

Charter Commission Meeting

April 12, 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.

Brooke moves approval of the Mar. 29 minutes. Chris seconds. The minutes are approved 9-0.

Public Comments

Jennifer Huntington thanks the Charter Commission for hard work and active listening which have resulted in the charter changes. She will vote “yes” for a new charter because she believes:

1. Smaller city council will improve accountability, accessibility, and efficiency.
2. Term limits will increase the likelihood that people will run for office. The School Committee has always had them, there has never been a lack of candidates, and it has helped the body to have a wide perspective.

Nancy Tenor, 23 Stafford Rd. is against the proposed removal of local ward representation. Though not a Newton native, when she moved here she was intrigued by the varied villages and neighborhoods with their distinct character and locally owned restaurants and businesses.

Since the proposal has become public, she has asked her neighbors for their thoughts and all but one have objected to removal of ward-based representation. Most object because they know their councilor who lives close by, whom they know from the dog park, neighborhood get-togethers, their going door-to-door, etc. They are concerned they will lose that connection if all candidates run at-large. Additionally, the candidates will not be able to learn about the concerns of their constituencies, since their constituencies will be the whole city. The door-to-door aspect is compromised- will be rare. During the last round an at-large candidate used a surrogate. This watered down the value of the door-to-door and kept people without a lot of money from running, forcing them to spend time raising money instead of meeting with voters. This is a harbinger of the future if all our councilors are elected at large. Only those with high levels of disposable income will be able to run, limiting the field of potential candidates, and we will lose representation for those who do not have high levels of income. (i.e. young families). This limits participation in electoral politics, weakening democracy. We should be looking to expand participation, not restrict it.

Many of our state level elected officials started at the local level and value the connections made there. We should be encouraging that route to higher office so the state reps. know their local communities, and can rely on those connections when they need support for state level issues. The virtue of local government is just that - it's local. Each neighborhood should be conscientiously represented and have a voice in the city council. There are many elitist voices which wish to restrict democracy. She is saddened to think Newton may join that chorus.

Kathleen Hobson - 128 Dorset Rd., Newton, reiterates what she sent in a letter to the Commission:

1. Process - She needs to vote for a charter that was decided through a process she can trust and be proud of. Until March 29, it was amazing and refreshing. Everything was open and transparent and everyone was well-informed.

All of the sudden the process broke down out of nowhere. It veered onto a track that was more motivated by fear of the charter not passing more than anything else.

2. Districts: There is a lot "TBD". We can't hand off creating districts to the Election Commission - it's the wrong body. There's not enough time before May 5 to do a proper job. The alternative is to return to the model you three times affirmed very strongly. That is what she thinks she can sell door-to-door. The model voted on on 3/29 would be hard if not impossible to sell.

Jack Prior, 57 Grove Hill Ave., Newtonville, is a member of "Newton Citizens for Local Representation" a group advocating for ward-elected representation. He thanks the Commission for their work and makes the following points:

1. We have 56 municipalities in MA with City Councils - Having 24 councilors is an outlier but what the Commission is proposing is an outlier too. Of the 56, 84% have ward elected representatives as a component of what they do. Only 14% are 100% at large. The number is 87% for smaller communities. Of those, 83% are "majority ward" - Newton is unusual to have the majority of councilors elected at-large. Nothing out there resembles the proposal - none use at large with residency. Certainly none use ward and district with residency at large in the country, he believes. He knows what we are trying to do, addressing some of the issues that have been raised. Also, none of these have 12 members - they're all odd. This puts Newton in a small minority of municipalities, with just 9 all at-large in the state. It's worse if you consider the rest. There are 296 towns, with town meetings and elections by precincts. With this factored in, 2.6% of MA communities are entirely at-large and some of those (in the country) are being challenged by the Voting Rights Act around Civil Rights issues. That might not happen here in Newton but it's not the example we want to set by going to that model.

Sallee Lipshutz, 24 Radcliffe Rd., raises a housekeeping issue. The maps of districts are difficult to discern. The Chairman clarifies that the maps are posted in color under Article 2.

She would like the letter she sent to the Commission earlier in the week on the record. The conclusion to the letter that there is time to reduce and reconfigure the city council by eliminating 1 at large councilor from each ward. Voters would breathe a sigh of relief and the charter would pass with an overwhelming acceptance rate.

Lois Levin, 97 Chestnut St., listened to the last meeting's tape and was shocked by the sudden revision. The memo handed out indicates that the decision at the last meeting requires a lot of work. It's not something you can just snap your fingers and do. Her main point is that she doesn't understand the idea that the ward alderman represents [residents] better than the others do. Most of those she calls are responsive and concerned. She calls the city DPW about a pothole. But if it's a concern about an issue she wants to discuss - it makes no difference if a councilor lives 2 or 20 blocks from her. Because someone is your neighbor so they represent you? We all love the villages... but the idea seems irrational. Why did you make a change, creating a chaotic reaction? It's not the end of the world, and most important is to reduce the ward aldermen. She doesn't need to see "ward aldermen" to feel represented. We are a unified city with common goals and accessibility to all our city councilors.

