

Meeting Minutes
Charter Commission Meeting
October 26, 2016 - Council Chambers

Present: Chair Josh Krintzman, Vice Chair Rhanna Kidwell,, Jane Frantz, Howard Haywood, Anne Larner, Brooke Lipsitt, Karen Manning, Chris Steele. Bryan Barash joins 5 minutes into the meeting.

The meeting opens at 7:05p.m.

Two edits are raised for the 10/19/16 minutes. Brooke makes a motion to approve the minutes as amended. Chris seconds. Motion passes: 9-0.

Public Comments

Sue Flicop, 145 Floral St., hopes the commission will consider not including area councils as part of the charter. Her concern has grown, and area councils elections are a particular concern. Having area councils run their own elections “does not pass the smell test” and holds these groups to “less exacting standards than that of other elected officials.” In short, they would behave just as other community non-profits.

She has reservations about special attention and support from the city, and provides a history of PTOs, and their formation as 501c3’s, separate from the city. PTOs provide communications, indemnify themselves, and still work with the city. She sees the area councils as wanting official political influence within the city above that of other community groups, which she cannot support. This promotes an inequitable system representation (now) or [eventually] city-wide representation that promotes parochialism and would exacerbate differences within the city. She sees the argument for “more engagement” through area councils, but does not see them as an improvement to our system.

Sallee Lipshutz, 24 Radcliffe Road, Waban makes recommends changes to the draft language of Article 9. She suggests modifications to the Purpose and Boundaries/Creation. She points out that the Elections section does not state that the area council elections will take place as part of the city’s electoral process, and she believes that the councilors need to be viewed as legitimate representatives of the neighborhood as a whole. This is an essential difference from neighborhood association formation, and critical to the perception of legitimacy which is linked to effectiveness. She recommends edits to 9-4: Powers and Duties. She does not support the concept of an “area council liaison” because interaction with a wide range of staff has been essential in expeditiously resolving issues. Prior to any straw votes, she would like us to reconsider re-including the language that neighborhood area councils are “legal entities of city government”.

Nathaniel Lichtin, 54 Pincrest Rd., wishes to respond to Sue. He cites OML and open records as a critical difference between area councils and neighborhood associations. This ensures a higher level of accountability and transparency. In exchange for the “hassle” of following these laws, area councils receive some additional recognition from the city, though anyone can advise the city.

Bob Burke, Dickerman Rd. states a main difference between neighborhood associations and area councils is area councils’ needing to account for everyone’s viewpoint during deliberations. Their work on the Historic District reflects needing to respect/reflect differing opinions, and the area councils’ work ensures a better outcome for this project.

Don Ross supports area councils. He is involved with Newton Highlands and Waban, and has watched them evolve over the years and does not see any problem. It’s a win-win. Other associations may form, and if an area wants a council, they may form one. There can be amendments to the article, but they should exist pretty much as they are. Elections issues can be worked out but should stay as municipal elections. He is concerned about low turnout if the elections are separate.

Article 9 Discussion

Jane recaps work-to-date. This includes researching area councils in MA and nation-wide, consulting with the Collins Center, and collecting public input. Public input included a panel discussion and public hearing focusing on Article 9. On October 4, we presented 3 options for the direction of the article: maintain status quo w/the article (with minimal revisions), make substantive revisions, or remove the article. The group agreed it would like to work on a significantly revised draft to review and consider. Josh has provided a draft based on the 10/19 straw votes that will be reviewed.

Deliberate 9-1: Title/Purpose

Rhanna recommends changing the first sentence to reaffirm the role of area councils. She prefers not to include the second sentence about advising the Mayor and City Council. That point can be captured in Sec. 9-4.

Anne suggests we somehow acknowledge that this is one of several types of neighborhood representation we value, and they all should have reasonable access to our city government.

Bryan agrees and supports Rhanna's proposed sentence. He has a point about statutory construction and would like a statement that the city council can create the area councils [before other sections].

Anne agreed with Sallee's point that area councils form in response to citizen initiation. She assumes the commission did not expect the City Council would create or "impose" them, but would approve them.

