

**Charter Review Committee agenda
Tuesday, July 16, 2019, 6:30 p.m.
City Hall Hearing Room 18
210 Main St., Northampton, MA 01060**

Meeting Minutes

Present: Stan Moulton (ward 1), Dylan Gaffney (ward 3), Sam Hopper (ward 4), Bob Boulrice (ward 5), Patty Healey (ward 6), Mollie Fox (ward 7, left at 7:35 p.m.), Lyn Simmons, Chief of Staff (Executive Branch), City Councilor Bill Dwight (Legislative Branch, arrived at 6:40 p.m.), Attorney Alan Seewald, City Solicitor (non-voting member)

Absent: Robbie Sullivan (ward 2)

The meeting opened at 6:36 p.m.

1) Approval of minutes for June 18, 2019, meeting

Sam Hopper moved approval of the June 18, 2019, minutes as written. Lyn Simmons seconded. The motion passed unanimously 8-0

2) Public comment

None

3) Updates from committee members

In Robbie Sullivan's absence, Chair Moulton shared Robbie's update from her conversation with Wesley Slate, city clerk of Beverly and secretary of the Massachusetts City Clerk's Association. Mr. Slate is happy to come to Northampton to talk to the committee.

Chair Moulton shared Robbie's sentiments regarding Mr. Slate's visit. She stated, "After the presentations to the committee June 18th, the unanimous straw vote, as well as the framework tips recently shared by Mayor Narkewicz, I question whether it would be necessary/beneficial for Wes to make the trip. If we expect a crowd that wants to hear more, I can see its value, but also, we have the testimony of present and former city clerks that we can speak to, which seems more valuable, in my mind."

Patty Healey stated she sees no value in having Mr. Slate attend the next meeting since the committee seems to have already reached a consensus.

Sam Hopper concurred.

Chair Moulton sees value in Mr. Slate attending because it will be a good way to publicize the meeting

and could potentially draw more comments from the public.

Councilor Dwight arrived at 6:40 p.m.

Councilor Dwight has no objections to hearing from more people on this topic. He stated someone from a municipal association will offer a broader perspective and it is important to hear what other agencies think.

Lyn Simmons questioned whether Mr. Slate would be speaking about his role as city clerk or whether he would be speaking as a representative of the Massachusetts City Clerk's Association. Speaking as a representative of the City Clerk's Association holds more weight in her eyes.

Chair Moulton will reach out to Mr. Slate to get a better understanding on what position he will be speaking from and invite him to the August 20th meeting. Chair Moulton will also reach out to the Gazette to publicize the meeting.

4) Report by subcommittee on outreach to underrepresented communities, consideration of "Re-Energizing Democracy Recommendations" and discussion of action plan

The Charter Review Committee subcommittee met prior to the meeting. Its members are Mollie Fox, Patty Healey, and Councilor Dwight. Patty Healey reported that the subcommittee talked about whether the charter has flaws that aren't recognized and also why people don't participate. The subcommittee also spoke about the Re-Energizing Democracy report and agreed that the report did most of what the subcommittee would like to do. Patty stated that forums and meetings were held in underrepresented communities but most of the recommendations were not actualized. The subcommittee came to no agreement on whether the charter has any barriers but it is still important to have conversations and invite people to participate in discussion. Patty mentioned two ideas that were brought up although were not discussed. The first is an ombudsperson who would be charged with doing some of the report's work and implementing some of its recommendations. The second idea is a preamble to the charter which would shape the values of the community and indicate that the city values participation from all communities.

Patty Healey stated she spoke with someone from the Pioneer Valley Workers Center (PVWC) and while they were interested in talking six months ago, and would like to participate, now is not a good time for their community. Possibly later into the fall would be a better time.

Councilor Dwight stated that municipal voting privileges for undocumented individuals was a discussion at one point but that poses conflicts because people are reluctant to expose themselves.

Lyn Simmons stated the intent was to submit something relating to this matter for the July 16th meeting, but further conversations are needed because voting requires people to register and that in turn causes concerns for people.