Councilor Deb Crossley, 26 Circuit Ave. is supportive of the Commission's work. She was surprised at the 5-4 vote that reflects a change of mind - going with a district model. There is not an inherent difference in responsiveness between a ward councilor and an at-large councilor. It's the person, and how the person views the job. If she is going to solve something, she needs to believe in it wholeheartedly. She will support the Commission's proposal no matter what, as she is supportive of downsizing to 12 members. This will help focus energies, work more closely together, get more done, etc.

The Council has been meeting more often in committees as a whole in order to be prepared to vote on issues.

If you believed as you did weeks ago that councilors elected at large with a residency requirement was the best model - you should put it forward. That's why we voted for you - that you would do your homework and deliberate as you have and come up with what you believe is best for Newton. If you have honestly changed your mind and believe the district model is the best model, you need to double the number of meetings you have between now and your 3 week deadline, because she thinks it's important that the Commission draws the first boundaries. There would be too much incentive for shenanigans if the Council does it. This is not derogatory, but there's a lot of tension around being included or not. It's not appropriate for the Election Commission to do it either. They are not a highly representative body.

Bryan describes a document he compiled. With the straw vote to go to a district model, he wanted to flush out advantages of a district model to help people understand what the Commission was weighing. The advantages of a district model from viewpoint of commissioners and feedback from the public: residency requirement, head to head races, geographic diversity, every race decided by majority rule, 50% + 1. Advantages of the pool include: no residency requirement so fewer restrictions on candidates, no head to head races (for those who do not want to run against a neighbor), allows for minority voices to be heard. (no 50% vote required).

If we go to districts, how do we put that into the charter? It's not as simple as saying we will have districts. Who is going to decide who the districts are? They can be drawn permanently by the Charter Commission (i.e. "district 1 will be wards 1&2") or temporarily through the transition document, the basis for the first election after the charter passes. It's not uncommon for a charter to do this, and then changes may be made by another body in the future. It could be given to another body such as at the City Council, Election Commission, or other. Concerns have been raised since the last meeting that the Election Commission would [not] be appropriate. It may be that the City Council has an up or down vote on district lines. He and Anne both drew up factors to consider. To him, this is a "King Solomon question".

He raises the question of whether it is fair to vote on a charter without seeing a map of the districts. Should politics be a consideration? The City Council currently has power over the redistricting process - we had it in a vote to give to the Election Commission. Questions have been raised. He believes there's a strong value to independently redistricting, but is that something we can do in the time left? Wards are drawn and accepted by the city council. District or not, it's a large topic for us to take on -however, the districts and wards should probably be drawn by the same body.

His document provides examples of 6 MA communities with districts, and how the districts can be drawn. Burlington VT has both wards and districts. We wouldn't be breaking new ground with any of the options, but there are a lot of options and factors to consider.

Anne - It seems from our conversation and debate that the purpose of our districts is different from everyone else's. Everyone else's districts are for voting purposes for a representative. You count one man,

one vote, # of inhabitants and try to get things lined up. Our purpose as articulated at last meeting is to ensure councilors are geographically dispersed and not concentrated in a neighborhood.

Therefore, in looking at the districts, is there opportunity to disperse more or is there more opportunity for concentration around a particular axis. 8 wards have a natural way to scatter across a large area. With 4 - they all come together at one point, so there is a dilemma of how they come together to make it more or less likely that there are concentrations of councilors in one place. If we're serious about wanting to disperse councilors, then we should talk about this.

She had raised the idea at the last meeting of assigning districting decisions to the Election Commission. This shows what can happen when there is an unexpected conversation and you are trying to think creatively and push things ahead, facing a deadline. She had thought they were impartial. In having conversations with the law dept. and doing research, she learned more about this body's purpose, etc. In Newton, it consists of 2 candidates from the Dem. party and 2 from Rep. party who do not represent the majority of Newton registered voters.

These districts are for the sole purpose of being used in local non-partisan elections, so why do we have members of these parties laying out our districts? She raises how these issues should be addressed, and whether we should have a vote about the Election Commission. She's willing to talk but wanted to put her intent forward.

Josh speaks about the document *What Could Districts Look Like?* Anne is right - most redistricting is done with an eye to who the population is and who the voters are going to be, protection of rights for voters. Nonetheless, there seem to be pretty instructive categories of criteria to follow, listed within the document. These include compliance with law, population equality, compactness, sense they should be contiguous. The districts he drew are as equal as possible, given the legal requirement to be within 5% of each other. Possible language within the charter might be - "Districts shall be comprised of 2 wards, perhaps contiguous wards, - a sense that they should not be bizarrely shaped" which comes from a line of Supreme Court cases, looking at voters' rights and redistricting. With options 1, 2, 3, 4, he used data from the 2010 Census, the data used for redistricting, drew the map to check they were logical and contiguous, and then added the point about being able to designate the districts. They did look reasonable. Options 2 and 3 are more based on N-S-E-W, and option 4 pairs 1/2, 3/4, 5/6, 7/8. He agrees that the body who draws the wards should draw the districts. He also takes the point that voters would want to know what the districts look like or could look like. Something should go into the transition about what the districts would be, perhaps until the City Council acted. He would also be open to saying these are the districts until the next census.

