

## Charter Commission Meeting

February 15, 2017, 7p.m., Council Chambers

Present: Josh Krintzman, Chair, Rhanna Kidwell, Vice-Chair, Bryan Barash, Jane Frantz, Howard Haywood, Anne Larner, Brooke Lipsitt, Karen Manning, Chris Steele

### Approval of Feb 1, 2017 Minutes:

The group will vote on these minutes Mar. 1 after the votes recorded have been verified. (bottom of page 4).

### Public Comment:

Nathaniel Lichtin, 53 Pinecrest Rd., recommends using the word “coerce” as part of Sec. 11-2(c) to mirror language in 11-2(b) because coercion should not be allowed in hiring and firing of elected officials either.

Article 9, Sec. 1: does not like the newly proposed language because it could potentially narrow the scope of what area councils can do, to act solely as a means of citizen engagement. Area councils also engage with residents who are not citizens, hold community events, and may do more in the future. This article is intentionally vague, and this should be the case for the Purpose as well.

Sec. 9-6: The first sentence is confusing. His proposed redraft: “The ordinances that establish the governance of neighborhood area councils shall include requirements for area council bylaws providing for their structure...”

Amy Wayne, 1616 Centre St., is against reducing the Council to 12 members. They are representing 90,000 residents and already have a lot of work. She can’t imagine having that work doubled. We need more people and a diversity of opinions. She would like to keep the ward councilors who get into the minutia of each village/area and it’s great to have a contact who knows what’s going on in each section rather than representing the entire city. She opposes term limits because they could force out good people. If people are not doing a good job, they will not be re-elected.

Sallee Lipshutz, 24 Radcliff Rd., Waban, wishes to comment on the preliminary report dated Mar. 5. She would like to have the downsizing of the council and composition changes broken into two points as part of the fourth paragraph, and for paragraph to capture three proposed objectives: City Council Size, City Council Composition, and Term limits.

In the Definitions section, “Councilor-by-ward” is a misleading definition. She would like two designations, “Councilor at-large” and “Councilor at-large by ward residency”.

Article 2(1) a: She recommends a council structure of 16 councilors, 8 elected at-large in each ward, and 8 elected in each ward only by the voters of the ward. Each voter would vote for only 9 councilors. This would provide voters with the smaller council they desire (as shown by vote for charter review) but maintain the directly elected ward councilors as champion of his/her ward’s needs and views. It would also reduce the number of voting choices from 12 all at-large to 9.

2(1) -d: Term limits for councilors are an arbitrary limitation to good government. With a reduced council size of 16, voters could remove underperforming councilors from office and keep elder statesmen with institutional knowledge “in order to keep the wheel from being reinvented”.

Term limits for the Mayor in Sec. 3-1 are also arbitrary and could prevent voters from keeping a qualified mayor in office.

Article 4, Sec. 4(1): Term limits for School Committee members are less arbitrary since parents of school children cycle through the system along with their children and fresh school system concerns may need to be addressed.

She objects to the Article 9 purpose as drafted. She emphasizes that neighborhood area councils are neighborhood representatives who are officially elected and operate under the Open Meeting Law. This is a fundamentally recognizable and laudable fact which should not be ignored in the definition of the purpose. The sentence should include wording about providing a means for area council deliberations, operating under Open Meeting Law, and allowing for citizen engagement and communications with elected neighborhood representatives.

#### Discussion of Charter Draft

Article 2, Sec. 4(a): The group agrees to remove the word “former” (second instance) in the first sentence. [Anne makes the motion, seconded by Chris. 9 in favor, 0 opposed.]

Article 2, Sec. 6(c): Brooke provided the comments to the draft marked “L” when she read the draft with copy-editing in mind. She noticed 2-6(c) is not consistent with 4-2(c) though they both focus on rules of procedure. They have the same content but are constructed differently, i.e. one refers to Chap. 30(a) and the other to the General Laws.

Anne has ideas for making the sections more parallel, but the Council and School Committee are different bodies so the sections can’t be exactly the same. She provides possible language (with extension) for Sec. 4-2(c): “The school committee shall establish and periodically update rules for its proceedings, *including setting the time and place of regular meetings, provisions for calling special needs, and provisions for providing adequate notice of meetings to members.*”

Josh points out a lot of this section in Article 4 was rewritten and much of the Article 2 section was left intact. The group agrees the sections should be looked at carefully and language should be made more consistent when the final report is submitted.