Councilor Dwight recommends reviewing the charter with an eye towards finding out if there is something that creates barriers in toto or if there are certain aspects that create barriers that haven't

been identified before. Councilor Dwight mentioned the Holyoke Charter because years ago it was designed to disenfranchise whole neighborhoods by removing ward representation when Latino populations started to grow. He stated nothing overt will be found in Northampton's charter whether intentional or not, but if anything can be identified, that is a start.

Mollie Fox stated that these conversations should be done in tandem with the outreach because of the time constraint and identifying flaws in the charter without participation from individuals in underrepresented communities is uncomfortable. Mollie furthered that the Re-Energizing Democracy report mentioned the city's commitment in overcoming barriers and questioned whether the city can sustain that commitment for the Charter Review Committee meetings, even by implementing just a few strategies like translation services or child care.

Lyn Simmons stated she doesn't know about the child care piece but the committee can always make a request for translation services.

Chair Moulton mentioned that the report indicated UMass Translation Services and Pioneer Valley Interpreters as possible resources.

Councilor Dwight offered the International Language Institute as well.

Councilor Dwight stated there was a member of the public at the subcommittee meeting who was concerned that the subcommittee is just focusing on race because there is also class, transgender and sexual identity, etc., to focus on. All of these individuals feel they don't have access either, not just those of a different race.

Mollie Fox questioned whether the preamble would just be lip service because it would be naming the struggles and letting individuals know what the committee has attempted.

Councilor Dwight stated that sometimes it is important to describe aspirations because it is a start.

Chair Moulton asked what happened with the emerging leaders program involving Casa Latina and Healthy Hampshire, which was identified on page 7 of the Re-Energizing Democracy report.

Councilor Dwight stated that Casa Latina collapsed for a number of reasons but mostly for lack of participation. There is a fair amount of turnover in certain communities which makes it hard for organizations to remain cohesive.

Lyn Simmons offered that the Northampton Housing Authority has to have at least one tenant member on its board from one of the housing authority complexes. The last two times the city had to appoint someone, it was incredibly difficult. The city conducted outreach to the tenant associations and posted notices in the buildings. It took quite a while for someone to self-identify that they wanted to be on the board.

Councilor Dwight stated the Planning and Sustainability Director Wayne Feiden could come talk to the committee because the Planning Department was directly involved in the Re-Energizing Democracy

report.

Chair Moulton will invite Wayne Feiden to the August 20th meeting.

Chair Moulton stated that one avenue to pursue is outreach to the housing authority because that seems to have been the most successful outreach in the past.

Councilor Dwight stated that using the housing authority might be a problem because they are an authority group and residents might be reluctant to participate. It might be worth a shot but not sure it cultivates trust.

At this time, the subcommittee doesn't have recommendations but will meet again and identify a plan going into the fall.

Councilor Dwight stated that Grow Food Northampton is currently holding farmers markets at Florence Heights, Hampshire Heights and Meadowbrook. He mentioned that being available for individuals would be better than going to door-to-door and being available and approachable to have a conversation in an informal way might be productive. Tabling is something that will provide a point of contact and if the committee could get even one person interested, that would be a huge step.

Bob Boulrice stated it would be helpful to have a handout that lists all the boards and committees that are available for people to participate in. Introducing someone to a new role would be a good start.

Attorney Seewald stated that is not necessarily related to the charter.

Chair Moulton stated that the committee – a one-year committee that is part of a city that has committed to sustain engagement in underrepresented communities – needs to do what it can to engage these communities.

Attorney Seewald stated that the charge of the committee is to make recommendations on the charter and his job is to keep the committee on the topic of the charter. He furthered that these are all important things to do but if you go door-to-door, what will you say to people about the charter when they open the door? Attorney Seewald does not see how it fits into the charge of the committee.

Mollie Fox asked, in terms of the tabling piece, if the subcommittee should determine what kind of materials could be available. She also asked who on the committee could speak to someone in another language.

Chair Moulton stated it would be a good use of the subcommittee's time to determine which materials to use.

No one on the committee identified themselves as being able to speak with non-English speaking individuals.