Bryan hesitates about this as a long-term strategy and brings up the question of boundaries.

Rhanna restates her suggested edit:

"The purpose of this article is to reaffirm Newton's neighborhood area councils and provide for their continued operations. NAC's are intended to encourage citizen engagement in government at at the neighborhood level and facilitate communications."

Anne likes this approach.

Josh brings up that something needs to capture that future councils may form as part of Rhanna's sentence: "and for formation of new area councils".

The Boundaries section is now being called "Boundaries and Creation". As it stands after our previous discussion, the City Council has full control of creation and the steps taken. This is the opportunity to include parameters in charter. Section A reflects comments Brooke had made and Section B are additional parameters Josh recommended when drafting.

Point is made that "Residents" (vs. voters) should be used.

Rhanna points out that the [minimum] parameters outlined in A could be problematic. She points out the Upper Falls council has 1000+ voters. The average precinct would have about 2700 voters.

What is outlined going forward does not necessarily impact what we have now. We'll need to discuss current area councils as part of our transition provisions.

Brooke points out (re: outer limit) that the goal was to ensure that there would not be a mega area council. This can deplete resources and have excessive influence.

Karen points out to Brooke that the benefit of what we have drafted is that the new framework can be more collaborative and reactive.

Chris interprets the proposal as a guideline for future councils, but Rhanna is still concerned about the minimum threshold, i.e. citing Thompsonville as an example of a council that could not form without annexing parts of other areas. She shares concerns about mega councils, but a large area dividing into a smaller area makes more sense than asking a smaller area to annex/expand to meet the minimum.

Jane describes attempt to form a very small council and brings up gerrymandering.

Anne suggests just putting in the maximum, since that has evoked the biggest concern. Re: minimum, hopefully the city council would responsibly act.

Brooke's concern was too many forming and demanding limited resources from the city. She prefers have a minimum size, but Rhanna points out there could still be a large number of area councils with the current proposed language.

Josh describes issues around equity, new vs. existing, overlap, required coverage vs. organic formation, and ward/precinct vs. village.

Brooke explains that ward/precinct guidelines seemed like the place to start [when she suggested the thresholds].

Rhanna points out that Josh's concerns would be addressed by ordinance.

Bryan wishes to step back once again to discuss authorization for city councils to create an ordinance for creation of area councils.

This would have a section called "Authorization", a new Sec. 9-2.

Rhanna prefers the word "formation". Jane refers back to "creation" from "creation from petition" within original charter. This seems more organic.

Karen points out the details of formation are currently outlined by ordinance.

Anne does not see the need to get bogged down in the details of formation but wants to stipulate that the residents take the initiative.

Jane describes a section that would detail petitioning within the charter. The group does not support detail, i.e. requiring the number of signatures, though Jane supports including the high standard (i.e. 20% signatures) for forming one.

Jane re-reads the first sentence: "A petition may be submitted to the city council requesting the establishment of an area council within a service area".

Bryan supports the word "may" and believes the city council should be able to create councils to allow for more balance throughout the city.

Rhanna prefers not including specifics but supports the uniform guidelines. She proposes: "The city council shall have the authority to approve citizen petitions for formation of neighborhood area councils." "The councils shall by ordinance establish..."

Josh tries to reconcile the first and second sentences. Bryan supports flexibility for city council forming area councils, but the group supports [by] citizen petition only, and that the section should stand on its own.

There is some further discussion on the enabling language.

Howard does not support this article's inclusion in the charter since so much is turned over to ordinance. Rhanna points out that this is now less detailed, but if we leave the article out altogether, then the city council is not required to act. The area councils have lobbied hard that we continue to provide for/maintain them. Howard thinks the language should be extremely basic.

Karen recaps how we decided to create a draft that strikes a balance and Josh points out that there will be a vote at the end of the discussion about whether or not to include the revised article.

Rhanna repropose: "The city council shall have the authority to approve citizen petitions for formation of neighborhood area councils."

