

Charter Review Committee Agenda
Tuesday, June 4, 2019, 6:30 p.m.
City Hall Hearing Room 18
210 Main Street, Northampton, MA 01060

Meeting Minutes

Present: Stan Moulton (ward 1), Robbie Sullivan (ward 2), Dylan Gaffney (ward 3), Sam Hopper (ward 4), Bob Boulrice (ward 5), Lyn Simmons, Chief of Staff (Executive Branch), City Councilor Bill Dwight (Legislative Branch)

Absent: Patty Healey (ward 6), Mollie Fox (ward 7), Attorney Alan Seewald, City Solicitor (non-voting member)

The meeting opened at 6:32 p.m.

Chair Moulton announced that the meeting is being audio and video recorded.

- **Approval of minutes for May 21, 2019, meeting**

Councilor Dwight moved acceptance of the May 21, 2019, minutes. Bob Boulrice seconded. The clerk reminded Chair Moulton about the possible change of wording to section 4-6, filling of vacancies. For clarity and consistency purposes, it makes sense to either use “appoint” or “elect/ed” in both instances that it appears. The committee agreed it makes sense to use appoint instead of elect so that the revised language will read, “The city council and school committee shall **appoint** by majority vote of those present, a person to fill the vacancy from among the voters entitled to vote for the office. Persons **appointed** to fill a vacancy by the city council and school committee shall serve only until the next regular city election, when the office shall be filled by the voters.” **Councilor Dwight moved the amendment to the May 21, 2019, minutes. Sam Hopper seconded. The motion passed 7-0 with the amendment.**

- **Public comment**

Carolyn Toll Oppenheim was present to speak about citizens’ commissions and why commissions report to the mayor because under the old charter they reported to the city council. Her concern is who citizens’ commissions report to and who appoints its members.

Councilor Dwight informed Ms. Oppenheim that both the mayor and the city council have the authority to create their own commissions for example the city council just formed a pesticide committee which will be reporting to the city council.

Lyn Simmons tried to clarify that Ms. Oppenheim may be referring to how commissions were established. They used to be established by ordinance but when the charter was adopted committees were subsequently laid out by the administrative code.

Ms. Oppenheim furthered that she came to the committee meeting today in response to Bill Newman's column in the June 1st Daily Hampshire Gazette. Citizens commissions reporting to the city council is another way to further democratize the community.

Ms. Oppenheim wondered if her ward representative could update her and provide feedback on what the committee is doing. She would like to see more sunlight on the committee because it is important. Dylan Gaffney will update Ms. Oppenheim as they see each other often.

Chair Moulton stated the committee is doing everything it can to reach out to people to involve them in the process.

Claudia Lefko was present to speak about term limits and shedding light on the committee's work because there doesn't seem to be much news about it. Claudia wondered if she needs to form a committee of people who are interested in the topic of term limits in order for the committee to discuss it.

Chair Moulton stated this topic has been brought to the committee's attention and if there are more people advocating for term limits, the committee can take a look.

There was a brief discussion on where the public can find information about the committee's work. The discussion included when and where the agenda is posted, where minutes are located, where information is posted about public forums, and where the Google Doc can be found that shows all the changes the committee is recommending and all the topics that have been and will be discussed.

Ms. Lefko stated there is a dearth of new ideas coming out and the city council is reactive to them. She would like to see city councilors give someone else a chance. In her opinion, if people sit on the city council for too much time, it discourages other people to think about running because it's daunting to run against a longtime incumbent. She understands that experience is important but if everyone sits back and lets others hold certain seats for too long, then people aren't getting involved. Ms. Lefko stated that terms limits would open up a vibrancy that the city doesn't get when all the city council seats and school committee seat are held by the same people. She thinks 3 or 4 terms is good enough and it doesn't need to be more than that.

Robbie Sullivan asked for an example of how Ms. Lefko thinks the city council is reactive to new ideas.

Ms. Lefko clarified that she meant the city council is reactive instead of proactive. For instance, with the Green New Deal, the city council should be looking at what they can do at the local level.

