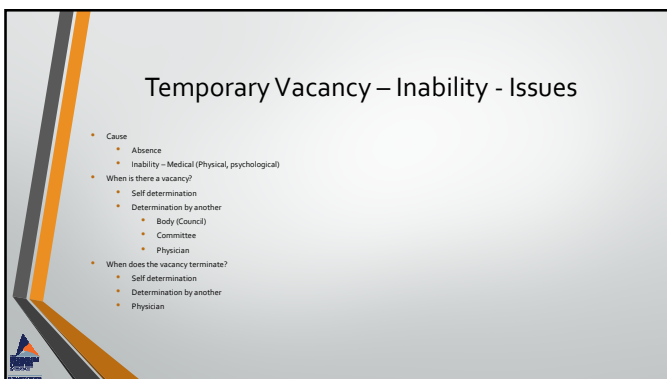
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## § 2.o8 Vacancies in Elective Office – Proposed Revision

Creation of vacancies. A vacancy in a city elective office shall exist when the person elected fails to qualify for the office within thirty (30) days thereafter, dies, resigns, ceases to be domiciled in the city and/or ward from which elected, is determined by qualified and competent medical authority, upon request by resolution of a majority of members elected to the City Council, to be either mentally or physically incompetent to perform the duties for which that person was elected or is convicted of a felony or a crime involving a violation of oath of office or when a judgment of a court declares the election void, the office forfeited or vacant or when the person fails or refuses to file the official oath or undertaking as prescribed by law.

Return to office. At any time during the remainder of the term for which a city elected official was elected after he or she was found unable to perform and/or exercise the duties of the office by competent medical authority, that authority may file a retraction in writing with the City Clerk, and thereafter that elected official may immediately resume service in that office so long as he or she has not been replaced at a special or general election.

## Mayor: Temporary Inability to Serve

- **§ 2.o9 Acting Mayor.**
- **1.** An Acting Mayor shall be appointed by the Mayor from among the members of the City Council, subject to City Council approval, within three (3) months of the City of Beacon's reorganization meeting, to assure that all the powers and duties of the Mayor's office are properly and effectively executed when the Mayor is temporarily unable to perform the duties of his or her office, as determined by him or her or by qualified and competent medical authority upon request of a majority of the City Council by resolution.
- **2.** In the event of a tie vote of the City Council on the approval of the Mayor's appointment of an Acting Mayor, the Mayor's appointment shall stand.
- **3.** Duties of Acting Mayor. The Acting Mayor shall have all the powers and perform all the duties of the Mayor during any period of the Mayor's temporary inability to serve.
- **4.** The Acting Mayor shall be entitled to cast one (1) vote on the Council as Acting Mayor and no vote as a Council member.
- **5.** Term of service. The Acting Mayor shall cease serving as Mayor upon specification in writing by the Mayor, filed with the city clerk, of his or her ability to resume his/her mayor duties, accompanied by certification by qualified and competent medical authority of his or her ability to perform the duties of the office, if medical certification of inability was previously obtained.
- **6.** Compensation. The Acting Mayor will receive no compensation for services as Mayor.

## Ulster County – Inability to serve

- **C.29.A.** The County Executive shall designate in writing, and in order of succession, the person or persons who shall serve as Acting County Executive in the event that he or she resigns, dies or certifies in writing and files with the County Clerk a statement that he or she is unable to perform and/or exercise the powers and duties of the office of County Executive, or in the event that, upon advice sought by a majority of the whole number of members elected to the Ulster County Legislature by formal action not subject to veto by the County Executive, his or her inability to serve is certified by qualified and competent medical authority




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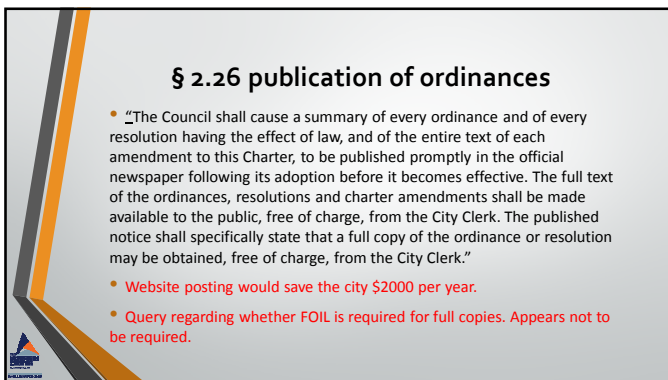
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### §3.00.1 – Appointing Powers of the Mayor – Alternative Draft

**Current:** 1. The Mayor shall appoint, subject to Council approval, all city employees, department heads and administrative officers provided for by this Charter, created by the Council, authorized or approved by the Council or required by State Law.

**Proposed:** 1. Subject to Council approval, except in cases in which the requirement for approval is foregone by the Council, the Mayor shall appoint all city employees, department heads and administrative officers to positions that are provided for by this Charter, created by the Council, authorized or approved by the Council or required by State Law.



