

**Charter Review Committee**  
**Tuesday, May 7, 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), Patty Healey (ward 6 arrived at 6:37pm), Mollie Fox (ward 7 arrived at 7:18pm), Lyn Simmons, Chief of Staff (Executive Branch), Attorney Alan Seewald, City Solicitor (non-voting member)

Absent: City Councilor Bill Dwight (Legislative Branch)

The meeting opened at 6:32 p.m.

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

- **Approval of minutes for April 16, 2019**

**Sam Hopper moved acceptance of the April 16, 2019, minutes as written. Robert Boulrice seconded. The motion passed unanimously 5-0-1 with Robbie Sullivan abstaining.**

- **Public comment**

Chair Moulton read a piece of mail from ward 1 resident Naomi Lesley, "I'm a Ward 1 resident, writing to ask you to support ranked-choice voting in Northampton. I think this is a promising movement that our city should support for a more democratic voting process."

Bill Newman was present to bring attention to section 1-3 of the charter, relating to the division of powers or the separation of powers. He stated that Northampton's provision is less than stellar in its clarity. Leaving aside the wordsmithing, what is the definition of legislative power and executive power? Section 1-3 reads, "The administration of the fiscal, prudential and municipal affairs of the city of Northampton, with the government of Northampton, shall be vested in an executive branch headed by a mayor and a legislative branch consisting of a city council. The legislative branch shall never exercise any executive power and the executive branch shall never exercise any legislative power." The last sentence is not clear and does not answer the question of what is the power of the legislative/city council? The city council can only reduce monetary spending and pass the budget as a figurehead with no other authority. The legislative body in Northampton should have authority to pass ordinances and policy that benefit the city. Proposed language could read, "The legislative power of the city's council shall, without limitation, include the right to prescribe by ordinance policies of the city. Policies of the city shall include and are not limited to the right to prescribe goals, functions and responsibilities of the city offices and departments." He hopes the committee will consider language for the city council to have a more robust authority. It is crucial to the city and the only way to preserve that authority is to include language in the charter.

Patty Healy arrived at 6:37pm.

Bob Boulrice stated it's a red flag to him when saying the city council should have the authority to write policy to define a department.

Bill Newman stated that defining a department is clearly an executive branch function and the language he used was "to prescribe the goals, functions and responsibilities" of the department, not the day to day operations. He furthered by saying he would send the draft language he wrote to the mayor's office. See attached.

Attorney Seewald stated that his view and the view of the Massachusetts Supreme Judicial Court is that the primary function of the city council, in a strong mayor form of government, is the budget. Attorney Seewald stated that to say that the city council controls the passing of the budget as a figurehead is incorrect because the City Council is given specific authority in many other areas.

- **Updates from committee members**

Bob Boulrice asked with regard to the public forum and lowering the voting age to 16, does it have any implication in running for elected office?

Chairman Moulton stated that this could be discussed later in the agenda.

Attorney Seewald informed the committee that the ordinance to declare members of the charter review committee Special Municipal Employee was passed by city council on May 2, 2019 and the committee members now have this special status.

- **Discuss and vote on possible change to:**

Section 5-2 (Trustees under the will of Charles E. Forbes): Five members shall be elected by and from the voters of the city at large for a term of four years, so arranged that all members are not elected at the same time. **Vacancies shall be filled in a like manner as a city clerk vacancy.**

Replace bolded sentence with: **Whenever a vacancy occurs on the board of trustees under the will of Charles E. Forbes, the chair of the board shall, within 30 days following the date of the vacancy, call a meeting of the trustees to fill the vacancy. The board of trustees shall choose a person to fill the vacancy from among the voters entitled to vote for the office. Persons elected by the trustees to fill a vacancy shall serve only until the next regular city election, when the office shall be filled by the voters. The candidate elected to an office filled by appointment prior to the election shall be sworn to the office immediately to complete the then-unexpired term in addition to the term for which elected. No vacancy shall be filled under this section if a regular city election is to be held within 120 days following the date the vacancy is declared to exist. Persons elected by the trustees to fill a vacancy under this section shall not be entitled to have the words "candidate for reelection" printed with that person's name on the election ballot.**

Chairman Moulton explained that this item had been tabled at the April 2, 2019 meeting.

**Sam Hopper motioned to remove the tabling. Robbie Sullivan seconded. The motion passed**

**unanimously 6-0 with Dylan Gaffney, employee of Forbes Library, not participating. He recused himself from discussion and removed himself from the table.**

Chair Moulton stated that the mayor had communicated language to the trustees on filling vacancies.

**Sam Hopper moved to approve the language as presented on the agenda. Robbie Sullivan seconded.**

Lisa Downing, Director of Forbes Library, was present to speak to the item. She stated that in 2017 an agreement was reached on the ambiguity of the relationship between the city and the library.

