

MINUTES OF THE RULES COMMITTEE  
Monday, July 7, 2014  
6:00 p.m.  
Lorraine H. Morton Civic Center  
Room 2014

Present: Mayor Elizabeth Tisdahl, Ald. Peter Braithwaite, Coleen Burrus, Judy Fiske, Jane Grover, Delores Holmes, Ann Rainey, Mark Tendam, Donald Wilson and Melissa Wynne

Presiding: Ald. Melissa Wynne

Staff Present: Wally Bobkiewicz, City Manager; Marty Lyons, Assistant City Manager/Director, Administrative Services/CFO and Grant Farrar, Corporation Counsel,

Guest: Sue Calder, League of Women Voters; Rodney Greene, City Clerk; Bob Seidenberg, Evanston Review; and Bill Smith, Evanston Now

**CALL TO ORDER/DECLARATION OF QUORUM:**

Ald. Wynne declared a quorum and called the meeting to order at 6:07 p.m.

**CITIZEN COMMENT:**

Clerk Rodney Greene (see discussion below)

**APPROVAL OF MINUTES OF THE REGULAR MEETING OF JUNE 2, 2014:**

Ald. Burrus moved approval of the June 2, 2014. Mayor Tisdahl seconded. Minutes approved.

**CONTINUED DISCUSSION ON EMPLOYEES OF ELECTED OFFICIALS:**

Grant Farrar stated the memorandum is the follow up with respect to prior hiring practices. The Human Resources (HR) division was utilized in hiring and assisting the Clerk in staffing matters. Prior to that time the former Clerks were making hiring decision essentially own their own. Staff did speak to the three former Clerks and set forth somewhat of a context that this committee required. Given the context in some of the prior discussions staff suggested the following amendment to the code with respect to hiring by the City Clerk. It states "The City Clerk, with the advice of the City Manager, may appoint one or more deputy clerks, who shall be empowered to perform all the duties of the City Clerk during the temporary absence of said City Clerk."

Ald. Rainey said if the amendment is accepted it should include a reference to the budgeted amount. Deputy Clerk and others or whatever the phraseology leaves it pretty open. Mr. Farrar stated if the sum is going to be agreed upon by the Council that sum will have to be revised given different budgeting consideration. So that will require the nature of continuing ongoing code amendment respectively.

Ald. Grover suggested it might be helpful to understand what the current Clerk's hiring practices and procedures are and they may closely align with what the city's own hiring practices are. Clerk Greene pointed out that he goes through HR for hiring. He prepares the examine for each person who applies for the position. He went over the responses from the 5 that were interviewed and at that time picked Elaine Autwell. Sarah Bagley, formerly of HR, Rickey Voss and himself were on the interview committee. Every person goes through that testing in HR. He does make the final decision as to who gets hired. At the time Ms. Autwell took the examine Leticia Blackman took it as well because she was one of the 5 being interviewed. He also went through HR for the firing process. He checked with HR,

informed the City Manager, made sure everything was right and in order then followed through with the letter of termination to Ms. Autwell.

Ald. Fiske inquired about advertising for the positions. City Clerk stated advertising is done through HR but he writes the description. City Manager Bobkiewicz added the city has an online application system where available jobs are posted. Staff also supplements that with advertising and that varies widely from position to position. There are some printed advertising and some website that are used. They usually work with the department to decide what makes sense for each individual position. Ald. Fiske asked if applicants going through the online system know that the job is an at-will position. The response from the City Manager was yes the job announcement is very clear.

The City Manager pointed out that every employee of the corporation is an employee of the city of Evanston. Employees really fall under 3 frameworks for their employment. One are those employees that are under the responsibility of the City Manager, the library now has a separate hiring practice with the Library Director and Library Board and then there are employees of elected officials. That is where this discussion began on whether or not those employees enjoy the same rights and privileges as employees that are hired under the authority of the City Manager. It has already been made clear that employees hired under the authority of the Library Board and Library Director follow the same responsibilities. So those employees are disciplined, hired and fired in the same manner as those employed by the City Manager. It's just that the final determination is made by the Library Director. There is some ambiguity in those positions hired by the City Clerk and also the assistant to the Mayor and City Council. The discussion was meant to try to clarify that. This is now the third meeting where this item has been discussed. In reviewing what was discussed at the last meeting, he and Mr. Farrar came up with the amendment to the language. Clerk Greene has made it very clear that he is following the practice as mentioned in the memo and that has been the practice of other City Clerks. The key point is there is nothing under the city code that requires the City Clerk to conduct himself in the manner he has described. That was the concern that started this discussion, not so much the conduct of Clerk Greene but the conduct of any City Clerk based on the language that is in the Evanston city code.