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## 7. Acting City Administrator



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### §3.01 Acting City Administrator – Current Provision - 1

A. The City Council hereby creates the position of Acting City Administrator who may be appointed by the Mayor, subject to Council approval, whenever the Mayor determines that:

- (a) The City Administrator is medically unable to perform his or her duties full-time;
- (b) The City Administrator is or will be on a leave of absence or vacation for more than five (5) days;
- (c) The City Administrator is prevented by an emergency from carrying out his or her duties;
- (d) The City Administrator has resigned or is terminated.



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### §3.01A – Acting City Administrator

#### Current Provision - 2

- Upon determination by the Mayor of the existence of any of the events set forth in Subsection A, the Mayor's appointment of the Acting City Administrator shall commence on a date designated by the Mayor. The Acting City Administrator shall have all the powers and perform all the duties of the City Administrator during any period of the City Administrator's absence.
- The Acting Administrator shall terminate upon the City Administrator's resumption of his or her duties full time.
- The Acting City Administrator's compensation shall be determined by the Mayor, subject to Council approval.
- The Mayor or the Council may require certification from a medical doctor that the City Administrator is able to resume full-time duties where the City Administrator's absence is due to medical reasons.
- The Acting City Administrator's term of appointment shall not exceed six (6) months unless reappointed by the Mayor with Council approval prior to the expiration of the six-month period.
- An appointment of an Acting City Administrator shall be made no later than sixty (60) days after any of the events set forth in Subsection A occurs, as may be determined by the Mayor.



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### §3.01A – Acting City Administrator

#### Alternative Provision

- (1) The City Administrator shall, with the approval of the City Council, designate one subordinate as Acting City Administrator. Whenever by reason of sickness, leave of absence, emergency conditions or vacation for more than \_\_\_\_ days, the City Administrator shall be prevented from attending to the duties of office, the Mayor shall direct in a timely manner that the Acting City Administrator exercise all the powers of the City Administrator for a period no longer than 6 months, unless re-designated during that period by the Council, but shall not exercise any powers of appointment or removal from office unless the sickness, absence or disability of the City Administrator shall have continued for a period of 60 days.
- The City Administrator may change the person designated as Acting City Administrator at any time, subject to the approval of the Common Council.
- Upon recommendation of the Mayor, the Council shall determine the level of compensation of the Acting City Administrator.
- The Mayor or the Council may require certification from a medical doctor that the City Administrator is able to resume full-time duties where the City Administrator's absence is due to medical reasons
- If the City Administrator's disability or absence occurs without him or her having designated an Acting City Administrator or if the office of City Administrator becomes vacant, the City Council shall appoint an Acting City Administrator with all of the powers herein set forth. Such Acting City Administrator may hold office pending the termination of the disability or absence of the City Administrator or the appointment of a City Administrator, as the case may be.



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### 8. Purchasing Agent



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## Purchasing agent

- Current:
- ~~§ C-3.00.12 The Mayor shall designate a purchasing agent who shall be responsible for all city purchases.~~

Proposed:

§302.B.h. The City Administrator shall, as directed by the Mayor:

*Act as the city's purchasing agent, or designate another to so act*, and execute such purchasing and service contracts as may be required for the effective administration of the government and the care of its equipment and property under such general authorization as he/she may request and the Mayor and the Council may, by resolution, grant.

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## 9. §4.04-§ 4.10, § 4.12-§4.14 – Departments

Make specific reference to relevant code in sections on departments

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## 10. Edit the charter to make it gender neutral document