Bryan's sentence will be 9.1.5 (as a placeholder): "The city council shall establish an ordinance governing neighborhood area councils"

This is updated to: “The city council shall establish by ordinance the governance of neighborhood area councils.”

Rhanna’s sentence about approving citizen petitions will be the first in the boundaries and creation section.

There is further discussion about precinct/ward based formation thresholds. Bryan has confidence city council will oversee properly. Brooke thinks it will be difficult to turn away petitioners. Karen hopes that there will be time to build a new framework that works, and suggests that we make the minimum formation requirement more general. Rhanna points out that recently a small Newton Centre area council did not form.

Brooke and Rhanna discuss villages (no boundaries) and village identity. Bryan points out we are being too precise.

The group decides not to include language for minimum size requirement.

Josh previews Paragraph B, which he has proposed based on others’ comments and research on [some] states’ “independent redistricting commissions” which have similar principles.

Howard believes we are trying to resolve a problem that is not ours. He sees this as a chance to remove a section that doesn’t belong. Other cities do not have area councils because they are political, and he opposes this dimension.

Karen points out that a point that Bryan raised about membership/composition did not get captured within the draft, but suggests it be included where bylaws are discussed in Sec. 9-5.

The group decides on i. and ii. from Paragraph B.

The next topic of deliberations is Elections. This still lies with the City Council. Typo is corrected so the sentence reads: “The city council shall establish, by ordinance, the manner in which the elections for neighborhood area councils will be conducted.”

The next discussion is Powers and Duties. Bryan suggests we use Sallee’s proposed language: “Neighborhood Area Councils shall provide advisory and communication functions and such other functions as prescribed by ordinance. All functions allowed by ordinance shall be allowed equally to all neighborhood area councils.” The group agrees.

1:25 audio

Chris raises concern that this does not open door for substantive authority but the group is comfortable.

Section 9-5 “Other Provisions” is discussed.

Karen re-proposes the edit in italics: “The ordinance establishing a neighborhood area council shall include the requirements for area council bylaws *providing for membership and the conduct of its business*, annual reporting, and financial records. Area councils will create by-laws providing for membership and the conduct of its business.” The rest stays the same.

There is discussion of “area council liaison”. Bryan explains the concept and reads draft language. Anne thinks managing relationships should be at the prerogative of the mayor does not belong in the charter. Some of the Commission’s ideas instead should be put in writing (to City Council and Mayor). Karen cites two paragraphs from Newton Highlands Board Resolution (re: consensus) which had been brought up and might be incorporated as part of a letter. This letter would be written later.

Chris leads discussion of Article 11 indemnification language. Another option (vs. Josh’s edits) is to not exclude them from the definition of the city agencies (Sec. 11-13). The group does not want to separate out the area councils.

Brooke opposes this. Josh wants to confirm ramifications. This currently includes boards, volunteer boards, and commissions. The group agrees to read through again and check/confirm with Ouida who had just written on the topic.

Josh discusses the implications of “city agency” status.

Brooke lists reasons she does not support area councils within the charter. She cites Collins research. 6-8 of the areas studied are part of a larger body and have city funding. Only Worcester has area councils but have not employed them. She does not think Ms. Lipshutz, Mr. Lichtin, and Mr. Burke have made persuasive arguments for

them (open meeting, public records, representing full range of opinions.). Area councils do not need to be city authorized institutions for this. Sue Flicop has highlighted that we do not indemnify or run the elections for PTOs, as important as they are. If we were starting from scratch today, would we have this article? If not in the charter now, we'd need to provide for the current area councils. Equity issues have been highlighted and we are complicating things with this extra layer of government.

Karen raises that removing from the charter may involve too much change, and make the commission look unsupportive of neighborhood level representation.

Brooke points out that with the article's removal, the [current] area councils could continue to exist, even with the same name.

1:45 Bryan thinks there is something important about having elections. Newtonville's last election did have contested spaces. We've heard from a lot of people supporting area councils, who find them helpful resolving problems. There are political and growing pains issues, but we should continue.