Russ Carrier, Chair of the Trustees of Forbes Library, was also present and stated that he and Lisa recently met with the mayor and discussed charter language relative to a vacancy on the board. Mr. Carrier feels that the board would have the best idea on the skills needed to fill the vacancy and feels they could be outvoted if it involved the city council in the current procedure. They feel strongly that they want the final say when filling a vacancy.

There was a brief discussion on the eligibility of being a trustee because the will language was very broad. The conversation included why Forbes is in the city's charter at all.

Mr. Carrier stated that the issue of whether a trustee has to be a registered voter has been brought up before but not worth being concerned about at this point.

Bob Boulrice stated that he sees three intents – the library trustees want to appoint someone in the event of a vacancy, the city wants the seat filled by election as soon as possible and whomever runs for the vacant seat can't claim they are running for reelection – and he doesn't think the proposed language accommodates the intents.

It was agreed that the committee and Forbes Library all have the same intent except the proposed language needs to be tweaked. The mayor is okay with the concept and will be okay with the granular language change.

Mollie Fox arrived at 7:18 p.m.

Attorney Seewald will revise the draft language for the next meeting and will also share the revised language with Forbes Library. A final vote will be taken at the next meeting.

**Sam Hopper moved to table the conversation until the next meeting. Robbie Sullivan seconded. The vote passed 7-0.**

Dylan Gaffney returned to the table.

- **Discuss issues raised during the April 30 forum:**
  1. **No-excuse absentee voting**
  2. **Mail ballots to registered voters**
  3. **Lower municipal voting age to 16**
  4. **Ranked-choice voting**

Chair Moulton stated that these four issues were identified for consideration and would like to know if there are more questions or information needed before a vote takes place.

### **3. Lower municipal voting age to 16**

Sam Hopper asked if lowering the voting age to 16 meant that these voters could also hold municipal office. The current language seems to indicate they would be eligible because the only qualification required for running for municipal office is being a registered voter.

The committee generally agreed that there would likely need to be a prohibition against a 16 or 17-year-old running for office.

Attorney Seewald stated it makes sense to define another class of voters for 16 and 17-year-olds i.e. 'municipal only voters' and those that are 18 years and older would be classified as 'voters'. This would include a prohibition against 'municipal only voters' running for office.

Dylan Gaffney stated that Wendell, Ashfield, Shelburne, Cambridge, Somerville and Beverly, all have either sent home rule petitions to the legislature or are actively working on home rule petitions. He furthered that for 10 years some of these petitions have been sitting at the legislature and/or have ultimately died.

There was a conversation about whether these communities had stand-alone bills pending or if they were part of a charter package.

Dylan Gaffney stated he believes they are mainly stand-alone bills and weren't part of a charter change but he will research this information for the next meeting. Dylan will also research where in the charter language could be inserted to exclude 16 and 17-year-olds from running for office.

Lyn Simmons asked, if lowering the municipal voting age did pass, would those individuals have to re-register when they turn 18. If so, how would the committee get the word out? Additionally, they wouldn't be able to register through the registry so they would have to register by municipal means only.

City Clerk Pam Powers was present and answered questions from the committee. She stated that the registry does allow them to pre-register at age 16. Currently there are 178 pre-registration forms, which equates to about 40% of the 16-year-olds in Northampton. First-time voters need to present an ID when they vote. There are 445 between the ages of 16 and 18-year-olds in Northampton.

Chair Moulton asked, since there already is a pre-registration system, how could that system be adapted to have those that are pre-registered then be classified as Northampton voters.

City Clerk Powers stated that there is no way to get the state system to see that the 16-year-olds are registered so it would have to be a different system. It would be a paper trail system and wouldn't be a financial issue because the clerk's office can utilize the state forms.

Lyn Simmons stated it would be worth finding out if the communities that Dylan mentioned

talked to their legislators to see if they could weigh in on the issues the committee is discussing as to not reinvent the wheel.

The committee generally agreed to do a little more research on the pending bills from other municipalities.

### **1. No-excuse absentee voting**

City Clerk Powers spoke to this topic and answered questions. She stated that if someone requests an absentee ballot and their plans change and they want to go to the polls, there is a mechanism in place where they would have to go to the city clerk's office so the clerk can verify they haven't cast a ballot yet. Once this is confirmed, the voter is given a certificate to take with them to the polls that shows they are allowed to vote.

Lyn Simmons asked if the city clerk anticipates the need for ordering double the number of ballots.

City Clerk Powers stated that for municipal elections she only orders 100 absentee ballots per precinct and never runs out so she doesn't anticipate this will change. She also can never predict how many voters will order an absentee ballot.

