

**MINUTES OF THE
SALEM CHARTER COMMISSION**

**SALEM TOWN HALL
33 GEREMONTY DRIVE
SALEM, NH 03079**

**REGULAR MEETING OF
OCTOBER 29, 2009 7:00 P.M.**

The Charter Study Commission held a meeting on Thursday, October 29, 2009 at Knightly Meeting Room, 33 Geremonty Drive, Salem, NH 03079.

PRESENT: Robert Campbell (Chairman), Patrick Hargreaves (Vice-Chairman) Michael Lyons (Secretary), Kevin Breen, Stephen Campbell, William Ganley, Cathy Ann Stacey, Arthur Barnes

ABSENT: Annette Cooke

CALL TO ORDER

Chairman Campbell called the meeting to order at 6:00 p.m., joining everyone in the Pledge of Allegiance.

1. Continuation of Draft Charter Review

Chairman Campbell outlined for the members how he would like to proceed towards submission of their final report.

Article 8

§8.2-B Term Commencement – It was noted that the Commission wished to amend the wording of this clause to the effect that elected officials shall take office “after all re-counts are complete” instead of “within 10 days”.

There being no objection to any of the remaining clauses within Article 8, Chairman Campbell confirmed the Commission would proceed with it as printed.

Article 9 – Administrative and Judicial Boards

9.1.1 Planning Board - Chairman Campbell noted that RSA 673 states that alternate members should be appointed by the Board and he provided Ms. Stacey with the details in order that she may change the wording within the Charter to reflect this.

There being no objection to any of the remaining clauses within Article 9, Chairman Campbell confirmed the Commission would proceed with it as printed.

Article 10 – Transitional Provisions

Chairman Campbell confirmed the Commission had agreed the Charter would take effect upon certification of adoption, and the rest of the transition would continue through July 1, 2010. There was a discussion regarding the effective dates for handover for the other town

1 officials, boards and committees, with Ms. Stacey noting these for inclusion in the final draft
2 document.

3
4 There was a discussion about whether to change the compensation for the members of the
5 legislative body.

6 **MOTION:** by Mr. Hargreaves

7 *Move that the Charter Commission does hereby recommend that the compensation of*
8 *Town Councilors remain at \$3,000 per Councilor annually*

9 **SECOND:** Chairman Campbell

10 **VOTE:** 4-4-0

11 **The motion failed.**

12
13 **MOTION:** by Mr. Lyons

14 *Move that the Charter Commission does hereby recommend annual compensation for*
15 *Town Councilors of \$1,500 per Councilor annually*

16 **SECOND:** Mr. Hargreaves

17 **VOTE:** 7-1-0 (Mr. Ganley opposed the motion)

18 **The motion carried.**

19 Ms. Stacey agreed to amend §10.6 accordingly. Mr. Breen noted that Section 3 may need to
20 be modified.

21
22 Chairman Campbell initiated a discussion regarding the election of the Tax Collector and
23 Ms. Stacey stated she would ensure this was taken care of in Section 2.

24
25 **Article 3**

26 Ms. Stacey reported on her investigation regarding the procedure for appeal if a councilor is
27 removed from office for cause, stating she had been unable to find any information on this
28 and there followed a discussion on whether the current draft needed to be changed with
29 respect to this issue. Chairman Campbell stated he would like to take a vote on the issue and
30 Mr. Stephen Campbell challenged this.

31 **MOTION:** by Mr. Stephen Campbell

32 *Move to challenge the ruling of the Chairman*

33 **The motion failed for lack of a second.**

34 The discussion continued.

35
36 **MOTION:** by Mr. Stephen Campbell

37 *Move that the Charter Commission does hereby agree to remove from the draft Charter*
38 *§3.3.2 'Removal of Councilors' in its entirety*

39 **SECOND:** Mr. Hargreaves

40 Mr. Breen stated he would be unable to support the removal of this section in its entirety as
41 he felt there should be something in the Charter regarding this issue.