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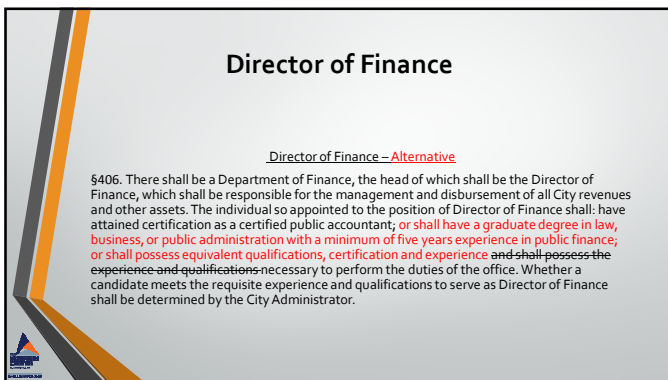
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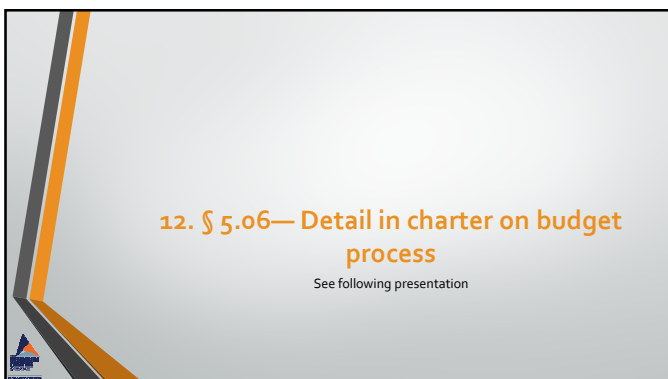
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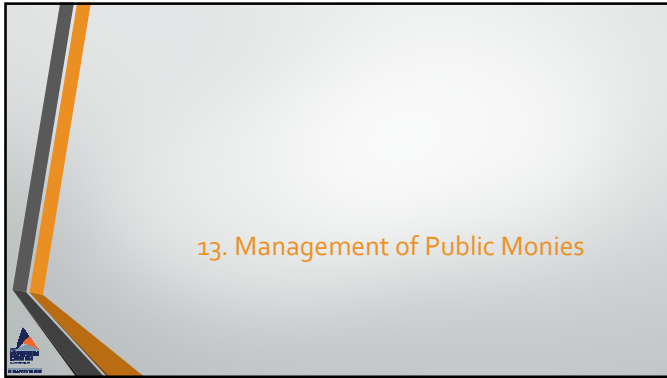
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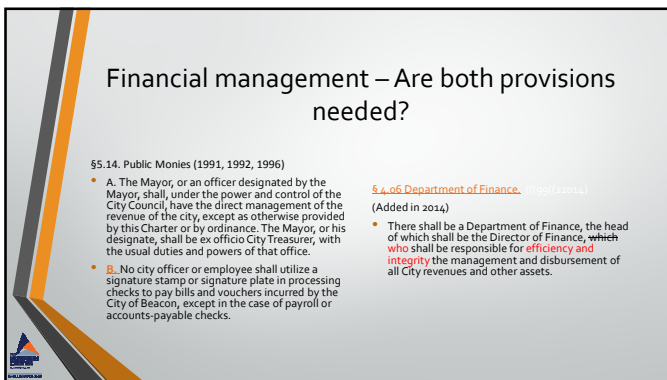
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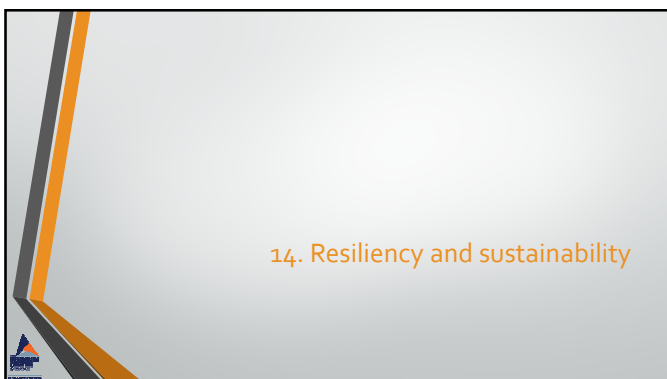
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### Expected Sea Level Rise – Hudson River

Source: <http://www.scenichudson.org/slr/sea-level-rise-projections>

	2020s	2050s	2080s	2100
Central Range	2"-5"	7"-12"	12"-23"	15"-30"
Rapid Ice Melt	5"-10"	19"-29"	41"-55"	56"-72"

Kingston and South

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### Sea level rise – map of scenarios

- <http://geology.com/sea-level-rise/new-york.shtml>

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### Community Development – Possible Charter Amendment

- § 6.02 C
- Community development. The Council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for: (1) the alleviation or prevention of slums, obsolescence, blight or other conditions of deterioration, (2) low-income housing, and (3) the achievement of the most appropriate use of the land and (4) the achievement of resiliency and sustainable operations of public facilities.

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# Budgeting in the Beacon Charter

GERALD BENJAMIN  
DECEMBER 14, 2016


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## Is there too much detail about the budget process in the Beacon City Charter?




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## Budgeting Timelines Compared

Comparative Budget Timelines	May	June	July	August	September	October	November	December
Beacon Operating						1st week Mayor submits		
Beacon Capital		10 Mayor submits	10 Passed					10 Passed
Kingsport Operating						Depos, submit to mayor		10 Passed
Kingsport Capital								10 Passed
Northridge Operating						2nd week City Manager submits	4th Monday Passed	10 Passed
Northridge Capital							4th Monday Passed	10 Passed
Madisonville Operating						10th* submits to mayor	10 Mayor submits to Bd	10 Passed
Madisonville Capital						Depos, submit to mayor		10 Passed
Proehlke Operating			1 Mayor submits	10 Passed				
Proehlke Capital			1 Mayor submits	10 Passed				
Peekskill Operating					1 Mayor submits			10 Passed
Peekskill Capital					1 Mayor submits			10 Passed

Beacon Public hearing 2 weeks after publication  
Kingsport Public hearing 10 days after publication  
Peekskill by Nov 15<sup>th</sup>

\*Board of Estimates




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## Budget Timing Considerations

Mayor/Manager – To consult with departments and council members as budget is prepared

Council – Sufficient Time for review, consultation with interested parties, deliberation and developing recommendations

Public – Sufficient time for review, developing alternatives if preferred and presenting these to Mayor and Council

Minimizing inaccuracy in revenue estimates regarding aid from other governments

Accountability at the polls




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## Budgeting - Who?

§300. The Mayor

6. The Mayor shall prepare and submit the annual budget and capital program to the Council.

7. The Mayor shall submit to the Council and make available to the public by March 1 each year a complete written report on the finances and administrative activities of the city as of the end of the prior year.

8. The Mayor shall make such other reports as the Council may require concerning the operations of city departments, officers and agencies subject to the Mayor's direction and supervision.