Bryan - Most charters create a starting point for the first election to provide certainty for the first election.

Jane's question is about when they would have the 2020 census information.

Brooke - I think we'd probably have it for the 2023 election.

Marilyn - I think for the 2021 election, by March or April 2021. So the decision would be for one election.

Josh - It could be for one election. The two factors are the census data but also who makes the decision. The transition provision would account for the timing of the census data.

Bryan - Having a temporary model leaves a safety valve. In earlier conversations with Collins Center, he learned that the districts act as a model going forward. If it goes well, it will set the precedent and likely

will be continued. However, this makes it so that if there needs to be a change, the change does not have to be to the charter. There is some other way to do it.

Josh - It may make sense to decide if we are determining districts, temporary districts, or assigning to another body.

Brooke - Given what we have learned in the last couple of weeks...we have an obligation to make the districts clear. There's agreement it is important to define them, and to try to make it clear through the transition section. The challenge is whether temporary - or do we assign in the body of the charter? Or make a temporary assignment with instructions that [the districts] should be revisited after every decennial census? If she thought we could be absolutely sure about a correct delineation, she would say, let's put it in the charter, and it can be amended if needed. There could be political mischief with redistricting, but that would only happen if it's not working. Ward lines are redrawn every 10 years, but really they are tweaked. The real question is who gets the job of affirming the decision that has been made in the transition section.

It has been raised since the last meeting whether the Election Commission is the appropriate body. She is not as disturbed as others that the 4 people represent two political parties. It's more important that they are an appointed independent relatively non-political body - not political in the sense that city elections are non partisan elections. However, can the Election Commission even undertake that or are we required to have the city council draw the ward lines, and therefore by extrapolation the district lines.

Marilyn - ..election law is governed by the state and the precinct is the building block of wards and districts [so quality of precincts is important in terms of the 5%]. [As far as who draws them], it was always her understanding that the clerk brought a proposal to the council with suggested ward lines based upon the decennial census and they could approve it. However, her understanding in Newton is that they actually do some of it, a model she hadn't seen.

Brooke - It doesn't matter who takes the first crack at it, but under the current system, whomever makes the proposal - it is adopted by the city council. Who does the work (counting voters, houses, etc.) is irrelevant - what matters is who makes the decision. Does it have to be the City Council?

Marilyn - You do have a different option here. You could create a commission to examine the issue of how to create districts and determine its membership in the charter for the initial election, but that doesn't get to Brooke's point that it should be in the charter.

Brooke - But after that initial time is the question. She had not known about a statute that ward lines get drawn by councils. Is that something we can override in the charter?

Marilyn - Election law is state law and it is uniform.

Brooke - We can't override. Whomever is making the recommendations—the vote has to be taken by the city council.

Josh - The City Council could modify or change any proposal.

Brooke - The City Council, no matter who made the recommendation, could redirect...they have to make the final decision.

Anne - She read in one of the memos (David Olson's) that the City of Cambridge used a home rule petition to assign drawing of ward and precinct lines to the Election Commission. There is a way to do it, though she doubts directly by charter.

Bryan - Home Rule Process is a way to amend the charter, but also sanction something that overrides state law for a municipality. Because of the complexity of doing this, we should consider Independent Redistricting, a home rule process through the city council. It's not something we can do within the charter in the next 3 weeks.

Josh - Anne, do you want to talk about who should be the body, I believe in Sec. 8-5?

Anne - It seems sensible to proceed with this body attempting to draw the first districts in the transition section of the charter. However...we have disappointed some of our audience in the past few weeks...we should not proceed without a public hearing and time for feedback. Any subsequent responsibility past the first election should lie with the City Council, though the Commission should consider parameters. The City Council has had issues in the past with "extending courtesies" [but] sometimes a spotlight shone upon an issue helps the issue correct itself. It's better to have a body in this post chosen by the electorate, which has public meetings, etc. over the Election Commission which does not have the gravitas that the Council has. Perception is important and the public should see this unfold and have access to audio and minutes promptly.

Karen agrees with Anne about a public hearing—and is concerned that the drawing of districts, something that has not been seen before, has been downplayed and is not a "minor change". However, if the information is provided for a week or two after [the hearing], how do we know people are going to look at that information? We've had information posted that people have been able to absorb for a year and a half, and it's been vetted, even by the MA Atty. General. [The hearing] doesn't seem adequate or responsible but it's better than nothing.

Howard has been listening to the conversation that we should go to districts, but we do not know who should create the districts. He doesn't know why anyone would think we are qualified to do that. Council members [themselves] have said this cannot be trusted in the hands of the Council. And there are doubts about the Election Commission, and whether they are legal to do it, and it is a political organization. We are trying to do something that none of us knows how to do in less than a month. We haven't had a public hearing.