Sam Hopper stated that Google Translate has come a long way and works really well. All that is needed

is a smart phone or a computer.

Chair Moulton asked if the mayor's office would be willing to pay for flyers or handouts to be printed in multiple languages.

Lyn Simmons will ask but doesn't see why not.

Patty Healey wonders if there are any of the same members on the Human Rights Commission today, as there were when the Re-Energizing Democracy report was conducted.

Lyn Simmons will check the membership list but there has been a lot of turnover since then.

Mollie Fox left the meeting at 7:35 p.m.

The committee took a recess at 7:36 p.m. and reconvened at 7:38 p.m.

5) Further discussion and vote on possible amendment to Section 3-7 (Temporary Absence of the Mayor) (see Attachment 1)

Chair Moulton explained that this amendment clarifies that if the mayor is absent 10 business days or less, he or she will delegate authority to the appropriate official and only if the temporary absence exceeds 10 business days does the city council president then serve.

Councilor Dwight moved approval of the amended language (attached) to Section 3-7. Sam Hopper seconded. The motion passed unanimously 7-0 by roll call vote.

6) Further discussion and vote on proposals to extend conflict of interest to immediate family members in Article 2 (Legislative Branch) Section 2-3 (Prohibitions); Article 3 (Executive Branch) Section 3-1 (Mayor: Qualifications; Term of Office; Compensation; Prohibitions); and Article 4 (School Committee) Section 4-3 (Prohibitions) (see Attachment 2)

Relative to Section 2-3 (Legislative Branch, Prohibitions), Councilor Dwight moved to put the item on the floor for purposes of discussion. Sam Hopper seconded.

Councilor Dwight understands the intent and motivation of this amendment but believes it's more applicable to the school committee because of individuals not being able to participate in this year's budget discussions because of a spouse being a teacher. However, the city council is different because it doesn't create a budget and doesn't hire in the same way the school committee does. The proposed provision precludes an entire household – that could be politically engaged and might not agree politically – from running and serving.

Attorney Seewald questioned whether that could be fixed by excluding elected positions.

Councilor Dwight stated municipal employees are already limited enough and this would limit them even more. Additionally, it might preclude someone from holding a job that might really need a job.

Sam Hopper stated she doesn't want to put up any more barriers for people running for office because generally there aren't enough candidates as it is. She believes that the city council isn't an issue but the school committee is. However, the prohibition on immediate family members should be limited to the school department.

Patty Healey believes the proposed provision is too restrictive.

Dylan Gaffney concurred.

The motion to amend the language failed unanimously 7-0 by a roll call vote.

Relative to Section 3-1 (Executive Branch, Mayor: Qualifications; Term of Office; Compensation; Prohibitions), Councilor Dwight moved approval for purposes of discussion. Sam Hopper seconded.

Councilor Dwight believes this prohibition makes sense since the mayor is the executive authority in charge of making appointments to jobs. However, he would like to amend the language to include, "with the exception of elected positions."

Attorney Seewald stated that means the mayor's spouse could run for city council.

Councilor Dwight stated it would be up to the public to decide but that individual shouldn't be denied the opportunity to run.

Lyn Simmons asked if this language is even necessary because conflict of interest law might already preclude an immediate family member of the mayor from working for the city.

Attorney Seewald stated that an immediate family member of the mayor probably wouldn't be able to be appointed to a compensated city position but doesn't believe there is anything prohibiting the mayor's immediate family from running for office. However, Attorney Seewald hasn't been asked this question and will inquire with the State Ethics Commission.

Chair Moulton wonders what the mayor's reasoning was for introducing this prohibition.

Lyn Simmons stated she will confirm with the mayor but her understanding is that while the mayor has always taken the stance of never having an immediate family member working under his administration, nothing is set in stone precluding it from happening. She furthered that there may be undue pressure on a department head to hire that individual solely because of the relationship.

Attorney Seewald stated that the mayor wanted to impose the restriction on school committee and extended it to all elected bodies in fairness.

