ATTACHMENT A

Government Operations and Rules Committee

June 22, 2012

AGENDA

1) Review City Council Policy Order adopted on March 19, 2012

2) Overview of Cambridge's History of City Manager Searches

3) Setting initial timeline

4) Public Comment

ATTACHMENT B

City of Cambridge

O-7
IN CITY COUNCIL
March 19, 2012

COUNCILLOR MAHER
COUNCILLOR CHEUNG
COUNCILLOR DECKER
VICE MAYOR SIMMONS
COUNCILLOR TOOMEY
MAYOR DAVIS
COUNCILLOR VANBEUZEKOM

WHEREAS: City Manager Robert Healy's current employment contract with the City of Cambridge expires on September 30, 2012; and

WHEREAS: The contract contains a notification provision which needs action by the City Council or Mr. Healy on or before March 31, 2012; and

WHEREAS: As a result of Mr. Healy's long tenure as City Manager, the City of Cambridge has not undertaken a search for a new City Manager for over thirty years; and

WHEREAS: It is imperative to the overall stability of the City of Cambridge that the City Council develop both a comprehensive short-term and long-term succession plan that will assist the City Council in their ongoing goal of providing fiscal stability and thoughtful strategic planning and any short-term plan should be in place before the FY 2014 budget process begins; now therefore be it

ORDERED: That the City Council amends the expiration date of the City Manager's current employment contract to June 30, 2013 which coincides with the fiscal FY 2013 year-end; and be it further

ORDERED: That all other provisions of the employment contract remain unchanged; and be it further

ORDERED: That the City Council's Government Operations and Rules Committee, with the assistance of the City Manager, begin the process of developing a comprehensive short-term and long-term succession plans. Such plans shall include timelines and outline opportunities for input from the community including residents, businesses, institutions and city staff. Once developed, such plans shall be presented to the full City Council for final consideration.

In City Council March 19, 2012
Adopted by a yea and nay vote:-
Yeas 6; Nays 3; Absent 0; Present 0.
Attest:- Donna P. Lopez, Interim City Clerk

A true copy;

Donna P. Lopez

ATTEST:-

Donna P. Lopez, Interim City Clerk

COUNCILLORS KELLEY, REEVES AND VAN BEUZEKOM VOTED IN THE NEGATIVE ON THIS MATTER.

ATTACHMENT C

3.

CITY OF CAMBRIDGE • EXECUTIVE DEPARTMENT

Robert W. Healy, City Manager *Richard C. Rossi, Deputy City Manager*

795 Massachusetts Avenue, Cambridge, Massachusetts 02139
Voice: 617.349.4300 Fax: 617.349.4307 TTY: 617.349.4242 Web: www.cambridgema.gov

May 14, 2012

To the Honorable, the City Council:

Please find attached a response to Awaiting Report Item Number 12-55, regarding a report on how the Council may incorporate the use of electronic communications technology in the conduct of its business, including the parameters of an prerequisities for such use, received from Acting City Solicitor Nancy E. Glowa.

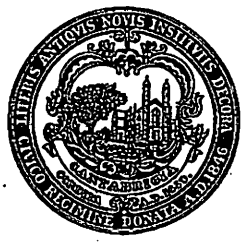
Very truly yours,

Robert W. Healy
City Manager

RWH/mec
Attachment

Nancy E. Glowa
Acting City Solicitor

Arthur J. Goldberg
First Assistant
City Solicitor



Assistant City Solicitors

Vali Buland
Paul S. Kawai
Elizabeth A. Shaw
Samuel A. Aylesworth
Amy L. Witts

CITY OF CAMBRIDGE

Office of the City Solicitor
795 Massachusetts Avenue
Cambridge, Massachusetts 02139

May 14, 2012

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: Awaiting Report No. 12-52 Re: Report on How the City Council May Incorporate the Use of Electronic Communications Technology in the Conduct of its Business, Including the Parameters of and Prerequisites for Such Use

Dear Mr. Healy:

The above-referenced Policy Order Resolution asks that the Law Department inform the City Council how the Council may "incorporate the use of electronic communications technology in the conduct of its business." The Resolution references the provisions for electronic meetings contained in Robert's Rules of Order Newly Revised 11th Edition (2011) (hereafter "Robert's Rules") and the Attorney General's Open Meeting Law regulations. The City Council has already incorporated the use of electronic communications technology in many ways, for example, by having information about City Council actions accessible through its web-page and by having audio-visual recordings of its meetings publicly available on-line. Based on the reference to Robert's Rules and the new state regulations, it appears that in this Resolution the City Council is asking how it may conduct its meetings with some Councilors participating electronically from a physically remote location.