Discussion of Sec. 4-2 : Jane points out wording in the city council section: “the secretary, president and vice president serve at the pleasure of the council”.

Bryan, Anne, and the group agree that within [School Committee] 4-2(a), edit should be made: “...”The chair, vice chair and secretary shall serve at the pleasure of the school committee.”

The Group agrees Sec. 6-1 should be renamed “Reorganization Plans”.

Bryan raises whether “Administrative Departments” is still the appropriate title for this section. The group decides to leave it for now but will revisit.

Sec. 8-7: The group agrees to: “Every person who is elected, or appointed by the mayor, city council or school committee to an office, shall receive a certificate of the election or appointment from the city clerk.”

Anne raises that School Committee was not included originally.

Josh recalls school committee was [later] included because school committee does make appointments to boards and commissions.

Article 9-1: Brooke explains that the current language suggests area councils are “the means” (sole/only) of providing citizen engagement at the neighborhood level. Therefore, she suggests “The purpose of this article is to reaffirm the existence of Newton’s neighborhood area councils *which provide a means* for citizen engagement at the neighborhood level”.

Rhanna agrees this is an improvement.

Chris wishes to discuss whether we need to expand this section, given the comments made during the public comment period.

Jane asks Chris how she feels the current language could be restrictive.

Josh first confirms that the group’s acceptance to Brooke’s proposed language.

Chris still wants to ensure the group does not feel the language is restrictive.

Anne and Bryan do not view the language as restrictive.

Jane and Karen confirm they had envisioned this language as inclusive.

Sec. 9-6: The group accepts Nathaniel's suggestion [from Public Comment]: ““The ordinances that establish the governance of neighborhood area councils shall include requirements for area council bylaws providing for their structure...””

Bryan points out this would mirror the language in 9-2.

Chris raises whether to include language about Open Meeting Law.

Bryan responds this could change over time and Brooke raises we would need to refer in other sections. The group does not wish to include a reference.

Article 10: Josh explains that David Olson, Marilyn, and Tanya provided comments and approved the drafted language.

Brooke proposes the following changes: The last sentence in 10-2(a) is not needed. The word “certificate” should be changed to “certification” in 10-2(b).

Brooke tries to clarify the role of the city clerk vs. elections commission and wants to ensure the terms are used correctly.

Brooke wants (b) and (f) to be the same because the same function is referred to.

Josh proposes changing “city clerk” to “election commission” in 10-2(b).

Brooke sees this as a legal matter. Tanya will research the question.

Brooke suggests changing ...”whether the measure as proposed” to “whether the measure as submitted” in 10-2(b). Marilyn hesitates.

The group agrees to Bryan’s suggested edit:”whether the measure may lawfully be proposed”, eliminating “as proposed”.

Sec. 10-3: Brooke points out referendums are not required actions and would like to use “may” in 10-3(a).

Josh - The proposed language is permissive: “Within 20 days...*voters may file a petition protesting the measure or any part of the measure.*”

All edits to 10-3(b) are accepted by the group.

Tanya researched the state statute and confirms that election commission (instead of city clerk) should be used in 10-2(b).

Article 11, Sec. 2: The group discusses Nathaniel’s suggestion (from public comment) to use the word “coerce” as part of Sec. 11-2(c): “The city councilors, school committee members and members of multiple member bodies shall not seek to unduly influence or coerce the appointment or removal of any person to or from office...”. This would mirror language in 11-2(b):

Brooke does not think the edit is necessary.

Bryan sees the logic and makes a motion to include coerce in 11-2(c) as described above. Chris seconds.

Anne would like to discuss reasons for not including “coerce”.

Brooke does not see how an official could coerce another.

Others disagree.

The motion passes with 7 in favor: (Josh, Rhanna, Anne, Chris, Jane, Bryan, Karen) and 2 opposed (Brooke and Howard).

Uniform Procedures/11-12(d): A question is raised about whether to include “then in office”. Anne points out vacancies in multiple member bodies are a concern. Josh points out “then in office” keeps the bodies functioning.

Marilyn points out there are requirements by law for certain bodies. Tanya suggests the following edit: Quorum: “A majority of the members of an appointed multiple member body shall constitute a quorum *unless otherwise required by law.*”

Bryan -Reading the full paragraph helped him confirm the question pertains to procedural or advisory matters because “a majority of the full membership of the body shall be required to vote on any matter representing an exercise of the powers of the multiple member body”. He is comfortable adding “then in office” at the end.

