

City of Northampton
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Charter Review Committee

Tuesday, March 19, 2019
6:30 p.m.

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), Lyn Simmons, Chief of Staff (Executive Branch), Mollie Fox (ward 7) arrived at 6:58 p.m.

Absent: City Councilor Bill Dwight (Legislative Branch), Attorney Alan Seewald, City Solicitor (non-voting member)

The meeting opened at 6:33 p.m.

- **Approval of Feb. 19, 2019, minutes**

Lyn Simmons moved acceptance of the February 19, 2019, minutes as written. Patty Healey seconded. The motion passed unanimously 8-0.

- **Public comment**

Fred Zimnoch, long time ward 3 resident was present to speak to a mayor/town manager form of government. The city is a complicated structure with a lot of departments to manage. Mr. Zimnoch believes that being a mayor requires a range of skills, talent, knowledge and experience to adequately hold the position. Recent events in Amherst brought the executive position into focus for Mr. Zimnoch, with the sudden death of Amherst Town Manager John Musante. The second event was the task of replacing the town manager which resulted in over 55 applicants. Given the cost and effort of a mayoral campaign Mr. Zimnoch believes that no such pool of 55 candidates is likely to come forward. Mr. Zimnoch spoke with Denise Baker at the Massachusetts Municipal Association in Massachusetts and she stated that there are only 48 mayors in over 300 municipalities. Potential town managers submit their resumes which include their educational background, degrees, and accreditations. Very little information of this type would be received during a mayoral campaign. The town manager's career is that of a

manager and not as a politician. The possible manager candidate might be from out of the area which would be beneficial because they wouldn't be tied to local magnates. Mr. Zimnoch would like the committee to release a final report with the pros and cons for both forms of government and the reasons the committee prefers the decision it makes.

Mike Kirby was present to endorse Mr. Zimnoch's ideas. In Northampton, generally individuals run for city council, move up the ranks to the president of city council, and then run for mayor. Mr. Kirby stated the city has had good luck in having Mayor Narkewicz as mayor however there are things that can go wrong. Mr. Kirby suggested that the leakage in the cellar of the police station was ultimately because of political decisions. Instead, decisions should be made on the basis of who can do the best job and who has the most experience. There needs to be less politics and more management in City Hall.

- **Presentation by department heads and other city officials, followed by discussion**

Mayor Narkewicz was present to speak to the charter. He stated there are some technical changes that have been identified, for example in Article 5 which relates to other elected officials and how both the Trustees of Forbes Library and Smith School should be replaced.

The charter is functioning quite well as a whole. A lot of work went into untangling the charter, which included clarifying the branches of government and clearly detailing the budget and election processes. There are also issues that have been identified around elections, special elections, and the audit schedule for City Council which doesn't line up with the fiscal year.

The implementation of the charter has been a learning curve and a long process of adapting to new lines of authority, which aren't new, but weren't clearly spelt out in the old charter. The new charter is clearer and truly acts as a constitution for the city and a frame work of our government. Any questions can be emailed to Mayor Narkewicz or asked through Lyn Simmons.

Mayor Narkewicz stated that he will be bringing forward information regarding the temporary absence of the mayor provision. There needs to be a mechanism in place that allows City Council to act to replace an incapacitated mayor but also a way for the mayor to notify the City Council about an extended absence and when/how to activate the acting mayor status.

Mayor Narkewicz favors the mayor form of government and believes the ultimate accountability is at the ballot box. He has great respect for city managers, and they certainly get paid more than mayors, but the idea of "you can't have a corrupt or inept town manager" is simply a myth.

City Clerk Pamela Powers was present to speak to a few technical changes/clarifications. In Section 2-2 (b), "*Powers and Duties - The president shall prepare the agenda for city council meetings in consultation with the mayor and the city clerk*". Ms. Powers stated that is not how City Council agendas are currently prepared.