Ald. Holmes stated not only that, it is any elected official. It has a tinge to it that she is not comfortable with. She would like to see employees of elected officials have the rights of everybody else. That was the point. It had nothing to do with Clerk Greene who was very clear in terms of what he does. But it raised an issue that she was not aware of and believes most of the Council was not aware until it was discussed. And once it was brought to everyone's attention she still felt the same way.

Ald. Burrus said she has issues with having employees reporting directly to elected officials. She doesn't even like the terminology of "...may appoint..." in the language provided. It seems they have been skirting around on coming to a consensus of do all employees then report to the City Manager or allow the 3 employees to report to elected officials. That really seems to be the question at hand.

Mayor Tisdahl said she would like all employees to have the same rights. She realizes that Clerk Greene is completely correct, in what is and isn't legal. But in her view what they should be doing is different from what the minimum law requires. Particularly in term of terminating employees, she would like them to have the same rights that all the rest of the city employees have.

Ald. Rainey inquired if there is a salary structure of some kind that certain positions fit in certain slots and if so is the City Clerk's office governed by that or can the Clerk determine salary? Clerk Greene said the salary for the deputy clerks are set by the Council or whoever decides what the salary would be for the Clerk's office. Ald. Rainey said so there are currently 2 positions in the Clerk's office and

those were determined by virtue of passing the budget that included them. She asked if the City Manager approves all hiring of employees. City Manager Bobkiewicz responded yes, with the exception of the Library. And as Mr. Greene has described, in the last 5 years they have done this collegially, where Mr. Greene has brought to him the issues. All the paperwork still comes through the City Manager's office since HR is still under his responsibility. They have not come to the point where he has said hire this person through a process that they have done over the Clerk's objection. So in many respects Mr. Greene's hiring practice is very similar to what other departments do from a process perspective.

Ald. Wilson disagrees with the idea that employees of the Clerk should not be reporting to the elected official and they should be reporting to the City Manager. Elected official don't report to the City Manager so why institute a policy that allows employees to report to someone other than the person they are supposed to be there to serve. Elected officials are accountable to the people who vote them in office and if they change the way it is being done and have employees answer to someone other than the elected official, you provide really two opportunities to undermine the elected officials in what they are doing. If for some reason a City Manager, and ours would never do this, chose to undertake a course to undermine any given elected official they could simply do that by utilizing the employees of that elected official and that would be inappropriate. Furthermore, if the Mayor's trusted employee decided to endorse and support the opponents in the next election and said so and so is a much better Mayor. The Mayor has to continue to allow that person to make meetings, do the scheduling and so on and that doesn't make sense. Those are the kind of reasons why it is structured the way it is structured and he is very uncomfortable with changing that.

Ald. Fiske noted that part of the problem is not that anyone has done anything wrong. The appearance is that these at-will employees are close to the line of being political appointees. She thinks if a lot of people in the city were aware of that they would feel very uncomfortable and that raises a larger question of to whom that employee's first allegiance lie. Is it to the person who appointed them or to the City of Evanston? She can't imagine that ever happening but that is a question.

City Manager Bobkiewicz stated in his experience, codes are written the way Evanston's codes are written for a purpose. Because it provides some latitude that they entrust their City Manager, whoever he or she may be, to operate the city on many levels and responsibilities. This kind of gets folded in, and you hope and entrust your life with the City Clerk, Mayor and City Council to also behave within that certain way. If you put a lot of policies and procedures behind it, it usually trips you up more than you ever really intended. Sometimes you just have to rely on the behavior and practice of the incumbents to make sure everything goes alright. Mr. Greene has demonstrated his behavior as perfectly appropriate. Ultimately, as was pointed out, the people work for Mr. Greene, he is the elected official, elected by the residents of Evanston and should have that right. As they all should and the Mayor should feel comfortable with whoever provides support. Sometimes you just have to rely that the system is going to work. Through this discussion it has been made very clear that the process that has been followed should continue. And as he and Mr. Greene leave, transition or whatever over the course of the years that tradition is then succeeded by the next City Clerk and City Manager. It seems the past history has largely worked. And perhaps maybe it is just a matter of having this discussion and having this discussion be in the record. And moving forward and leaving it as is with the understanding that the hiring practice should be as close to a regular practice as possible in the future, for both the City Clerk's positions and for the Mayor and Council's assistant.