1:00 audio

Brooke concludes she supports the change. She points out to Bryan there are carefully prescribed statutory limitations regarding executive session.

The group also agrees to including “then in office” at the end of 11-12(d) and to Tanya’s suggested edit (definition of Quorum) with unanimous consent.

Anne makes motion to accept the charter as corrected tonight [at the meeting].

Josh adds this would be the recommended draft of the charter to go into the preliminary report, confirmed by Anne.

Bryan seconds.

Brooke reiterates there are elements of the charter about which she is very unhappy. She still believes term limits are best imposed by the ballot box and does not believe neighborhood area councils should be enshrined in the charter just because they were in the last charter. However, on balance this proposal represents a significant improvement to the current government structure and will facilitate community participation (one of our stated goals). The proposal will hopefully pass and she intends to vote in support.

Bryan believes the group has worked well together. He agrees with Brooke that not everything in the charter reflects what would be included if he had done it himself. However, he thinks it is a better charter for having everyone’s input and he intends to vote “yes”.

Howard has been honored to work on the Commission. He struggled to come back after his illness but when he looked carefully at the research and the community input he felt a responsibility to continue. He is proud to have been part of the process. He supports the proposal. He does not agree with every part but agrees with the process and that it is an improvement to the current charter.

Jane agrees it has been an honor and pleasure to work with the group. Though each person does not agree on all the components, the totality as an improvement. She will vote “yes”.

9 are in favor of the motion. 0 are opposed. The motion passes.

Brooke thanks Marilyn and Tanya.

### Discussion of Report Draft

Please see the recap of the changes and content agreed to for the preliminary report.

Jane recaps the process. People asked for consistent verb tense, which Jane included. She changed numbers to standard rule. She confirmed with the head of the [NNHS] English dept. that the current rule is one space after a period. It’s a generational thing and either is ok as long as there is consistency. Double space will be used.

More substantial suggested edits are bolded within the draft.

Introduction:

In paragraph starting “In November 2015”, “functions of the municipal government” is changed to “functions of the city government”.

The group agrees to ‘At the outset of the review process, the Commission adopted three objectives *for improving Newton’s government*’.

The second bullet will read “Greater participation in city government”.

The third bullet will read “Better community understanding of Newton’s governmental structure”.

Jane incorporated the suggestion that “The Commission” and “We” be included less in the report, focusing more on decisions.

Bryan raises Sallee’s feedback to break out and highlight 3 changes to the charter in the introduction~ city council size, city council composition. He wishes to state for the record that he does not support a change. [Brooke later notes the sentence should read: “With these objectives in mind, the Commission proposes...”]

Jane agrees because there is greater detail in the Explanation section.

Explanation for Major Changes: The last sentence in the first paragraph is changed to “Adopting a smaller city council will increase accountability, responsiveness, and effectiveness.”

The group agrees to remove the date (March 5).

A discussion of formatting will follow.

There is a revision to the second paragraph under “Explanation”. It is changed to “Under this proposal, voters citywide would elect one councilor from each ward; the additional four councilors could live anywhere in the city and would be elected by voters citywide.”

The second sentence in paragraph starting “In considering an effective council composition” is edited to:

“Given Newton’s diversity, it is crucial for each ward to have a dedicated representative.”

Chris makes a motion to included the following edit, seconded by Rhanna. Josh confirms the language: “One councilor per ward is a customary practice for city councils with ward representatives. This practice avoids redundancy and duplication of effort”. Bryan makes a friendly amendment to ...”One councilor per ward is customary for city councils with ward representatives. This practice avoids redundancy and duplication of effort”.

8 are in favor: (Haywood, Kidwell, Lipsitt, Steele, Barash, Krintzman, Manning, Lerner). 1 is opposed. (Frantz). Motion passes.

The group agrees unanimously to Brooke’s proposal to use “structure” instead of “practice” in the second sentence.

Bryan makes a motion, seconded by Brooke, to remove “redundancy and” in second sentence.

Four are in favor: (Bryan, Brooke, Jane, Josh). Five are opposed: (Chris, Anne, Rhanna, Karen, Howard). The motion fails. The second sentence will still read: “This structure avoids redundancy and duplication of effort”.

Anne proposes edit (second sentence of the first bullet point) that the group accepts unanimously. It will read: “Maintaining the tradition of a majority of councilors being elected citywide was seen as important to preserving the sense of one city”.

Brooke raises whether we should include point that ward councilors are elected only by 3% of the city.