The Attorney General's Open Meeting Law regulations providing for the possibility of remote participation by members of public bodies (940 CMR 29.10) were issued in final form on November 11, 2011. Those regulations were issued under the authority of the recently amended Open Meeting Law, G.L.c.30A, §20(d). A copy of 940 CMR 29.10, which is lengthy and contains many requirements and guidelines, is attached for reference. A summary of 940 CMR 29.10 follows:

- The chief executive officer of the municipality (in Cambridge, the City Manager) has the power to authorize remote participation in the municipality[1], and such authorization

[1] To date, the City Manager has not authorized remote participation in the City.

shall apply to all local public bodies, including the City Council.[2] 940 CMR 29.10(2)(a);

- For any Councilor or Councilors to participate remotely, a quorum of the Council, including the Mayor or other Councilor serving as chair, must be physically present at the meeting location. 940 CMR 29.10(4)(b);
- Councilors who participate remotely must be clearly audible in real time to all people present at the meeting and to each other. 940 CMR 29.10(4)(a) and Robert's Rules, p.97. This requirement means that deliberation of the body may not occur by written electronic communication, such as via e-mail or "chat rooms." Robert's Rules, p.98;
- Remote participation by a Councilor may occur only if the chair determines in advance that the member's physical attendance is unreasonably difficult due to illness, disability, emergency, military service, or geographic distance. 940 CMR 29.10(5). Mere convenience or preference of a Councilor will not justify that Councilor's remote participation;
- All votes taken during a meeting in which a Councilor participates remotely shall be by a roll- call vote. 940 CMR 29.10(7)(c); and,
- A Councilor participating remotely may participate in an executive session, but the remote member must state that no one else is present where he/she is physically located able to hear the executive session discussion, unless the presence of another person is approved by a simple majority vote of the Council. 940 CMR 29.10(7)(d).

The Attorney General, in the Preamble to 940 CMR 29.10 states that, "...the Attorney General strongly encourages members of public bodies to physically attend meetings whenever possible."

Please advise whether further information is requested.

Very truly yours,

Nancy E. Glowa

[2] The Attorney General's Open Meeting Law Guide at p.8 states that the chief executive officer may limit the number of public bodies to which the blanket authorization will apply by only funding remote participation costs for certain public bodies, and by authorizing each public body to opt out of the practice altogether.

Code of Massachusetts Regulations Currentness
Title 940: Office of the Attorney General
Chapter 29.00: Open Meetings (Refs & Annos)
→→ 29.10: Remote Participation

(1) Preamble.Remote participation may be permitted subject to the following procedures and restrictions. However, the Attorney General strongly encourages members of public bodies to physically attend meetings whenever possible. By promulgating 940 CMR 29.10, the Attorney General hopes to promote greater participation in government. Members of public bodies have a responsibility to ensure that remote participation in meetings is not used in a way that would defeat the purposes of the Open Meeting Law, namely promoting transparency with regard to deliberations and decisions on which public policy is based.

(2) Adoption of Remote Participation.Remote participation in meetings of public bodies is not permitted unless the practice has been adopted as follows:

(a) Local Public Bodies.The Chief Executive Officer, as defined in M.G.L. c. 4, § 7, must authorize or, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that authorization or vote applying to all subsequent meetings of all local public bodies in that municipality.

(b) Regional or District Public Bodies.The regional or district public body must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of that public body and its committees.

(c) Regional School Districts.The regional school district committee must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of that public body and its committees.

(d) County Public Bodies.The county commissioners must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of all county public bodies in that county.

(e) State Public Bodies.The state public body must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of that public body and its committees.

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(f) Retirement Boards.A retirement board created pursuant to M.G.L. c. 32, § 20 or M.G.L. c. 34B, § 19 must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of that public body and its committees.

(3) Revocation of Remote Participation.Any person or entity with the authority to adopt remote participation pursuant to 940 CMR 29.10(2) may revoke that adoption in the same manner.

(4) Minimum Requirements for Remote Participation.

