

**MINUTES OF THE
SALEM CHARTER COMMISSION**

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

MEETING OF JULY 9, 2009

7:00 P.M.

The Charter Study Commission held a meeting on Thursday, July 9, 2009 at Salem Town Hall, 33 Geremonty Drive, Salem, NH.

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

CALL TO ORDER

Chairman Campbell called the meeting to order at 7:00 p.m. He introduced Attorney David Connell from LGC and joined everyone in the Pledge of Allegiance.

1. Presentation on Legal Aspects of Municipal Charters (1)

Attorney David Connell explained he was Legal Services Counsel for the LGC in Concord, and that his office provides a bird's eye view on municipal law and also provides training for towns and cities. Referring to a brochure he handed out he explained it was a handbook about municipal law in general and addressed municipal charters in chapter 2. He briefly spoke about the powers of cities and towns and about the timeframe and procedures towns have to follow to institute changes. The following is a summary of the areas covered in Attorney Connell's presentation:

- The statutes which cover charters for towns and cities (RSA 49).
- The different forms of charter around the state, the history of charters in New Hampshire and how they have evolved.
- The legislation and how the statute has changed over the years. The statute offers templates for adoption.
- Court decisions which have affected charters and examples together with information on how the view of the courts has changed.
- A charter is not a place for detailed structure, which is left to the Administrative Code.
- The various options in form of government which are available under charters.

Discussion:

Chairman Campbell explained a little about Salem's current structure and specified the areas of interest for him, which included budgetary aspects of the various forms of charter.

1 Attorney Connell explained that the official ballot/town meeting is similar to town
2 council/official ballot, and pointed out that cases which had been struck down had been
3 reviewed by town counsel and the Attorney General but were still struck down due to
4 ambiguity. He stated there needs to be a process for finalization of the budget, such as SB2
5 which has a default budget option and Salem's current system of three sessions. He also
6 mentioned the finalization process provided by a city form of charter.
7

8 In response to a query from Chairman Campbell Attorney Connell clarified that the town
9 does not necessarily need a first session.
10

11 Mr. Ganley commented he would like to hear the advantages and disadvantages of the
12 various types of charter which would help to clarify the Commission's charge.
13

14 Chairman Campbell handed out a checklist for comparing the various forms of charters,
15 stating he had identified six and highlighted the differences. In response to his query about
16 how the various committees are handled, Attorney Connell pointed out the committees which
17 could remain constituted as they are currently unless the town chose to change things, and he
18 made the following points:
19

- A ZBA is elected and the statute requires an election every year.
- A Budget Committee is not necessarily bound by RSA 32 and the statute is not necessarily in place for one.
- A city still requires a 2/3 vote. He then spoke about a strong and weak mayor and explained what the powers of each are.
- A town form of charter must have a Town Manager and a city must have a City Manager or elected mayor function.
- There would be no Board of Selectmen with a council form of charter and a town council has as many powers as the town chooses to give them and they can assign items to the ballot as required with precision.
- Attorney Connell provided examples of the various options for further investigation by the Commission.
- The advantage of a town council is that it can schedule meetings quickly when decisions are required through the year. A 2/3 vote is needed for appropriations however.

35 In response to a query from Chairman Campbell, Attorney Connell provided some
36 explanation of how zoning articles are covered by councils and cities. He also spoke
37 about the language in the statute and what the intent of the legislature is and stated the
38 make up of departments is left to the Administrative Code. A council can choose for
39 bond issues whether it wishes a 3/5 or 2/3 vote.
40

41 In general terms an advantage about a town council is that legislative action can be
42 taken quickly and the power for this belongs to the town council except for the
43 budget.
44

45 Mr. Stephen Campbell clarified that there are only a few things a council can do that
46 a Board of Selectmen cannot, i.e. sale of town land. He stated that term limits are not

1 allowed by either form, and he spoke about the city form which gives the school
2 district a bottom line figure. Attorney Connell pointed out Salem would not have any
3 say over the school district unless the legislature authorized it. He pointed out there is
4 no budget committee under the city form, but there is a finance committee instead
5 which is advisory. He then clarified which forms can have a Budget Committee. He
6 suggested exploring options with the Attorney General.
7

8

- 9 There followed a discussion on timeframe and the difference between revisions and
10 amendments and how there could be several amendments without being considered a
11 revision. Attorney Connell agreed to research whether the SCC could operate side by
12 side with the amendment process and to get back to Chairman Campbell.

13 ***Action: Attorney Connell***

14 There was a discussion regarding conflict of interest.

15

- 16 Attorney Connell clarified the Commission has to put forward one document which
17 could have several changes but the whole document would either pass or fail, but that
18 amendments can be done separately and be considered separately with some passing
19 and some failing. He offered to find out whether more than one thing at a time can be
20 voted on.

21 ***Action: Attorney Connell***

22

- 23 Attorney Connell spoke about the city form of government, explaining the options
24 and the statutes relating to cities. He clarified for Ms. Stacey that the charter decides
25 the number of council members or aldermen.

26 There was a discussion about districts and the number of polling places and their relationship
27 and the advantages of one over many.

28 Chairman Campbell clarified there is very little difference between a city and a town as far as
29 the legislature is concerned.

30 There was a discussion regarding the need to resolve whether the town has to have a
31 deliberative session in February and RSA 32 and the Budget Committee with Attorney
32 Connell agreeing to look at the total scope of the statute.

33 ***Action: Attorney Connell***

34 In response to a query from Mr. Lyons, Attorney Connell spoke about the issues of transition
35 i.e. the change of fiscal year with cities and this sparked a discussion. Mr. Lyons pointed out
36 that such a change would align the town with the state budget. He also clarified the timing of
37 a transition. Chairman Campbell clarified that under a city charter the fiscal year and
38 election date can be dealt with by ordinance.