Rhanna makes a motion (Anne seconds) to change second sentence in bold to read: “When a ward has sole control over who serves in one seat, the ward has no voice in who serves in seven other seats”.

Bryan views the language as too negative and prefers stressing the positive.

There is unanimous consent to remove the second sentence.

The group agrees unanimously to a sentence Bryan and Rhanna think through and propose: “Voters have more influence over the actions of the council when they can vote for all councilors”.

The group discusses the third bullet point starting with “A common drawback”. The group agrees to first sentence: “A potential drawback of predominantly ward-elected bodies is that the councilors have incentive to put parochial problems before citywide concerns.”

The group discusses the second sentence.

2:08 Howard shares viewpoint that wards with neighborhood area councils would have an advantage over wards without them if we were to propose a model with councilors elected by ward.

Chris motions that the second sentence will read: “In cities with a majority of ward elected councilors, the ward councilors can vote as a bloc or trade votes”. Brooke seconds.

There is a question about whether to included the phrase “quid pro quo”.

6 are in favor (Chris, Josh, Jane, Howard, Anne, Brooke). 3 opposed (Bryan, Karen, Rhanna). The motion passes.

Changes to the following paragraph include:

Sentence 1: “In addition to ward-based seats, the *proposal includes* four seats in which councilors can live anywhere in the city and would be elected by voters citywide.”

Bryan proposes sentence 1.5: “Voters can choose their preferred representative for these seats without ward residency requirements”. (\*\*this sentence did not make it into the report).

Sentence 2: “All but two Massachusetts cities have some or all councilors elected this way and these councilors are challenged in almost every election”.

Sentence 3: “We anticipate the four councilors elected without a residency requirement would likely be challenged every two years. Therefore these councilors will be more accountable to voters.”

2:33 Discussion of Term limits:

The group looks at proposed language provided by Rhanna and Chris. The group starts with Rhanna’s draft due to a show of hands.

The word “power” is changed to “influence” in first sentence with unanimous consent.

Chris and Bryan emphasize the importance of the tone in the first paragraph.

Jane would not like to include the table.

The group discusses and agrees to a second sentence: “The power of incumbency, which may be strongest at the local level, often deters often deters new candidates from challenging officeholders”

There is a brief discussion of school committee turnover. (Brooke, Anne, Rhanna).

The group agrees to remove the term limits chart Rhanna provided.

There is discussion of the paragraph starting with “Elected bodies”. The group agrees to a first sentence of “Elected bodies benefit from a balance between institutional knowledge and fresh perspectives”,

The group agrees to remove the sentence: “Commissioners agreed that 15% turnover of seats every two years does not represent a healthy balance between incumbency and change.”

The last sentence will read: “The low level of turnover led a majority of commissioners to agree that term limit would benefit the city council”.

The paragraph starting with “Low turnover” is merged into the second paragraph (starting with “Elected bodies”).

Discussion of paragraph starting: “The charter concentrates significant powers and duties in the office of Mayor”.

Jane raises risks of personalizing. Bryan raises popularity of term limits at a national level.

Chris makes a motion (seconded by Bryan) to use this language as second sentence: “Three consecutive four-year terms (12 years) should allow a mayor ample opportunity to achieve long term goals while periodically providing for new leadership”.

Rhanna objects to not including why the change in leadership is a benefit.

7 are in favor (Howard, Josh, Anne, Brooke, Bryan, Chris, Jane). 1 Oppose (Rhanna). 1 abstains (Karen). The motion passes.

Brooke recommends and the group agrees to “reduces” vs “limits” and use of “could”:

“Another consideration for mayoral term limits is that term limits on the city council *reduce* the average tenure of the council which can weaken the council relative to a long-serving mayor”

“Placing term limits on the city council without placing term limits on the mayor *could* hurt the council’s ability to check the power of the mayor.”

Bryan recommends and the group agrees to remove: “Another consideration for mayoral term limits is that”.

The group agrees the final sentence should read: “Based on interviews and review of School Committee elections data, a majority of commissioners concluded that the current model has served our city well.”

There is discussion of sentences about the 3 four year terms of the mayor (in Chris and Rhanna’s drafts) and the point that the longer term for councilors is meant to check the power of the Mayor.



Josh reads back the paragraph:

“The charter concentrates significant powers and duties in the office of mayor. Three consecutive four-year terms (12 years) should allow a mayor ample opportunity to achieve long term goals will periodically providing for new leadership. Term limits on the city council reduce the average tenure of the council which can weaken the council relative to a long-serving mayor. Placing term limits on the city council without placing term limits on the mayor could hurt the council’s ability to check the power of the mayor. The Commission concluded it was important to balance the power of the mayor with the power of the council”.

