

**Charter Review Committee
Tuesday, August 20, 2019, 6:30 p.m.
City Hall Hearing Room 18
210 Main St., Northampton, MA 01060**

Meeting Minutes

Present: Stan Moulton (ward 1), Robbie Sullivan (ward 2), Sam Hopper (ward 4), Bob Boulrice (ward 5), Patty Healey (ward 6), Mollie Fox (ward 7), Lyn Simmons, Chief of Staff (Executive Branch), Attorney Alan Seewald, City Solicitor (non-voting member)

Absent: Dylan Gaffney (ward 3), City Councilor Bill Dwight (Legislative Branch)

The meeting opened at 6:32 p.m.

1) Approval of minutes for July 16, 2019, meeting

Sam Hopper moved approval of the July 16, 2019, minutes as written. Lyn Simmons seconded. The motion passed unanimously 6-0-1 with Robbie Sullivan abstaining.

2) Discussion with D. Wesley Slate Jr., Beverly city clerk and secretary of the Massachusetts City Clerks Association

D. Wesley Slate Jr. was present to speak with the committee about the city clerk position (presentation attached). Mr. Slate gave a synopsis of the history of Beverly's form of government and experience with an appointed city clerk. Mr. Slate stated that Beverly's city clerk functions much like that of Northampton's city clerk. However, Beverly's city clerk is also the clerk of the city council. He stated that Massachusetts is trending towards appointed city clerks but each community has to do what works best for its structure of government. Mr. Slate stated that the clerk has historically been appointed by the city council because the idea was for the city council to have a full-time employee of its own in City Hall. Mr. Slate is a non-union employee and a department head but does not work for the mayor. Mr. Slate state there are six ward councilors and three at-large councilors. If something happens to the mayor, the city council president becomes acting mayor because it should be someone who ran city wide as opposed to someone who only ran for their ward.

Attorney Seewald asked how Mr. Slate handles nine different bosses and if he takes direction from all nine of them.

Mr. Slate stated that the city council president is typically the individual who he has the most dealings with and fortunately he doesn't have to take direction from all nine councilors because they usually have a discussion before any one councilor reaches out. He stated that it doesn't always work perfectly but mostly it works pretty well.

Chair Moulton asked if he ever felt mixed signals from different councilors.

Mr. Slate stated that some city councilors are easier to deal with than others.

Attorney Seewald asked how the mayor felt with having the city council appoint a department head.

Mr. Slate stated that the mayor is the executive authority and has control of everything else. The mayor was also the former city council president so he understands.

Chair Moulton asked if there are any suggestions Mr. Slate has for the committee in regards to switching the position.

Mr. Slate stated that the committee will need to determine if the mayor will make the appointment with confirmation by city council or if the appointment will be made solely by city council. He also stated that the city council should have an independent financial person.

Robbie Sullivan asked Mr. Slate about the political realities of the position.

Mr. Slate stated that city councilors in Beverly are elected on a two-year term with an election this year so there will soon be different people sitting at the table which will change the dynamic.

3) Public comment

Maria Tymoczko was present to explain to the committee that the city used to publish annual reports with statistics and data from each department. She stated that these reports would be very helpful and useful to current city councilors and for residents to know where their tax dollars are going.

Fred Zimnoch was present to explain that the city published annual reports from 1888 – 1987. He stated there is an immense amount of data in the reports and each department summarized, in detail, statistics from the prior year. For example, the city clerk detailed the number of dog licenses, the number of births, marriages and deaths; the police department detailed the number of arrests, the number of juvenile arrests, etc.; the health department detailed the number of communicable disease by the months, the number of vaccinations, etc. He furthered that some of this information is available but not all of it and not in the detail that the annual reports had. He stated that the annual reports were created by department heads for submission to the mayor and he questioned whether department heads are still reporting to the mayor. Mr. Zimnoch believes the information in the annual reports could be helpful in planning for the future by providing historic views. The information also shows what residents are getting for their tax dollars. Mr. Zimnoch stated that Forbes Library made a copy of the 1976 annual report available online and provided the committee with the URL:

<https://drive.google.com/drive/folders/1Lheggmq3pJtjTfx-25xdTsVITK-bAT8L>

Sam Hopper asked Mr. Zimnoch if he looks at the budget book each year because a lot of the information he mentioned is included in the budget.