We're supposed to hear without biases what the community has said, and he is not seeing strong support to make the change to districts. There has been support not to, or to keep the ward aldermen. The reasons other [municipalities] have districts do not apply to this city. Economically, racially, this city is spread out. What are we trying to do here? He doesn't get it.

Jane - The district idea is something she has supported for months and she spoke about it at length during the Aug/Sep. meeting. She had begun to hear from people outside of the meetings who do not send emails, that they were very uncomfortable with the model we had come up with. In the last 3 or 4 months, more and more people were approaching her with feedback that the at-large pool was problematic. They prefer one-to-one contests and were concerned about the concentration of representation in certain parts of the city. We'll never have completely spread out representation. There are certain wards where the 3 aldermen are within walking distance of each other. That is not something we can control, but we can control that certain parts of the city are over or under-represented. She has spoken of this for months. Since we've had our [Mar. 29] meeting, she's gone to a number of well attended events around the city. Many people approached her quietly to say they were relieved or pleased there would be equal representation or more importantly that there would not be a concentration of representation.

Karen - She understands that in the abstract, people may prefer the [district] proposal. Also, in fact, only about 3% of those who wrote in vocalized a preference for it. However, would people support it if they knew about the roadblocks to implementation? Or perhaps they would write in like some did with a condition - they'd support it if the districts were in the charter, or [another wrote] - if the Election Commission handled the districts, which may not even be legal. Liking something in the abstract and being able to do it responsibly is an important distinction. There is no perfect model, and not that many to choose from. There will always be something that gives people pause. Precedent is important and the pool has been embraced by over 50 MA communities. There must be something about them that works. When talking to other city clerks earlier in the process and even here in our own city, there wasn't alarm or reservation. Navigating a last minute change into uncharted waters seems dangerous. Sometimes there is a big difference between the abstract and reality.

Chris - Like Jane, months ago he had advocated for the district model. He believes strongly in concept of head-to-head choices and candidate vs. candidate. But he also (in his household or with cars) has broken a lot of things doing them in a rush. There's an old engineering rule, "If it sticks, force it, if it breaks, it needed replacing anyway". It feels like we are going down that road. We have to be able to establish those districts, at least for the transition/the first phase. We do not have time to do that in a thoughtful manner, and more importantly, with proper input from the public. That worries him. In addition, he is concerned about having enough dialogue about who would have the responsibility in the long term. We've brought people along with us for this process for almost 2 years, for better or worse, against us or not. And in the last 14 days, we have made a fairly significant fundamental change. He has mixed feelings because it's a decision he prefers we had come to earlier, with the head-to-head races and clear choice to the voters. But he's not so opposed to the concept of the pool to say going in this direction is better than having the public along with us for the long run.

Brooke - We have always been "iconoclasts" in this community - having 24 councilors when no one else has, our charter has neighborhood area councils or term limits when nobody else does. What we do that is like others or not depends on whose ox is being gored. Chris raises the central question. She likes the districts and has reviewed the meeting from 2 weeks ago and has read every argument she can find and heard from an amazing number of people coming out of the woodwork and picking up the phone, stopping her on the street to talk about this issue. Some are on one side and some on the other. As she talks to people, she's more and more comfortable with the district model. She shares the concern Chris and others have raised about the challenge of making rational, supportable decisions as far as the first iteration of districts. Her question to her colleagues: If we wanted to, is there enough time in our 3+ weeks to have a public hearing and deliberate over what we have heard and finish the report? If the answer is "no", we've made our decision about what we need to do. If there were a way, her preference [would be] to schedule the public hearing and meeting multiple times as needed- we have all been doing this for a year and a half. If there's no way to do that, we may need to abandon what she believes is the right decision.

Bryan hears Brooke's concern and agrees we need to schedule significant time to take this on. We'd need a public hearing, a meeting after that, and a meeting to discuss the final report at a minimum - perhaps two meetings in one week. We need to bear in mind we are going into a holiday weekend, and it's probably not appropriate to have a public hearing during school vacation week. That sets us back even further. It doesn't mean it's impossible but it would need to happen in a week or two weeks.

Jane - All these questions are important, but are short-term questions. We are talking about a charter that will last for the next 50 years. To say that we are not going to put in the work - she is certainly willing to over the next 3 weeks when this decision is so important for such a long period of time. It's not a matter of the 2021 election, though that is important. How we schedule these meetings is important. But we

always need to keep in mind that this charter if passed will most likely last for 50 years. For that reason, it is really important that we focus on making the right decision.

The report deadline is confirmed by the Collins Center as May 4, 2017. April 26th had been scheduled as at the last meeting before the final report.

Howard - Every time we meet, it's encouraging how everyone, if they support us or not, thanks us for our process, being transparent, making information available, etc. That changed 2 weeks ago, and what happened was not a minor change. We have now put the citizens in rush mode, which he thinks is unfair. Can they come out 3 or 4 times in one week even if we can? We broke from our process. People last week who didn't know we were going to vote had to wait until 10:30pm to make comments. We did them a disservice and he doesn't want to continue on based on that. Think of how long it takes to decide on lesser things, and this is critical. We can't all of the sudden get it done.