Councilor Dwight moved to table this discussion until Attorney Seewald has a chance to talk with the State Ethics Commission. Lyn Simmons seconded. The motion passed unanimously 7-0.

Relative to Section 4-3 (School Committee, Prohibitions), Councilor Dwight moved approval for purposes of discussion. Sam Hopper seconded.

Sam Hopper moved to amend the suggested language to include, “within the school department”. Councilor Dwight seconded.

Patty Healey stated that she disagrees with this language as it is too restrictive because the only time there is a conflict is during collective bargaining. She furthered that two members of a household can represent different sides of a conflict and if school committee members take an oath to represent the interests of the schools then they have to take that seriously. The assumption of a conflict is there but is not always the case.

Councilor Dwight stated it is different because there are currently two members of the school committee that can't participate as school committee members and it's not just during collective bargaining. These members can't participate in any discussions about the budget because the school committee is a hiring body with authority over teachers.

Sam Hopper stated that certain school committee members were advised by the State Ethics Commission not to vote on the budget because it is a direct financial interest.

Lyn Simmons stated that by adopting this language, the committee could prevent something in the future because if two or three more members of the school committee had a spouse in the school system, how would a budget be adopted?

Chair Moulton stated that the current prohibition states, “No former member of the school committee shall hold any compensated appointed city office or city employment until 1 year following the date on which that member's service on the school committee terminated.” He questioned whether it is advisable to add a similar prohibition for immediate family members.

Attorney Seewald does not see the value in adding a cooling-off period. This prohibition is about avoiding situations where school committee members can't carry out one of their two primary functions.

The motion to amend the language to specify that the prohibition only applies to positions “within the school department” passed unanimously 7-0 by roll call vote.

The motion to approve the suggested language, “No immediate family member of a school committee member shall hold a compensated city position within the school department,” passed unanimously 7-0 by roll call vote.

Chair Moulton stated that the mayor suggested the same prohibition be extended to Smith Vocational Trustees to align them with the school committee. This would mean adding the same sentence at the end of Section 5-4, “No immediate family member of a school committee member shall hold a compensated city position within that school department.”

Chair Moulton furthered that there is nothing under Section 5-4 that specifies that Smith Vocational Trustees, who are similar to school committee members, are prohibited from holding another compensated city position.

Councilor Dwight wonders if this is already precluded under state law.

Councilor Dwight stated that the language for the school committee members should specify that no immediate family member of a school committee member shall hold a compensated city position within the Northampton Public Schools school department. This will allow someone to have a partner working at Smith Vocational because there is no crossover.

Councilor Dwight moved to reopen the vote for purposes of amending. Sam Hopper seconded. The motion passed unanimously 7-0.

Councilor Dwight moved the amended motion to specify, “within the Northampton Public Schools school department”. Lyn Simmons seconded. The motion passed unanimously 7-0 by roll call vote.

Attorney Seewald will research this issue but the problem could be solved by inserting, “No superintendent of Smith Vocational School shall hold a compensated city position. No immediate family member shall hold another compensation position within the Smith Vocational School department.

Councilor Dwight stated he has seen trustees with family members working at Smith Vocational.

Chair Moulton questioned whether the following sentence should be added as well, “No former member of the school committee shall hold any compensated appointed city office or city employment until 1 year following the date on which that member's service on the school committee terminated.”

Attorney Seewald stated that the mayor’s intent was to equalize the school committee and Smith Vocational trustees so it does seem reasonable and there is neither a legal prohibition nor legal requirement.

Attorney Seewald stated that it gets tricky because two trustees have paid positions by virtue of their office, which are the mayor and the superintendent.

Councilor Dwight moved to table this discussion so Attorney Seewald can reference state law and the committee can be better informed for a vote next meeting. Sam Hopper seconded. The motion passed unanimously 7-0.

