

CITY OF CAMBRIDGE



BOARD OF ELECTION COMMISSIONERS

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COMMISSIONERS

Ethridge A. King, Jr.
Larry W. Ward
Charles J. Marquardt
Thomas Stohlman

EXECUTIVE DIRECTOR

Tanya L. Ford

ASSISTANT DIRECTOR

Lesley Waxman

BOARD OF ELECTION COMMISSIONERS MEETING

Minutes of March 5th, 2025

The meeting was called to order at 5:30 PM March 5th, 2025, via Zoom, Present were Commissioner King, Commissioner Marquardt, Commissioner Stohlman, Commissioner Ward, Executive Director Tanya Ford, and Assistant Director Lesley Waxman.

Roll Call:

Commissioner King	Present
Commissioner Marquardt	Present
Commissioner Stohlman	Present
Commissioner Ward	Present

Motion: To suspend the meeting and open the SFI hearing

Moved by Commissioner King

Seconded by Commissioner Stohlman

Roll Call:

Commissioner King	Yes
Commissioner Marquardt	Yes
Commissioner Stohlman	Yes
Commissioner Ward	Yes

Passed 4-0

Commissioner King noted that the certified letter was delivered on 2-18-25 and it was picked up from the post office on 2-25-25.

Commissioner Stohlman asked for confirmation that Ms. Cox is "still around".

Commissioner King asked if someone else can pick up a certified letter for the intended person and Commissioner Marquardt answered yes.

Commissioner Ward asked whose name would they sign. Ms. Waxman stated they would sign their own name but, in this case, we do not have the returned receipt from the post office.

Commissioner Marquardt reached out by phone this morning and left a message regarding getting this issue resolved.

Commissioner King suggested we reach out again as opposed to levying a fine.

Commissioner Ward agreed and stated he knows this person and will reach out to her.

Commissioner Stohlman asked if she was still alive. Commissioner Ward stated that he had seen her within a month.

Commissioner Marquardt pointed out this is the fourth time we sent her a notice. All commissioners concurred to reach out again and Commissioner Marquardt emphasized that she be made aware that this is very serious and there has to be a time limited.

Commissioner King asked Ms. Waxman if have had these notices delivered by a constable in the past. She stated we do if the person never goes to the post office to pick it up.

Commissioner Ward agreed to reach out to Ms. Cox.

Commissioner Stohlman asked if we could “move” a conditional action with a deadline if the SFI is not returned by a set date. The Deputy Solicitor, Elliott Veloso stated that Chapter 2. 11a.040. Section b. states that the commission “may” assess a fine of not more than \$300 for each day after said 10 days that such violation is continued. Based on said language the decision to issue a fine is at the discretion of the commissioners.

Commissioner King suggested that no fine be set at this point, and we provide a final chance for her to comply. The Solicitor suggested we vote to continue meeting at a letter date.

Motion: In light of not having the return receipt yet and not needing additional information, I move to continue the hearing until our next regularly scheduled meeting

Moved by Commissioner Marquardt
Seconded by Commissioner Stohlman

Roll Call:

Commissioner King	Yes
Commissioner Marquardt	Yes
Commissioner Stohlman	Yes
Commissioner Ward	Yes

Passed 4-0

I. PUBLIC COMMENT

Mr. Hawkinson stated he submitted an email regarding Charter Review. See attached email. He stated he also provided a copy of his remarks to the City Assistant Solicitor, Mr. Veloso.

Motion: To close Public Comment

Moved by Commissioner King
Seconded by Commissioner Stohlman

Roll Call:

Commissioner King	Yes
Commissioner Marquardt	Yes
Commissioner Stohlman	Yes
Commissioner Ward	Yes

Passed 4-0

Motion: to move the draft Charter Review to the top of the Agenda

Moved by Commissioner King
Seconded by Commissioner Stohlman

Roll Call:

Commissioner King	Yes
Commissioner Marquardt	Yes
Commissioner Stohlman	Yes
Commissioner Ward	Yes

Passed 4-0

Commissioner King reported he and Commissioner Marquardt along with Tanya Ford attended the subcommittee Chaired by Counsellors Toner and Siddiqui.

Commissioner Stohlman stated he was not prepared to vote considering this was the first time of reviewing. He also asked for a copy of the old charter and new proposed charter for reviewing the differences.

