

Charter Review Committee

Tuesday, February 19, 2019
6:30pm

City Hall Hearing Room 18
210 Main Street, Northampton, MA 01060

Minutes of Meeting

Present: Stan Moulton (ward 1), Robbie Sullivan (ward 2), Dylan Gaffney (ward 3), Sam Hopper (ward 4), Bob Boulrice (ward 5), Patty Healey (ward 6), City Councilor Bill Dwight (Legislative Branch), Lyn Simmons, Chief of Staff (Executive Branch), Attorney Alan Seewald, City Solicitor

Absent: Mollie Fox (ward 7)

The meeting opened at 6:33pm

- **Approval of the minutes of February 7, 2019**

Councilor Dwight moved acceptance of the Feb. 7, 2019, minutes. Vice- Chair Hopper seconded. The motion passed unanimously 8-0.

- **Public Comment**

Marc Warner of Northampton, member of the 2010 Charter Review Committee, was present to update the committee on three items of unfinished business from its work.

The first issue was ranked choice voting. The committee considered it but chose to postpone it because it was untried except in Cambridge and wasn't widely used. The committee believed that giving the city a little more time to catch up with voting machine technology would allow for an opportunity to revisit this issue in the future.

The second issue was the question of an elected vs. appointed City Clerk. After obtaining research from the Collins Center in Boston, there was nothing that suggested the City Clerk should be an elected position. Wendy Mazza, former City Clerk, was strongly opposed and said she would campaign vigorously against the notion of appointed City Clerk because it is a small town tradition. Mr. Warner hopes the committee will look at this issue again.

The third issue was compensation for elected officials which was deferred to a compensation committee that recommended raising the stipend and getting rid of health insurance for city

councilors, school committee, and Smith Vocational and Agricultural High School Trustees. In the end, City Council decided to approve the pay raise and voted against dropping health insurance as a benefit. The issue is worth another look to ensure the city is attracting officials for the right reasons. Mr. Warner suggested that an official could seek election for the health insurance benefit. Mr. Warner passed around an op-ed he wrote for the Daily Hampshire Gazette in 2015 suggesting that the City Council change its view on the matter.

Claire Huttlinger of Northampton, was present to encourage the committee to make ranked choice voting part of the new charter. Ranked choice voting could be implemented in all of Massachusetts by 2022 so by adding it to the charter now, Northampton would be ahead of it.

- **Review and discussion of issues identified by City Council and Mayor**

Prior to discussion, Lyn Simmons passed around a summary of the charter changes that were included on the 2012 special election ballot.

Councilor Dwight raised the issue of special elections. He stated that special elections are very expensive and they trigger a 2 month (approx.) clock for taking out papers, collecting signatures and turning in papers. If a preliminary race prior to a special election is warranted, the calendar gets abbreviated and requires papers to be returned the same day they are taken out. If ranked choice voting was implemented it would solve this problem.

Councilor Dwight stated that an elected City Clerk position poses a conflict. For example, when Wendy Mazza resigned before her term expired, the acting City Clerk presided over the election that included her name on the ballot.

Attorney Seewald stated there is a regulatory exemption for Town Clerks but not City Clerks which is indicative of there being very few elected City Clerks left in the Commonwealth. In fact, there are only five elected City Clerks in the Commonwealth - Northampton being one of them.

Councilor Dwight spoke with the Attorney General's office about the disparity between Town and City Clerks presiding over their own elections. The reason there is an exemption for Town Clerks is because in a small town, there is more often than not only one individual available to run the election. The idea is that cities will have multiple employees that are available to take over an election. This however leads to a subordinate (of the City Clerk) running the election for which the Clerk's name is on the ballot for a City Clerk.

Lyn Simmons spoke regarding Holyoke, which has an elected City Clerk. Holyoke has an elected City Clerk and the Assistant City Clerk runs any election where the City Clerk's name is on the ballot. This again leaves a subordinate to run the election.

Councilor Dwight stated some members of the City Council, at least the ones he has spoken to, are in favor of an appointed City Clerk position. The issue was previously dropped because the serving City Clerk was opposed and vowed to campaign against the passing of the Charter. Now that personalities, politics and circumstances have changed it is time to revisit the issue.

Councilor Dwight stated the City Council has expressed its support in changing the voting age in

municipal elections to 16. Lowering the voting age was tried in Lawrence which initially failed and eventually passed, but never implemented. The committee would like to hear from the Youth Commission regarding lowering the voting age.

Attorney Seewald added a few additional City Council related items that need to be addressed. Section 2-6(c)(i) states, *Regular meetings of the city council shall be held at a time and place fixed by ordinance*. Ordinance should read "order".