There was a brief discussion on a forum for term limits, who the committee makes recommendations to and who ultimately approves the changes.

- **Updates from committee members**

Lyn Simmons stated that at the June 18th meeting, Mayor Narkewicz will be introducing three proposed charter changes for the committee to discuss and consider. The proposed changes relate to temporary absence of the mayor; elections; and extending the definition of immediate family members.

- **Discuss and vote on possible addition of language to Section 1-3 (Division of Power) clarifying legislative power of the City Council**

Chair Moulton informed the committee that he spoke with Bill Newman last week in which he invited him to come to the June 4th meeting. However, he was unable to attend.

Councilor Dwight received an email from Bill Newman with his proposed language. It read, "The City Council shall have power to enact all ordinances necessary and proper for carrying into execution powers vested by this Charter in the government of the City."

Councilor Dwight feels that these powers are already established by Massachusetts General Law and is already referenced in the charter. The charter doesn't specifically say the city council and legislative body drafts ordinances because it's already established under state law. Adding the suggested language would be redundant but not objectionable. He furthered that if this change was made, language would need to be included for the executive authority and possibly all other authorities that are established under MGL which will expand the charter document. Councilor Dwight doesn't think it is necessary.

Bob Boulrice stated that he doesn't understand the need for the proposed language and wonders what its intent is. Bob referenced Bill Newman's column in the Gazette and believes he used anecdotal evidence to support a hypothetical circumstance because he talks about something that might happen and what the case would be if it happened in an era where the city doesn't have a competent mayor. Bob feels that his years of experience runs counter to the suggested language because it's more likely that if the anecdotal situation occurs, it's the legislative body that would be found weak rather than the executive. He furthered that in an era where there are so few people running for election, the opportunity to vet the qualifications of city council candidates is not what most of us would like it to be. However, there is a greater likelihood that the executive will be filled by a qualified individual and the legislative body would be filled with inexperience. If this situation were to arise, there would need to be a strong executive to carry the city through. Bob furthered that the proposition of strengthening the legislative body against potential failings of the executive body is not one that he supports. It's not a current situation and it's not a potential likely situation. Bob stated the committee shouldn't be bothering with this because the proposed language is not necessary. However, if the committee wants to bother with it, it should know more about the intention of it being suggested.

Councilor Dwight stated his conversations with Bill Newman were along the same lines of Bob Boulrice. First of all, the scenario Bill Newman outlined in his column could never happen because water is not under city authority, it is under the Department of Environmental Protection and the Environmental Protection Agency. He furthered that the legislative branch doesn't have the expertise or the authority. Councilor Dwight stated that Bill Newman's biggest concern is the issue of checks and balances because he felt there weren't any in his initial reading of the charter. However, he has come to realize that is not the case and there is a fair amount of power vested in the legislative body. Councilor Dwight stated that he feels uncomfortable making Bill Newman's case because he doesn't agree with it.

There was no motion to consider the proposed language for further discussion.

- **Discuss and vote on possible removal of designation "candidate for re-election" from the names of incumbents on municipal ballots**

Sam Hopper stated there is a bill pending at the state level about this topic and if passed it would remove one more barrier for people running for office because running against an incumbent is intimidating. She furthered that the bill is for changing primary and state ballots.

There was a brief discussion to determine where in MGL it states that municipal ballots have to print this language on ballots. Sam stated that from a discussion with City Clerk Pam Powers, it's on the ballot because of a state requirement.

Councilor Dwight moved to put the discussion on the floor. Bob Boulrice seconded.

Bob Boulrice stated that in this era, running against an incumbent can be an attribute.

Councilor Dwight doesn't have any objection but questions whether it reaches the threshold of charter involvement because it has more to do with directing the clerk to do something which may run counter to the Secretary of State's office requirements. Councilor Dwight agrees that this language provides an automatic advantage for the incumbent.

Dylan Gaffney stated Massachusetts is the only state in the country that requires incumbents' names being listed first on the ballot and naming who the incumbent is. This is found in Part 1, Title 8, Chapter 54, Section 41 of MGL.

Councilor Dwight stated that if it is in MGL, the city clerk cannot change the procedure.