Commissioner King suggested reviewing it and discussion and vote at the next meeting.

Mr. Veloso explained the history of the Charter Review Committee proposal of a creating a new Charter. He pointed out that special legislation is the purview of the city council, and they have sole authority relative to taking the recommendations of the Charter Review Committee and deciding what is to be presented as special legislation. For example, he stated that the city council voted they wish to keep a city manager, city council form of government. After several more examples, he stressed that this proposal is still a draft. He pointed out the City Council has not voted to approve the proposed language/changes. In fact, several parts have been moved to the government operations sub-committee for further review and if deemed to have full support, they would be introduced as separate home rule petitions. The committee co-chairs wanted to provide this draft to get the elections commissions' thoughts and input.

Commissioner Stohlman stated he wanted to know where the changes were coming from, noting they were not coming from the election commissioners.

Mr. Veloso continue presenting pointing out the charter review committee only had three sections in their draft and left it to the city council via their votes and the input of the law department and the elections commission to "sort out" other procedures. The approach was to formalize processes and procedures relative to proportional representation while recommending changes to help with the administration of city municipal elections relative to the practices of surrounding communities who have made similar changes regarding elections. He pointed out this would be a new Charter done through special legislation oppose to a Charter done through our current plan E Charter. He provided explanations of the sections of the proposed charter.

Mr. Veloso

Section 7-1 states elections will take place on the Tuesday next following the first Monday of November in every odd-numbered year.

Section 7-2 Who can vote and state law

Section 7-3 Relates to city offices being nonpartisan.

Section 7-4 Relates to Director of Elections – designed clarify duties of the Director of Elections and to be consistent with other cities.

Commissioner Stohlman stated he "might disagree" that this is just codifying what we've always done before. One clarification made by Mr. Veloso that if there was a tie vote amongst commissioners, the Director of Elections could serve as an ex-official member of the Board of Election Commissioners as He stated they would have no voting power, and would not be included in the count when determining quorum, but could be the "break vote", to facilitate a final decision.

Commissioner Stohlman stated that a tie is a decision. Which would mean the motions is defeated when there is a tie. Mr. Veloso stated "theoretically". He pointed out person could dispute a tie and appeal to a higher body. He stated the thinking behind it was to avoid ambiguity by having the Director of Elections serve as a tie breaking vote.

Commissioner King pointed out most bodies that vote have an odd number and question why it was set up in the current form.

Ms. Waxman pointed out the structure was because of having two parties. Mr. Veloso agreed with Ms. Waxman.

Commissioner Stohlman stressed he has big concerns over what's being proposed. He also asked if the proposed City Charter change the membership and the way of appointing members to the election commission.

Mr. Veloso stated yes if the Charter is passed by the City Council and approved by the legislature.

Commissioner King asked Mr. Veloso the role of the commissioners, voting or discussion.

Mr. Veloso stated it is the City Council that would cast the vote on the proposed Charter Review. Pointing out the commissioners' role is advisory

Commissioner King Stated by voting it would offer guidance to the City Council. He pointed out as experts, commissioners' input would be valuable.

Mr. Veloso

Section 7-5 Election Calendar would allow consistence with state law.

Section 7-6 Proportional Representation – Sub section A codifies city council and school committee members shall be elected at-large using the proportional representation method. Sub section B allows the Election Commission to promulgate regulations for the city to adopt a proportional representation method of electing candidates and transferring votes. Sub section C enables the Election Commission to have authority to make any choice or changes to

the rank choice voting ballot and tabulation process necessary to ensure the integrity and smooth functioning of the election.

Commissioner Marquardt stated he likes the suggested changes that allows for discretion of the election rules without having to open the Charter. He added that any changes would have to go through a public process.

Commissioner Stohlman commented on the definitions of voting. Ms. Waxman provided clarification on the various voting methods.

Mr. Veloso

Section 7-7 Nomination Papers – Designed to update and streamline nomination papers.

Commissioner Marquardt suggested saying “Signed by the Candidate and notarized”.

Mr. Veloso

Section 7-8 Invalid Nomination Papers – Relates to following instructions the election commission and if not, they will be rejected.