9. The Mayor shall keep the Council fully advised as to the financial condition and future needs of the city and make recommendations to the Council concerning the affairs of the city.

§302. b. The City Administrator shall, as directed by the Mayor:

b. Prepare or cause to be prepared and submit to the Mayor an annual budget and a capital program pursuant to the provisions of Article 5 of the Charter and Code, and when the same has been approved by the Mayor and the Council, administer the operations under his/her jurisdiction and within those budgetary provisions.

c. Report to the Mayor on the needs, finances and progress of the city in conforming to its Comprehensive Plan, with such recommendations for action by the Council.




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## Calendar Year is Fiscal Year

§ 5.00 Fiscal year.

The fiscal year of the city shall begin on the first day of January and end on the last day of December.

"Most cities have fiscal years ending December 31st, but, again, there are exceptions, most notably the Big 5 cities (Buffalo, Syracuse, Rochester, Yonkers, and New York City)."

Intuitive

Diminished information about revenues from and expenditures mandated by state.

Overlaps

Transition difficult




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## Budgeting – Provision of Information

Beacon – Not specified

Kingston

[§ C16-10 Operating budget.](#)

A. On or before the 90th day prior to the beginning of each fiscal year, all departments, offices, agencies and boards of the city shall estimate and certify to the Mayor the amount of money required for their expenses for the next fiscal year, stating in detail, as far as practical, the purposes for which the money is required. They shall also submit to the Mayor estimates of all revenues to be received by them during the year from any source, the amounts required during the year for capital projects pending or proposed and such supporting data as the Mayor shall request. Copies of all such estimates shall be sent to the Mayor and Common Council and other copies shall be filed in the office of the City Clerk as a matter of public record.



## Budgeting – Presentation of Budget and Message to the Council

Beacon

[§ 5.02 Submission of budget and budget message.](#)

At the first regular meeting in October of each year the Mayor shall submit to the Council a proposed budget for the ensuing fiscal year and an accompanying message.

Kingston C16.10.B. The Mayor shall submit the proposed budget and the budget message to the Common Council not later than the 75th day prior to the beginning of each fiscal year.

Poughkeepsie – Article V – Budget process to be specified in the administrative code



## Budget message

Beacon - [§ 5.04 Budget message.](#)

The budget message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenues, together with the reasons for such changes, summarize the city's debt position and include such other material as deemed appropriate.

Kingston:

The Mayor's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies, expenditures and revenues together with the reasons for such changes, summarize the city's debt position and include such other material as the Mayor deems desirable, including fiscal projections.

The Mayor shall also file copies of the proposed budget and the budget message as a public record in the office of the City Clerk, and the Clerk shall make such copies available for inspection by interested persons and shall cause a notice to be published twice in the official newspaper stating the copies are on file for inspection in such office.



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[illegible][illegible]

## Supplement Appropriations Limited by Available "Excess Revenue"

### Sec. 5.10 Amendments after adoption.

A. Supplemental appropriations. If during the fiscal year the Mayor certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council, by ordinance, may make supplemental appropriations for the year up to the amount of such excess.

**Q: What is process for allocating appropriated fund balance? Is this "excess?"**




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## Public Notice and Hearing

§506. C. Notice and hearing. The Council shall publish in the official newspaper of the city and one (1) or more newspapers of general circulation in the city the general summary of the budget and a notice stating:

**Additionally, consider publication on the website of the city.**

1. The times and places where copies of the message and budget are available for inspection by the public; and

2. The time and place, not less than two (2) weeks after such publication, for a public hearing on the budget.




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## Amendment of Budget

§506. C. Amendment before adoption. After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service.




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## Adoption of Budget including tax levy

**§506. E.** Adoption. The Council shall adopt the budget on or before the 31st day of the last month of the fiscal year.... Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated. The property tax therein proposed shall constitute a levy.

**Note: Most cities provide separately for the property tax levy.**

e.g. Newburgh: Tax Levy:

"At its regular meeting on the fourth Monday in November, after the adoption of the budget estimate as submitted or as amended, the Council shall levy a general tax on all taxable property in the City, as contained in the last adopted assessment rolls of the City. Such general tax shall be in an amount equal to the sum of all appropriations contained in the annual budget estimate as adopted by the Council less all estimated revenues and receipts available to meet such appropriations from any and all sources, except the said general tax on taxable property."



## Failure to Adopt – Proposed Budget Becomes Default Budget

**§506. E.** In the event that the Council fails to adopt a budget by said date, then, in such event, the proposed budget of the Mayor shall, by operation of law, become the budget for the ensuing fiscal year.

Same or similar in Poughkeepsie, Kingston and Peekskill

Middletown: §5.5 "If for any reason, a budget is not approved prior to the thirty-first day of December, then all appropriations in the next year shall be based upon the levels of the previous year's budget...."



## Quarterly Budget Reports

**§506. F.** Quarterly reports. The Mayor shall submit to the Council a written summary of the quarterly financial report each year in April, July and October.