Ald. Holmes said as stated at the last meeting she has no problem having people taken from a pool if someone doesn't like the person that is working for them or thinks they are not loyal to them or whatever. Speaking from the employee side, she would rather see that and know that they were

getting the same rights as everyone else. It is not so much the hiring of as it is the termination of that concerns her in terms of the rights of the employee. She thinks they have to think about the employee and that is from the perspective that the first discussion began.

Ald. Wilson said the additional language to the code makes sense because it makes it clear to future generations that there is intentions not to have the City Clerk rely on the City Manager for the hiring and that there should be some working together in the process.

Mayor Tisdahl said given Ald. Wilson's scenario she still feels, as an elected official and as the Mayor that she could certainly say she couldn't work with whomever, but that they should have the same rights in the process of deciding whether or not they should be terminated as everyone else. She agrees with Ald. Holmes and would like to see that change made.

Ald. Rainey said what it boils down to is this employee is not covered by the same protections that other employees are, excluding any union protections. Because when the City Clerk leaves office, whether he is defeated, retires or decides not to run, the next person in that office, given this legislation, can say to the person, "I'm sorry you are gone, we are not compatible" or for whatever reason and that is where the issue that Ald. Fiske brings up is that it becomes extremely political. As for hiring from a pool, you can have your buddies in that pool or can make sure they are in that pool, not saying that they are but there can be favoritism. These employees are not subject to the same protections in terms of the HR Department and the other employees. That is what at-will means, there is no cause for firing.

Ald. Tendam said he is pretty comfortable with the way things are. He doesn't see this as being broken so he doesn't see that it needs to be amended in any way. It has worked for many years. It is a unique situation so it is not clear to compare it to anything else.

Clerk Greene said again at-will employees do have rights. They go through the same process as a regular employee. There are not too many non at-will employees at the city or anywhere else. So if you are looking at changing the laws for at-will employees it would have to be done for everybody in the City which will cost the City money. That again takes away the authority, of the Clerk, Mayor or any other elected official, to do what they need to do with their employees. They go through the same process to make sure there is no discrimination and that they are terminated because of a lack of responsibility or the core or the customer relationship that is protected. If they go false on something they are given a course to go and improve themselves. If they don't improve they are given something else to do and on down the line until it is not accomplished. The final step says any other action can lead up to termination. The same policy that is followed for any other employee is also followed for at-will employees. Ald. Rainey noted that all she is saying is when the City Clerk steps out of that office and the next City Clerk comes in they can say good bye to whomever and bring in their own people. That is the only problem for her.

Ald. Wilson moved to adopt the additional language that's set forth in the description that adds the words "...City Clerk, with the advice of the...". That clarifies that the City Clerk is responsible for the hiring with consultation with City Manager. Ald. Braithwaite suggested changing the word "appoint" to "hire". Ald. Wilson accepted the change. Ald. Braithwaite seconded.

Ald. Burrus noted this does not help with the Mayor office. Ald. Holmes clarified that this deals with Deputy City Clerks only which are only in the City Clerk's office. Ald. Burrus said in her opinion it should all be put under one bundle.

The vote was a tie of 5 to 5 on the motion.

The City Manager suggested that he, the Clerk and Corporation Counsel will continue to have these discussions and at an appropriate point come back to this committee for additional discussion.

**USE OF AUDIO/VISUAL EQUIPMENT DURING CITIZEN PARTICIPATION AT CITY COUNCIL COMMITTEE AND REGULAR MEETINGS:**

City Manager Bobkiewicz reported that past practice has been not to allow the use of power points, slides, or videos for public comment. As staff has allowed it a few times more people expect it now. He has worked with committee chairs and kind of created an informal policy where the committee chair has to approve it in advance. Not sure if that is a workable policy moving forward and would ask Council to decide if they are comfortable having the committee chair decide or have anyone do whatever they want as long as it is done within the prescribed timeframe.

