

Minutes of the 2022 SALEM NH CHARTER COMMISSION

**Knightly Room at Salem Town Hall
33 Geremonty Drive
Salem NH 03079**

**Meeting #2: Reports from NH Municipal Association
*Forms of Government and Charter Commission Timeline***
Wednesday, May 25, 2022

Present: Bernard W. Campbell (Chair), Joe Sweeney (Vice-Chair), Bonnie Wright (Secretary), Kevin Breen, Joseph Feole, John Janigian, Donna Loranger, and Kelly Moss.

Absent: DJ Bettencourt

Also Present:

Joe Devine, Salem's Assistant Town Manager

NH Municipal Association (NHMA) representatives:

Attorney Stephen Buckley, Legal Services Counsel

Attorney Natch Greyes, Government Affairs Counsel

Bob Bryant, Chair, Salem Select Board

The meeting was called to order by Chairman Campbell, at 7:00. Pledge of Allegiance.

Acknowledge of:

Loss of Mr. Sweeney's grandmother

The victims of the Texas school shooting and their families.

Receipt of information from NHMA

Forms of Government – Two documents

Salem Charter Commission Timeline for 2022

Receipt of additional info from Mr. Devine regarding the 2009 charter commission:

Preliminary report of the Salem NH Charter Commission dated 5 Nov

2009

Draft Ch

Letter dated 8 Dec 2009 from NH Attorney General reject

charter amendment

1 Mr. Breen sent an email to Commissioners with charters from 18 towns and cities.
2 He has prepared thumb drives for all Commissioners with that info, as well as info from
3 the 2009 Charter Commission. Does the Commission want to have the old information?
4 Yes. Thumb drives distributed.

5
6 Everyone should have a town email address, and there is a distribution list,
7 Charter_Commission@salemnh.gov, to send messages to everyone.

8 Minutes:
9 Mr. Janigian reported an error on the draft version on Page 5, Line 7. It was changed to
10 read: "John Janigian: Invite Derry Town Councilor for June 2."
11 **Motion by Mr. Sweeney to accept minutes.** Seconded by Mr. Janigian.
12 **Vote:** 8-0-0. Minutes accepted as amended.

13 Mr. Buckley distributed 2 documents on the forms of government, and one on timeline.
14 Ms. Wright requested that these documents will be emailed for our records and to meet
15 91A requirements.

16 **Town Council:** Most legislative functions focused on Town Council. Voters may
17 approve bond issues and amend zoning ordinance. (Derry has a "pure form" of town
18 government. Also Durham. Derry is very efficient.)

19 **Official Ballot Town Council:** Charter allows voting on some or all legislative matters
20 at town meeting by official ballot. (Most towns for budget, some zoning.) Other matters
21 are left to the council. (Hooksett, Londonderry, Merrimack and Newmarket.)

22 **Town council open meeting budget only:** Town meeting only votes on operating
23 budget. Other decisions by council. (Bedford)

24 **Official Ballot Town Meeting:** Select Board. Some or all articles by official ballot. Open
25 town meeting on everything else. (Peterborough)

26 **Representative town meeting:** No NH town has adopted.

27 Mr. Campbell: Budgetary town meeting (Bedford) is Traditional New England town
28 meeting: Everyone gets together in gym on Saturday morning and votes on the budget.

29 Official ballot town meeting: Hybrid SB2 and town council, deliberative session and
30 voting, but charter lists which items are on ballot.

31 Atty. Buckley: In Hooksett, budget and appropriations are handled at deliberative
32 session. Other ordinances can go to deliberative session at request of Council.

33 Mr. Campbell: Is there a form of government where operating budget and bond articles,
34 are at deliberative session, but non-bond articles can be put in budget?

1 Atty. Buckley: Budget committee can put non-bond articles in budget as a line item to
2 reduce the number of articles.
3
4 Ms. Loranger: How many towns are at large or by ward?
5 Atty. Buckley: Hookset has both. That's a common pattern.
6
7 Ms. Moss: Do different options of government have an impact of citizens turnout to put
8 warrant articles on ballot?
9 Atty. Buckley: Right to an initiative referendum can be written into charter, especially
10 good idea in situation like Derry, where Council has as much power, to give citizens
11 more voice.
12
13 Mr. Feole: Derry requires 20% of voters from last election to bring something to the
14 ballot. Is there a type of government that works best for a town based on population.
15 Atty. Buckley: Derry is very efficient. It's working. Not many citizen's initiatives.
16
17 Mr. Janigian: On chart from NHMA for Town Council (Derry): Charter MAY reserve
18 authority to voters to approve bond issues and amend zoning ordinance. Does that
19 mean it's up to the Council?
20 Atty. Buckley: It is an option that is written into the charter.
21
22 Mr. Breen: Can Official Ballot Town Council be for budgetary matters to be decided by
23 voters, with other powers i.e. zoning, handled by council?
24 Atty. Buckley: This form of government only budget matters must be discussed at Town
25 meeting. Other things that go on official ballot are defined in charter.
26
27 Mr. Breen: We would keep Planning Board and ZBA?
28 Atty. Buckley: Yes. Per 675.2: Zoning amendments can be proposed by council, but
29 goes to planning then back to Council.
30
31 Mr. Sweeney: Election of terms of Town Councils, Boards: How do elections work?
32 Waterfall or staggered?
33 Atty. Buckley: Provision in statutes: Election coterminous or staggered. Staggered is
34 better. Continued knowledge, overlapping each other. 3 years is standard.
35
36 Mr. Campbell: School District impacted by town charter?
37 Atty. Buckley: School District is independent unless town adopts official budget
38 committee. City is a different model, depending on how the municipality is set up.
39 (Concord and Keene have a city government separate from the school district).
40
41 Mr. Feole: Can you comment on the major drawbacks or advantages of town meeting,
42 Town Council, City government?
43 Atty. Buckley: Most efficient for direct actions for things like real estate transactions is
44 Town Council or City Council. Adopt definitive ordinances. Borrowing authority more
45 rapid than waiting for town limits, but can't raise funds above a certain amount.
46

