



City Council Rules Committee  
**DRAFT MEETING MINUTES**  
**March 8, 2012**  
City Council Chambers  
12:00 p.m.

Present: Councilor St. Hilaire - Committee Chair, Councilors Bennett, Blanchard, Grady, Nyhan, City Clerk Janice Bonenfant, City Solicitor Jim Kennedy and Deputy City Solicitor Danielle Pacik.

Councilor St. Hilaire called the meeting to order at 12:00 p.m. Councilor Grady moved approval of the July 6, 2011 meeting minutes. The motion was duly seconded and passed with no dissenting votes.

Referencing the first item of business on the agenda, Councilor St. Hilaire pointed out that a communication had been received from Attorney Katherine Rogers, Councilor Patten's attorney, requesting that Councilor Grady recuse herself from the discussion in regards to Councilor Patten. He explained that this is based on an email that Councilor Patten had sent to Councilor Grady, a matter of public record, asking her certain questions and in the course of those questions, Councilor Grady gave her opinion on the matter at hand today.

Councilor Grady indicated that after careful consideration she has decided to recuse herself from this matter noting that she suggested to Councilor Patten in an email that she believed that he should resign and therefore she will recuse herself from this matter. Councilor St. Hilaire accepted Councilor Grady's recusal and asked that she refrain from discussing any matters regarding this particular issue.

Councilor St. Hilaire asked that the City Solicitor provide the committee what he perceives to be their authority under the charter as well as their perimeters. City Solicitor Jim Kennedy indicated that the committee has a referral before them and a charge from City Council looking for a recommendation from the Rules Committee. He stated that, in essence, the committee is recommending to Council as to whether or not this committee deems that there is any wrongdoing under the City Charter. He explained that in reviewing the complaint staff reviewed the charter to determine what, if any, action the Council could make relative to the communication from the City Manager. Mr. Kennedy informed the committee that the section of the charter that the Legal Department finds applicable to the alleged action is Section 15, Removal. He sees it that the Council sent the communication to this committee, based upon the allegations as set forth, as to whether there is sufficient information to move forward with a hearing that the City Council would conduct to determine if a for cause removal, under Section 15, is warranted. He explained that the action that Council would make after a public hearing would be dismissal of the charges as plead or removal of the City Councilor or some type of reprimand of the Council. He stated that basically it's dismissal of the charges or removal of the City Councilor that are the two fundamental primary options.

Councilor St. Hilaire asked if it's an accurate statement, in Legal's interpretation, that it's all or nothing remedy which is that the Councilor is totally removed if there is a violation found after a

hearing or there is no violation found. Mr. Kennedy responded yes indicating that Section 15 is entitled "removal" and while there is a mention of suspension of office, that contemplates a scenario where an act had occurred and it would be necessary for the Council to take immediate action to remove this Councilor for up to 45 days prior to a hearing occurring. He noted that this is not the case here based upon the facts and circumstances presented so what they are confronted with thereafter is a decision by the Council if, the information provided and after a public hearing on the matter, a removal is necessary or if the case should be dismissed.

Councilor Nyhan asked for clarification as to the option of reprimand. Mr. Kennedy responded that there may be some type of statement by the City Council if there is a hearing on the findings but the action of the Council would be removal or dismissal of the findings.

Councilor St. Hilaire indicated that the committee has to make the initial determination as to whether there was a charter violation. He inquired whether they needed to look at Section 27 of the charter. Mr. Kennedy replied that there are other sections that they may seek guidance from as to what would constitute a for cause violation of the charter. Councilor St. Hilaire asked what the charter violation number they are looking at. Mr. Kennedy responded that the charter violation that the committee would have to act and move on is Section 15. He explained that Sections 27 and 28 are there for guidance and those sections are not applicable in this case because of the language that is used in those statutes.

Councilor St. Hilaire indicated that their authority for removal is under Section 15 which is a for cause removal, an open discussion as to whether there is cause or not to remove a Councilor and what that cause is, is up to them or the Council to determine and if there is enough cause to proceed with a hearing.

Councilor Blanchard noted her confusion with the definition of "officer" within Section 27 questioning as to why staff in the Police Department would not be included under that word. Mr. Kennedy explained that there is a distinction between what constitutes an "officer" and what constitutes an "employee". He clarified that an "officer" is an individual who is an appointed member of the city; "employee" include those that are hired employees of the organization.

Councilor Nyhan stated that the actions of Councilor Patten, as alleged, are concerning and is bothered that he solicited and spoke to other Councilors about the activity in which he feels has unfairly influenced their process. He pointed out that there were comments in the newspaper in which Councilor Patten indicated that he was unaware of what the charter said. Councilor Nyhan indicated that he found this very disturbing that a Councilor of four years would not know that it was not appropriate to make such phone calls. He noted that the fact that city staff took appropriate actions by bringing it to the Council's attention and addressing it in a very public forum speaks very well of the Council and the process. He stated that, based upon the facts as they have been presented to the committee, he doesn't feel that it rises to the level of dismissal.

Councilor Bennett echoed Councilor Nyhan's concerns. He stated that you don't call up the Police Department and question why somebody got a ticket. He indicated that he doesn't feel that this rises to the extent of having someone removed from office but is a concerning issue.

Councilor Blanchard noted that she finds Councilor Patten's actions a great concern but there is a big discrepancy between dismissal of the actions and removal as a Councilor. She indicated that

she feels that it's one thing to just simply ask questions but then when one is making an implication that they are going to ask for a reversal of the charges this is something that is of concern.