(a) Members of a public body who participate remotely and all persons present at the meeting location shall be clearly audible to each other;

(b) A quorum of the body, including the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location, as required by M.G.L. c. 30A, § 20(d);

(c) Members of public bodies who participate remotely may vote and shall not be deemed absent for the purposes of M.G.L. c. 39, § 23D.

(5) Permissible Reasons for Remote Participation.If remote participation has been adopted in accordance with 940 CMR 29.10(2), a member of a public body shall be permitted to participate remotely in a meeting, in accordance with the procedures described in 940 CMR 29.10(7), if the chair or, in the chair's absence, the person chairing the meeting, determines that one or more of the following factors makes the member's physical attendance unreasonably difficult:

(a) Personal illness;

(b) Personal disability;

(c) Emergency;

(d) Military service; or

(e) Geographic distance.

(6) Technology.

(a) The following media are acceptable methods for remote participation. Remote participation by any other means is not permitted. Accommodations shall be made for any public body member who requires TTY ser-

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vice, video relay service, or other form of adaptive telecommunications.

1. telephone, internet, or satellite enabled audio or video conferencing;

2. any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another.

(b) When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.

(c) The public body shall determine which of the acceptable methods may be used by its members.

(d) The chair or, in the chair's absence, the person chairing the meeting, may decide how to address technical difficulties that arise as a result of utilizing remote participation, but is encouraged, wherever possible, to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred shall be noted in the meeting minutes.

(e) The amount and source of payment for any costs associated with remote participation shall be determined by the applicable adopting entity identified in 940 CMR 29.10(2).

(7) Procedures for Remote Participation.

(a) Any member of a public body who wishes to participate remotely shall, as soon as reasonably possible prior to a meeting, notify the chair or, in the chair's absence, the person chairing the meeting, of his or her desire to do so and the reason for and facts supporting his or her request.

(b) At the start of the meeting, the chair shall announce the name of any member who will be participating remotely and the reason under 940 CMR 29.10(5) for his or her remote participation. This information shall also be recorded in the meeting minutes.

(c) All votes taken during any meeting in which a member participates remotely shall be by roll call vote.

(d) A member participating remotely may participate in an executive session, but shall state at the start of any such session that no other person is present and/or able to hear the discussion at the remote location, unless presence of that person is approved by a simple majority vote of the public body.

(e) When feasible, the chair or, in the chair's absence, the person chairing the meeting, shall distribute to re-

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mote participants, in advance of the meeting, copies of any documents or exhibits that he or she reasonably anticipates will be used during the meeting. If used during the meeting, such documents shall be part of the official record of the meeting, and shall be listed in the meeting minutes and retained in accordance with M.G.L. c. 30A, § 22.

(8) Effect on Bylaws or Policies.940 CMR 29.10 do not prohibit any municipality or public body from adopting bylaws or policies that prohibit or further restrict the use of remote participation by public bodies within its jurisdiction.

(9) Remedy for Violation.If the Attorney General determines, after investigation, that 940 CMR 29.10 has been violated, the Attorney General may resolve the investigation by ordering the public body to temporarily or permanently discontinue its use of remote participation.

Mass. Regs. Code tit. 940, § 29.10, 940 MA ADC 29.10

Current through April 13, 2012, Register #1206

END OF DOCUMENT

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Lopez, Donna ATTACHMENT D

From: craigkelley62@verizon.net
Sent: Thursday, June 21, 2012 6:12 PM
To: Maher, David; Lopez, Donna; Crane, Paula
Subject: Councillor Kelley's comments on the Manager Search

David:

I can't make Friday's meeting, but I have the following thoughts on replacing the current City Manager. Donna, could you please make sure these are part of the record.

1. We should hire a professional firm to help us with the process, which should include an extensive self-study to determine what sort of city Cambridge wants to be and what skills and interests a future City Manager should have.
2. We should expect to have a nationwide search.
3. We need to make sure that the public process is inclusive, with lots of meetings held at times and in places that do not conflict with the others obligations of workers, residents, property owners and so forth. The extensive self-study should cover such important issues as housing, recreations, taxes, schools, social services, public safety, financial stability, employee development and so forth.
4. We need to move on hiring a professional firm immediately, as it could take a very long time to determine what sort of Manager Cambridge wants and then to find and hire one. The longer we wait before we start this process, the more hurried our hiring decision will be and more constrained we will find our final employment decisions to be.

Thanks a lot.

Craig