Bryan understands this a break from our regular process and is rushed. But this isn't our regular process, it's the end of the process. It's a statutorily defined timetable [which he lays out]. Supposedly this indicates we are supposed to consider the feedback we get re: the preliminary report and reflect before submitting a final report. Having been through this, we would recommend a timeline change to the state, but be that as it may, this is our process by law. The timeline is not compressed because we are not following the process, but precisely because we are.

Jane agrees with Bryan, and had concerns about the process even a year ago, and the timing of the public hearing— that we can't have a public hearing and not respond to it. Of the 35 people who spoke, we had 2 very disparate groups speaking of 2 different models, one who wanted the at-large pool and the other who wanted to retain ward councilors. The composition of the council was the issue of the night. She took away that she needed to know more. She does not count emails or put them in different piles. Whether you email her, call her, talk to her at the store, having coffee~ all of that is equal input to her. What she is seeing and is problematic with the composition, is that there is no consensus. There isn't one that people rally around and that makes it tough for us.

Karen - The emails we receive and the comments we hear are the only thing we have in common. We cannot know the nuances or context of [outside] conversations, so they are not valid data. When we hear the comments, the proposal opponents have made it very clear that they want ward representation, elected by ward, and the feedback has been that [the district proposal] does not satisfy those people. As for the timeline, we need to respond but also use judgment. Perhaps influential people liked the district proposal at the end, but they haven't done any of the real research about what it would take to do that, who are the bodies involved...so, let's make a motion to have someone draw the districts who's [perhaps] not even legally allowed to do it[?] Or let's say the Commission will do it, without knowing that the standard practice is to have a public hearing or several public hearings because redistricting is controversial and politically charged. It's a given with the state timeline that the Commissioners will use judgment.

Brooke hears what Karen says and Rhanna has spent a lot of time coming up with statistics and people's positions. [However] we are a representative body. That doesn't mean we need to put a finger in the air to see what the feeling of the constituency is, though we don't need to ignore it. And we don't need to count the comments we get via email, personal conversations, or editorials in the paper. We know that the total number of people we have heard from is a very small fraction of Newton's voting population, the people who will ultimately decide if we have made a wise recommendation or not. It is up to us to make the best choice we can put together and then let the voters decide if it will work or not. She's not uncomfortable with the fact that we are actually exercising our judgment. She's also not uncomfortable or surprised that addressing this issue after the public hearing has raised tension within the Commission. She returns to the practical question, and the next week being the holiday week doesn't make a difference. Most affected

may not be here, but we'd hear from some subset. She wants us to address the question of whether the 8 are willing to join her to sit down and having a public hearing and subsequent meetings as needed to decide what this should look like.

Anne is with Brooke in spirit, but there is a practical reality. People do have lives, and we have to have some consideration. She would not want a vote that did not have all or almost all of us there. Last school vacation, half the commissioners had gone places. We need to be respectful [of that]. She's with Brooke in spirit but the details need to be worked out.

Rhanna - A lot of the people following the process are school families and she would not be available. School vacation weeks have typically been public hearing blackout dates and we should stick with that.

She didn't count the comments to because we need to put our finger in the air. It was the idea being floated that we got a lot of feedback and we're responding, so she wanted to try to quantify the feedback we'd gotten. If we are going to discuss responding to it, we should agree on what it is. It has been hard as a member of this Commission - she hasn't been privy to feedback that people want the district model. We haven't gotten it through the official channels, and though she has gotten some (not a lot) of feedback outside of those channels, she hasn't heard support for the district model. She agrees we are representative and is responding to the idea others had put out.

Bryan agrees with Rhanna about school vacation and with Howard that the public should be able to follow our process. He would like to address concern that something is different or wildly out of place with the comments that have been made. We've heard a lot of people say they like an at-large model, a lot who have concerns that multiple councilors would be from the same place. The fact that we are trying to accommodate some of those concerns without giving anyone exactly what they want does not mean that what we are doing is not based on their feedback.

Josh thinks we should decide if we want to continue on with the model, and if so - who the district drawing body should be. If yes, then we should decide what the temporary districts would be, then schedule time for feedback and deliberation.

When he heard the proposal, he did not see it as radical. For 40+ years, we've had a charter requirement that somebody draw 8 wards regularly. In our proposal of 18 months, we've had it written that the city be divided into 8 wards, drawn by that body. A person from that territory, the ward, would be elected by the whole city. This proposal [reflects] there's a process we've had in place a long time and like and support - let's apply that process to the four remaining seats as well. We didn't say with the drawing of the wards that there had to be public hearings, that we didn't trust the district drawing body. None of these concerns were raised with the exact same process that applies to the drawing of the wards. He is surprised by the angst that was created with what he thought was a very minor tweak ensuring a geographic distribution of those seats. And it would be done as we have successfully with the drawing of the wards for a long time.

Josh - I think we should get a sense of who would like to continue with the districts by a show of hands.

Anne is willing to go down the [districts] path but would abort/jump off the wagon going down that path if we can't do a decent job in the amount of time we have.