Chair Moulton stated that in municipal preliminary and regular elections, the candidates' position on the ballot is determined by draw, which differs from the MGL.

Dylan Gaffney read MGL Title VIII, Ch. 54 § 41, "To the name of a candidate for a state or city office who is an elected incumbent thereof there shall be added in the same space the words

"Candidate for Reelection", except in the case of political party candidates for the offices of governor and lieutenant governor." This applies to state and city elections.

Chair Moulton stated that similar to the position on a ballot, for which Northampton has adopted its own procedure, Northampton cannot change the "candidate for reelection" designation for municipal elections without making a request to the state Legislature.

Sam Hopper stated that the committee could include this recommendation in its final report. Sam will confirm that MGL Ch. 54 § 41 is the current state statute and this topic will be discussed when Attorney Seewald is present.

Councilor Dwight moved to table this item for discussion until the next meeting. Sam Hopper seconded. The motion was approved 7-0.

- **Plan discussion of appointed /elected city clerk at June 18 meeting**

Robbie Sullivan updated the committee on her city clerk research. Robbie spoke with the appointed city clerk in Easthampton, Barbara LaBombard. The clerk had been elected through 1996. Ms. LaBombard stated she has been both elected and appointed and does not "see much of a difference". She is appointed by the city council as opposed to the mayor and this "makes sense" to her and was the most important point she was trying to make. She "likes someone else having appointing authority, it spreads it around." She stated that the clerk has always been part of "the pay plan, never just out there, or actually feeling different."

Lyn Simmons stated that probably means that her salary is not set by ordinance and is treated like a city employee for pay.

Robbie furthered that Ms. LaBombard stated she knows some clerks who "still like having the voters be the boss." Ms. LaBombard stated that there were never any problems with elections when she was involved and the state says the clerk can still run the ballot but if opposed, it "can be tricky and could be good to step aside for certain parts of the election process."

Councilor Dwight stated there is a conflict regardless of whether the city clerk is appointed or elected because it raises the question of, "Who do you answer to?" If the city clerk answers to voters then there is a conflict with running elections, whether opposed or not, and if you're appointed by the mayor, do you serve at the mayor's pleasure? If the city clerk is a city council appointment, the responsibility and obligation is spread out. Easthampton had this debate and decided this was the best way to spread the wealth, or culpability.

Bob Boulrice stated that there is a greater opportunity for rogue counselors because it is difficult when there is more than one boss. Bob furthered that if there are 7 or 9 councilors, it takes a grouping of 3, 4, or 5 of them to cause havoc. This allows for a far greater incidence of disruption than a bad executive.

Robbie Sullivan spoke with the appointed town clerk in Amherst, Margaret Nartowicz, who stated, "Duties, regardless of the size of community, are fast becoming more complex. Unless there is a qualified individual, familiar with state statutes, being elected doesn't make sense any longer, especially in a hospital community." She furthered that some may feel fine to have the post be elected, but for her, it is about ensuring qualified individuals.

Lyn Simmons clarified that a hospital community means that a city clerk's office typically has a lot more work with the recordings of all the birth and death records as opposed to a community with no hospital.

Robbie Sullivan will work with Pam Powers on inviting someone from either the Massachusetts City Clerks Association, the Massachusetts Town Clerks Association, or the New England City and Town Clerks Association.

Lyn Simmons will work to obtain contact information for the three previous city clerks and Chair Moulton will reach out to extend the invitation.

Bill Scher, a member of the previous Charter Review Committee, has agreed to attend the June 18th meeting to discuss the elected vs. appointed city clerk topic.

Lyn Simmons will invite municipal officials to participate in the June 18th discussion on appointed vs. elected city clerks. Lyn will also work to secure city council chambers as the venue for the June 18th meeting.

- **Plan outreach to underrepresented communities**

Chair Moulton spoke with Mollie Fox, who is interested in this topic, and she'd like to continue the discussion at the June 18th meeting.

- **Adjourn**

Councilor Dwight moved to adjourn at 7:58 p.m. Sam Hopper seconded. The motion was approved 7-0.