Councilor St. Hilaire indicated that he feels that there was certainly a "stepping over the line" and some threatening when it was indicated that if the ticket wasn't dropped then there was the threat of speaking to the police officer's supervisor. He stated that the question before them is whether this is cause enough to dismiss the Councilor. He noted that this was conduct that was not becoming of a City Councilor however it doesn't rise to the level, in his opinion, of a total dismissal and disenfranchisement of a City Councilor and the voters in that ward based on misconduct. He indicated that what he'd be recommending is that the committee recommend that a hearing not be conducted on this because the committee does not find that there's a for cause violation of the charter and do recommend that a public reprimand be issued by the full Council; that reprimand to be in writing and voted on and discussed in full Council and, if necessary, the Council can consider some remedial measures. He added that Councilor Patten does need to be reminded of what the charter says; maybe a remedial measure that can be recommended that he sit down with the City Solicitor to review the Council rules and the charter.

Councilor Nyhan moved to recommend that there is no for cause violation of the charter and recommends that the Council issue a written reprimand with a component of that being that Councilor Patten familiarize himself with the charter as well as the Council rules. The motion was duly seconded by Councilor Blanchard and passed with no dissenting votes.

Councilor St. Hilaire recommended that himself and the City Solicitor meet to write up a proposed reprimand that could be presented to the Council.

Councilor Nyhan stated that he feels that this is fair because if they have something in writing that the Council can react to with the option of amending or modifying, this seems like an appropriate action to take.

Councilor St. Hilaire moved onto the next item on the agenda; a communication from Councilor Bennett asking the committee to review and amend, if applicable, City Council rules.

Councilor Bennett indicated that a few years ago Council had made an unwritten rule that items wouldn't be pulled off the consent agenda at the night of the meeting. He stated that he believes the reason that this was done was because a number of Councilors would pull several items off of the consent agenda each month therefore making the meetings last a lot longer than they necessarily had to be. He asked that Councilors wishing to pull consent items do so by noon the day of the meeting.

Councilor St. Hilaire noted that he assumed there had been a rule on this because since he has been on the Council, they have had this "unwritten" rule that they wouldn't pull anything after noon on Monday, the day of the meeting. He stated that he has found nothing that is in writing in regards to this.

Councilor Bennett requested that the committee make a rule to bring before the Council.

Councilor St. Hilaire invited the Mayor to speak in regards to this.

Mayor Bouley indicated that if the committee does recommend a rule change, there really should be some flexibility in being able to give somebody the opportunity because there are always circumstances in which something may come up and may happen. He stated that he feels that it's unnecessary to tie the hands of the chair stating that in the past four years there has been very few times that this has happened at the meeting but he has always tried to give a little bit of leeway in case there is some unforeseen circumstance that has come up. He asked that as the committee thinks about this and consider writing it he hopes they allow for some flexibility.

Councilor Nyhan noted his agreement with Councilor Bennett up to an extent explaining that there are opportunities that are going to come up in which someone will want to pull something from consent. His concern is that if they have a formal rule in place they will not have that opportunity or allow for flexibility.

Mayor Bouley noted that they have really expedited the agenda process compared to where it was years ago and feels that they currently function pretty efficiently.

Councilor Blanchard commented that she has observed that the Mayor gives the opportunity at the last minute to pull an item off before voting on the consent agenda. She noted that she feels that most Councilors abide by the rule.

Following additional discussion in regards to the consent agenda, Mayor Bouley noticed that a Councilor may not necessarily want to remove an item from the consent agenda because they are not looking to change the outcome of what is being recommended but they may want to make a comment about it. He asked how the committee felt that if, before the vote is taken on the consent agenda, a member of Council is allowed to make a quick comment or statement on a consent item. Several committee members agreed that this could be a solution.

Councilor Bennett agreed with this and moved to withdraw his communication.

Councilor St. Hilaire stated that he rarely pulls anything off but that there may be times in which a constituent may call him in the afternoon in regards to something on the consent agenda and that he would like the flexibility of pulling it off after noon.

Councilor Grady stated that when she receives phone calls from her constituents it's usually a few hours before the Council meeting.

Councilor Blanchard noted that, in the past, she used to pull several items off the consent agenda but has been asking questions to the City Manager or staff to receive clarification therefore reducing the number of items she pulls off the consent agenda. The items she does pull is because she wants the residents to hear about it.

Councilor St. Hilaire stated that he feels that the Mayor's proposal seems reasonable. He indicated that it would make the process more efficient because there is an unwritten rule that Council pull items before noon but there may be no reason to pull it at all if they have the opportunity to make a comment prior to the vote.

Referencing the former City Manager, Councilor Bennett indicated that they used to have a pile of suspense items that was distributed to Council on the evening of the Council meetings. He

stated that he found this to be offensive because they had a pile of information to read during the meeting while trying to conduct business.

Mayor Bouley stated that this is an important item that he has tried to change over the last few years, that they have as very few late items as possible and when they do, they are legitimate.

Councilor Nyhan seconded Councilor Bennett's earlier motion to withdraw his communication subject to the Mayor speaking at the next Council meeting in regards to their informal process of speaking of items before the consent vote and pulling items off the consent before noon time. The motion was approved with no dissenting votes.

There being no further committee business, Councilor Bennett moved to adjourn the meeting at 12:50 p.m. The motion was duly seconded and passed with no dissenting votes.

*A true copy; I attest:*

*Michelle Mulholland  
Deputy City Clerk*

DRAFT