Under Section 7-6 Independent Audit, "*The award of a contract to audit shall be made by the city council on or before September 15 of each year.*" Attorney Seewald stated that if City Council waits until Sept. 15, an auditor will not be available and an audit would not be done by March 1st of the following year. Attorney Seewald made a recommendation to start looking for an auditor in early spring, before the fiscal year ends. If the solution is a three-year contract or whatever it may be, the date will need to be looked at and changed. Chair Moulton would like to hear from the Finance Director regarding the audit.

Attorney Seewald noted that an amendment is needed in Section 5-4 Superintendents of Smith's Agricultural School. With Smith Vocational and Agricultural High School Trustees being a school committee, the language should change from, "*Vacancies shall be filled in a like manner as a city clerk vacancy*" to "*Vacancies shall be filled in a like manner as a school committee vacancy*". Additionally, the manner in which a meeting is called should be changed from, "*call a joint meeting of the city council and the school committee to fill the vacancy*", to "*call a joint meeting of the city council and the Smith Vocational and Agricultural High School Trustees to fill the vacancy*".

Lyn Simmons spoke to Section 7-2, Annual Budget Policy. This section states that the Mayor should call a joint meeting of City Council and School Committee. This language should be amended to include the Smith Vocational and Agricultural High School Trustees.

Lyn Simmons stated that there should be more specific language surrounding Section 3-7, Temporary Absence of the Mayor. The language should include a period of time, for example, if it were to be more than 10 days. This way it leaves it on the Mayor to notify City Council when he/she is absent. The language should be defined better by including what is meant by absence from the city and who determines such absence.

Chair Moulton reiterated the two issues with acting mayor. These are the question of physical absence and competency.

Councilor Dwight stated this is an opportunity to be more specific with circumstances which would determine the various reasons the mayor would have to be replaced or covered for.

Attorney Seewald offered that there is the issue of physical absence which the mayor should be able determine for him or herself, and competence. If they mayor becomes incompetent there must be an external body to make that determination and take action.

Bob Boulrice stated there is a routine protocol that police chiefs use when they are absent from the office. Chiefs transfer the power to a designated individual via email to a select group of

people. This may be the solution for the mayor to determine whether he or she is absent but the competency issue is something the committee would still need to address.

- **Discussion on breaking up charter review into sections and/or topics**

After a brief discussion Dylan Gaffney stated he is interested in the 16 year old voting age and the reasons why it hasn't been adopted elsewhere and why it failed in Lawrence.

Roberta Sullivan stated she is interested in the City Clerk issue.

Bob Boulrice stated he is interested in seeing how ranked choice voting would work in Northampton.

Patricia Healey stated she is interested in any initiative petitions that might have been filed before the charter and after the charter. Before the passage of the charter there was a non-binding referendum about closing the landfill. Since the new charter there have not been any besides a proposal for a non-binding referendum relative to the Village Hill development. There was a mistakenly filed referendum on the stormwater fee. This was a citizen's appeal that followed as a referendum however the petitioner misread the charter and did not understand the conditions and terms which invalidated the application for a referendum.

- **Timeline on review and public forums**

Chair Moulton hopes to have a report drafted by mid-November and use the last 4-6 weeks for fine tuning the report.

After a brief discussion the committee decided they would like to hear from department heads and elected officials at the March 5 meeting, which would include Smith Vocational and Agricultural High School Trustees, the School Committee, Forbes Library Trustees and the director. If department heads cannot attend the meeting, the committee will welcome written testimony. Chair Moulton will draft the email invitation to department heads and elected officials and Lyn Simmons will distribute accordingly.

Forums will be held accordingly when hot button topics are discussed. It is important to note that forums should be held before the end of May due to summer vacations.

It was determined the Youth Commission will be invited to attend a meeting when elections are being discussed.

- **Documentation of Committee's work**

Chair Moulton and Vice-Chair Hopper would like to implement a document on the city's website that would track any and all changes being made during the course of the committee's work. This document would be accessible for everyone to view. Changes will not be made to the document unless voted on by the committee as a whole. This is an easy way for the committee to communicate with the public on the work the committee is doing and has done. As long as changes are not made individually, and strictly by the committee as a whole, the

open meeting law will not be violated. Chair Moulton and Vice-Chair Hopper will work with Lyn Simmons to implement this document on the website.

Chair Moulton moved to adjourn at 8:03 p.m. Lyn Simmons seconded. The motion to adjourn passed unanimously 8-0.