Discussion of the Charter Review Process: The group agrees to “more than 30” meetings. The actual number will be included in the final report.

Discussion of Highlights of the Charter Proposal:

School Committee: The group agrees to “School committee responsibilities would be updated to reflect *substantive* changes in state law.”

Planning:

The group agrees to the following changes:

“The state mandated comprehensive plan that provides a planning and development roadmap for the city would be subject to a periodic review”.

“Under the new proposal, the plan would be reviewed within two years *after* the inauguration of a new mayor.”

“The reviews *are intended* to ensure that the comprehensive plan reflects the *current state* of the city and *provides direction forward*.”

“According to state law, the city council determines which legally authorized bodies shall be assigned special permit granting authority. As a result, this subject is not addressed in the proposed charter”.

Initiative, Petition, and Referendum:

Bryan makes a motion, and Chris seconds, for the description to read: “To support Newton’s tradition of facilitating residents’ right to petition their government, the proposed charter would updated the process in accordance with modern standards”

Bryan accepts Brooke’s friendly amendment to replace “facilitating” with “enabling”.

Seven (Josh, Howard, Anne, Karen, Bryan, Jane, Chris) are in favor and two (Rhanna and Brooke) are opposed. The motion passes.

Ten-Year Review of the City Charter:

The first sentence will read: ““To ensure that the charter is reviewed regularly, a charter review committee established by ordinance would conduct a review every 10 years.”

Brooke makes a motion and Rhanna seconds to phrase second sentence as follows: The committee’s final report and any proposed amendments would be submitted to the city council.” The motion passes 9-0.

Transition:

The group agrees to the following: “However, changes to the *size and composition* of the city council would be implemented with the election of 2019.”

Conclusion:

The group agrees to the following:

“The members of the Charter Commission have been honored to serve the City of Newton throughout this rigorous review process.”

“The election of a Charter Commission is a *rare* opportunity for a city to modernize and improve its government and we have devoted our best effort to this challenge.”

Brooke makes a motion to use “significant” instead of rare, seconded by Jane. 4 (Jane, Brooke, ) vote in favor and 5 (Rhanna, ) are opposed. The motion fails.

The second paragraph will start with: “We recognize that our proposed charter would bring significant change to Newton”.

The second sentence will read: “Our proposal is based on considerable research, thought, and deliberation.”

The third sentence will read: “We aimed to create a charter that will serve our city well for many years, and will allow for a more effective and responsive government as well as greater citizen engagement”.

[“newtonma.gov/charter”](http://newtonma.gov/charter) will be a hyperlink.

The group agrees to:

“We offer sincere thanks to Newton’s elected officials and city employees who participated in the charter review process”.

“Our charter proposal does not reflect on the way in which any current or former members of the city government have performed their duties.” (at the start of the third paragraph).

“The Commission members believe that Newton *is* fortunate to have so many dedicated public servants at every level”.

A final change: “We thank our charter specialists at the Collins Center for their patience, expertise, *participation in our meetings*, and research assistance”.

## Discussion of Charts and Preliminary Report Format

Signature page will not be included.

Jane passes out data that could be used for a graph to show that Newton is an outlier as far as city council size. A chart showcasing this data may be used for the final report.

Karen describes the charts she has drafted. The group agrees to include these two charts. She will make clarifying edits to the labelling of the second chart.

Jane will provide edits to Josh who will work with IT on formatting before sending to the printer on Friday.

The group looks at a mock-up of the report format and agrees to a cover and table of contents, which will be limited to one page.

A picture and “blurb” will be included behind the title page. The final page and the ballot graphic will hopefully be opposite each other when opening the booklet.

The booklet will be printed on 3/1 unless there is an unexpected twist. In that case, it would be printed 3/8. The group agrees to print a line “Please join us at our public hearing on Mar. 15” on the cover.

Brooke makes a motion in support of the preliminary report, with edits. Chris seconds. 9 in favor, 0 opposed.

The meeting adjourns 11:22p.m.

Documentation Used:

1. Agenda
2. Minutes
3. Clean Draft Charter
4. Explanation - Prelim. Report -JF
4. Preliminary Report Draft
5. Preliminary Report Draft w/Revisions
6. Preliminary Report Draft - RK Comments Term Limits and Conclusion
5. Graphs (KM)