

## Charter Commission Meeting

April 24, 2017, 7p.m., Room 205

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

Brooke moves approval of the April 12 minutes. Bryan seconds. The minutes are approved 8-0.

### Public Comments

Sallee Lipshutz, 24 Radcliffe Rd has a “housekeeping issue”. She is interested in having a list of all changes to the charter.

The Commission responds this is not compiled at this juncture, though there are track changes to each article. Sallee finds the tracked changes difficult to follow. The Commission will discuss further.

### Discussion of City Employees and Boards/Commissions

The group discusses whether there needs to be any change to this section. There had been a public comment on 3/29 about the role of city employees on citizen boards. The speaker had been confused by the wording in the charter proposal.

Brooke does not see the need to change the language; wants to avoid being restrictive to the point of overkill.

Rhanna supports discussion of the topic.

Karen reads the comment and the group decides to discuss.

Bryan and Jane believe the language covers main points and are not comfortable with the idea that a staff member could never be a voting member of a citizen group.

Rhanna starts putting together thoughts on language to propose.

Brooke understands the issue raised in the testimony pertained to the DPW presence on the Solid Waste Commission, and issues that arose. Someone who makes a policy decision may feel beholden to his/her supervisor. It's not a risk in every case. There's risk in being too constrained. She is comfortable with existing language.

Anne has been instructed by a Mayor how to vote. (Others have as well). It happens.

Bryan - Is it bad to have the Mayor's influence when someone is on a board representing the Mayor?

Rhanna - This is for a citizen oversight board.

Bryan - “Multiple Member Bodies” is much broader.

Brooke explains there are scenarios when that would cause no problems at all, i.e. someone who loves music wants to join the Cultural Commission.

Anne highlights Rhanna's previous point that a city employee is "always an employee of the Mayor, etc." so there is influence. Brooke recalls agreeing with this. Anne agrees "multiple member body" may be too broad. The public comment was about citizen committees.

Bryan - We have addressed that an employee cannot participate in capacity of citizen because of an inherent conflict. We're allowing for an employee to serve as staff in staff capacity on certain boards.

Rhanna - ...That person should not set the policy or have oversight.

Bryan makes the point there could be mixed composition to a board or commission.

Rhanna suggests using language that no city employee can have a seat designated for a citizen.

Brooke - ... maybe we can say "required by" instead of "allowed by".

Josh recalls people seeing benefit to city staff perspective, but there was agreement they should not dominate. This was what led to the "1/3 language" [about membership]. This served as a compromise of recognizing their importance and concerns.

Rhanna - A Mayor could change the enabling language for a commission allowing city employees to serve.

Bryan explains what happens with appointments on the state level with the goal of providing balance.

Rhanna - What if that is an oversight body for a state function?

Bryan - The governor typically may appoint a secretary or under-secretary. The idea is that various groups would have a third of the vote.

Brooke - We are talking about two different bodies. One is an arm of the administration taking on a specific task. This is not complicated; they could be all city employees. It's those with an advisory role that are complicated. If no employee is on the board, the members do what they need to in order to convey their message to the Mayor.

Bryan clarifies that we are not discussing ad-hoc committees.

Rhanna suggests including language that no city employee shall serve in a seat designated for a resident of the city.

Bryan and Brooke would not object, and Bryan suggests taking out the 1/3 clause.

Josh thinks this poses limitations, and also brings up whether conflict of interest doesn't address concerns.

Rhanna points out this would not be the case if a commission were designed to have city employees.

Brooke and Jane want to ensure there is a loophole to ensure this does not overstep - the staff often provides valuable expertise.

Rhanna - They are allowed to participate, just not take a seat designed for citizen oversight.

Rhanna's motion is to add the sentence: "Unless otherwise required by law, no city employee shall serve on a multiple member body in a seat designated for a resident of the city."

Anne seconds.

The group confirms enabling language is law if it is enacted by ordinance. Jane re-stresses the importance of the city staff perspective and working together. Rhanna recaps that this is only to keep an employee from sitting in a "citizen seat".

The group notes this would apply to teachers.

Karen points out that multiple people on our Commission indicated there were real concerns.