Chris stresses that the new language allows for more defined interactions with the city council. This allows for adjustments. This is flexible and can respond to events on the ground as they happen.

Jane agrees they should be in the charter and governed by ordinance. The framework is here for a long time if in the charter, but if things go awry, ordinances can be passed to address the issues. As far as equity, she views area councils as one of many ways advocacy groups, associations can become engaged within the city. Those who formed the area councils put forward tremendous energy. Even with the start up issues, she would not feel right about possibly disbanding four area councils. The new language allows for a "nimbleness" so the area councils can evolve to be better suited to the community.

Brooke does not understand why we are "enshrining" this one way of being engaged with the community. (vs. PTOs, etc.)

Bryan says he does not think the city council can establish an elected office without its being in the charter. Brooke does not like the idea of elections being handled by the city.

Josh is very closely aligned with Brooke. We value the work of area councils and they could be accounted for and continue operating within the transitional provisions. Does this belong? This does not simplify the ballot in these areas. This is our chance to start from scratch. It wouldn't mean we do not value area councils if the article is not included. It's a question of whether they are encouraged through the charter. He thinks it is a big mistake to include the article.

Rhanna brings up that we need to look at the transitional piece. Rhanna identifies with what Brooke has pointed out. However, we now have the area councils which have become part of the fabric of Newton. One has a long history, and many influential people have served on it, and there is community support, as Bryan pointed out. We need some mechanism to preserve what is good about them. She would be willing, however, to look at transitional language.

Bryan brings up equity concerns if the four were to continue on with no opportunity for others to form. So he does not support a transition provisions scenario providing for the four only.

Anne agrees with Bryan. There are ambivalent feelings about the area councils, but we appreciate the hard work and the service they have provided, even with the ups and downs. She brings up Brooke's previous point about too much change. She stands by [the ward councilor straw vote] and believes that preserving the area councils is an important counter balance to that other move. We should keep the option of having area councils.

If choosing between ward councilors and area councils, it would make more sense to Josh to keep the ward councilors. He notes we need to look at the transitional provisions, which would be worded similarly whether or not the article is included.

Bryan makes a motion that subject to [approving] the final draft, we would include an Article 9 [within the charter] based on what we discussed. Chris seconds. Six are in favor (Larner, Kidwell, Frantz, Steele, Barash, Manning). Three are opposed. (Brooke, Howard, Josh). The motion passes.

Article 6 Discussion

Bryan provides an update regarding modifications to Article 1 and Article 6 to meet concerns about Reorganization Planning. There was question about the term “city agencies” in this proposed, additional Article 1 definition:

“Organization plan” or “Reorganization Plan”: a plan submitted by the mayor to the council which proposes the abolition or consolidation of one or more **city agencies**, including the reassignment of functions from one agency to another, or the establishment of one or more new city agencies as deemed necessary to deliver one or more municipal services”.

Anne looked at the original article and realized that “city agencies” was used, so the proposed language would be consistent with what is currently there.

Anne recaps that in June 15, we had eliminated Sec. 6-1, which had enabled the city council to initiate a reorganization, which is no longer done. Councilors have not objected. In Sec. 6-3, the term “city agency” is used. Anne and Bryan have concluded that “city agency” is the term that should be used as part of the new definition. This should also be feasible, even for Boards and Commissions, and is not different from what happens now. This is alongside the change in Article 6: “The Mayor shall give notice to the city council of any organization or reorganization plan reasonably expected to affect the budget for the ensuing fiscal year no later than March 1”. Brooke moves that we adopt the new definition and March 1 deadline. Seconded by Bryan. 9 vote in favor and the motion passes.

Discussion of Article 10

Brooke and Jane worked with the Collins Center on this review. Brooke provides the walk-through, and explains that Article 10 allows the public to have impact on the government outside of the elections.

They do not propose a change to Sec. 10-1 (a): Individual, Discretionary Petitions.

They propose a change to Sec. 10-1 (b), regarding the number of signatures when a group brings forward a petition to the City Council or School Committee to adopt a measure. Currently the number is 50, and they are proposing 100.

