

Final Report
Charter Review Commission



July 31, 2014

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Introduction

In November, 2011, City of Oneonta voters adopted a new Charter for city governance. The new Charter became effective January 1, 2012. Following the departure of the first City Manager, and having operated under this Charter for almost three years, the Common Council sought an objective review of the Charter and Charter implementation. Upon the recommendation of the Mayor, the Common Council requested that the original Charter Commission members serve as a Charter Review Commission.

The explicit purpose of the Charter Review Commission is to assess how the Charter is working. The subsequent observations will include suggestions for modifications to the Charter and also recommendations for full compliance of city government operations with the Charter. The Commission serves as an autonomous and independent body. Members of the Charter Review Commission include: John Dudek, Martha Forgiano, Steve Londner, Larry Malone, Sarah Patterson, David Rissberger, Paul Scheele, Kay Stuligross, and Laurie Zimniewicz (Chairperson). The Commission received administrative support from city representative Kathy Wolverton.

Commission work began in April, 2014. The final report was submitted on July 31, 2014, with a Common Council presentation scheduled for August 5, 2014.

The study design process was to collect information through direct observations of meetings, confidential individual interviews of elected and appointed officials, and review of key documents.

Charter Review Commission members observed Common Council meetings, and Common Council Committee meetings. Persons interviewed included: the Mayor, Common Council Members, the former City Manager, City Attorney, Director of Finance, Personnel Director, and other key Department Heads. The Commission also interviewed the City Manager Search Consultant, Dominic Mazza, of the Bonadio Group. Documents reviewed included meeting agenda and minutes of the Common Council and Common Council Committees, published city calendars, minutes of other standing commissions and boards, and organizational charts. Additionally, the Commission hosted a meeting to garner public input on Charter issues.

The findings and recommendations reported herein are organized into five areas:

- Charter Implementation
- Duties and Powers of the City Manager
- Role of the Mayor
- Role of the Common Council
- Role of Common Council Committees

A final section summarizes the key findings.

Current Charter History

The City's Charter Commission (2009-2011) began its deliberations with few, if any, preconceptions other than realizing that the existing Charter was not clearly organized and that some of its language was archaic. Two years of interviews and study, however, led the Commission to have two major concerns.

First, the size of the city budget, the number of departments and employees, and the lack of clear supervisory lines for Department Heads, demanded the need for full-time professional administration, coordination, and management of city operations. Also, given the ever more complex nature of municipal government in New York, a credentialed and experienced City Manager could guide Oneonta to tap into new ideas for operational efficiency, new revenue streams, and new grant sources.

Secondly, the part-time Mayor and Common Council were spending most of their time on day-to-day administrative and operation issues. This seriously limited their ability to focus their energies on broader and longer-term issues of policy-making and planning for our city's future success. Further, the time and energy required for the operational oversight served as a disincentive for citizens to run for office, and for incumbents to seek additional terms.

The Commission worked hard to establish a clear and logical organization to our city government under a City Manager system. The new Charter was written to define more clearly government functions and operations, make policy and procedures current, and use modern style and terminology. The intent was to provide a solid framework to serve the city's needs for decades to come, through future changes in elected and appointed officials.

Seeing these two major concerns as the priority, the Charter did not address some other identified issues, such as whether there should be changes to the City's eight-ward basis of electing Council Members, and the relationship between the city and the library; these were left to future consideration.

By a vote of 1,128 in favor and 348 against, Oneonta citizens approved the new Charter.

Charter Implementation

Intent of the Charter

The purpose of the Charter is to define a flexible framework which will enable government to run effectively for decades to come. The Charter does not address issues of change management and how best to ensure that city government would make a smooth and complete transition. The planning and implementation for successful transition is the responsibility of the Mayor, Common Council, and City Manager. The Charter is the standard for Oneonta City operation, and it is the inherent expectation of the voters that it will be followed and heeded.