Howard notes the DPW presence on the Solid Waste Commission. Why would they volunteer to be on that Commission unless they had an agenda? Even if not true, the perception is there. There is further discussion among the group.

6 (Kidwell, Barash, Lipsitt, Larner, Haywood, Manning) are in favor of adding the sentence to the end of Sec. 3-3(f). 2 (Frantz, Krintzman) are opposed. Rhanna's motion carries.

The group agrees to remove "and such city employees shall not comprise more than 1/3 of the full membership of the board, commission, committee, or multiple member body".

Special Elections Blackout - 8-4

Karen reviews the discussion with legal about support for having a "blackout period" for special elections in July or August. In the past, special legislation (which was cumbersome) was needed to postpone an election. There are several points to discuss.

The group agrees to eliminate the reference to the 120 days notice of a special election in Sec. 3-10 because it is addressed in Sec. 8-4. This makes 3-10 parallel with City Council 2-5(a) and School Committee 4-6(a) which have no mention of the 120 days.

Karen recaps that the goal is to determine whether special elections should not be held in July or Aug, but first there are also smaller items to address.

Anne asks if this is just for Mayoral races or just all elections. Karen clarifies it is for all. Anne also points out that the special election is only held for Mayor, which she views as critical~ not so much for the councilors or school committee members.

Bryan - this doesn't include May/June or school breaks for instance. July and August seem singled out because many of our residents can leave [town] during that time...he has a hard time understanding how this is fair.

Rhanna - it is a ghost town in summer. It's not about an elite group. No one is here.

Karen overviews the recommendation from legal: a mayoral special election would be held within 100 days of calling the election, and the regular election 150 days after a vacancy [after calling]. The timeline should be extended because the special election cannot be called the same day the council meets after a vacancy.

Brooke agrees the council cannot and should not act the same day. An acting mayor steps up the same day if needed; the city does not go into chaos, is not an emergency. Some thought is needed on the decision. She agrees with Anne that we only need preliminary elections for Mayor. However, the timetable should be as short as is reasonable. We could say that if the election is going to fall within Jan and Aug., the date should be at the earliest possible date in September. The concept is fine - seems "nouveau riche" but Rhanna's point is valid.

Josh understands the points being made. Perhaps give the city should decide upon a date that is within 120 days after they have called the election (which is flexible) giving them the option to postpone past the July and August dates.

Brooke does not like giving the Council too much flexibility around timeframe for calling the election because things can get political.

Karen recaps the election timeline around Alderman Merrill's passing away on Jan. 25, 2013. The election was called Feb. 19, and the special election was held June 25, which was the same day as a Senate Special Election. The elections office considered this a reasonable timeline. The goal is to be reasonable.

The group wants to avoid having too many elections within a short timeframe, so it is important to be careful with the limitations and restrictions.

There is confirmation the blackout language would be for any election.

Brooke proposes starting point language: "If there is a vacancy in the time that requires a special election, the City Council will address the issue at its first meeting after the vacancy. They'll call an election within 120 days. However, if there is preliminary for the mayor, a special election will be called within 100 days, and the general election within 150 days. (30 days after)."

The group agrees to: "The city council shall at its next regular meeting introduce a measure calling for a special election to fill the vacancy and shall act within 30 days upon the measure." (for sections 2-5, 3-10, 4-6).

Also, for Sec. 8-4: "If there's a vacancy in the office of the mayor, the city council shall introduce a measure and the special election shall be called within 120 days, but if a preliminary election is required, it shall be called within 100 days and the general election shall take place within 150 days."

Brooke is concerned that 150 days is a long time without a mayor and would like there to be a values statement that the election should happen as early is reasonable.

The group does not proceed with that idea.

The question about whether to ensure no elections over July and August is discussed. Brooke finds the exclusion too prescriptive. Bryan thinks there are too many if-then's, rules and hoops.

The group confirms agreement to the timeline: 120 days for a special election; however, if there is a preliminary election for mayor, it would need to be scheduled within 100 days of the call, and the general election would need to be held within 150 days of the call.

The group supports language in 8-4 preventing any special election (Art. 2, 3, 4) from being scheduled in July or August.