Section 7-9 Submission of Ballot Questions Petitions Relates to making deadlines consistent with state law allowing time to prepare ballots, equipment, and software.

Commissioner Marquardt asked if we still rely on state law for the number of signatures required for said ballot questions that differ between binding and non-binding or advisory?

Mr. Veloso stated that if it is not specified you default to state law.

Commissioner Marquardt stated for the record if the City Councilors understood they were giving up the current ability to submit a ballot question toward the end of the deadline.

Mr. Veloso

Section 7-10 Ballots, Form and Contents – This codifies how we currently prepare ballots, forms, and its content.

Commissioner Marquardt suggests the way it currently is written the ballots have to be a different color but, wanted verify if it has to be that way.

Mr. Veloso stated he would refer to Ms. Ford and Ms. Waxman for guidance.

Ms. Ford stated it was not an issue.

Commissioner Stohlman asked why to codify what ballots look like in the Charter? Why not make it more flexible.

Mr. Veloso responded that it may prevent potential challenges to how a ballot is designed.

Section 7-11 -Arrangement of Names, Numbers of Ballots drafted to make consistent with prior practice.

Commissioner Stohlman raised concerns that if put in the Charter it becomes difficult to change.

Mr. Veloso stated what is being proposed is not so rigid, that doesn’t allow for modification but provides concrete details as to how ballots must be formed.

Ms. Waxman pointed out that anything that is different from state law must be in our Charter. She stated state elections don’t put every race on a separate ballot and state laws doesn’t emphasis ballots do name rotations. She stated if we didn’t say anything about this issue, it might default to state law.

Commissioner Stohlman stated there is a deference between Charter and regulations.

Section 7-12 Central Counting Place of Ballots, Directors of the Count – Consistant with prior Charter

Commissioner King Does the rotation also apply to absentee and vote-by-mail ballots.

Ms. Ford said yes

Mr. Veloso

Section 7-13 Use of Ballot Boxes, Procedure is consistent with former Charter. Just a updated versions

Commissioner Marquardt pointed out this change indicates commissioners can use ballot carriers instead of ballot boxes at the end of election night. He thanked Ms. Ford and Ms. Waxman for pointing out this as a major issue.

Mr. Veloso

Section 7-14 - Recount of Ballots – To be consistent, the language states that recounts will be done consistent with State law Chapter 54 Sections 134-137.

Section 7-15 Vacancy designed to codify current practices.

Commissioner Marquardt Suggested that “vacant place” be replaced with “vacant seat”.

Mr. Veloso

Section 7-16 Preservation of the Ballots

Commissioner King asked about the movement of ballots.

Ms. Waxman pointed out this is about how long we keep the ballots

Commissioner Stohlman suggested, if it should be codified be in section 7-12.

Commissioner Marquardt pointed out that transferring State ballots is codified in State law

Mr. Veloso agreed.

Section 7-17 Publication of Statements Regarding Ballots Cast is in keeping with the current practice – Codifying current practice related to the release of the results.

Section 7-18 Applicability of General Laws Relating to Elections – This makes clear that all municipal elections held by the City shall be subject to all general laws relating to elections and corrupt practices.

Section 7-19 Applicability of Special Act – Mr. Veloso acknowledged comments submitted by Mr. Hawkinson and that they will be reviewed. He also stated that prior special acts, ordinances, rules, regulations, or votes of the Board of Election Commissions which are in effect when the new Charter takes place are not invalidated.

Commissioner King asked does the special act super cede the Charter?

Mr. Veloso stated no. That special acts would be read harmoniously with the Charter so that they're not invalidated.

Commissioner King asked what is the timeline on responding?

Mr. Veloso stated The committee voted to present to the City Council at the March 17th meeting.

Commissioner King suggested to schedule a meeting next week.

Next meeting March 12th, 5:30 via zoom. The agenda item will be: The Charter draft and election provisions.

Commissioner Marquardt thanked Mr. Veloso, Megan, the rest of the law staff, and especially Ms. Waxman and Ms. Ford for working really hard and together.

Commissioner king apologized to Mr. Hawkinson regarding saying there was not going to be a presentation by Mr. Veloso and there was. He stressed how important it was to hear what was reported by Mr. Veloso.

Commissioner King noting that Commissioner Ward left the meeting at 6:36 pm.