Findings on Implementation

- Council Members and Department Heads showed broad understanding that the Charter was the defining document for city governance and operations. Few interviewees indicated detailed understanding of the Charter's contents, and fewer still admitted that they had actually read the entire document, or that they had found any need to consult the document. One Council Member stated, "It doesn't pertain to my job..."
- There was broad general understanding that the Common Council holds ultimate responsibility for ensuring that city operations adhere to Charter stipulations. But, there were divergent views of what this meant in practice; there was little shared understanding of the relevant obligations and expectations of the Mayor, the Common Council, Department Heads, or the City Manager.
- Common Council Members and Department Heads reported attending one or two meetings led by the Mayor that addressed the new Charter. The focus of these meetings was reported to have been on the introduction of the City Manager position.
- The new emphasis in the role for the Common Council of policy making and long range planning, prescribed by the Charter, seemed not to be implemented.
- The Common Council endorsed the Mayor's recommendation that he serve as Acting City Manager. The expectation was that in this capacity he would develop and install the revised reporting lines and decision-making processes intended under the new Charter. However, for the most part, Department Heads and Council Members reported being unaware of any change from 2011 operations.

- The fact that the Mayor served as Acting City Manager may have made the transition to the required separation of powers difficult.
- No formal system of change management was designed or put in place, and there was little evidence of ongoing support for system change.
- The Common Council charged the first City Manager with many work objectives, but none that directly addressed issues of Charter implementation per se, and only a few focused on internal city operations at all.
- The assumption of the public was that the Charter was being implemented.

Recommendations

1. The City Charter provides the legal foundation for governance in our city. The Common Council needs to take steps to ensure that the Charter is fully implemented and also provide appropriate oversight for ongoing compliance.
2. To ensure a clear common understanding of the City Manager system of government, there needs to be a formal education/orientation for all city entities including: the Mayor, Common Council, Department Heads, and all other city employees. The training should be led by an external facilitator experienced in government organizational transition.
3. The Common Council and City Manager should be held responsible for devising a plan and timeline for complete Charter implementation.
4. On a monthly basis, the Common Council should include Charter implementation issues as a specific meeting agenda item.
5. The Common Council should structure an event, a meet and greet, to connect the new City Manager with community leaders and the community at large.

Duties and Powers of the City Manager

Intent of the Charter

The Charter is based on the recognition that the City of Oneonta is a full-time business requiring a full-time chief executive officer/chief administrative officer responsible to oversee the business of the city.

These major issues were identified at the time the Charter was written:

- Our part-time Mayor and Common Council Members were involved in everyday operations and administrative minutiae leaving little or no time for long-range planning and policy development.
- Department Heads who answered to the Common Council, both as a group and as individuals, needed a single, available, go-to person to guide and support them in the work of the city.
- Our city was competing in a Federal and State environment that placed new and more complicated demands on the city's administration. This required an appropriately credentialed leader with proven experience in balancing this more intricate political and administrative world.
- The duties of the Mayor and Common Council often overlapped, and the lines of responsibility were unclear.

Findings on Implementation

- The powers and duties for City Manager, as Chief Executive Officer and Chief Administrative Officer, outlined in the Charter were appropriate.
- The Charter did not discuss the power of the City Manager to sign contracts. This lack of power hindered agile, timely, and smooth operation. The Charter provided this power to the Mayor who is a part-time elected official.
- The City Manager form of government, as prescribed in the Charter, had not been fully implemented. Executive and legislative roles became blurred when the Common Council accepted the Mayor's proposal that he serve as Acting City Manager. Day-to-day operations of the city did not fundamentally change with the adoption of the new Charter.
- A plan was not put in action to support the organizational change necessary to transition to the City Manager form of government. On all levels, it was reported that copies of the Charter were distributed and generally spoken about; however, there was no planned or formal design to guide and ensure behavioral change.