Brooke notes that the statutes from the current version of the charter are outdated. Much of the content is part of uniform election laws across the state.

Currently all 50 of the first petitioners need to be mailed notice of the hearing. They are recommending only 10 petitioners require notice by mail.

Bryan raises the question of emailing notice, and Rhanna raises that mailing 48 hours before a hearing may not be enough time. The article leaders will revisit. Howard thinks this should be a hardcopy mailing.

The next Section for review is 10-2 (a): Citizen Initiative Measures. This occurs when the City Council [or School Committee] decides not to take action on an item, but the petitioning group wants to move forward. The article leaders are proposing 200 vs. 50 people (currently) would need to file a petition with the City Clerk. They are also recommending inclusion of a “Petitioners’ Committee”, so 10 instead of 1 person [currently required] would need to be responsible for the initiative, and receive official correspondence and public notification.

They do not recommend changes to 10-2(b) re: the City Solicitor’s Role.

In Sec. 10-2(c): Additional Signatures, the petitioners try to prove their rationale. They are recommending 10% of voters, or roughly 5400 or 5500 people would need to sign. They are proposing a change to 90 days (3 mos.), vs. 6 months (current charter). This is based on the idea that this is an urgent issue, and there will be a high level of motivation to receive the signatures.

There is discussion over whether there should be a change to 90 days. Bryan, Chris, and Rhanna do not immediately agree with this. Marilyn views this as practical and says that 3 months is now standard. Bryan emphasizes the work involved.

Karen brings up the topic of electronic petitions (and signatures).

Currently signatures collected this way are not valid in this context, but there may be a change down the road in state law.

Brooke proposes compromising signature gathering time limit to 120 days.

Rhanna highlights difference between failing to get signatures because of loss of interest over time vs. running out of time.

Brooke brings up time consuming next steps of a City Council or School Committee vote after signature verification, making the process longer.

Rhanna highlights constraints if signature gathering takes place during winter months, for instance. Jane thinks people are more likely to engage quickly if topics are more urgent. Bryan and Rhanna, however, have seen that educating people can take time.

Marilyn supports the shorter time frame. Jane has had success getting thousands of signatures in short time frame (for NNHS).

The Commission stays with 180 days. Bryan clarifies the City Solicitor's role, to determine if the question is suitable for the ballot within 15 days.

Brooke describes the next step(s) if the School Committee or City Council does not support the initiative as filed. In this case, another 5% of [new] signatures must be collected within 45 days (*in charter now.)-- then the initiative goes to ballot. This is based on state initiative language/premise, but this process is less prolonged than the state process. The additional signatures provide further "proof" of support, for a total of 15% voter support.

Jane points out this reflects a range of voters. Marilyn points out that this is a guideline over time.

The next topic is Sec. 10-2 (f) Scheduling of Elections.

Currently, the issues are addressed at the next regular election, with an option to call a special election [within 120 days]. Brooke notes City Council has not approved, so they are not motivated to move quickly. Article leaders are proposing that the special election be the default position. This is to reflect urgency and to deal with the issue promptly. They are suggesting a special election within 90 days, unless there is a city election scheduled within 120 days. Rhanna suggests something longer than 120 days. Bryan unsure why we would go around the city council's process. Rhanna and Bryan concerned about expense and lack of voter participation w/special elections. (note: there is a voter turnout requirement for the measure to pass).

The concern is if the issue were to be pushed off almost 2 years, in some cases. Special elections cannot be held during municipal election years [without approaching the state].

Josh supports changing to 180 days.

Article leaders do not recommend changes to the rest Sec. of 10-2.

Sec. 10-3 outlines the referendum procedure which has not changed~ signatures from 5% of the voters is what is required to put a referendum on the ballot. Collins pointed out that other charters have a 10 or 15% requirement, but article leaders believe that 2700 voters (5%) along with other preparations is adequately demanding. Rhanna thinks that 20 days is limiting, if reacting to the City Council in January, for instance. Bryan points out that a petition is a fall back if this isn't accomplished.