42 **VOTE:** 2-6-0 (Messrs. Stephen Campbell and Hargreaves voted for the motion)

43 **The motion failed.**

1 **MOTION:** by Mr. Barnes

2 *Move that the Charter Commission does hereby agree upon insertion of the following in*
3 *§3.3.2 'Removal of Councilors':*

4 *"The Council may, on specific charges and after due notice and hearing at any time*
5 *remove one of its own members for prolonged absence from or other inattention to*
6 *duty, mental or physical incapacity, incompetence, felony conviction, immorality or*
7 *misconduct in office upon affirmative roll call vote of at least two thirds (2/3) of the*
8 *elected Councilors. A vacancy occasioned by removal under this section shall be filled*
9 *in the manner provided by this Charter."*

10 **SECOND:** Ms. Stacey

11 Mr. Hargreaves requested definition of misconduct and immorality. Chairman Campbell
12 attempted to provide an example and there followed a discussion regarding a need to define
13 all of the reasons mentioned in the clause. Messrs. Ganley, Breen and Stephen Campbell
14 stated they could not support the motion as it stands as it is too vague. Mr. Ganley requested
15 the Commission obtain a legal opinion as to whether removal of a Councilor for cause could
16 be appealed to the Supreme Court. Mr. Barnes stated language similar to this could be
17 found in other towns' documents, and he provided examples of when breaches of conduct
18 have occurred in the past. He suggested the avenue of appeal would be through referendum
19 petition. Chairman Campbell stated if the motion failed the wording previously agreed at a
20 prior meeting would stand and it could be refined at a later point.

21 **VOTE:** 4-4-0

22 **The motion failed.**

24 **MOTION:** by Mr. Barnes

25 *Move to amend the wording of the existing §3.3.2 'Removal of Councilors' by adding the*
26 *following:*

27 *"Any action by the Council under this section is subject to referendum petition as defined*
28 *in §7.3."*

29 **SECOND:** Mr. Stephen Campbell (for discussion)

30 There was a discussion in response to a suggestion by Mr. Stephen Campbell to leave the
31 recall process to deal with this.

32 **VOTE:** 4-4-0

33 **The motion failed.**

35 Chairman Campbell confirmed the existing §3.3.2 would remain unchanged.

37 Mr. Breen suggested discussing the Town Manager's feedback on the current draft
38 document. Chairman Campbell suggested that Mr. Sistare's comment regarding having a
39 three year term for councilors at large should be addressed at a later point. With regard to
40 the remainder of Mr. Sistare's feedback the following points were made:

41 ○ *§3.7.1, item 3* – Chairman Campbell agreed this needed to be resolved, and proposed
42 that the Commission's final report should point out that the Commission did not have
43 the documentation available to accurately change the draft to reflect the statutes
44 mentioned by Mr. Sistare which pertain to water and sewer funds.

45 Mr. Breen referred to concerns which Ms. Savastano Finance Director had voiced
46 pertaining to funds mentioned here, and also regarding who would be the future Water

1 and Sewer Commissioners under the new form of government. Ms. Savastano had also
2 commented she wanted to ensure the Council could not spend up to \$100,000 without
3 an appropriation. Chairman Campbell suggested the members look again at this
4 paragraph to ensure it is consistent with the intent of the Commission. He also
5 confirmed they would make the corrections with respect to water and sewer.
6

7 ○ §3.14 – Chairman Campbell stated he thought any conflict with the Town Manager
8 statute would be pointed out when review of the Charter takes place.
9 ○ §3.5 – Mr. Breen felt the wording could be improved and after discussion, it was agreed
10 Ms. Stacey would address this.

11
12 Mr. Hargreaves asked whether anyone had seen Mr. Bill Scott's feedback, and Chairman
13 Campbell requested that everyone review this to ensure necessary changes are made. There
14 followed a discussion regarding some confusion various members were experiencing
15 regarding the process of incorporating changes and ensuring everyone receives feedback and
16 the latest draft. The process of review continued by the members as follows:
17

18 §4.2 *Qualifications* – discussion took place about whether the Town Manager needs to be a
19 resident of the Town.

20 **MOTION:** by Mr. Ganley

21 *Move that the Charter Commission does hereby agree to the removal of the residency
22 requirement for the Town Manager, currently stated in §4.2 "Qualifications"*

23 **SECOND:** Mr. Lyons

24 Mr. Ganley spoke in support of his motion, and there was additional discussion on this.
25 Chairman Campbell clarified that it would be necessary to make an additional motion that
26 would prevent the Council from requiring the Town Manager must live in town, explaining
27 the current motion would not prevent the Council from stipulating something within the
28 Town Manager's employment contract. There was further discussion on the motion for
29 clarification

30 **VOTE:** 4-4-0

31 **The motion failed.**

32 **MOTION:** by Mr. Ganley

33 *Move that the Charter Commission does hereby agree to insert language in §4.2
34 "Qualifications" that would inhibit the Council from requiring that the Town Manager
35 must live in the Town of Salem*

36 **SECOND:** Mr. Breen (for discussion)

37 There was further discussion about the wording of this section.

38 **MOTION:** by Mr. Breen

39 *Move that the Charter Commission does hereby agree to insert the following sentence
40 from §4.2 "Qualifications" of the draft Charter:*

