Richmond City Charter Review Commission

Interview Committee, Report to the Commission

March 14, 2023

What the Interview Committee Did

- The Committee sent interview requests to those with experience in Richmond city government by:
    - Currently serving as a member of the City Council;
    - Previously serving as City Council President;
    - Serving (currently or previously) as Mayor, or currently holds a key position in an administration; or
    - Serving (currently or previously) as City Attorney.

- The full Commission approved the interview questions, which were used primarily to get the interviewees to address issues that they felt most comfortable raising and discussing

- The Committee ultimately interviewed:
    - 7 individuals representing the perspective of the City Council (6 current Council Members; 1 prior Council President)
    - 2 individuals representing the perspective of the City Attorney (the current City Attorney and 1 prior City Attorney)
    - 3 individuals representing the perspective of the Administration (the current Mayor, current Chief Administrative Officer, and, by written response, the DCAO of Operations)

Asks of the Commission

- Commission was asked to give due respect to the 2002 process that lead to the council-mayor form of government, which required an incredible amount of effort and political will.
  - One interviewee noted that Richmond changes its structure of government about every 45 years. We are only 20 years into the current structure and should appreciate that we are only at a midpoint in the typical process.
  - However, multiple interviewees also noted that the 2002 process was subject to tight time constraints, which may have resulted in imperfections.

- Commission was asked to specifically identify the problems the 2002 process were meant to address, and then assess whether the current structure and processes are adequately working to address those problems. Requested this sort of analysis in a written deliverable.

- Commission was asked to recognize that there is an immediate need for problems to be fixed.
  - Hopes the Commission can segment issues that can be addressed and resolved in the short term, versus larger/more difficult issues that might take longer to review, analyze, and propose solutions for.
  - If so, asked to first tackle the problems where a consensus can be more readily formed, and the larger/more difficult issues issues be addressed on a longer timeline than our current summer deadline.

Big Picture Takeaways (Part 1 of 2)

- There is no such thing as a perfect government structure, and there can always be improvement.
  - However, good government is largely the result of personalities working together.
  - The Charter comes into play primarily when personalities are in conflict, and so the Commission's work is to help establish those guardrails when there is conflict.
  - Additionally, the Commission could work to discourage conflict in the Charter and look for structural changes to encourage the various players to view themselves as being on a team.

- Most interviewees thought that the current structure should essentially stay the same, with tweaks to improve what was intended from the 2002 effort.
  - Though what should change, and how it should change, differed among interviewees.

- Several interviewees remarked that it seems unlikely that Richmond would give up a democratic right—the right to vote for a Mayor
  - Multiple interviewees noted that the prior structure had, or had propensity for, some of the issues of mischief often associated with district-level elections (factionalism, "9 mini-mayors").
  - One interviewee disagreed, thought Council still considered the City's interests at large.

Big Picture Takeaways (Part 2 of 2)

- Only one interviewee voiced unequivocal support for the prior structure.
  - Remarked that the prior structure mirrored Henrico and Chesterfield forms of government.
  - Primary concern with current structure is that it gives the Mayor too much power over the budget, including being able to thwart's Council's prerogatives that are already reflected in the budget appropriations.

- Localities that were cited as being favorable comparisons (in alphabetical order):
  - Atlanta, GA
  - Chesterfield, VA
  - Henrico, VA
  - Norfolk, VA

Chief Administrative Officer

- **Issue 1.** View that the CAO has too much authority independent of the Mayor.
  - Department heads answer to the CAO, not the Mayor.
  - CAO could essentially have its own agenda, independent of Mayor and Council, and either block their agendas or try to force through its own—all while just being an appointed position.
  - <u>Proposed solution:</u> the CAO position should still exist, but have the CAO's powers be the Mayor's powers that (some or all of which) are delegable to the CAO.

- **Issue 2.** Disagreement whether Council has too little input in the selection/retention of the CAO.
  - While Council has an up/down vote on the appointment, this is effectively symbolic because a down-voted CAO can still serve as an "acting" CAO.
  - Council has no real ability to remove.
  - CAO has no structural motivation to care about Council's priorities/agenda.