Ms. Powers also spoke to Section 2-6 (c) (iv), *“A full, accurate, up-to-date account of the proceedings of the city council shall be maintained by the city clerk, which shall include a record of each vote taken and which shall be made available with reasonable promptness following each meeting, but not later than the next regularly scheduled meeting”*. Ms. Powers stated that the City Clerk keeps historical records of the proceedings of the City Council which are made available, but not in real time, and the Administrative Assistant to the City Council keeps up-to-date accounts of the current proceedings of the City Council. Ms. Powers believes the wording should be looked and changed to reflect who actually does what.

Ms. Powers questioned “Attachment 1 – Related Laws” which seems to be part of the Charter. There are references to positions that need to be updated, for example §C-51. An Act Establishing a Board of Public Works and a Department of Public Works in the City of Northampton.

Lyn Simmons stated she believes the attachment is for historical purposes and is not necessarily an attachment to the charter.

Mollie Fox arrived at 6:58 p.m.

Ms. Powers wanted to alert the committee of the attachment and believes that if it is for historical purposes, it is misplaced.

Ms. Powers spoke to the time frame for elections. Generally, there is not be enough time between a preliminary election and a November election. As it stands now, the City Clerk is given three days to certify election results to get ready for the November election. She stated it is doable but not ideal, especially if a recount is warranted, there would not be enough time.

Ms. Powers also spoke to the time frame in which nomination papers are available and when they are due to the City Clerk. Papers are available April 2 and due August 2 which is more than enough time and if the deadline was collapsed, it could trigger an earlier preliminary election which would allow for a recount if necessary and allow the City Clerk more time to certify the results. Ms. Powers stated that ranked-choice voting would eliminate the need for a preliminary election.

An alternative to ranked-choice voting is a “no-excuse” voting mechanism. In this case, every registered voter would be mailed a ballot. At any time between when the ballot was received and election day, the voter could cast their vote. This mechanism has been used in the State of Washington.

Ms. Powers stated she doesn’t have a strong preference one way or the other on whether the City Clerk should be an elected or appointed position. She believes ultimately it should be put to the voters to decide. There is the question of competency for the position and transparency and the position will need protection in the event that something is or is not transpiring.

Lisa Downing, Director of Forbes Library, was present to speak to one line in the charter. In Section 5-2, Trustees under the will of Charles E. Forbes, “...*Vacancies shall be filled in a like manner as a city clerk vacancy*”. Ms. Downing stated this is not how vacancies have been filled in the past and is not in line with the governance structure of the library. Ms. Downing offered that vacancies should be filled with Forbes Library’s By-Laws which state, Article III: Trustees, Section 2, “*The Trustees may elect to fill such a vacancy by unanimously appointing a person to serve as temporary Trustee until such time as the next municipal election is held*”. Ms. Downing has discussed this with Mayor Narkewicz and they believe that this provision was put in with no accountability to potential conflict.

Russ Carrier, President of the Forbes Library Trustees, was present and stated for the past 38 years, there have been three vacancies, and none of them were filled because there was no clarification of whether the library was part of the city. After determination was made that the library was not part of the city, a new set of by-laws were created to deal with vacancies.

City Council Vice President Gina-Louise Sciarra spoke briefly about the learning curves with the new charter but overall it is an excellent charter. She agreed with the City Clerk that the election cycle schedule should be looked at because when there is a need for a special election, the window to hold a preliminary election is too short so the committee should try to amend that time frame.

Ward 7 City Councilor Alisa Klein was present to speak to a number of matters. She stated she is a huge proponent of ranked-choice voting. She also stated there is an inherent imbalance of the separation of powers between the City Council and the mayor. The mayor’s voice and face is sought after by the media and the public which leads to the imbalance. There should be a robust communication mechanism in place for sharing information on a regular basis between the two branches. The mayor’s activities and views are in the news because he is full-time and she believes that the charter can reflect voices in a similar way in which the mayor’s voice is amplified.

Councilor Klein stated there should be the sharing of appointments to city committees. The same way the mayor makes appointments to the City Council for approval, she believes that two appointments should be made by the City Council with approval from the Mayor so that both branches are appointing and approving appointments. If this is not feasible, an alternative option would be a mechanism for adding City Council input on appointments before getting to the point of the appointments being voted on.

Councilor Klein feels that there should be elected positions for each committee. This would make the process more democratic. For example, two members of each committee would be elected by the voters.