Bob Boulrice stated that a lot of the information Mr. Zimnoch is looking for is available in various places between the annual budgets and the CAFR (comprehensive annual financial report). He furthered that

the city can't get a AAA bond rating without all this data being available for the public.

Lyn Simmons looked at the 1976 annual report and stated that it looks similar to the budget. She furthered that all department heads individually meet with the mayor, then submit a narrative for the budget book which includes information and statistics from the prior fiscal year, provides information for the future fiscal year along with each department's mission.

Sue Timberlake was present to speak to about the importance of the city clerk. She stated that the city clerk is one of the last important elected officials because the position acts as a referee and as a check and balance on various disagreements within the city and city branches i.e. saying whether an election was fair, saying whether papers were turned in on time, keeping track of days lawsuits were brought in, etc. She furthered that by keeping the city clerk an elected position, it is kept out of the political view of the legislative and the executive branches. She cautioned the committee about making the switch and advised them to think long and hard before making a final decision.

4) Updates from committee members

When the committee was discussing lowering the municipal voting age to 16, Robbie Sullivan reached out to Kate Todhunter, the Social Studies Department Chair at Northampton High School, to inquire about a civics course for students. Ms. Todhunter replied and Robbie read the email to the committee, "We are really excited about the changes to the history standards and the more deliberate inclusion of civics from kindergarten on. As far as an assessment from the state we are still in the air however which is impacting our approach at the high school level. For the most up to date information, therefore, I would recommend being in touch with Nancy Cheevers, our curricula coordinator for NPS. At least for the time being we in the history department will be incorporating civics projects and a new 9th grade required course on early US history building off of the 8th grade civics course."

Robbie Sullivan will reach out to Dr. Cheevers for more information.

5) Discussion with Wayne Feiden, Northampton Director Planning & Sustainability

Wayne Feiden was present to speak to the committee about the Re-Energizing Democracy report. Mr. Feiden stated that the sustainability piece of his department is defined by three words, environment, economy and equity. There are four components of equity that his department focuses on: distributional equity ("who gets the goodies, who gets the baddies") and environmental justice areas like prioritizing wheelchair ramps in underrepresented communities and making sure to share the "goodies" around the city; intergenerational equity i.e. environmental issues for future generations; structural equity which has played out in places like River Run when no one from that community came to lobby for sidewalks and in turn didn't get sidewalks, which was unintentional but happens; and procedural equity (how do we know we are getting people involved?) which the department spends a lot of effort increasing the percentage of people getting involved from underrepresented communities.

Wayne Feiden stated that there were three recommendations the planning department implemented from the report. The first, and most important, was that they knew they couldn't expect people to come to the planning department meetings, so the planning department had to go to their meetings. With such a small community there are not a lot of meetings to attend. Additionally, food and childcare has

been offered at meetings but it was resource intensive and underutilized. The second recommendation was getting people who already have a voice in the community to do direct outreach because people will listen to those that they trust. For example, if someone you know and trust calls you up and asks to attend a meeting... you are more likely to go. The third recommendation is to offer paid stipends to people to take part in focus groups. Wayne Feiden cautioned that this approach can be controversial because some individuals would be getting paid for government work and others wouldn't. This can work but only in specific cases.

Patty Healey asked how people are found for focus groups.

Wayne Feiden stated there are two ways of seeking key opinion leaders; identifying the people who other people listen to and by asking around by word of mouth.

Mollie Fox asked if the recommendations will be implemented and how they can be tracked to identify whether they have decreased barriers.

Wayne Feiden stated that the successes are not as good as he would have liked. The most successful piece is outreach for big-picture planning which affects a lot of departments. The challenging area is individual projects and who shows up for them, i.e. housing projects. Generally the people who show up to meetings relating to housing projects are nearby property owners. He furthered that the report wasn't developed as an action plan but was developed to give ideas to the city for moving forward. As a whole, the city has been successful at raising the profile but the specific list of recommendations is not anyone's specific action plan.

Mollie Fox asked how the equity piece can relate back to the charter.

Wayne Feiden stated that this is not necessarily a charter issue and that the charter doesn't want to get that deep into weeds. He stated that it needs to be a charge/approach that every department has when they are planning.

Chair Moulton asked if there is anything the charter could say that reflects the city's commitment to social equity.