- The continuing use of past modes of operations rendered the City Manager less effective than anticipated.
- As in the past, the Mayor established Common Council Committees. The focus of these committees was largely operational information and administrative decision making rather than policy formulation and future planning. Common Council Committees regularly interacted with Department Heads to set agenda, discuss problems, and direct operations.
- Both Common Council Members and the past City Manager questioned the intense scope and breadth of goals given to the City Manager to accomplish. Many of these goals did not involve day-to-day administration of the City.
- Department Heads reported that instead of working through the City Manager, Common Council members continued to contact them directly regarding operational issues. Overwhelmingly, the Department Heads clearly stated their desire that the City Manager be the primary point of contact with the Mayor, Common Council, and the public.
- The Charter provided the City Manager with the authority to appoint or remove all City employees, and also required the approval of the Common Council for each of these administrative actions . This required approval process hindered timely administration and tied the Common Council to day-to-day operations.
- The City Manager position required an individual with strong leadership skills to effect the change necessary to fully adopt the Charter.
- Interviewees expressed the expectation that the City Manager would bring high levels of expertise and broad experience from beyond the local area.
- The Charter established clear lines of responsibility for the City Manager and the Mayor. This did not happen. The blurred lines of authority undermined Charter implementation.

Recommendations

1. Signing contracts is an administrative duty and rightly resides with the City Manager. The Charter should be amended to grant the City Manager authority to sign all city contracts. Accordingly, the Mayor should relinquish this responsibility as currently stated in the Charter.

2. The Charter should be amended to provide the City Manager with full authority to appoint or remove city employees without the requirement for Common Council approval.
3. The Common Council, in keeping with its lead responsibility for Charter implementation, should require the City Manager to develop and execute a specific plan to ensure that the Charter is fully implemented.
4. The Charter specifies the qualifications of the City Manager, and these requirements should be followed. The City Manager should bring broad and proven experience and expertise in all aspects of municipal governance.

Role of the Mayor

Intent of the Charter

The roles of the Mayor and City Manager are both vital to our City government and are separate and distinct. The Charter purposefully delineates the duties and powers of the Mayor and the City Manager.

The Mayor's duties are clearly defined in the Charter:

- Serve as the head of City government for all official and ceremonial purposes
- Preside over the Common Council
- Sign contracts, deeds, local laws, resolutions, and ordinances
- Examine the books, papers, and accounts of the City
- Establish all committees of the Common Council and appoint members and chairs
- Appoint, with Common Council confirmation, the City Attorney, the City Prosecutor, the City Health Officer and one half-time City Court Judge.

As the presiding officer of the Common Council, the Mayor has the key role of leading the Common Council in policy formulation and long-range planning for the future of our city.

Findings on Implementation

- The Mayor has been involved in virtually every aspect of city operations.
- Having the Mayor serve as Acting City Manager blurred the lines of delineation between the responsibilities and duties of the Mayor and those of the City Manager.
- For nine months following the adoption of the current City Charter, the structure and functions of city government continued in most of the old ways. Therefore, the Department Heads did not notice a change from operations under the old Charter to the new.
- The Charter gave the Mayor the authority to sign all City contracts. This responsibility is clearly administrative.
- Each year, the Mayor has provided a list of broad areas of concern for Common Council work.

Recommendations

1. The Charter should be amended to give the City Manager the power to sign all city contracts. Accordingly, the Mayor should relinquish this responsibility as currently stated in the Charter.
2. The Mayor should redirect his work effort for our city from everyday operations to Common Council policy development and long-range planning. He is the presiding officer of the Common Council and is skilled in providing the needed leadership. The Mayor's leadership role with the Common Council should include the facilitation to develop specific, measurable, annual, and long-term goals for the city.
3. All operational inquiries should be directed by the Mayor to the City Manager.

Role of the Common Council

Intent of the Charter

The Charter designates the Common Council as the City's legislative body with the explicit role of policy formulation, enactment, and long-range planning. Coupled with these roles is the fiduciary responsibility of the Common Council. Additionally, Common Council Members have the responsibility to represent their wards and individual constituents. The Mayor is the only elected member of the Common Council to represent the at-large city population.