- **Issue 3.** Concern that the CAO can be a purely political appointment, with no experience required.
  - At least one interviewee voiced concerns that administration positions more generally should have clear qualification requirements.
  - Relatedly, some concerns raised about how the CAO, when tied to mayorship appointment, disrupts continuity of leadership for the City.

City Attorney (Part 1 of 2)

- **Issue 1.** The CA is viewed as sometimes having an inherent conflict when Council and Administration are at loggerheads on an issue.
  - Some interviewees perceived the CA as sometimes not fully representing their interests, either because of process (amount of involvement with the administration) or because of legal conclusions.
  - CA explained that he represents the City as the client, and then also represents the constituents thereof as extensions of the City (Council, Mayor, CAO).
  - Committee's Note: the Charter currently identifies the CA as the legal advisor for the Council, Mayor, and CAO—*not* for the City. Clarifying that the CA is the legal advisor to the City, whereby the CA's legal decisions reflect the interest of the CA rather than a particular constituent, may help alleviate perspectives about the CA playing favorites among the constituents.

- **Issue 2.** Disagreement about whether the CA should be hired and fired solely by Council.
  - Richmond appears to be unique where an executive's legal counsel is hired/fired by the legislature. Perceived issue when the CA or Council members want to create a problem for the administration.
  - Various interviewees expressed support for the power to hire and fire be retained by Council, or to be shifted to the Mayor, depending on their role in City government.
  - Some interviewees expressed support for the idea of making the CA "independent," such as by being subject to hiring and firing by agreement or formalized communication between Council and the Mayor.

City Attorney (Part 2 of 2)

- **Issue 3.** Difficulty in getting to "yes".
  - Some interviewees expressed that the CA has too much power to unilaterally stop any government action or has no structural motivation to find a way to "yes."
  - Compare to attorneys counseling private clients:
    - Very few issues brought to attorneys are clear-cut legal/illegal, right/wrong.
    - Everything is about legal risk: what are the arguments for and against the legality of action, what is the likelihood of being sued, what are the chances of a trial court agreeing with arguments, and what possibility for appellate vindication.
    - Attorneys typically advise clients about this legal risk, and then clients can make the business decision about whether to move forward, which is based on multiple considerations including the legal risk advised by counsel.
  - In Richmond, view that that the CA makes the determination about whether the legal risk is too great to move forward, rather than advising the constituents (Mayor, CAO, Council) about those legal risks and then letting those other players to decide whether to move forward.

- **Issue 4.** Because a lot of the CA's office is focused on the administration, perception that Council is often an afterthought.
  - Requests for ability for Council to be able to more easily obtain outside counsel (perhaps without CA approval)
  - Requests for there to be attorneys in the CA's office dedicated to Council/Mayor, or even separate CAs.

Budget

- **Issue 1.** Administration should have ability to transfer money between departments at discretion
  - Possibly without need for introducing an ordinance.
  - Possibly on a more streamlined schedule (for example, if part of an identified priority).
  - Some interviewees expressed skepticism of unfettered ability without oversight. Several expressed need for continued oversight, particularly given that the need was originally identified for the department when budget was passed.

- **Issue 2.** Council needs to have a more involvement in the process, particularly in the formation.
  - Consider creation of budget committee (regularly meets, is involved in budget formation and throughout the year).
  - Consider whether budget should be council initiated.
  - Consider year-round budget cycle that permits amendments from Mayor and Council.
  - Consider comparable localities where budget process invites many players to the table, so that final budget is not a surprise even if not everyone gets exactly what they want.

Districts and Voting (Part 1 of 2)

- Note: any suggested change to districts and voting may implicate the federal Voting Rights Act and Virginia Voting Rights Act, and will likely need to consider existing court decisions.

- **Issue 1.** Some concerns about 9 council members as too many.
  - When raised as a concern, the large number was viewed as unwieldy and creating uncertainty in the governing process.
  - In addition to the legal implications, several interviewees expressed skepticism that elected officials or the electorate would support reducing the number of Council seats.
  - Also consider that larger districts (because fewer districts) may generate more expensive elections.