1 Ms. Moss: Any data for different options re: impact on voter turnout/voter participation?
2 Atty. Buckley: Definite impact before and after accepting SB2. Doesn't really know.
3 Atty. Greyes: There is no one who track that.

4

5 Ms. Wright: Has been asked about term limits. Researched **Hooksett v. Baines** (2002)
6 and **Knowles v. Latham** (2005). It appears that municipal charters cannot set term
7 limits for elected offices in town charters that establish a governing body with a
8 **separate** legislative body—such as selectmen and town meeting. However, [RSA 49-D:3, I\(e\)](#) provides that charters establishing a town council as both the governing and
9 legislative body of the town – in other words, there is no town meeting – may include
10 recall provisions “as described in the statute on city charters, [RSA 49-C](#),” but there are
11 no recall provisions in the current version of [RSA 49-C](#). Is there ANY way that term
12 limits can be added to a town charter? If we were to do it, what would happen?
13 Atty. Buckley: No. Hooksett v. Baines establishes that town charters cannot set term
14 limits.

15

16 Ms. Moss: Can date of elections be changed to not be winter?
17 Atty. Buckley: RSA 669. 2nd Tuesday of March, April, May.

18

19 Mr. Breen: Recall initiatives: Charter samples have very specific formatting
20 Atty. Buckley: Will send more info re: 49D and recall initiatives.

21

22 Mr. Sweeney: In city forms of government, is there an option to give power to voters?
23 Atty Buckley: 49C has ability to create options can be in charter for referendum and
24 possibly recall.

25

26 Atty. Greyes: Handout: “Salem Charter Commission Timeline for 2022”

27

28 Next deadline: Oct 13: Preliminary Report
29 Before that deadline: 2 public hearings
30 Publication in newsletter at least 7 days before, and 2 public places
31 1. To receive information on their opinions.
32 2. Explain preliminary report
33 Final Report due Dec 27, 2022
34 If we miss a deadline, can move to the following year.

35

36 Mr. Campbell: Preliminary Report: Include written report from an attorney before
37 sending it to the State. Can be our town attorney or attorney who specializes in this
38 work. Can we get a list of attorneys who specialize in this?

39 Atty Greyes: Yes, NHMA will provide a list. Can't make a recommendation.

40

41 Mr. Feole: Minority report?
42 Atty. Greyes: Only statement from Commissioners. The citizens of the town do not get
43 to vote on the minority report. 1,000 words. It is simply a summary of differences.

44

45

46 Mr. Sweeney: Subquestions on ballot?

1 Atty. Greyes: No, the ballot will have just one question.
2 Mr. Janigian: Wording of question on ballot?
3 Atty. Buckley: Yes or no vote.
4 Mr. Campbell: Do we need to Repeal SB2?
5 Atty. Buckley: Voting on Charter will replace SB2.
6 Mr. Breen: The question might be "Should the town Repeal SB2 and adopt the
7 proposed new charter?"
8 Mr. Breen: Can the charter be amended on the floor?
9 Atty. Greyes: Has to be approved by State attorneys, so no.
10
11 Education will be needed to inform voters. Look at Merrimack's process for ideas.
12
13 Atty. Greyes: Vacancy on Commission filled by vote of the commission.
14
15 Ms. Wright: Under SB2, can there be more than 5 select board members? To go to 7,
16 would need to go to Council?
17 Atty: Traditional form is 3 select board members. Can go up to 5. No more. More than 5
18 would have to be a council.
19 Are the Terms: Select Board or Selectmen interchangeable?
20 Atty. Buckley: RSA says terms are Interchangeable. Synonymous.
21
22 Ms. Moss: How many votes are required to pass the new charter?
23 Atty. Buckley: He will research and RSVP with an appropriate answer.
24
25 Mr. Sweeney: Do we need to hold public hearings only during specified meetings, or
26 can the public speak at any hearing? [At about 1:06 market on video]
27 Atty. Greyes: The chair can open and close the public portion of any meeting.
28 Mr. Breen: Request for clarification.
29 Atty. Greyes: The Commission can adopt rules and regulations as to how the meeting
30 shall proceed, including a public comment process.
31 Atty. Buckley: Under right-to-know laws, the public can attend and can record any
32 meeting, but cannot speak unless given the right to speak. If public comments are to be
33 made during the meeting, the time that they can speak should be announced in
34 advance, and that schedule should be adhered to. When done, close the public portion
35 of the meeting.
36 Atty. Greyes: Put rules in writing to give to the public. How long they can speak.
37 Encourage them to speak on the topic of the evening.
38
39 Attorney Buckley and Attorney Greyes left shortly after 8:00.
40 [Video marker 1:09]
41
42
43
44 Mr. Devine and Mr. Bryant: Not much leftover from the \$9,000 for appropriations. After
45 what is earmarked for legal reviews, there is probably \$200-300 leftover, after attorney.
46