Howard does not see process issues with the current system. Anne recaps the problems that unfolded when Mayor Mann died and a special act was needed to hold the election in September. It was very complicated.

Brooke recalls that politics played into the timeline.

Tanya raises initiatives and referendums.

Brooke - Those require 20% participation rate.

Rhanna - People can time those themselves.

Brooke - A referendum has to be 20 days within passing the legislation.

Bryan - City Council could schedule to avoid the participation.

Josh reminds everyone we are discussing July/August blackout and flipping the presumption of when a special act would be needed [in scheduling an election].

There is a show of hands re: including a blackout period in July/Aug: 5 are in favor (Kidwell, Manning, Frantz, Haywood, Lerner). 3 are opposed (Barash, Lipsitt, Krintzman).

Anne makes a motion to support Josh's proposed language: "No special election shall be held during the months of July and August. Any election that otherwise would be held in July or August will be held at the earliest possible September date recommended by the Election Commission". Rhanna seconds. 7 are in favor; Bryan opposes. The motion passes.

Brooke points out that with regard to a referendum, a matter is in suspension until a meeting is scheduled. A referendum is to support what the Council put forward, so the Council would want votes and there is not concern about the summer time frame.

For initiative, the initiators can control the timing; within 180 days. There isn't going to be any problem.

No additional changes are made.

#### Recall

Bryan recommends additional text possibly for Sec. 10-9. Brooke recommends placement between 10-4 and 10-5. Bryan questions whether this should go in Article 3, but the group agrees it should be Sec. 10-9.

The group agrees to entitling section 10-9 "Mayoral Recall".

Bryan would like to discuss the proposal; seconded by Jane.

Anne is not a fan of recall but Bryan's proposal provides a high bar. Jane had mentioned citizen shenanigans in Newton. It would take an extraordinary organizing effort to initiate this. It is reasonable and has enough safeguards in it that it won't easily be abused.

Bryan has this sense of it as well. He wouldn't be surprised if initially some affidavits were taken out but not accomplished and at some point people would see it's not worth the effort. But that's not a reason not to do it. The real lift is when you have to have an election.

Anne - We've seen mayors, governors nationwide who have done things - people would want a way to [react].

Jane could now support this because it could no longer be one section of the city that goes out and collects signatures. It needs to be a citywide concern.

Josh - It sounds like we have the workings of support and should fill in the numbers in the second paragraph [b of the document].

Bryan likes that there are 500 voters needed for the affidavit step- there needs to be 50 from each of the 8 wards. The second provision is that a minimum threshold # of 15% of city voters needs to be from each of the 8 wards, i.e. 5% or 500.

Bryan clarifies it's signers signing [starting affidavit] saying they want the recall. Then the 28 day window starts and [signatures of] 15% of the city's [registered voters] must be collected.

Rhanna - 10% is 840. Would 840 come from each ward?

Bryan - We could say 500 voters have to come from each ward or pick a percent.

Anne thinks a percentage is preferable because of the differences in registered voters ward-to-ward. You wouldn't want to penalize a low voting ward.

Rhanna -... 5% from Ward 8 would be "beyond impossible".

Anne - You'd want the percentage to be of the registered voters of the ward.

The group agrees to 5%.

Jane - this would need to be egregious to get this far.

Rhanna - 5% of 7000 voters would be 350 voters.

The reason for using percentage is to factor in wards with fewer registered voters.

Howard is not in favor of this. The bar is high, but the process can be damaging and hurtful even if it does not go through. It can also be damaging to someone's career. He does not have a problem with the egregious [behavior] part - only the other possibilities. Some of the comments made against the Mayor at hearings have been personal- - not for anything egregious.

Josh recaps the proposal.

Brooke will also argue against recall. The bar is so high - all it can do is damage to the individual, damage to the reputation of the city. This is "pure political theater" and is not realistic. If you really want to have recall available, don't make it so tough. She thinks it's a terrible idea. Replacement of elected officials should be at elections.

If you are going down the road, the document is not logical or thought out. For instance, the signatures will be certified by the city clerk - when?

Anne moves to table the topic.

Rhanna seconds.