Mayor Tisdahl pointed out there is no way people will have their comments go within 3 minutes using equipment. She strongly suggests they not provide equipment at Council meetings. Ald. Rainey agreed to allow it at committee meetings but not Council meetings. Ald. Wilson added with prior consent. Ald. Wynne said she thinks it should be uniform at committee meetings because professionals always come in with something. If they do it at the consent of that particular chair she feels that is not fair. Mayor Tisdahl added she would let people use equipment at Council meetings when a developer has a presentation as long as they make people ban together on the time. Ald. Holmes noted they should not get any more than the time allowed and that should be at the discretion of the chair. It has to be fair. Ald. Rainey commented that if they give the presentation at committees, which is where the heavy discussions take place and if Aldermen are affected by that issue or developer and are not on the committee that Alderman really has an obligation to come to that committee and hear what is going on.

City Manager Bobkiewicz said with that direction he would like to come back with language that will amend rule number 6 and then put that on for full Council consideration.

**FYI 2015 CITY COUNCIL PLANNING AND BUDGET PREPARATION:**

The City Manager said as stated in the memorandum provided, while things are better, they still need to be mindful of additional resources needed for city services. Listed are particular issues of concern that they will be able to find additional resources for the coming year. In order to do that he has asked all departments to begin developing packages of reductions equaling 3% of each of their budgets with the exception of police and fire. That would generate about \$1.4 million dollars available to the City Council for additional funding. Rather than immediately looking into raising revenue he thinks it needs to be balanced by reducing expenses as well. It is important for police and fire to look at their budgets and make sure they are aligned with the Council goals and he has asked them to consider this issue and present ideas to address it as part of the 2015 budget. Finally, it would be appropriate for City Council to once again discuss some future issues rather than being focused on goals or strategic planning. The idea of looking at the vision for Evanston is an appropriate way for Council to spend some time discussing and not a specific statement but really what is the vision for Evanston. That discussion can be used to help with the budget as well.

As part of the finalization with the budget process he would like to bring back Jean Bonander who worked with the Council last year. Proposed dates are July 22, 23 or 29 or August 4, 5 or 6. Staff would come to the August 11<sup>th</sup> Council meeting with a budget report. Then have a community meeting on the budget in September, deliver the budget to Council on October 10<sup>th</sup>. On Monday, October 20 have a budget workshop, Saturday, October 25<sup>th</sup> hold a public hearing on the budget and then

discussions on November 10 and 17 with budgeting options on Monday, November 24.

The committee agreed to meet Tuesday, July 29 at 6:30p pm. in Room 2404 and also agreed that the framework for the budget process makes sense.

Ald. Grover suggested when scheduling the August meeting in 2015 if they could perhaps look at dates closer to the end of the month when school is beginning rather than at the beginning of the month when vacations are more likely to happen. Ald. Wynne asked if it would be possible to move the August 11<sup>th</sup> meeting to August 25<sup>th</sup>. City Manager Bobkiewicz said it is possible, but his only concern would be the bills. They could have an abbreviated agenda on August 11<sup>th</sup> and be done in an hour. The committee agreed to meet August 11<sup>th</sup> this year but noted that a few members will not be present.

City Manager Bobkiewicz stated when the committee looks at the 2015 dates they can look at changing the August meeting date.

**NEW BUSINESS:**

Ald. Holmes reported that the subcommittee for the City Manager evaluation met on the July 2<sup>nd</sup>. All responses have been compiled for the City Council and now a date for the evaluation needs to be determined. It was requested that they do a 360 assessment and that has been done. A questionnaire was developed for the staff which will go to 11 directors and will be done in the same way as was done for the Council. Ms. Francellno will send the evaluation to the directors and they will be asked to send it back to her. Ald. Holmes stated that Council will receive copies of the evaluation in the next week or so.

The evaluation date was set for August 12 at 6:00 p.m. in the Aldermanic Library.

Ald. Wynne suggested as part of the 2015 calendar dates that they establish a date for the City Manager's evaluation and set dates for the sub-committee meetings.

**ADJOURNMENT:**

Meeting adjourned 6:20 p.m.

Respectfully submitted,  
Darlene Francellno

A video of this meeting is available at [www.cityofevanston.org/government/agendas-minutes/agendas-minutes--rules-committee](http://www.cityofevanston.org/government/agendas-minutes/agendas-minutes--rules-committee).