Josh - He's heard a sense from commissioners that if we proceed down the path, that they'd like to schedule extra meetings to hear public feedback and for deliberations.

Howard - Have we heard that? If we take that vote, it is putting the cart before the horse, if we proceed with the districts before determining who is going to do this, how, and what the time frame is. Then

what's the sense of saying "let's continue"? All those things should be in place. It should be one motion that sets those things into action—doing it piecemeal is not good.

Josh - If proceeding, this is what he's heard: There's a propensity to let the city council be the permanent district drawing body, that we should let the Commission draw the temporary districts properly in the transition section, and that we should schedule a time for public feedback to that in addition to deliberation. Is there disagreement on any of those points?

Howard - Why do we think we can draw those temporary districts? I am not comfortable drawing districts. You haven't told me the criteria for drawing districts. Bryan says N/S/E/W - that's not good enough. Tell me how you can economically split up the city of Newton fairly. Tell me racially - where there are pockets of minorities that you want to protect. You cannot do that and even if you could - there is not enough time to do it. If we're going to go down this road, let's lay down the whole program and then vote.

I'm not opposed to the district model - but to the conduct of the last meeting, and I disagree with the process of getting to that motion so quickly. It's not the districts or not - it's how we do the business and we didn't do it properly.

Bryan - May I slightly modify the vote we were about to take? I think the vote should be whether we would prefer a district model.

Rhanna would like to finish the discussion before jumping into the motion. She draws out the timeline: As a public body, we probably should not meet on weekends, though she would be willing, but would not ask that of others who might want to attend. Without next week (vacation week) or weekends, she counts 7 days before we need to turn in the proposal. In that time, we need a vetted proposal, to take a straw vote on it, a public hearing, a vote based on the hearing, and to finalize the proposal and report. This sounds like a lot in a short amount of time.

Jane goes back to the point that we are making a charter that will last for potentially 50 years. She is reluctant to say that this is inconvenient as a reason for not following through on the process. The process was set out by state law, but the fact is this is the process, and she hates for us to make a decision that 10 years down the road will have people saying "They didn't take an extra two weeks?"

Rhanna - That argument goes both ways. Because the charter will last 50 years, she would hate to do something rushed and irresponsible that could blow up on us down the road. We're all can-do but we have had votes we have needed to walk back after realizing they wouldn't work. We've run out of time for that kind of self correction.

Josh - I'm hearing a desire to have more time and I'm willing to meet every night the week of April 24, 25, 26. I'd like someone to make a motion to see if we proceed - because everyone agrees if we go with the districts we'll need to meet a few times. We shouldn't try to schedule the meetings before we decide if we'll proceed.

Brooke - If you need a motion to do this, I'll make the motion. Let's schedule the meetings we need the week of the 24th to give a full and fair evaluation of the district proposal before we make a final decision.

Josh - So the motion is to schedule meetings the week of April 24 to see if we will go forward? Let me go back a little bit. I thought the desire was to actually put forward a finalized proposal for a public hearing, so we would need to keep deliberating tonight.

He clarifies with Brooke that the motion is to carry on with the district model with continued vetting of the district model through work at the current meeting, and to schedule meetings as needed for the week of April 24th.

Seconded by Jane.

Howard - Does this motion imply we had fully vetted last meeting when we voted on it? It implies to me that we didn't fully vet it last time.

Bryan - To me it implies that last meeting we took an initial vote, a straw vote, on a preference for districts that would require additional process that we're now continuing.

Howard - No one said anything about a straw vote last time. You guys have destroyed the credibility of this process - I don't care what you say. Ask the people in the audience what they think right now. You made a motion last week and voted 5-4 to go ahead with the districts. And now you're saying we have to do it again because we didn't fully vet it. What's different this time? Who's going to determine it's fully vetted? The same 5 votes?

Bryan - At the beginning of this process, we decided we would take votes on things that weren't unanimous. We also discussed at the end having a vote on the preliminary and final reports. As done in the past, there would be multiple votes at different inflection points in our discussions. With many of our votes, no one said the words "straw vote". Every vote we have taken has been conditional upon the next vote.

Howard disagrees and encourages Bryan to look back at the minutes. "Straw vote" was always stated. On November 17th we met and voted down the districts. So that was a straw vote? Let's be legitimate about this. We identify straw votes.

Jane - I remember when we took the vote and the word "straw" was left out. I did not say something to Josh. I regret it, Howard, but it was my understanding that every vote we take other than the final vote is a straw vote. That was a decision we made at the very beginning of this process.

Karen - It would have been helpful to have more information before the vote. The conversation would have been more constructive. There has been a lot of effort to get the information in the 2 weeks since then. You're discussing a public hearing...it takes a lot of effort to provide a transcript of what happens, easily a week or two to provide/report an accurate record of what happened for the public to review. She doesn't think it's responsible - there may be stronger words.