Discussion: Karen had hoped that the provision would specify “for egregious behavior” and raises whether those who exhibit egregious behavior could be removed another way. (no answer).

Anne- It’s too layered to address this late in the game.

Bryan - We should make the time to get this right if it is the right thing to do.

Jane questions whether there had been a detailed draft previously. It’s confirmed that there had not been. She agrees with points Howard and Brooke made.

Rhanna - Not having a recall provision does not necessarily prevent efforts to somehow oust someone.

Tabling means the topic is dismissed until someone gets a majority vote to revisit.

4 are in favor of tabling. (Karen, Anne, Howard, Brooke)

2 are opposed. (Bryan and Rhanna)

Josh and Jane abstain.

The topic is tabled.

Discussion of Final Report

Jane points out the final report will be read by a wider audience and her proposed changes are intended to make it clearer.

The group will discuss Jane's and Karen/Rhanna’s proposed edits to “Explanation of Major Changes’.

The group agrees to the following text in red. Three bullet points will be defined with the subsequent draft (noted).

### Explanation of Major Changes

...Under the proposed charter, 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. Currently, Newton’s city council is made up of three representatives from each of the city’s eight wards. Two from each ward are elected by voters citywide, and one is elected by the voters of the home ward only.

The proposed charter retains ward-based councilors to recognize Newton’s economic and geographic diversity by ensuring that every ward has a voice on the city council.

(Note: the group discusses “ward-based” and whether this wording is misleading. Anne points out that this is the same as the School Committee. Bryan and Rhanna make the case that this appropriately used in this section, especially in the context of the wider report.)

One representative per ward is customary for city councils with ward representatives. This structure avoids redundancy and duplication of effort.

(note: The group agrees to wording with a goal of bullet points that are easy to understand and positive.)

In deciding whether these ward-based councilors should be elected citywide or only by the ward, we considered the following:

- \* Newton's tradition of having a majority of councilors elected citywide is important to preserve the sense of one city. Currently, two-thirds of our city council and our entire school committee are elected from the ward by voters citywide.

- \* Voters have more influence over the actions of the council when they can vote for all councilors.

- \* As a city of 18 square miles and 88,000 residents, issues such as traffic, safety, and economic development affect all residents, so councilors should be acting in the best interests of the whole city.

- \* City councilors that answer to all voters are the best way to ensure that our villages are uniformly supported and thoughtfully integrated in to the whole city. Newton is comprised of 13 villages of unique character that are a source of pride and enhanced sense of community for their residents. They create a beautiful and varied cityscape connected by Newton's common infrastructure. The villages vary dramatically in population and size and do not align with our voting wards or precincts.

- \* **BULLET ABOUT RACIAL MINORITIES**

(note: there is agreement we need to explain that the proposed charter would be conducive to the election of minorities and "minority voices". Language will be proposed at the next meeting to address these points.)

- \* **BULLET COMPARING TO SUCCESSFUL SCHOOL COMMITTEE MODEL**

(language to be proposed)

- \* **BULLET ABOUT SMALL NUMBER OF VOTERS ELECTING WARD ONLY**

(The group agrees to add this after discussion of the final paragraph. Language will be proposed invoking data as/if it would be helpful.)

We concluded that Newton would be best served if ward-based councilors were accountable to all voters.

In addition to the ward-based seats, the proposed charter includes four seats in which councilors can live anywhere in the city and would be elected by voters citywide. Voters can choose their preferred representatives for these four seats without ward residency constraints. These seats also offer residents an opportunity to run without challenging an effective ward-based councilor. All but two Massachusetts cities have some or all councilors elected this way and these councilors are challenged in almost every election.

(note: There is discussion in finalizing the language and whether statistics should be cited.)

The next meeting will be on 4/26 in the Council Chambers. Rhanna and Karen will circulate proposed language for the report.

Karen raises next steps – every household will get a copy of the report no later than 2 weeks prior to the election. The report is filed with the City Council. Tanya confirms that sometimes the commission presents to the city council.

The meeting adjourns at 9:50p.m.



Agenda

Minutes (4/12/17)

Draft Special Elections Blackout

Draft Recall Provision Mayor

Draft Charter

Draft Final Report