## Capital Program – Process Parallels Operating Budget Process, Timing Difference Uncommon

### Sec. 5.08 Capital program and action.

A. Submission to council. The Mayor shall submit to the Council a five-year capital program by May 31 of each year.

B. Notice and hearing. The Council shall publish in the official newspaper of the city and in one (1) or more newspapers of general circulation in the city the general summary of the capital program and a notice stating:

1. The times and places where copies of the capital program are available for inspection by the public; and

2. The time and place, not less than two (2) weeks after such publication, for a public hearing on the capital program.

C. Adoption. The Council, by resolution, shall adopt the capital program with or without amendment after the public hearing and on or before the 31st day of July of each year.




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## Emergency Appropriations, and Related Borrowing

§510.B. Emergency appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.




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## Transfers – Limited to Certain Line-items, and Threshold for Council Authorization

### Beacon

§510.D. Transfer of appropriations. All budget transfers of moneys, except transfers within a department as provided below, must be approved by the City Council upon a roll-call vote, for each requested transfer. No transfers may be made within a department involving accounts for payroll, employee benefits and equipment purchases. In addition, budget transfers of any unencumbered appropriation balance which exceeds three thousand dollars (\$3,000.) must also be approved by the City Council upon a roll-call vote for each requested transfer. [Amended 6-15-1992 by L.L. No. 6-1992]

### Peekskill

Transfer of appropriations. The City Manager may at any time during the fiscal year transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency; and at any time during the fiscal year, upon written request by the City Manager, the Common Council by resolution or ordinance may transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

[Amended 7-23-2012 by L.L. No. 9-2012]




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## Payment Pursuant to Appropriations Only, Criminal Liability for Violation – Duplication?

### Sec. 5.13 Administration of budget.

Payment and obligations prohibited. No payment shall be made or obligation incurred against any appropriation or expenditure except in accordance with appropriations and contracts, and unless the Mayor (or his designee) certifies that there is sufficient unencumbered balance in such appropriation or expenditure and that sufficient funds therefrom are available to cover the payment or obligation which is to be made or incurred. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any person so making, such Mayor or his designee or payment shall be liable for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the city for any amount so paid.

### Sec. 5.14 No liability without appropriation.

Except as herein otherwise specifically provided, the city expenditures in any one (1) year shall not be increased year after year by an amount greater than the budget for that year by the City Council pursuant to Section 5.10 herein. No contract involving the expenditure and no expenditure for any purpose shall be entered into by the Mayor or his designee or the city or for any other person or entity of the city which exceeds in any one (1) year the amount provided in said budget to be paid out of the said general and special funds so appropriated and set apart, but the said general funds shall be available for, and used for, the payment of the general purposes of the city budget, except that the unexpended balance in any budget appropriation may, by majority, be transferred to any other budget appropriation contained in said city annual budget.

### Sec. 5.15 Liability to incur expense unless appropriation made.

It shall not be lawful for any department or officer of the city to incur or contract any expense or liability for or on behalf of the city which is not an appropriation that has been made concerning such expense. Such contract shall be void and as to the city for any other or further liability, provided, first, that nothing herein contained shall prevent the city from providing from moneys available for such purposes pursuant to the local finance law for the payment of any expense the necessity of which is created by any emergency, second, that the provisions of this section shall not apply to or limit the authority conferred by the local finance law for the payment of the liability by special accounts for such emergencies. It shall be lawful for the City Council upon the declaration of any emergency and upon the declaration of such emergency by resolution of the Council to appropriate from any unexpended funds not otherwise designated for specific purposes by law sufficient funds for the payment of any expenses created by such emergency.



## Power to Expend Public Money (Discussed Elsewhere)

### Sec. 5.14 Public moneys.



A. The Mayor, or an officer designated by the Mayor, shall, under the power and control of the City Council, have the direct management of the revenue of the city, except as otherwise provided by this Charter or by ordinance. The Mayor, or his designee, shall be ex officio City Treasurer, with the usual duties and powers of that office.

B. No city officer or employee shall utilize a signature stamp or signature plate in processing checks to pay bills and vouchers incurred by the City of Beacon, except in the case of payroll or accounts-payable checks.



## Beacon Charter Commission Matters Laid Over for Further Consideration

Gerald Benjamin  
The Benjamin Center – SUNY New Paltz  
January 19, 2017


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### Compensation of Elected Officials - 1

- The commission opposed required provision of health insurance for elected officials.
- Three of six council members take insurance. \$49,399.87 is total cost to city.
- Consideration was given to distributing amount paid for insurance as salary to members. This would result in an annual raise per member of \$7,000. Current compensation is \$9,000.

		EMPLOYEE	EMPLOYEE
		CONTRIBUTION	CONTRIBUTION
ANNUAL RATES	SINGLE	6,022.20	9,627.12
	FAMILY	15,795.04	22,979.40
EMPLOYEE CONTRIBUTION (20%)	SINGLE	1,204.44	1,925.42
	FAMILY	3,158.21	4,595.88
EMPLOYER CONTRIBUTION (80%)	SINGLE	4,817.76	7,701.70
	FAMILY	12,636.83	18,383.52

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### Compensation of Elected Officials - 2

- Comment by Commissioner Cornett:

"When a councilperson participates in the City's Medical Insurance they increase their annual remuneration by between 25% and 100% above the base annual stipend of \$9000. This seems to be inequitable with respect to the other council members as well as it being unusual to find that a person's cash compensation is exceeded by the cost of fringe benefits.