Brooke expresses gratitude for the effort to accurately record convoluted deliberations. She does not disagree with Howard's words about the process piece. She didn't know we were going to have that vote either. On the other hand, this discussion is an opportunity to reopen the subject. Whether it was a straw vote, was properly announced, whether we had the right materials, etc. at this point seems to be somewhat academic. Today we know more, have had more input from various members of our group and consultants, city staff, and input from the public. She's not at all afraid to move forward though we're in a place we probably should have been in 2 weeks ago. We're in a different place today and the meeting 2 weeks ago should not affect our moving forward. Are we willing and able to move forward? The public record will be important when the public makes its decision and will need data from our deliberations. We will be at the public hearing and take our own notes, Even if we were to go into deliberations right after...[having the record then] is less critical. That it takes a lot of time should not affect our own ability to focus.

Anne- I agree we need to look forward and leave some of the baggage behind. We should acknowledge that people saw this as a binding vote, whether or not perception, as is the concern we would have too many councilors in one place is a perception we should deal with. If we have outside meetings, we need outside help [for minutes].

Rhanna - Brooke made the point we should not stop arbitrarily, but she thinks we started arbitrarily. People had heard some feedback but we didn't have a consensus on starting down this path. We don't have consensus on the model and whether we have time to do the work responsibly. We're not a legislative body; a simple majority for us is not a positive or a win. You said not having a lot of time left should not interfere with our progress. What should interfere with our process is whether we have enough time to do this responsibly and get consensus around this model.

Jane - I'd like to point out the number of times we've returned to different concepts - i.e. term limits, neighborhood area councils. There are a number of areas that required an extreme amount of time. If we don't have consensus on this model, we also don't have consensus on the at-large model, which we need to own up to. We've always done a pretty good job of talking through and getting ourselves to a better place. It would be a mistake for us to assume that if one model is defeated, we are suddenly going to have consensus, because a year ago in April we had a unanimous vote. That was a straw vote we have revisited several times and we had strong arguments in favor of other models. I have never felt there are only 2 models. My only regret is that we didn't examine more. But here we sit. No matter what, we are going to have a split vote and it's in our best interest to carry on, to get to the best conclusion.

Howard - As I recall, our last vote was 7-2 in favor of the [previous] model. That doesn't sound very split to me. In terms of going forward, he always thought he would support what the majority wanted, but has second thoughts about that now because of the process. We went away from our process which hurt us within the group and with the public. If we take a vote tonight, is it another straw vote?

Josh recaps the motion.

Howard - Both the city clerk's office and legal department have indicated this could be complicated, so maybe we should discuss what they provided.

Josh - The way I read the memos and after my conversation with Ouida, [the conclusion is] that if the districts were comprised of 2 wards, they would work very well.

Howard - Is that what was said in the letter?

Jane - I have enormous respect for Ouida and she has been a terrific resource, and it was not part of her job to do that, and she has been more than generous. I have asked her questions expecting a [brief] answer and received a [lengthy] one. We may need to keep in mind that she is extremely thorough and may not give us information necessary in our decision making. David Olson is here tonight—

Josh asks David if he would like to weigh in. David states that his positions are captured in the memo. Josh summarizes that David's memo confirmed that creating districts did not pose a state elections law issue and that electing councilors by district would not be in conflict with state law.

Josh recaps the motion about continuing with the district model.

Rhanna- Jane points out we have 2 models without consensus. Where do we go from here? In that case we should go forward with the model that is complete and vetted, and not rush to accomplish something complicated in a short time for the model which has not yet been vetted and is highly political. Our

integrity will end up being questioned, that's a given. We could lose support. It's not a reason not to proceed if we all believe in it, but this is complicated and it does not seem ok to rush this. We've had to walk things back before, and we've run out of time to do that, as previously stated.

Anne has had been on the winning and losing side of a question. If on the losing side, she tries to move forward with the majority. That's the part of her that says if it's possible to move forward (which she would not know until moving forward). If wearing a management hat she asks, what else do we need to finish up here? How much time are the other pieces going to take? We're having this conversation as if this is the only thing we have to do. She's not sure about saying yes and later possibly "falling off the wagon" and losing time. It's a dilemma. She wants a package sellable to the community that reduces the size of the council and makes some sense. The proposal on the table is not her first choice, but often she does not have her first choice. That's not the issue right now. Can we do a good job with all the other pieces? There is a lot of other paper. It's like a no-win situation.

Josh recaps the motion about continuing with the district model during the meeting and during the week of April 24.

4 are in favor (Barash, Frantz, Lipsitt, Krintzman). 5 are opposed. (Haywood, Kidwell, Lerner, Manning, Steele). The motion fails.

Brooke makes a motion that we revert to the previous draft, (preliminary report). The motion is seconded by Bryan.

Bryan - I have said all along I would support either. The [districts] made the proposal slightly better from his point of view, but overall the proposal is very good. He seconds this hoping we can get back to the spirit we've had over the last 15 months.

Jane - I hope that will include respecting a "no vote". She is hearing not just from individuals but groups of people who do not support the proposal and she is concerned about it.

8 are in favor of the motion and 1 (Frantz) is opposed. The motion passes.