Brooke points out 10-3(a) points out election timing is different from initiative petitions. She cites: "...a special election, which it may call at its convenience, or within such time as may be requested by the school committee, or at the next regular city election, but pending such such submission and determination, the effect of such measure shall continue to be suspended". This is more flexible.

Sec. 10-3(b) is process oriented, and no changes are recommended.

Brooke mentions a possible edit to 10-3 (d), "Time of Taking Effect" but the group suggests leaving "as is".

Article leaders recommend no substantive changes for Section 10-4: Ineligible Measures.

2:44 Audio

Section 10-5 is brand new, and introduces a voter participation requirement (20% of registered voters at the time of the previous regular municipal election), reflected in most charters now. Bryan proposes these votes should take place with municipal elections, but Brooke points out two years may be too long to wait.

No changes are recommended for 10-6: Conflicting Provisions.

Section 10-7 allows for non-binding public opinion advisory questions as part of elections due to Chapter 127 of the Acts of 2014: "An Act Authorizing the City of Newton to Place an Advisory Question on the Ballot".

Section 10-8 is about Mayoral Veto in response to initiative petition or referendum. This language is not included in current charters, though the mayor can still veto. This [section] is relevant when signature gatherers and legislators are "on the same page" re: an initiative petition, and the mayor vetoes this. Next, the question would go to the ballot/voters.

For a referendum, the mayor may veto the City Council's withdrawal of a measure. Next, the item would go to the ballot/voters.

2:50 audio

The article leaders propose eliminating the Mayor's veto (initiative petition or referendum), so the Council has final say. They don't support that an item which has had agreement between petitioners and city council needs to be turned over to voters.

Bryan has concerns about workarounds. He is concerned that the majority of councilors could override the Mayor's veto, when only 10% of city signatures have been collected. This could be problematic with contentious issues, such as development issues.

Rhanna does not foresee that this is how the city council would legislate.

Second water meters and size of the council are examples of issues that could not garner enough support for extensive periods, possibly causing this to play out.

Everyone would like to look at a draft without the veto language. Language should be included in Article 3 [re: initiative petitions and referendums], because Article 3 outlines items not subject to veto.

Overall, there is not much concern. Brooke points out that to her understanding, a mayoral veto has not occurred in this case in Newton.

Article leaders suggest removing Section in Article 11-7 about General Meetings of Voters because it is duplicative.

Recall: In MA, data shows that a recall provision in charters is about 50-50%. Jane and Brooke recommend not having recall elections because if there is disapproval of an action, it can be handled via initiative petition or referendum. The exception would be for those who have been convicted of a felony. (language from Pittsfield Charter provided.)

Rhanna and Bryan point out other examples that might warrant a recall (i.e. prosecution), reflecting someone is unfit to serve. Rhanna supports stringent measures as a backstop protection for citizens. Brooke has concerns that people could be railroaded. Rhanna believes people would not sign the petition except in extreme cases.

Josh prefers a stringent recall provision to a removal provision.

The question is whether this would apply to the mayor and city councilors. Provisions for city councilors may not make as much sense because of the shorter terms. Article leaders will draft language for including the recall provision.

Josh makes a motion to accept Article 10 draft with proposed changes.. Anne seconds. Bryan asks Josh to withdraw the motion. Josh does not withdraw the motion.

The motion passes with 5 in favor (Lipsitt, Frantz, Kidwell, Krintzman, Larner). 2 are opposed (Steele, Barash). 1 abstains: (Manning).

Meeting adjourns at 10:07 p.m.

Documentation used:

[Agenda](#)

[Draft: 10/19/16 Minutes](#)

[Article 9 Draft \(for 10/26/16\)](#)

[Area Council Liaison Definition Draft](#)

[Indemnity for NAC's \(Article 11\)](#)

[Article 10 Draft \(Oct. 13, 2016\)](#)

[Article 10 Discussion Guide \(Oct. 13, 2016\)](#)

[Collins Memo: Article 10 Background \(June 30, 2016\)](#)

[Article 11 Section 7](#)

[Recall Provisions in Mayor-Council Cities](#)