May I propose that we consider continuing to make the medical benefit available to all members. If a member participates the cost of the insurance would be deducted from the annual cash compensation. All members would have the same remuneration with same the option to use the stipend to procure health insurance at the reduced rate afforded by participating in the City program. As an inducement to serve on the council the City might pay a given percentage of the medical insurance costs when those costs exceed the annual stipend."

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## § 2.o8 Vacancies in Elective Office – Proposed Revision

Creation of vacancies. A vacancy in a city elective office shall exist when the person elected fails to qualify for the office within thirty (30) days thereafter, dies, resigns, ceases to be domiciled in the city and/or ward from which elected, is determined by qualified and competent medical authority, upon request by resolution of a majority of members elected to the City Council, to be either mentally or physically incompetent to perform the duties for which that person was elected or is convicted of a felony or a crime involving a violation of oath of office or when a judgment of a court declares the election void, the office forfeited or vacant or when the person fails or refuses to file the official oath or undertaking as prescribed by law.

Return to office. At any time during the remainder of the term for which a city elected official was elected after he or she was found unable to perform and/or exercise the duties of the office by competent medical authority, that authority may file a retraction in writing with the City Clerk, and thereafter that elected official may immediately resume service in that office so long as he or she has not been replaced at a special or general election.

## Mayor: Temporary Inability to Serve

- Sec. 3. Acting Mayor.
- 1. An Acting Mayor shall be appointed by the Mayor from among the members of the City Council, subject to City Council approval, within three (3) months of the City of Beacon's reorganization meeting, to assure that all the powers and duties of the Mayor's office are properly and effectively executed when the Mayor is temporarily unable to perform the duties of his or her office, as determined by him or her or by qualified and competent medical authority upon request of a majority of the City Council by resolution.
- 2. In the event of a tie vote of the City Council on the approval of the Mayor's appointment of an Acting Mayor, the Mayor's appointment shall stand.
- 3. Duties of Acting Mayor. The Acting Mayor shall have all the powers and perform all the duties of the Mayor during any period of the Mayor's temporary inability to serve.
- 4. The Acting Mayor shall be entitled to cast one (1) vote on the Council as Acting Mayor and no vote as a Council member.
- 5. Term of service. The Acting Mayor shall cease serving as Mayor upon specification in writing by the Mayor, filed with the city clerk, of his or her ability to resume his/her mayoral duties, accompanied by certification by qualified and competent medical authority of his or her ability to perform the duties of the office, if medical certification of inability was previously obtained.
- 6. Compensation. The Acting Mayor will receive no compensation for services as Mayor.

## Publication of Ordinances

- Can electronic publication substitute for use of newspapers as now required in the charter, or must it be supplemental?

### § 2.26 publication of ordinances

- “The Council shall cause a summary of every ordinance and of every resolution having the effect of law, and of the entire text of each amendment to this Charter, to be published promptly in the official newspaper following its adoption before it becomes effective. The full text of the ordinances, resolutions and charter amendments shall be made available to the public, free of charge, from the City Clerk. The published notice shall specifically state that a full copy of the ordinance or resolution may be obtained, free of charge, from the City Clerk.”
- Website posting would save the city \$2000 per year.
- Query regarding whether FOIL is required for full copies. Appears not to be required.

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### §3.01A – Acting City Administrator Revise for Style and Move Text

- (1) The City Administrator shall **recommend, and the Mayor** with the approval of the City Council, **shall** designate one subordinate as Acting City Administrator. Whenever by reason of sickness, leave of absence, emergency conditions or vacation for more than \_\_\_\_ days, the City Administrator shall be prevented from attending to the duties of office, the Acting City Administrator shall possess all the powers of the City Administrator, but shall not exercise any powers of appointment or removal from office unless the sickness, absence or disability of the City Administrator shall have continued for a period of 60 days.
- The City Administrator may change the person designated as Acting City Administrator at any time with the approval of the Common Council.
- If such disability or absence occurs without the City Administrator having designated an Acting City Administrator or if the office of City Administrator becomes vacant, the City Council shall appoint an Acting City Administrator with all of the powers herein set forth. Such Acting City Administrator may hold office pending the termination of the disability or absence of the City Administrator or the appointment of a City Administrator, as the case may be.

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### Community Development – Resiliency and Sustainability

- § 6.02 C.
- Community development. The Council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for: (1) the alleviation or prevention of slums, obsolescence, blight or other conditions of deterioration, (2) low-income housing, and (3) the achievement of the most appropriate use of the land and (4) **the achievement of resiliency and sustainable operations of public facilities.**

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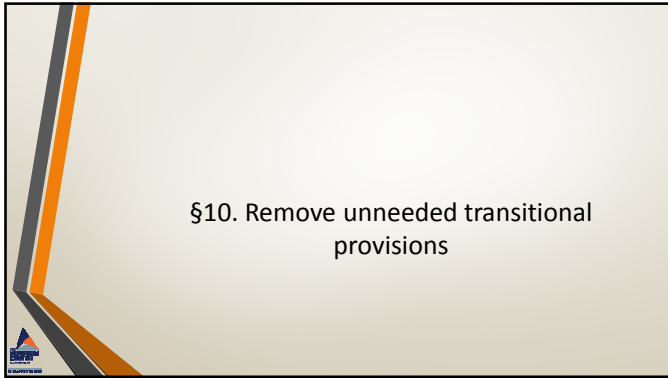
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## The Beacon City Charter Commission Public Meeting