The Common Council articulates a vision and long-range plan for the City. In line with their long-range plan, the Common Council sets the goals and objectives for the City Manager in his/her role as the city's chief executive and administrative officer in charge of day to day operations. The Common Council has the responsibility to ensure that said goals and objectives are met.

Findings On Implementation

- The City Manager had not always been the first line of contact for Common Council members when making inquiries about operations. Common Council Members continued to make requests directly to Department Heads concerning operational issues related to the city and the wards they represent.
- Common Council Members continued to be involved with the details of everyday city business to the detriment of efforts in policy formulation and long-range planning.
- The Mayor drafted the goals for the City Manager. This was followed by Common Council input.
- The Common Council depended on the Mayor to provide members with a list of broad areas of concern to be addressed each year. From this list, the Mayor made assignments to the Common Council, the City Manager, and/or the Department Heads, or a combination thereof.
- There was little or no orientation for Common Council Members regarding how to embrace their new responsibilities for policy formulation and long-range planning and to shed the former role of day-to-day operational oversight.

- The evaluation process for the City Manager’s performance was not cohesive or clearly articulated beyond a timeline. There was not a standardized format to assess whether or not goals and objectives were met, or to set and track directed follow-up actions.
- There was concern raised about the consent agenda used at Common Council meetings. This format, in combination with Common Council Committee schedules and proceedings, seemingly limits participation of the general public. This observation was also noted by Department Heads.
- The Common Council has provided limited scope for the City Manager to make transfers within the budget. This is a Charter implementation issue insofar as it limits the flexibility of the City Manager to adroitly respond to changing conditions and emergencies.

Recommendations

The Common Council should:

1. Provide greater executive authority for the City Manager to operate within established budget parameters. This can easily be routinely updated by a Common Council resolution.
2. Formalize and document a standardized system for City Manager evaluation.
3. Establish a collaborative process between the Common Council and the City Manager to articulate goals that flow from the Common Council’s long-range plan and the City Manager’s administrative plan.
4. Integrate long-range planning and policy development as a key role for Common Council work.
5. Participate in Charter implementation training.
6. Follow the lines of communication established in the Charter. The Charter gives the sole responsibility for directing Department Heads to the City Manager. Communication on operational issues begins with the City Manager.
7. Better facilitate the public’s right to know and participate in public meetings. The Common Council should commence a review of the Common Council Committee structure, operational practices, and the use of the consent agenda.

Role of Common Council Committees

Intent of the Charter

One of the key goals of the new Charter was to delineate between the legislative and administrative functions in city government. The issues identified at that time included the facts that:

- The Common Council was so involved in administration and operations, that it was not able to adequately focus on the larger and longer-term concerns.
- It was neither effective nor efficient for our part-time Mayor and Common Council Members to direct day-to-day city operations.
- Common Council Members expressed concern about being overwhelmed by constant meetings and day-to-day minutiae.

The Charter clearly intends for the operational management of city government to be firmly located within the duties and responsibilities of the City Manager. It further directs that the Common Council, which includes the Mayor, is to be the legislative body and chief policy maker for the city government. The Charter deliberately provides significant latitude on how the Common Council is organized or how it operates. Although the Charter does not require there to be Common Council Committees, the Mayor is given the power to establish committees of the Common Council and appoint such members and chairs to assist the Common Council in its legislative and policy-making roles.

Findings on Implementation

- Common Council Members indicated that committee meetings were useful for Information exchange and their own edification.
- Common Council Members continue to report that there are too many demands on their time – each serves on several committees as well as liaison to multiple boards and commissions – leaving little time to focus on long-range planning and policy making.
- The seeming purpose of several Common Council Committees is clearly administrative and therefore unnecessary. The Human Resource Committee, for example, primarily deals with administrative actions that are prescribed by state and federal law; these are the purview of the City Manager. Many Common Council Members questioned the need for Public Safety as a separate committee.