Another suggestion would be to look at term limits for all elected positions. In particular, for City Council, a suggestion would be extend the term to three years and also staggering the terms which will help with continuity and new councilors can learn from incumbent councilors.

Councilor Klein believes the city is missing an ombudsman, someone who would take complaints and interact with city residents. This person would not be elected as to avoid political motivation.

Councilor Klein suggested that the City Council should be able to hire their own legal representation. Although the City Solicitor is available for all city council matters, Councilor Klein feels that if a matter is contested between the executive and legislative branch, the City Solicitor would have to choose sides.

Councilor Klein believes the committee should discuss VETO power and whether or not the Mayor should have authority on council matters.

Councilor Klein believes that a raise in city councilor's salaries/stipends will open the door for potential candidates to run for City Council. Due to the small amount of money that city councilors receive a year, it inhibits certain individuals from running, for example single mothers. It is tough for the City Council to vote on raising the salary because it could be perceived as financial self-interest.

Sam Hopper asked Councilor Klein what the reasoning is for changing the term limits to three years instead of four years.

Councilor Klein believes that four years might be a little too long, with two years being a little short so three years would be a happy medium.

Lyn Simmons asked Councilor Klein for clarification on what a robust communication mechanism might look like without violating open meeting law.

Councilor Klein stated that sharing the mayor's calendar would be helpful to know when there are new business openings and ribbon cuttings so that councilors can be informed. As of right now, there is no ongoing communication between the legislative and executive branches and if there was it would allow the City Council and the mayor to be partners and have a collaborative relationship.

Patty Healey asked Councilor Klein if she has looked into other cities who share legal services between the legislative and executive branches.

Councilor Klein stated she didn't know but since there is no mechanism to call upon the City Solicitor it would be great if other attorneys could be made available in case the council doesn't agree with a City Solicitor decision because the only recourse is for the council to take the issue to the Attorney General.

Robert Boulrice stated that with a city the size of Northampton, it should have a full-time staff attorney between the executive and legislative branch. He also offered that an ombudsman is

fraught with politicization and an alternative would be to use electronic blogs where information can be shared which would eliminate putting an individual in the middle.

After listening to Councilor Klein, Councilor Sciarra spoke to a few additional issues. She believes that sharing the mayor's calendar about things that are happening weekly is important although it may not be a charter issue. She also believes that increasing stipends would be important because as it is there are not a lot of people that step up to run for City Council. She offered that a sliding scale mechanism might be something to look at because if stipends were based off individual's incomes, it might open the door for certain people to run for City Council that might not have been able to before.

Additionally, Councilor Sciarra spoke to Section 2-10, City Council Confirmation of Certain Departments, "...*The city council shall refer each name submitted to a standing committee of the council which shall review each candidate for appointment and shall make a recommendation to the full city council not less than 7 nor more than 45 days after the referral*". The City Council does not meet as regularly in the summer so this time frame is challenging.

The City Clerk stated that the seven days is an issue any day throughout the year and the 45 days is an issue in the summer months so it might make sense to take out "less than 7 days".

Sam Hopper read an email from Ward 2 School Committee Member Laura Fallon, who was unable to attend the meeting. In regards to Section 4-6, Filling of Vacancies, there is no clear procedure for deciding a vote during a joint meeting of city council and school committee to fill an unexpired term. She asked if the winning candidate needs to have the majority of votes cast (particularly if there are more than 2 candidates) or a majority of the bodies' members. Similarly, the school committee has an even number of members and there is no procedure for what should happen in the event of a tie vote. She's not sure if this would be more appropriately addressed in the school committee rules of procedure.

Lyn Simmons stated that she believes this should be addressed in the school committee rules of procedures.

Patty Healey stated that she believes making the City Council terms three years instead of two years makes sense. A three year term would afford the councilor more time to get acclimated to the role and would have councilors thinking about whether they want to run for another three year term.

Sam Hopper stated that staggering terms with the school committee makes sense because it would be detrimental if everyone turned over at the same time.

