

Minutes
Charter Commission Meeting
July 7
7:00 pm

Attending: Steve Brinn, Ann Goggin, Jean Gulliver, Bill Lunt, Peggy McGehee, Tim O'Donovan, Richard Olson, David Snow, Stephen Walker; Nathan Poore, Amy Lamontagne.

Sally Pierce administered the oath of office to Commissioners, Goggin, Gulliver, and O'Donovan.

Nathan opened the meeting. Commissioners introduced themselves.

- I. Election of Chair: Nominees were Richard Olson and Bill Lunt. Vote was 5-3, with one abstention. Richard Olson was elected chair.
- II. Election of Vice-Chair: Bill Lunt was unanimously elected Vice-Chair.
- III. Election of Secretary: Ann Goggin was unanimously elected Secretary. Commission requested that a tape recorder be provided for taping of future meetings.
- IV. Meeting Schedule: To understand its meeting schedule, there was a discussion of which election the Commission wants to target for getting its recommendations to the voters: November 2008, June 2009, or November 2009. There is a statutory requirement that, for the vote on charter changes to be valid, 30% of the voters in the last gubernatorial election must go to the polls and be checked as voting.

Peggy noted that as she read through it, she concluded both that we might not get all the issues addressed in time for November 2008, but that there are some sections of the Charter which are at odds with state law, and perhaps those should be addressed right away. Bill Lunt said he did not feel that we could report back to the Council and the public in time for a November 2008 vote and do justice to the charge. Discussion of how we address school consolidation, change in school budget process.

The Commission decided it needed to go around the table and get out on the table identification of issues that each member might wish to discuss:

- a. Nathan:
 - i. Section 204.12: requirements for sale of real or personal property. Ex: Does trading in a police cruiser requiring following this process?
 - ii. Section 302.1: uncomfortable with reference to town manager being able to remove "town officers". To him that implies that the town manager can remove town councilors. Need to clarify definition of town officers or perhaps change word to "officials."
 - iii. Section 903: Finance director and Nathan would like to see the \$400,000 / \$200,00 limits doubled, or even take the \$400,000 to an even \$1 million.

- iv. Section 903.2: Would like to see it clarified that soft costs associated with land acquisition costs are excluded from the limits. Had an issue with public safety building, had to seek a legal opinion.

[Peggy McGehee requested that the Commission be provided with the Charter in Word format so that each member can redline their proposed changes and/or flag their issues. Amy said she would see to that.]

- b. Tim:
 - i. Agrees that we should look at raising the limits which requires going to town referendum.
- c. Stephen (Walker):
 - i. Concerned about Peggy's remark that existing charter might be at odds with state statute, and asked who resolved if it was in conflict. Peggy said there is a statutory construction that the court would try to interpret in such a way that it was not in conflict.
- d. Ann:
 - i. Concerned about write in candidates. Perhaps we should have a minimum number of write-in candidates required to fill an elected office.
 - ii. Agrees that we need to look at raising the limits which require an expenditure to go to the voters.
 - iii. Would like Commission to discuss a statement that it is the intent of the town to be a sustainable community. Steve asked what that meant, Ann replied not sure exactly, but would like to pursue concept if we do not race for a November 2008 ballot with the final report. Will think through more and get back to the group.
- e. Bill:
 - i. No particular issues. Wants to listen and learn about others concerns.
 - ii. Agrees that \$\$ figures requiring expenditures to go to voters is out of whack with current costs. Would likely want to see us keep petition hurdle low.
- f. David:
 - i. 17 years in Yarmouth, was on the Cumberland Charter Commission, his brother Roger was on the prior Falmouth Charter Commission.
 - ii. Wants to be sure Town Manager has sufficient authority to discharge employees (gave example of Cumberland police chief).
 - iii. Not sure public forum at Council meetings is sufficient for public input, would like to discuss a town meeting for Falmouth. [Bill Lunt pointed out that Falmouth retained its town meeting for a few years as part of transitioning towards a true town council form of government.]
- g. Richard:

- i. Concerned about personnel issues. Not sure we have sufficient rules for dealing with problematic members of town committees, and ability of town council to weigh in on selection/performance of department heads. Gigantic source of liability for the town, and council powerless to impact. Sometime it might be difficult for the town manager to deal with. Charter ought to provide a mechanism.
 - ii. More public input on budget side.
 - iii. Wants to be sure we have sufficient anti-fraud, embezzlement protections in town. Seems to be a mini-epidemic in the state at the town level of financial embezzlement. Is the charter (and/or town processes) as up to date in these areas as it should be? Bill Lunt and Richard noted that when they were council chairs they reviewed all checks cut, but Richard said that might not be sufficient to keep up with the crooks. Nathan said perhaps we could beef up the language in the Charter in this area. Amy noted that with the MUNIS system, an employee can't just cut a check, there are protections built in. Peggy suggested we could add this to the list of enumeration of powers.
- h. Jean:
 - i. No specific issues, does have some information requests:
 - 1. Input from the town attorney on whether he has identified any issues with the charter, given his long experience with the town.
 - 2. Would like to hear from town attorney or MMA on what's happening in other towns with respect to charters; notes discussions going on all over the state.
 - ii. Look at charter with an eye to potential collaboration / consolidation with other communities. Would like to be sure charter doesn't constrain this.
- i. Steve (Brinn):
 - i. Wants to be sure town manager authority vis a vis town council is clear.
 - ii. Noted that town clerk would like to add to list of issues moving town election from June to November.
- j. Peggy:
 - i. Section 204.1: description in the Charter about what the planning board does is not accurate. . The Charter description really describes what town's Long Range Planning Committee (LPAC) does. State statute defines ZBA but not planning board. Consider defining role of LPAC in charter.
 - ii. Charter reference to "caucus" nominees is an anachronism; what we really have is enrolled and un-enrolled voters. Deleted: :
 - iii. Charter should address regionalization (gave example of assessors).
 - iv. Assessor hired by Council. This needs to be examined.
 - v. Endorse what Jean said re adding language to enable collaboration with other towns.
 - vi. Revise language in Charter to allow for school consolidation.

- vii. Change Article IV about school consolidation.
- viii. Revise Article V to bring it into compliance with the new statutory requirement that school budgets be approved by the voters.
- ix. Citizen initiatives: 20 day time frame to gather signatures is too short. Should provide for at least 60 days. The Carter’s referendum provision only allows for overruling ordinances. Should be revised to allow for citizen initiated referenda. More participatory and more time.
- x. Section 1001 incorrectly states that inconsistent private and special laws enacted by the state legislature are repealed. We can’t do that. We can supercede but not repeal. Comb through and look for this kind of thing.
- xi. Town Council authority to assess and comment on Town administration: The Town Council is too constrained by the Charter, as it does not allow the Council merely to “inquire” into administrative matters, but limits the Council to “investigation” administrative matters. There should be a lower key alternative. One of the enumerated powers in the Charter given to the Council should be to enable it, as an entity, to receive comments from staff and to communicated (not singly but as a Council) with staff. Bill Lunt noted that he didn’t agree that the charter prevented the council from talking to town employees and that he told the other councilors he would do just as he pleased. Peggy noted that not all councilors would be willing to step outside the stated limits of the Charter, and it would be good to have the Charter’s enumeration of the Council’s enumerated powers, to be consistent with Council practice. Nathan spoke to professional courtesy; that before he spoke to a police officer he would first speak to the police chief. Peggy noted that this is not about him as town manager; that his encouragement of communication in town governance is commendable, but that town managers can change, but that the charter is more permanent. Richard noted that it was important during charter commission meetings for Nathan and Amy to be open and honest about their thoughts; that it may in fact be more important for the commission to hear when Nathan and Amy disagreed with a point under discussion, than to hear when they agreed.
 - 1. Amy noted that she disagreed strongly with concept of returning a town meeting; she worked for a selectman form of government with a town meeting and swore she would never do so again. She noted that the council form of government w/o town meeting was a draw for both her and Nathan.
 - 2. Nathan cautioned on tinkering with budget approvals. Falmouth used to be tied with Portland but now stands alone in the state in the high quality of its financial systems and ratings. If it isn’t broken don’t fix it.
 - 3. Nathan suggested that Peggy’s concerns about staff could be addressed by making it part of the town managers review (several former councilors noted that it already was).

4. Peggy continued on issue of secret meetings between town (council, manager, planner) and developers, either directly or by proxy. Noted Westbrook decision against Wal-Mart, in which judge ruled against Westbrook because its process deprived the citizenry of having access to the same information as town officials.
5. Peggy noted that looking at the councilors on laptops gives audience feeling of “what are they looking at?”. No idea what councilors are tapping away at. Open meeting, public opportunity to see what councilors see. Need to put paper back in the hallway, perhaps a computer terminal for the public to use to access the internet / online council packets during the meetings. Feels unfriendly looking at all those laptops.

Richard asked for next step. Discussion that school board has asked for an October election on the new school. Discussion of an interim set of recommendations ready to go to voters in November, with final report to go to voters in 2009. Bill expressed some concern about that. Discussion of statutory requirement for a “public meeting to receive public input on issue, information” which meeting must be held within 30 days of the commission’s organizational meeting.

Meeting schedule set at 1st and 3rd Mondays of each month, 6:30 start time. Next meeting dates:

- July 21: (required public meeting at 7 pm)
- August 4
- August 18.

David asked if we had a budget. Nathan noted he will take of the required advertising within his general advertising budget.

Agenda for July 21:

- Receive memo from town attorney on his thoughts and ideas, and update on what other towns are discussing in their charter commissions.
- 7 pm public meeting to receive ideas and input from the public.
- Begin to discuss suggested charter changes.

Commissioners should attempt to add their suggested changes into the word version of the charter, send them to the Secretary. Secretary may attempt to integrate them into a single document (time and skills permitting). Secretary will send Nathan an agenda for posting on the web site.

Meeting adjourned at 8:50 pm.

Respectfully submitted,

Ann C. Goggin, Secretary