- Common Council Committees were largely structured as they were under the old Charter. There have been adjustments to the number of committees, but the intent and purpose remain largely unchanged.
 - More often than not, Committees did not set clearly articulated annual or long- term goals
 - Meeting agenda tended to be ad hoc and episodic related to near-term administrative and operational issues.
 - As it is currently structured and managed, the Finance Committee appeared to be refocusing on long-range planning and policy.

- Public participation in and understanding of the work of the Common Council was lacking and often absent because Common Council activity takes place in committee meetings.
 - Common Council Committee meetings and agenda were not publically available prior to the scheduled meeting and, therefore, there is limited public involvement.
 - Decisions made in committee were, in turn, formalized in the consent agenda. This protocol virtually eliminates public awareness and involvement.
 - Some Common Council Committee meetings are not held at times the general public is able to attend such as 8:30 a.m. for the Finance Committee.
 - The lack of timeliness in publishing the city’s monthly calendar listing of meeting times and dates diminishes public attendance.
 - Monthly committee minutes, when kept, are not generally available for public review.
 - Annual reports of committee work are not published or available.

- Administrative decisions made in Common Council Committees often undermined the effectiveness of the City Manager role.
 - Department Heads often set agenda for the committee meetings. The City Manager was not always consulted.
 - The City Manager typically was expected to attend all Common Council Committee meetings which is seemingly onerous.

Recommendations

1. The Common Council and its committees should be refocused on the Charter's stated purpose, that of policy development and long-range planning. Clearly articulated annual and long-range goals should meet this criteria.
2. The Human Resource and Public Safety Committees should be eliminated as their function is administrative.
3. For full Charter implementation, the Common Council should adopt an alternate organizational mode. Two alternatives may be viable:
 - A) **Abolish the current committee structure and designate specific Common Council meetings as workshop sessions.** The entire Common Council would function as a working committee of the whole to gather and hear information presented by the City Manager, boards, commissions, and the public. Information would be openly discussed and debated for formal Common Council action. The Mayor, in concert with the City Manager, would set the agenda for the meeting. The City Manager may request the presence of a Department Head at this meeting as deemed necessary, or
 - B) **Retain the Common Council Committee organization structure with significant modification:**
 - Set and make public annual and long-range goals for policy development, by each established committee.
 - Set and publish committee agenda, appropriate meeting times, and locations adequately in advance to allow public participation.
 - Standardize timely publication of committee meeting minutes so the public can be aware of what is being moved for Common Council action in the Consent Agenda.
 - Publish an annual report of accomplishments for each committee.
 - Make the committee chair, in consultation with the City Manager, responsible for setting the agenda of each committee meeting.
 - Make requests for Department Head participation, when deemed necessary, through the City Manager.

Conclusions

The purpose of the Charter Review Commission is to assess the implementation of the Oneonta City Charter since January 2012 and to make recommendations for organizational change and Charter amendments.

The following key conclusions underlie the specific recommendations made in the sections above:

1. **The Oneonta City Charter is a well-designed and solid document.** This report includes recommendations for minor amendments, particularly to strengthen the delineation between legislative and administrative responsibilities.
2. **The Charter is the law of governance for our city and must be followed.** The Charter is a living document and it is pertinent to all city jobs, whether elected or appointed.
3. **A specific plan for charter implementation/orientation is necessary.** Full Charter implementation requires further behavioral and attitudinal changes. Changing entrenched habits is difficult -- a defined plan, well managed, is needed. Without this education, it is too easy to revert to pre Charter ways.
4. **The City Manager must have full authority to manage.** The Charter holds the City Manager responsible for managing city operations, but falls short of granting him/her all the required authority to carry out the job.
5. **Policy formulation and long-range planning are keys to the city's future success.** This is the role of our Common Council and its committees. The Mayor, as presiding officer and the only city-wide elected member of the Common Council, is the leader in this effort.
6. **The Common Council Committee purpose and structure needs to be refocused.** Under the Charter, the role of the Common Council is policy formulation and long-range planning. Despite major points of progress, the Common Council Committees need to more fully step back from day-to-day operations
7. **The public's access to city business is limited.** The structure and practices of Common Council Committees together with the use of the consent agenda at Common Council meetings limits the public's opportunity to know about and participate in our city government's actions.