Gerald Benjamin  
March 8, 2017

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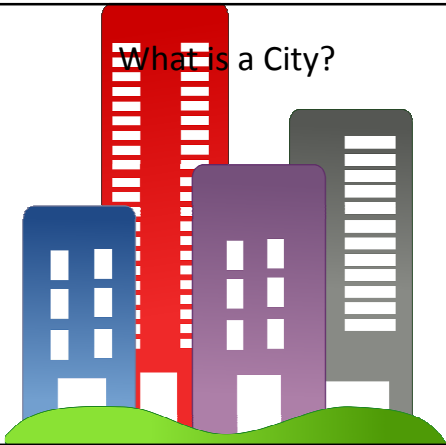
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### What is a City?



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### What is a city?

- A City is
  - A municipal corporation
  - created by state law (the charter)
  - in a densely settled place
  - at local request
  - to provide necessary or desired public services
  - that otherwise may not be offered
  - by existing local governments
  - under general law
- Note: This is a matter of legal status, not size of place

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### What is a city charter?

- A city charter is an act of the sovereign:
  - the colonial government (before the American Revolution) or
  - the state government
- Creating the city
- Structuring its government
- Empowering its government
- Directing its government
- Placing limits on its government

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### Cities as “Creatures of the State”

- A city cannot come into existence without an action of the state government
- New York
  - has chartered 65 cities
  - Beacon, comprised of the villages of Matteawan and Fishkill Landing and part of the hamlet of Glenham, was chartered in 1913
  - But 3 no longer exist (Brooklyn, Williamsburg and Long Island City)
  - The last, Rye, was created in 1942
  - So we have 62 cities in New York

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### Beacon’s first charter

- An act of the state legislature
  - A product of the progressive era
  - Involving some very famous New Yorkers
    - Charles Evans Hughes
    - Franklin Delano Roosevelt
  - Chapter 539 Laws of 1913 (46 pages)
    - The Commission System
      - Five commissioners elected at large constitute the Council
      - Mayor has overall supervisory responsibility
      - Commissioners , accounts, finance, public works and public safety

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**Home Rule**  
**Article IX – NYS Constitution**

- Centuries of struggle for city autonomy
- “Sword and Shield”
- Sword – A right to local self-government
- Shield – Protection against state interference in “property, affairs and government of localities

Except – State is generally favored when localities and state government clash

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**Beacon’s Current charter**  
**(basic government structure)**

- Adopted under Article IX – NYS Constitution
- Effective 1989
- Strong Mayor – 4 year term - No separation of powers
- Seven member council – 2 year term
- 2 at-large, 4 from wards defined in charter
- City Administrator – Appointed by Mayor and serves at his pleasure – advice and consent of Council

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Beacon Charter – Provides for Periodic  
Convening of a Charter Review Commission

Section 9.04

- Review: “The Mayor, with the consent of the City Council, shall appoint a commission at least every ten (10) years after the effective date of this Charter to review the Charter”
- Recommend: “and to make recommendations to the Mayor and the City Council for revision or amendment.”
- Note: No direct ballot access

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Revision or amendment

- Revision – a new charter
- Amendment – alteration of specific provision or provisions

Note: An amendment may be an:

- addition
- deletion
- alteration

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Amendment or Repeal

- Beacon Charter – Section 9.04 added in 1991)  
“This Charter shall only be amended by adoption of a local law pursuant to the procedures set forth in the Municipal Home Rule Law.”

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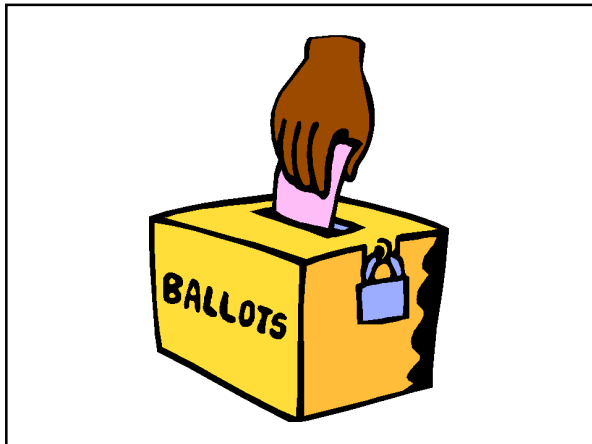
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### Referendum requirement

Municipal Home Rule Law - §23 & 24

- Mandatory Referendum (generally)
  - adopt a new charter,
  - create or eliminate elective offices,
  - alter powers of elected officials,
  - alters electoral process,
  - changes council size,
  - redistricts,
  - diminishes compensation or alters conditions of employment for officers
- Permissive Referendum (selected examples)
  - suspension of certain process requirements for doing business,
  - alter assessment practices
  - increasing compensation of officials