Ms. Ford asked if the Board would like to hold off on the November 5th, 2024 election review until the next meeting. All commissioners agreed to hold off until the April meeting.

II: MINUTES

Motion: To accept the minutes of February 4th, 2025.

Moved by Commissioner Stohlman

Seconded by Commissioner King

Roll Call:

Commissioner King	Yes
Commissioner Marquardt	Yes
Commissioner Stohlman	Yes

Passed 3-0

III. Reports

1. Executive Director's Report

- No report

2. Assistant Director's Report

- Ms. Waxman is still missing two School Committee Finance Campaign finance reports for David Weinstein and Ruth Ryan Allen. She is in the process of following up with them before reporting them to OCPF.

Commissioners' Reports

- Commissioner Marquardt attended two special committee meetings. One on February 13th, and one on the 14th, regarding the Charter Review meeting.
- Commissioner King attended the February 24th, regarding the Charter Review meeting.

IV. Action Agenda

Old Business

The Charter Review

V. New Business

Timeline procedures for Charter change approval.

Next meeting will be March 12th, at 5:30 via zoom.

The continued hearing will be April 2nd, at 5:30 via zoom.

Motion: To adjourn at 7:24 pm

Moved by Commissioner King

Seconded by Commissioner Stohlman

Roll Call:

Commissioner King	Yes
Commissioner Marquardt	Yes
Commissioner Stohlman	Yes

Passed 3-0

A True Record

Attested by: _____
Larry Ward, Secretary

Waxman, Lesley

From: John Hawkinson <jhawk@alum.mit.edu>
Sent: Wednesday, March 5, 2025 3:07 PM
To: King, Ethridge; Ward, Larry; Marquardt, Charles; Stohlman, Thomas
Cc: Waxman, Lesley; Ford, Tanya; Veloso, Elliott
Subject: Draft election language §7-19 creates more confusion

Hi, Election Commission: I will try to offer this at public comment tonight, but it would be helpful if you could guide the public as to when the appropriate time for such comments is.

One of the goals of the charter review process, as I understood it, was to put everything in one place and incorporate most of the relevant statutory authority into a single document.

The proposed draft of the charter for discussion at this evening's meeting does otherwise, in section 7-19:

SECTIONS 7-19 APPLICABILITY OF SPECIAL ACTS

All special acts, home rule petitions, ordinances, rules, regulations and votes of the Board of Election Commissioners, which are in force at the time this charter is adopted and are not inconsistent with the provisions of this charter, shall continue in full force until amended or repealed.

This section operates to mean that anyone reading the charter cannot have any confidence that they've found all the relevant sections of law that apply to elections.

It's also ambiguous with respect to things like Chapter 54A, repealed by the legislature, but found by the courts to still apply to Cambridge elections. Ch. 54A was a general law, not a special act, so it's not covered by the "special acts, home rule petitions, ordinances, rules, regulations" language. Is that intended? Also, is Ch. 54A "in force"? I think it is in force as to Cambridge, but it is also repealed? But others might disagree?

For that matter, a "home rule petition" is a document that a city can send to the general court petitioning for a special act. It is not itself a law, and when enacted, it becomes a special act, not a home rule law and certainly not a home rule petition. So "home rule petitions" should not appear in this list?

The section title is also off, since it is about "special acts" but the language of the section is far broader. Those should be brought in line.

Most fundamentally, though, this section seems like it is saying, "We have not done our homework and we don't know what the laws are, and we are afraid we might have missed one, so we are going to leave them all in effect, so no one else will know what the laws really are either."

That is rather discomfiting.

It should not take a legal research project to determine what the laws that apply to Cambridge are. With this language, it ensures that, no matter how clear the Charter is, no one can trust that it means what it says, because it says everything else going beforehand is still in effect, unless "not inconsistent" with the Charter. And evaluating whether two laws are "not inconsistent" is often not a trivial exercise.

(Also, §7-19 does not purport to limit itself to only election-related special acts. If that's so, it doesn't really belong in the elections section of the Charter document, and if it isn't so, then the text needs to be a lot more clear).

Thank you for your attention. To the extent §7-19 can be removed from the draft language, I would encourage you to do so. And to have a real discussion about any tradeoffs involved in that decision.

Thank you again.

cc: EV

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