41 *"The Manager need not be a resident of the Town or of the State of New Hampshire at
42 the time of appointment, but may reside outside the Town while in office, only with the
43 approval of six (6) members of the Council."*

1 **SECOND:** Mr. Lyons

2 **VOTE:** 6-1-0 (Mr. Breen opposed the motion, Mr. Hargreaves was not present for the vote)
3 **The motion carried.**

4

5 **MOTION:** by Mr. Stephen Campbell

6 *Move that the Charter Commission does hereby agree to strike the following sentence*
7 *from §5.2 of the draft Charter:*

8 *“to the extent that they are not in conflict with the specific provisions of the Charter*
9 *and in the event of any conflict with this Charter the precedence of §1.4 shall apply”*

10 **SECOND:** Ms. Stacey

11 Chairman Campbell stated he was concerned there are things in the statutes which might
12 conflict with the Charter and leaving this clause in situ would clarify that the Charter would
13 take precedence.

14 **VOTE:** 1-6-0 (Mr. Stephen Campbell voted for the motion, Mr. Hargreaves was not present
15 for the vote)

16 **The motion failed.**

17

18 **MOTION:** by Chairman Campbell

19 *Move that the Charter Commission does hereby agree to strike everything within §5.9 of*
20 *the draft Charter:*

21 **SECOND:** Ms. Stacey

22 **VOTE:** 7-0-0 (Mr. Hargreaves was not present for the vote)

23 **The motion carried unanimously.**

24

25 Chairman Campbell proposed that he and Ms. Stacey take a look at the statutes and write a
26 brief section to cover Capital Improvements.

27

28 **MOTION:** by Mr. Stephen Campbell

29 *Move to authorize Ms. Stacey and Chairman Campbell to write a section to cover Capital*
30 *Improvements to be inserted into the draft Charter*

31 **SECOND:** Selectman Lyons

32 **VOTE:** 7-0-0 (Mr. Hargreaves was not present for the vote)

33 **The motion carried unanimously.**

34

35 Mr. Hargreaves re-joined the meeting.

36

37 In response to a request by Mr. Breen, there was discussion about the number of public
38 hearings mentioned in §5.4, Budget Hearings

39 **MOTION:** by Mr. Stephen Campbell

40 *Move that the Charter Commission does hereby agree to amend §5.4 “Budget Hearings”*
41 *by changing the minimum number of public hearings to one in the draft Charter*

42 **SECOND:** Mr. Breen

43 Mr. Barnes stated he could support this so long as the Budget Committee would be willing
44 to hold more hearings if they were found necessary.

45 **VOTE:** 8-0-0

46 **The motion carried unanimously.**

1 There was a discussion about the requirement in §5.4 to have public hearings published in a
2 newspaper as this is an unnecessary additional expense.

3 **MOTION:** by Chairman Campbell

4 *Move that the Charter Commission does hereby agree to amend the draft Charter by*
5 *eliminating all references throughout the Charter to publishing meeting notices in a*
6 *newspaper, unless required by law and further to insert into the Charter that meetings be*
7 *posted at Town Hall and on the Town web site.*

8 **SECOND:** Mr. Stephen Campbell

9 **VOTE:** 8-0-0

10 **The motion carried unanimously.**

12 The members discussed typographical errors which should be corrected (manger to manager
13 and addenda to agenda).

15 There was a discussion regarding the format of the Commission's final report and whether
16 they should have an additional meeting. Mr. Stephen Campbell pointed out he would like to
17 make it clear that he does not support what has taken place over the last few months with the
18 Charter Commission. Chairman Campbell proposed the Commission continue to meet for
19 some time after their report has been submitted.

21 **MOTION:** by Mr. Hargreaves

22 *Move that the Charter Commission meet at 6:00 p.m. November 5, 2009 to discuss the*
23 *final draft of the Charter and their final report*

24 **SECOND:** Mr. Barnes

25 **VOTE:** 8-0-0

26 **The motion carried unanimously.**

28 Mr. Ganley clarified that there is no legal requirement to submit a minority report at this
29 time.

31 • **Upcoming Meetings**

- 32 ○ November 5, 2009

34 **MOTION:** by Mr. Hargreaves

35 *Move to adjourn*

36 **SECOND:** Ms. Stacey

37 **VOTE:** 8-0-0

38 **The motion carried unanimously.**

40 Without further business, the meeting adjourned at 8:17 p.m.

42 Notes/Minutes Taken by: Sandra Maxwell

44 Approved: Salem Charter Reform Commission

46 Date: December 21, 2009