City Clerk Powers stated that early (absentee) voting already allows a ballot to be sent to your home. Early voting is only done for state elections but her goal is to add early voting instead of absentee voting, for all municipal elections. She furthered that she doesn't anticipate any additional cost if no-excuse voting were implemented.

As it stands now, there are only three reasons that would allow a voter to receive an absentee ballot and the goal is to get people to vote even if they don't fall under one of the three reasons.

Lyn Simmons asked if anyone can request a ballot for the voter or would the voter have to request it?

City Clerk Powers stated that it would have to be someone who lives in the same household. She furthered by saying under no circumstance can a ballot be given over the counter. The vote would need to be cast in person or the ballot would need to be mailed to the residence.

Sam Hopper will check the language of proposal for constitutional amendment (H.78) and draft proposed language for the committee to review.

### **2. Mail ballots to registered voters**

City Clerk Powers spoke to this topic and answered questions. In Oregon it costs \$1.65/ballot to produce and mail them out.

Sam Hopper clarified if all ballots were mailed there wouldn't be a need for polling locations so could the brand new voting machines still be used.

City Clerk Powers clarified they would be used because the machines still need to be programmed for each ward and precinct.

Sam Hopper also clarified that if Northampton adopted mailing ballots to registered voters then it would eliminate the need for no-excuse absentee voting.

City Clerk Powers concurred.

In the mail ballots to registered voters scenario, the number of polling locations would be dramatically decreased which could offset the cost of mailing a ballot to every registered voter.

Sam Hopper clarified that the committee needs to pick one proposal to move forward with because it can't have both.

The city clerk's preference is to mail a ballot to everyone because the mission of the Board of Registrars is to maximize voter participation.

Bob Boulrice asked if there has been any conversation regarding voter fraud.

Catherine Kay, member of the Board of Registrars, stated that the board would use the same protocol as they do with absentee ballots – a ballot doesn't get handed out over the counter, it gets mailed to the designated address and a signature is required – and the process has been fraud-free.

Mollie Fox stated she doesn't think voter fraud happens so often that it needs to be a concern.

Lyn Simmons clarified that this practice would only take place for municipal elections and there would be an entirely different process for state elections which could be confusing and hinder voter turnout. If every two years, voting is different, it could confuse voters and also make it harder for elections workers to handle confused voters.

Patty Healey stated there is so much information available online these days that the message would be able to get across to the voters on how they are supposed to vote.

Robbie Sullivan concurred by saying if people want to vote, they will figure out a way.

Chair Moulton stated that the committee will wait to see the language regarding no-excuse absentee voting and then weigh the two options again.

### **3. Ranked-choice voting**

Mollie Fox stated she doesn't see any reason why the committee wouldn't implement ranked-choice voting.

Patty Healey agreed with Mollie but isn't sure how the city would explain it to the voters and who would be responsible for public education.

There was a brief conversation about the cost to upgrade the software to accommodate ranked-

choice voting. It is estimated to cost \$8,000 but that's based on Easthampton's number.

Attorney Seewald reminded the committee that in the event ranked-choice voting isn't selected, there is still a preliminary election flaw that will need to be addressed.

There was a brief conversation about making a recommendation to the city council and the mayor and could the recommendation also include that changes be implemented in phases so they don't have to happen all at once.

There was a conversation about other possible topics:

Sam Hopper mentioned term limits and proposed to the committee that removing the statement "candidate for re-election" after an incumbent's name on a ballot could help level the playing field and break down a barrier.

Mollie Fox liked the idea and stated that she would entertain continuing the discussion on term limits.

Chair Moulton stated that the committee could reopen a discussion on term limits at a future meeting.

- **Outreach to minority communities**

Chair Moulton explained that the committee has talked about inclusion and participation in running for office. He questioned what the committee could do to be more proactive to reach under-represented groups. He questioned whether the committee could hold a forum with translators. This is something for the committee to think about.

Patty Healey stated that she was late to the meeting and came in when Bill Newman was speaking on the balance of power and what it means to have a truly representative council. She would like to address this again and would like Bill to come back. She sensed there are differing opinions between Bill and Attorney Seewald.

Dylan Gaffney stated it would be beneficial to have the city council representative present for this conversation.

Chair Moulton stated that Bill will send the language to the mayor's office and the committee can continue to discuss it at the next meeting.

Chair Moulton added that at the May 21st meeting he would like to consider the summer schedule recognizing that people may have vacations planned. We need to look at what will work for June, July and August.

- **Adjourn**

**Robbie Sullivan moved to adjourn at 9:05pm. Mollie Fox seconded. The motion passed unanimously 8-0.**