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The Beacon City Charter –  
The Commission’s Proposals



Gerald Benjamin  
March 8, 2017

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For efficiency and convenience:  
Proposed changes are presented in two groups

- Technical or procedural matters or relatively minor changes not likely to require major policy deliberation
- Matters likely to engender significant attention in the government and the community

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Note: Comment is welcome by the  
Commission on any and all  
proposed changes

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### The Commission Proposes 25 Changes – Four are General

- All may be seen on the city website, on a marked up copy of the city charter that has also been made available at this meeting
- Four are general and have effect throughout the document
  - Gender neutral language is proposed throughout
  - The word “ward” is used throughout, replacing the word “district” for consistency in language
  - Renumbering is provided for consistency throughout the document
  - Provisions included for transition from an earlier charter to the current charter that lack force and effect are removed

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First we will consider recommendations that are largely technical, designed to remove redundancies, correct errors or to bring charter language into conformance with current practice in city government

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### Article I – Title, Powers of the City, Boundaries

- 1.07.B Alter slightly language regarding the procedure for sale of public property to remove ambiguity.
- 1.16 Remove ward descriptions from the charter. Ward boundaries to be set forth in the code, and connected to the decennial redistricting provision

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## Article II – City Council -

- 200A. Change the word "compensation" to "composition" (appears to be a typographical error)
- 2.00 D. Election Process – strike this language as no longer needed: "The first city election under this Charter shall be held on the first Tuesday in November in the year 1991 and in conformity with the Election Law. The terms of the officers so elected shall begin on January 1, 1992. Thereafter, regular elections shall be held as provided by this Charter, to elect successors to those officers whose terms are about to expire."
- 2.04 Strike this language as unneeded: "The Mayor shall submit a yearly planning report to the Council no later than June 1."
- 2.14 Timing of Reporting Independent Audit – Change from April 30 to June 30.
- 2.16C. Workshop meetings: More precise language is provided regarding procedure for addition of items to the agenda by Council members.
- 2.26 Switch to electronic publication of ordinances

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## Article III – Mayor, Administrator

- 300.7 Change the deadline for Mayoral financial reporting from March 1 to May 1
- 300.12 Purchasing authority – Alter to reflect current practice, adding purchasing to duties of administrator or his or her designee.
- 3.01A – Each time the Council reorganizes, by a date certain, the City Administrator will recommend and mayor specify persons who might serve as an acting administrator if the administrator is absent or unable to do so for 30 days or more. (Provision of additional compensation will be addressed in each specific circumstance.)

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## Article IV – Administrative Departments

- 4.02 Add the word "firm" to the charter to make clear that the appointee as city attorney need not be a named individual person.
- 4.04 -.10, .12. Language regarding individual departments will be retained. Language included at the time of the original adoption of charter to give assurance to existing departments and officials to be removed.
- 4.06 The commission recommended broadening language regarding qualifications required to be head of the city finance department to deepen the potential recruitment pool.
- 4.16 City Officers. The Commission agreed that certain offices need not be specified in the charter: e.g. Code Enforcement, Fire Inspection Coordinator

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## Article V – Financial Procedures

- 5.06E. Language is added to assure that default budget, if necessary, conforms to state limits and requirements in law.
- 5.10D Transfer of Appropriations: Change \$3,000 to \$7,500 threshold for mandatory review and action by the Council to give the administrator greater flexibility in daily management of the city government. This partly reflects the effects of inflation.
- Section 5.14 Public moneys
  - Remove Section A as redundant and duplicative of other charter provisions (e.g. Section 4.06)
  - Retain Section B but reword to reflect the technology currently used to make payments

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## Article VI - Planning

- Section 2.00 Comprehensive Plan— Alter Section A and remove sections C, D as duplicative of procedures specified in NY General City Law.
- 6.02c. Add “resiliency and sustainable” operation of public facilities as goals.

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## Article VIII – Finances, Taxation, Local Assessments and Improvements

- 8.00 Bonding Process: Commission agrees to retain \$250,000 threshold for Permissive Referendum

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### Article IX – General Provisions

- Section 9.05 Add the term “quasi-contract” to accommodate results of recent litigation.

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### Article X – Transitional Provisions

- Remove unneeded transitional provisions.

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Recommendations requiring  
significant policy choices

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Article II – At large Council Members – Four Year Terms of Office, simultaneous with the Mayor

**Pro**

- Encourages longer-term thinking on controversial matters
- Gives longer term to those taking on effort and expense of running city wide
- Improves balance between autonomy and responsiveness

**Con**

- Creates inequality of status on the Council
- Reduces responsiveness to the people

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Article II – Removal of public provision of health insurance for elected officials

**Pro**

- Provision of health insurance through the charter is rare in NYS
- Elected officials are part time
- Insurance has greater value than salary
- Current practice leads to inequality in compensation

**Con**

- Current medical insurance practice is long established
- Current insurance practice is valuable for recruiting candidates for public office

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Article 2. Modest pay increase for public officials

- Compensation would reduced as a result of remove of health insurance
- Modest proposed increase of \$2,000 benefits all members equally
- Mayor's proposed \$5,500 increase is proportional
- Net savings from combined actions is still \$30,000

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