Wayne Feiden stated that if there are whereas clauses in the charter, then something could be added.

Patty Healey asked if the city has a plan for development of facilities and/or grants for the homeless.

Wayne Feiden stated that the community development planner is finalizing a fair housing plan that is currently out for public comment and certain aspects of that plan is identifying how the city is reaching out to other communities, i.e. the homeless, Latino, etc. The city is also required to provide a consolidated action plan every five years to Housing and Urban Development which is a big picture of how CDBG funds are being spent. He furthered that the city has directly funded three shelters, which is more than most communities, and indirectly funded two shelters. Homelessness has been a big commitment for the last three mayors.

6) Report by Under-Represented Communities Subcommittee

Mollie Fox reported that the subcommittee talked about how they can apply their work to the charter. The subcommittee spoke about translating documents that are currently related to the business of the charter review committee, i.e. minutes and agendas, and translating the charter itself. Mollie and Patty are happy to participate in tabling and will disseminate translated information to different groups. The subcommittee is not sure what else can be done because of various limitations. Mollie asked Lyn Simmons for information about translation services and childcare.

Lyn Simmons stated that she will reach out to UMass translation services now that she has a better understanding of what the subcommittee would like translated. Lyn will share with the rest of the committee her research on translation services and childcare (attached). Lyn furthered that in her own experience of being a member of PTO, offering childcare has done absolutely nothing to increase participation which mimics what Wayne Feiden said. She furthered that offering childcare could get complicated and questioned how it could be written into the charter, who would administer something like this, the responsibility of taking care of other people's children, CORI checks, etc.

Mollie Fox asked if there is funding available to pay people to review the charter.

Lyn Simmons stated that the charter review committee does not have a budget and paying people to review the charter could be a procurement issue and the committee is quickly running out of time.

Patty Healey stated that this committee doesn't have the people power, the time or the budget but the translation is a reasonable accommodation that could be made. She furthered that the committee could think about publishing something in the newspaper in Spanish.

Sam Hopper stated that the committee can hold its meetings in different locations which is a simple change to implement.

Lyn Simmons stated the city's website is now equipped with Google translate except it doesn't extend to documents, external pages like the charter and the code book, or agendas and minutes. Lyn will inquire with General Code about adding the Google translate feature to the charter.

Mollie Fox asked about publicizing the committees meetings in the papers and asked whether the publications could be publicized in other languages.

Lyn Simmons mentioned a Spanish newspaper.

Dusty Christenson, a reporter from the Daily Hampshire Gazette was in the audience and stated there is a Spanish newspaper El Sol Latino, which is run by Manuel Frau Ramos, and they publish in English and Spanish.

Lyn Simmons stated that this is an important issue but because of timing, a recommendation could be added at the end of the committee's report that indicates the committee spent a lot of time on this topic and although it doesn't know exactly how it fits into the charter it believes it needs further

examination and there may be a better arena for the conversation. Perhaps the city council could identify a select committee focused on this topic.

The committee agreed and liked the idea.

The subcommittee will reach out to different groups about hosting meetings in different locations.

- 7) Further discussion and vote on proposals to extend conflict of interest to immediate family members in Article 3 (Executive Branch) Section 3-1 (Mayor: Qualifications; Term of Office; Compensation; Prohibitions) with added sentence: No immediate family member of the mayor shall hold a compensated city position; and Article 5 (Other Elected Officials) Section 5-4 (Superintendents of Smith's Agricultural School) with added sentence: No immediate family member of a Smith's Agricultural School superintendent shall hold another compensated position within the Smith Agricultural School Department.**

Sam Hopper moved to put this item on the floor for discussion. Lyn Simmons seconded.

Attorney Seewald reported that he had a long conversation with a lawyer at the State Ethics Commission who cautioned the committee in proceeding with the proposed amendments because they would be regulating the conduct of non-municipal employees and the Conflict of Interest law does not regulate the conduct of non-employees. Attorney Seewald is concerned about saying someone can't run for office because their immediate family member is an employee of the city because it could be viewed as interfering with their First Amendment equal protection due process rights. Attorney Seewald recommended amending the language and not going any further than prohibiting an immediate family from being hired by the city while their immediate family member is serving as a member of the governing board.