Patty Healey stated that ranked-choice voting is a big concept to understand and education of residents would need to happen so it should be talked about soon.

Robert Boulrice stated that there are questions of software, budget, staff to administer the program, etc., however the benefits of ranked-choice voting far outweigh the negatives.

There was a brief discussion on the process of the charter review committee for the City of Easthampton. Robert Boulrice stated that Easthampton's committee is farther along than Northampton's. Dylan Gaffney stated he would be concerned if the process was sped up too much because the committee might lose valuable feedback.

Vote on three recommended changes:

- **Section 2-6 Exercise of powers; quorum; rules (c-i) Replace ordinance with order**

Sam Hopper moved to replace the word "ordinance" with "order" in Section 2-6 (c)(i), Exercise of Powers; Quorum; Rules. Roberta Sullivan seconded. The motion passed unanimously 8-0 by roll call vote.

- **Section 5-4 (Superintendents of Smith's Agricultural School) Vacancies shall be filled in like manner as School Committee vacancies (replacing city clerk)**

Sam Hopper moved to replace the words "city clerk" with "school committee" in Section 5-4, Superintendents of Smith's Agricultural School. Roberta Sullivan seconded. The motion passed unanimously 8-0 by roll call vote.

- **Section 7-2 (Annual budget policy) Add Smith Vocational and Agricultural High School trustees to invitees**

Sam Hopper moved to include Smith Vocational and Agricultural High School Trustees to the invite list in Section 7-2, Annual Budget Policy. Patty Healey seconded. The motion passed unanimously 8-0 by roll call vote.

- **Schedule public forum on election issues**

After a brief discussion the committee decided to hold an additional meeting in April for a public forum on all election related issues. These issues include ranked-choice voting, "no-excuse" voting, lowering the voting age in Northampton to 16, and other issues related to scheduling preliminary and special elections. For clarification, Robert Boulrice added that authorities in these areas will come to the forum to make a presentation and then the public will be able to ask questions (if the committee wants to do it that way) and/or the public can offer their comments after hearing from the presenters.

The meeting will be held on Tuesday, April 30th at 7 p.m. in either the JFK Community Room or City Council Chambers, whichever is available. Lyn Simmons will reserve the space and confirm the location at the next meeting. Lyn Simmons will also work up a draft flyer for the committee to review at the April 2 meeting. Chair Moulton will work the flyer into a press release to notify

the media. The public will be invited by way of information on the website, Facebook and Twitter.

- **Explain Google Doc showing committee's work**

Sam Hopper and Lyn Simmons worked on the Google Doc which is on the Charter Review Committee page of the City of Northampton's website. Chair Moulton and Sam Hopper are the only editors so it doesn't violate open meeting law. The document will include all the changes that have been voted on and a list of things that the committee has been discussing. Sam will be the prime administrator of the Google Doc and it's a place for the public to see what the committee has accomplished and the issues the committee is contemplating.

Roberta Sullivan was hoping the committee could shed some light on Section 3-9 vacancy of the mayor, under (a), if a vacancy occurs prior to the eighteenth month of the term a special election will be held, under (b), if a vacancy occurs between the nineteenth and twenty-second month, the city council president shall serve, and under (c), if a vacancy occurs between the twenty-third and the fortieth month a special election should be held.

Sam Hopper stated she believes it's because of an upcoming municipal election which happens every two years.

Roberta Sullivan stated she is interested in learning more information about how Northampton High School and JFK Middle School will be handling the state mandated civic curriculum that was passed last November. She believes it is important in considering lowering the voting age to 16 so that there is a civics program in the curriculum. She believes JFK Middle School is doing some projects around this and in the fall the high school is rolling a civics programs into a history class. She has reached out to the chair of the history department but has not heard back yet however linking a civics class into the curriculum is important so students are exposed to civic information before voting.

Sam Hopper stated that Principal Lombardi presented course offerings at a school committee meeting and believes the civics curriculum was discussed there. Additionally, the Youth Commission might be able to offer more information on this topic.

- **Adjourn**

Lyn Simmons moved to adjourn at 8:33 p.m. Patty Healey seconded. The motion to adjourn passed unanimously 8-0.