7) Discussion and vote on possible revisions to Section 3-9 (Vacancy in Office of Mayor) (see Attachment 3)

Chair Moulton sees two problems in the current language. The first is that the language does not explicitly spell out that a “regular election” refers to a city election on a two-year cycle whether or not the mayor is on the ballot. Chair Moulton stated that Attorney Seewald’s interpretation is that if there is a vacancy at a next regular election, which could be mid-term in the mayor’s term, then a new mayor

would be elected for a full four-year term. The second problem is that there is language in subsection (a) that states, "If a vacancy in the office of the mayor occurs prior to the 18th month of the term," there would be a special election except if there is a regular city election scheduled within 120 days. Chair Moulton furthered that this can't happen because the next regular city election would be in November and this is impossible. He stated that this is easy to fix by removing the last sentence.

Attorney Seewald stated that with his reading of the existing text, the intent is to have a mayor elected at a special election only be effective until the next the regular election when a new mayor is elected for a four-year term. If the mayor is elected, and dies the next day, the city won't want a special election in 90 days to elect a new mayor to a four-year term. When it gets past the point of the next regular election being available to elect a mayor at the time of the vacancy, then there would be either a special election until the next regular election when the mayor would be on the ballot. He doesn't believe there is a failure to account for a four-year term but there is an inconsistency with subsection (b). The second part of the following sentence needs to be deleted, "The city council president serving as mayor under this subsection shall take office immediately and serve for the balance of the then unexpired term." He stated that anytime the city council president takes over, it should specify that the city council president takes over immediately. It should also say that someone elected at a special election should take over immediately. There are a few tweaks to make the charter clearer but there is no inherent flaw.

Councilor Dwight stated that this section is new with this charter and is more detail-oriented. If all the subsections are read together, then the clock works and this section allows the city to run smoothly in a time of transition.

Attorney Seewald is concerned about the 120 day time frame because it doesn't work. He's also not sure if the other time frames work. He would be more comfortable if someone charted the time frame because he's not sure why the cutoff of 120 days was decided. Taking out papers, getting signatures, etc., cannot happen in 120 days.

Councilor Dwight stated that if there is a preliminary election, then the window gets smaller.

Attorney Seewald stated that even if there was ranked choice voting, the dates still don't add up. However, it would eliminate the need for a preliminary election.

Councilor Dwight stated he would feel much better if the city clerk looked at the time frame as she is the best resource for working the dates backwards.

Chair Moulton clarified that when referring to the next regular city election the intent is, if it was this year's election, and the mayor resigned, the mayor would then be on the ballot again.

Councilor Dwight moved the deletion of the following sentence out of subsection (a), "If a regular city election is to be held within 120 days following the date the vacancy is created a special election need not be held and the office shall be filled by vote at the regular city election." Patty Healey seconded. The motion passed unanimously 7-0 by roll call vote.

Councilor Dwight moved to insert a period after “immediately” in subsection (b) and remove the phrase, “and serve for the balance of the then expired term. Sam Hopper seconded. The motion passed unanimously 7-0 by roll call vote.

Attorney Seewald suggested adding the word “city” anywhere in section 3-9 that reads, “next regular election,” so that it will read, “next regular *city* election.”

Councilor Dwight moved approval of the suggested language, amending “next regular election” to read “next regular city election.” Patty Healey seconded. The motion passed unanimously 7-0 by roll call vote.

Patty Healey questioned whether the city council president, acting as the mayor, would get the same exact compensation as the mayor did.

Lyn Simmons also questioned whether the acting mayor would get the mayoral pay and the city council stipend.

Councilor Dwight reminded the committee that when Mayor Narkewicz was serving as acting mayor, he was only receiving his city council stipend because it is not specified.

Attorney Seewald confirmed that the city council president would no longer be serving as the city council president.

Chair Moulton proposed that the language in subsection (a) and (c) should specify that the city council president will serve as mayor during the interim periods. Subsection (b) and (d) already have this specification.

Chair Moulton moved to insert the following sentence in subsection (a) and (c), “The city council president shall serve as mayor until the mayor is elected and qualified at the special election.” Councilor Dwight seconded. The motion passed unanimously 7-0 by roll call vote.

8) Adjourn

Councilor Dwight moved to adjourn the meeting at 8:48 p.m. Sam Hopper seconded. The motion passed unanimously 7-0.