Discussion of Prohibition on holding compensated office for more than one year:

The group seeks to clarify in Sec. 2-14(a): "This provision shall not prohibit a former city employee or city officer from resuming the same position of a city officer or city employee at the conclusion of such service as a council member".

Marilyn spoke to the AG's office and their suggestion to our commission has shown up in other charter review letters. They are looking for the charter to "say what you mean". There are two concerns - when the opportunity is available, and lack of clarity for the city and individual. Currently a position is available "at the conclusion of service" and the previous charter had said: "conclusion of the term" which is a particular date and very clear. It's possible to engineer one's own conclusion to service - is this what we mean? There is a space where the office is vacant within the year. This currently says this person cannot apply for another job until out of office, out a year. What happens to the 11 mos. if that job is not available on the day someone leaves office? Is the person out of that position then or only if that job is available at the time of conclusion of service? Those are the issues. A couple of phrases are needed - you may choose not to [make changes], but that's the concern.

Josh points out that this language has been used. Marilyn explains there have been incidents, so the AG's office is very focused on it. Josh asks if Marilyn has specific language.

Brooke prefers “service” to “term” in (2.4(a)).

In the very last line, she moves to make the modification: “within one year of the conclusion of such service as a council member”. All in favor: 8. Karen stepped out. The motion passes.

There is brief additional discussion (i.e. about the concept of applying vs. taking a job) but no other changes are made.

School Building Review Committee:

Anne, Jane, and Karen consulted the legal department about concern over the drafting of Sec. 4-4. The three support the following proposal, which Anne explains to the group:

To delete from Section 4-4 New School Buildings the second sentence beginning “Upon receipt of the written communication....” And ending “... which shall include at least 1 member of the school committee.”

To add to Section 11-7 Construction of Public Facilities after the last sentence “Whenever a school project is reviewed, at least 1 member of the school committee shall be included as a voting member of the design review committee.”

The group unanimously agrees to the change.

Special Elections Blackout: Karen has outstanding questions and requests postponement of the discussion until next week.

Recall Provision: Bryan wishes to bring this up again. He thinks there was an interest in including a provision, but there was not a consensus to the approach. Our conversation occurred before the presidential election, which may have inspired some to want to revisit having a recall revision for the Mayor. He cites an example of troubles in Plymouth county. The provision would be something with a high bar.

Rhanna supported this in the past because the bar would be so high and she knows from collecting signatures that this would not be done frivolously. It would involve extreme circumstances, i.e. national news story. She thinks it would be a nice safeguard that would hopefully never be used.

Jane - In terms of this community, small groups take up causes and frequently collect signatures as an ongoing process that can cause turmoil. You might hear a recall has been started because someone voted against something, etc. She’s thinking more about the culture of Newton than the section she and Brooke as article leaders wrote.

Bryan moves to include a recall provision; Rhanna seconds.

Brooke offers a friendly amendment which Bryan accepts that this should be for Mayor because city council and school committee members’ terms are 2 years.

6 are in favor (Larner, Kidwell, Manning, Steele, Haywood, Barash). 2 opposed (Frantz, Krintzman). Brooke abstains. Bryan will refer to previous draft language from article leaders for next week’s discussion.

This discussion motivates Josh to ask the Commission to hold the week of Apr. 24 to meet as necessary to deliberate outstanding items and finalize the report. The group agrees.

Multiple Member Body Quorum Discussion (11-12(d))

(d) Quorum - A majority of the members of an appointed multiple member body then in office shall constitute a quorum, unless otherwise required by law. Unless some other provision is made by the multiple member body's own rules while a quorum is present, except on procedural matters, 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; provided, however that a vote to meet in "executive session" shall require a majority of members of the body then in office.

The issue is with the "otherwise required by law" and the number of members present. The group unanimously agrees to her suggested edit to move "unless otherwise required by law" to before the semicolon, and after "representing an exercise of the powers of the multiple member body,".

City employees on boards and commissions: Bryan does not recall the discussion point. There is no proposal for a change.

Josh and Brooke summarize/raise some of the points Ouida raised about special elections, including elimination of "forthwith", and that a Council vote cannot be taken on the same day (by charter) unless there is an emergency measure. Brooke would like to continue to stress our intent to make the election as early as possible.

Bryan raises whether "may" instead of "shall" should be used~ blackout is more relevant now because of our current population and may not be the case in 20-30 years.

Karen would like to confirm her questions and revisit next week. Josh will be include as part of the agenda.

Chris and Josh are handling the next draft of the report. Comments should be sent to them. Josh will oversee scheduling of meetings for week of Apr. 24.

Anne wishes to highlight that in her research of Newton's registered voters by party, she learned that there are 3 proud members of the city "Pizza Party".

Josh asks the Commissioners to hold 4/24 as the next meeting date.

The meeting adjourns at 10:40p.m.

Documentation used:

Agenda
Minutes
District Maps
District Research
Memo Legal Department
Memo City Clerk
Special Elections Blackout
School Buildings 4-4
Recall

Recall Provision Mayoral
Final Report Draft