Attorney Seewald stated that there is no need for language prohibiting the mayor from hiring an immediate family member because there is no way that a mayor, who signs every "change of employee status" form can hire an immediate family member.

Patty Healey stated she heard from a former school committee member, a current school committee member and multiple others about these proposed provisions. She stated that the school committee members strongly disagreed with some of the information shared at the last meeting. These individuals said they spend very little time on the budget and school committee members discuss things like how to improve the quality of schools and what kind of programs should be implemented. These individuals stated they have a much broader role than just the budget. Patty continued that this year, there were six bargaining units working together which is part of the reason why school committee members had to recuse themselves. The individuals Patty spoke with felt that she was misinformed and they felt that school committee members should have been invited to discuss the topic.

Bob Boulrice stated he has been uncomfortable with the proposed provisions from the start. He said the committee has spent a long time talking about how to be more inclusive and these provisions would exclude a lot of people and diminish participation from very important positions.

Chair Moulton stated that the committee will not take any action on the provision for section 3-1 (executive branch) and the committee previously voted against the provision on section 2-3 (legislative branch). However, the committee should provide the school committee and the Smith Vocational trustees an opportunity to comment on the recommended provisions.

Patty Healey moved to rescind the vote on July 16, prohibiting an immediate family member of a school committee member from holding a compensated city position with the Northampton Public Schools school department, to be able to hear from school committee members. Bob Boulrice seconded.

Sam Hopper disagrees with certain school committee members who said there wasn't an impact by them not being able to participate in collective bargaining because she personally felt an impact. She also stated it is troubling to hear that certain school committee members think of the budget as a small part of their job.

Patty Healey stated she doesn't want to mischaracterize what was said to her and wants to hear from school committee members themselves. Patty asked Sam Hopper for clarification on the personal impact.

Sam Hopper stated that the full school committee wasn't at the table and her school committee representative was one of those individuals that had to completely recuse themselves. Two out of nine members recusing themselves is significant and the full complement of the schools weren't represented.

Lyn Simmons stated she would like to hear from the school committee members who were able to vote and hear what kind of an impact it had on them.

Chair Moulton will draft an email inviting school committee members and the Smith Vocational trustees to the September 3rd meeting to hear from them directly.

The motion to rescind the vote of July 16 passed 6-1 with Sam Hopper dissenting.

8) Further discussion and vote on revision to recommended changes in Article 3 (Executive Branch) Section 3-9 (Vacancy in Office of Mayor) (see Attachment1)

Attorney Seewald explained the attachment related to section 3-9. Part a) calls for the city council president to serve immediately as mayor if a vacancy in the office occurs, part b) calls for a special election to fill a vacancy until the next regular city election, part c) sets the procedural timeline for the special election, part d) spells out what happens if the vacancy occurs in the 16th, 17th, 18th, 40th, 41st or 42nd month of the term and part e) will spell out what happens if a mayor either did not run for re-election or was defeated and steps down before the mayor-elect is sworn in in January (months 47 and 48). Attorney Seewald proposed two options for the committee to decide on, if this scenario were to play out: the city council president would serve the remaining term OR the mayor-elect would be sworn-in immediately and serve the remaining mayoral term and the four-year term for which he or she was elected.

Bob Boulrice stated that part c requires nomination papers be made available within 7 days of the vacancy but part b doesn't require that the city council call for a special election within that time frame. The language reads, "if required; a special election shall be held within 90 days of the vacancy," but it doesn't indicate when. Bob questioned whether or not the city clerk can put out nomination papers for a special election if the city council hasn't called for it.

City Clerk Pam Powers stated that even with a normal municipal election, there is an election calendar that moves forward even if she doesn't have an order in hand.

Attorney Seewald stated that is the process for regular elections but not special elections. He furthered that the committee can require the city council president to immediately call an emergency meeting of the city council to issue an order for a special election.

Bob Boulrice stated it is important because the city council may be disinclined to have a new mayor fill the vacancy.

Chair Moulton suggested holding off on a vote until the September 3rd meeting. Attorney Seewald will add a clause requiring a time frame in which city council must call a special election.

Chair Moulton would also like to have a discussion at the next meeting about the goals and a road map for the last four months of the year.

9) Adjourn

Sam Hopper moved to adjourn the meeting at 9 p.m. Bob Boulrice seconded. The motion to adjourn passed unanimously.