- **Issue 2.** Super-wards and Super-districts were generally viewed favorably, with some questions.
  - Several interviewees thought super-wards or super-districts would provide a good perspective.
  - A few interviewees were neutral or were not convinced that they would be effective or a value add in practice.
  - 2 super-districts was the general sentiment, and an East/West division (rather than North/South) to better ensure diverse perspectives within each district.

Districts and Voting (Part 2 of 2)

- **Issue 3.** Staggered elections was generally supported.
  - Every elected official being up for reelection at the same time takes away from the functionality of government, also could negatively impact continuity.
  - Elections during presidential election years viewed as increasing voter turnout, but erasing the discussion about local issues rather than national ones.
  - Some concerns about how to implement staggered elections in a fair manner.
  - Concern about fairness if required to give up seat while also running for Mayor, but timing of staggered elections and duration of terms could potentially resolve.

- **Issue 4.** 5 of 9 requirement elicited strong reaction about whether it should stay or change.
  - Diametrically opposed views: some thought that 5 of 9 required candidates to pay attention to a broader group of the City, while others thought that 5 of 9 permitted candidates to outright ignore some parts of the City.
  - Some viewed the requirement as diluting votes from higher-turnout districts and inflating the importance of votes from low-turnout districts.
  - All recognized source of the requirement, and that any change would require significant support from multiple interested parties.

Council

- Consider some method of ensuring Council members are paid better.
  - Noted that only legal requirement is to show up to Council meetings to vote.
  - BUT in actuality, work about 70/hour weeks. "Staggering" amount of work to do the job well.
  - <u>Proposed solution</u>: consider stipends for membership on commissions, as done in Henrico and Chesterfield.
  - <u>Proposed solution</u>: regional, weighted average.

- Consider whether individual members of Council should be expressly permitted to direct or prohibited from directing executive employees (more than individual conversations).

- Consider ability to have more support staff, including administrative staff to help support Council members on specific commissions/boards.

- Consider whether ranked choice voting should be implemented to account for lack of primary for Council seats.
  - Note, some interviewees raised concerns about ranked choice voting.

- Consider whether Council should have greater authority regarding Economic Development.

- Consider the current process to fill vacancies (though generally favorable view of current system).

Mayor

- Most interviewees recognized that this is not a truly "strong Mayor" system.

- Consider whether Mayor should have a line-item veto power.

- Consider whether Council should retain sole power to create departments, or whether Mayor should have a role in that process/retain power.

- Consider whether there should be a Mayoral signing requirement for ordinances. Right now, after successful Council vote and veto window closes, no signing or other event that signifies the new law.

Miscellaneous (Part 1 of 2)

- Inspector General seen as necessary to maintain balance of power.
  - Some questions whether everything done by IG/auditor must be through a public report.
  - Auditor identified as a role that should be brought into the administrative team.

- Charter allows for duplication of services and doesn't take into account how agencies work together.
  - One example: Council chief of staff office and the administration for administrative services.

- Charter does not allow for diplomatic roles that existed in Council-Manager structure, and which did not get absorbed by Mayor position.

- The Planning Commission should be considered by the Commission, including whether Council should have ability to appoint members.
  - Consider all of Chapter 17, including Planning Commission, zoning powers, and BOZ appeals.

- Consider whether to have a single lobbying firm that works for Mayor, Council, and School Board, rather than separate lobbying firms for each.

- Consider a centralized communication resource and administrator the serves all Mayor, each Council member, etc.

Miscellaneous (Part 2 of 2)

- Consider reviewing the scope of the School Board's powers, and whether the School Board should be subject to greater oversight by Council.

- Consider significantly reducing the substance of the Charter so that it is not cluttered by provisions that can be appropriately enacted in the City Code (otherwise, amendment difficult/time consuming).

- Consider imposition of term limits.

- Consider whether the supermajority requirement should be modified to mere majority for purposes of transferring land to private sector.

- Consider clarifying the roles, powers, and responsibilities of the various City authorities (Housing, Economic Development, etc.).
  - Consider whether there can be greater interaction between authorities and Council, such as by having reporting requirements or Council having a seat on an authority's board.

- Consider whether to build a charter review into the Charter.
  - Formalize process (how to form, how often formed, membership, how revisions proposed, directs who has input, who has final say about the ask to the General Assembly).