Appendix 1

List of Interviewees

Common Council

Mayor – Richard Miller

Council Member – Robert Brzozowski

Council Member – Maureen Hennessy

Council Member – Chip Holmes

Council Member – Michael Lynch

Council Member – Larry Malone

Council Member – Madolyn Palmer

Council Member – David Rissberger

Council Member – Russell Southard

City Manager - Michael Long – retired

Department Heads

Director of Finance – Meg Hungerford

Personnel Director – Kathy Wolverton

Engineering and Facilities – Greg Mattice

Police Chief – Dennis Naylor

Fire Chief – Patrick Pidgeon

Chief Operator Water Treatment – Stan Shaffer

Parks Director – Steve Andrews

Transportation Director – Paul Patterson

Public Service Supervisor – Larry Harrison

City Attorney – David Merzig

City Manager Search Consultant – Dominic Mazza, Bonadio Group

Appendix 2

Non-Substantive Charter Changes

Through the course of the Commission review of the Charter we identified a number of non-substantive changes in the Charter that should be addressed.

Punctuation and Grammar

“Oxford” commas that are missing:

- Sec. C-3 (heading): powers, and duties
- Sec. C-5 (heading): ordinances, and resolutions
- Sec. C-14 (line 2): Members, and City Judge
- Sec. C-17.A. City Code, or state law
- Sec. C-44.C.(1)(b): boards, or other
- Sec. C-67 (line 2) public moneys, and other
- Sec. C-72 A. management, and control
- Sec. C-72 C. improve, and

Italicization of Latin terms:

- Sec. C-15 (B) (3) and (5): ex officio and ad hoc (the latter, 3 times)

Consistent writing of dates:

Most of the Charter uses the following date structure: Month, day, year e.g. July 30, 2014

Top of page C:3 – 11-8-2011

Sec. C-64 G.-- 04-03-2012

Page Numbering

Subsections under each article of the Charter read “C-1”, “C-2” and so on. Page numbers of the Charter are C:1, C:2, C:3 and so on. This is confusing when referring to Charter specifics. The recommendation would be to simply number pages 1,2,3 etc.

Other Changes/Inconsistencies

Article VI

C-51 Department of Law – The Charter recognizes a Department of Law, the head of which is the City Attorney. Accordingly, the City Attorney reports directly to the City Manager. This fact would beg the question: Why does the Mayor appoint the City Attorney? And why is the appointment done annually?

C-56 Department of Recreation – Change title to Department of Parks,

(A) Change from Department of Recreation to Department of Parks and Recreation Director to Parks Director

(C) Parks and Recreation Board should be changed to Parks and Recreation Commission and Department of Recreation to Department of Parks

Article VIII

C-70 and C-72 (D) – Change “Chamberlain” to Director of Finance

Appendix 3

Non-Charter Change Recommendations

During our review of implementation issues the Charter Review Commission identified the following issues which would improve administrative work flow:

Purchasing Agent Reporting

The Purchasing Agent's job description identifies that this position is a direct report to the Mayor. This should be amended, through the Civil Service Commission, to report directly to the Director of Finance.

Collective Bargaining Contracts

As collective bargaining agreements come up for renegotiation, references to the Mayor should be reviewed, and the City Manager substituted whenever appropriate based on the relevant Charter duties. One example would be in the early stages of the grievance procedures where the City Manager could resolve workplace issues at the onset.

“State of the City” Report

Set the annual “State of the City” report to coincide with the complete closing of the city books to allow for complete reporting of the finances of the city.