1 The Town has Survey Monkey as well as a survey application on the website. Survey
2 Monkey is better. Survey Monkey would make results easier to interpret.
3 Town has had about 10% results in the past.
4 How many emails on the Town Hall Times list? 350
5

6 Ms. Wright: Researched various options. Do we know what plan we have?
7 Mr. Bryant: Town has an open account; will get specifics on what platform is available.
8 Community Services Director Katie Duffy has used Survey Monkey.
9

10 What questions do we want to ask?

- 11 • Mr. Campbell: Do you participate in municipal elections? If not, why not?
- 12 • Mr. Janigian: How familiar were you with the ballot? (Most of those with whom he
13 talks are overwhelmed)
- 14 • Mr. Sweeney: Do you prefer a Town or City form of government?
- 15 • Mr. Feole: Do you want to vote on zoning ordinances, budget items, ordinances?
- 16 • Mr. Campbell: Do we want to elect town officials by Ward or at large.

17
18 Formally ask: First question: Do you want a town or city?

19
20 How did Community Services validate responses?

21 Mr. Sweeney: Collect emails.

22 Mr. Campbell: Add to Town Hall Times.

23 Ms. Wright: Include opt-in option not forced addition. We could do our own Mail Chimp
24

25
26 Ms. Wright has been hounding to get Charter section on Town website. Mr. Devine says
27 they are working on it. There may be two email addresses for those who already have a
28 town email address. We will be able to put all of our documents online soon.

29
30 Ms. Wright is making a chart comparing the details of all towns.

31
32 Reminder from Mr. Campbell to fill in availability for meetings using the app,
33 WhenAvailable.

34
35 Need formal agendas going forward.

36 Public comment at the end of the next meeting and all future meetings.

37 We will schedule specific meetings in the future.

38 Mr. Bryant to send Select Board's public comment policy to Mr. Campbell.

39
40 Mr. Breen: Is there any way to tie into the meeting (Zoom) if people are unable to
41 attend?

42 Mr. Devine: 91E requires majority or quorum in person, then Zoom is allowed. In that
43 case, votes must be done by roll call.

44
45 Mr. Breen: Would like numbers from last 10 years, attendance at open town meeting,
46 annual vote turnout.

1 Ms. Wright: Merrimack has a nice template with this info listed with much more details.
2 Ms. Moss: Include how many ran for seats, how many open seats.
3
4 Mr. Feole: How will we write the charter?
5 Mr. Campbell: Is there a Google docs-type of platform available as an Office 360 app for
6 collaborative sharing?
7 Mr. Devine: Yes, we have that. Mr. Devine will look into it.
8 Mr. Campbell: Cut and paste from various towns' charters. Probably do one Article at a
9 time.
10
11 Who should we invite for next week:
12 Mr. Devine: Newmarket is reviewing their charter. Currently just budgetary at town
13 meeting.
14 Mr. Breen: Hudson. Why did they change, then change back? Possibly former
15 selectman Shawn Jasper.
16 Ms. Moss: Should include a city.
17 Ms. Wright: Reviewing towns by size and population (Density). Dover, Derry, Hudson.
18 Dover would be a good consideration.
19
20 Mr. Sweeney: No town has become a city through the charter process. He believes they
21 have all become a city through the legislative process by around 1978. This charter
22 commission process has only lead to town councils.
23
24 Next Thursday: Representative(s) from Towns: Bedford, Derry, Hudson, Newmarket
25 and City of Dover.
26 Mr. Devine will make the asks.
27
28 Reminder from Mr. Devine: No illegal meetings. ALL decisions must be made in a public
29 meeting and not by email, per Right to Know 91A.
30
31 Reminder from Mr. Campbell to fill in availability for meetings using the app,
32 WhenAvailable.
33
34 **MOTION BY Mr. Feole to adjourn.** Seconded by Ms. Loranger.
35 **Vote:** 8-0-0
36 Meeting adjourned at 8:44.
37
38 Minutes taken by: Bonnie Wright
39
40 Minutes Approved: Salem 2022 Charter Commission
41 Date: June 2, 2020
42
43 **Video of meeting may be viewed at:**
44 <https://www.facebook.com/sctv17/videos/977047199678776>
45 <http://sctv-17.com/CablecastPublicSite/search?channel=1&query=Charter%20Commission>