39

40 In response to a query from Mr. Breen, there was a discussion about things which would
41 have to appear on the official ballot for changing the charter and Attorney Connell provided
42 examples of tailored official ballots.

1 In response to a query from Mr. Breen as to whether existing codes would remain in force
2 Attorney Connell explained this could be done with general language in the transition clause
3 which must be in the charter.

4
5 Mr. Stephen Campbell made the point that the Budget Committee is where the town and
6 school meet as it oversees both, and Mr. Lyons queried what would happen with the school
7 district if they adopted an option where the Budget Committee goes away for the town.
8 Chairman Campbell clarified that the school district can still have a Budget Committee.
9

10 In response to a query from Mr. Breen, Attorney Connell stated Hudson is a similar sized
11 community which still operates with a town meeting. There was a discussion about the
12 advantages and disadvantages of the existing form of government and the lack of resident
13 participation as the town has grown.
14

15 Attorney Connell agreed to obtain an opinion on whether the number of signatures on
16 citizens' petitions is stipulated in the statute and whether this could be increased for the town
17 since it is now much larger. In response to a query from Chairman Campbell, Attorney
18 Connell agreed to look into the budget process with respect to official ballot/town council
19 versus official ballot/ town meeting so that the Commission might better understand the
20 scope of this.

21 **Action: Attorney Connell**
22

23 In response to a query on SB2 from Mr. Lyons, Attorney Connell pointed out that no towns
24 have given it up since adopting it.
25

26 In response to a query from Mr. Hargreaves about turn out at deliberative session, Attorney
27 Connell stated Londonderry had instituted a quorum for their first deliberative session.
28

29 There being no further questions for Attorney Connell at this time, Chairman Campbell
30 agreed to collect and consolidate further questions the members of the Commission might
31 have and pass these on to Attorney Connell.
32

Action: Chairman Campbell
33

34 **2. Approval of Meeting Minutes**

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

36 ***Move to accept the minutes of the meeting on July 2, 2009 as amended***

37 **SECOND:** Mr. Lyons

38 The following amendments were requested:

39 • Show C Stacey as attending the meeting
40 • Change the header in the minutes template

41 **VOTE:** 8-0-1 (Mr. Kevin Breen abstained)

42 **The motion carried.**
43

1 **3. Future Meetings**

2 There was a discussion regarding the meeting schedule and it was the consensus of the
3 Commission there should be an additional meeting scheduled for July 23rd. Messrs. Lyons
4 and Hargreaves confirmed they will be unable to attend the July meeting.

5 **Action: Chairman Campbell/Recording Secretary to reserve Knightly Room and post**
6 **meeting on July 23rd.**

7 **4. Discussion on How to Move Forward**

8 Chairman Campbell polled the members on how the Commission should move forward as
9 follows:

10 • Mr. Lyons stated they should keep a town council on the list of options but remove
11 the city option.

12 • Mr. Barnes stated he was leaning towards a town council with official ballot.

13 • Mr. Breen stated he felt the Commission has an obligation to review all options
14 thoroughly and it was too early to narrow the options. He also stated he was
15 concerned about rules of order to ultimately ensure the majority will prevail.

16 Chairman Campbell clarified what he was trying to achieve at this point and stated
17 that nothing is off the table, but that he just wanted the members to understand each
18 other's point of view.

19 • Mr. Ganley stated he would also like to see rules of order and he did not think the city
20 form would benefit the town.

21 • Ms. Cooke stated she found the town council intriguing but did not like the idea of
22 the city form for Salem.

23 • Mr. Hargreaves stated he favored the city option with strong mayor and the charter
24 they have now but with a quota stipulated for town meeting.

25 • Chairman Campbell stated he favored the town council with official ballot as he felt
26 there is a need for checks and balances which this would provide.

27 • Mr. Stephen Campbell also stated he did not think the city form was a good option.
28 He stated he thought the existing charter could be changed to take care of some of the
29 current problems, and suggested there was a higher probability of getting
30 amendments to pass. He also said he agreed with Ms. Berry's point at the previous
31 meeting that some residents would view any change as resulting in an increase in
32 their taxes.

33 • Ms. Stacey stated she had an open mind and would like to investigate on her own to
34 see what is currently working and what is not for other towns.

35 Chairman Campbell stressed the members need to be prepared to discuss ideas and how to
36 resolve issues at the next meeting. Mr. Barnes pointed out they agreed to have made a
37 decision by August 27th.

38 There was a discussion regarding the use of an on-line survey and how to ensure that
39 individuals can only participate one time.

40 Mr. Lyons stated he would provide Chairman Campbell with more specific information on
41 what he thinks is working and what is not as he will be unable to attend the next meeting, and
42 he went on to provide some details.

1 Chairman Campbell suggested making a closer link with the budget and the election and
2 pointed out the statute allows terms for candidates as short as one year.
3

4 Mr. commented on the difficulty with the current system where the majority of voters can
5 vote to expend monies for investigations, such as engineering, and then subsequently the
6 project would be voted down. He stressed this wastes a lot of taxpayer money.
7

8 Chairman Campbell stated he would like to discuss specific issues at the next meeting and
9 get them resolved.
10

11 **5. Discussion on 'Rules of Order'**

12 Chairman Campbell reported he had looked at the Charter Reform Committee rules but that
13 they are not all appropriate for the Commission. At his suggestion, Mr. Ganley agreed to
14 come up with a draft proposal for these to be considered by the Commission. Chairman
15 Campbell stated he will look at the budget process.
16

Action: Mr. W. Ganley/Chairman Campbell

18 **• Upcoming Meetings**

19 ○ July 23, 2009
20

21 **MOTION:** by Michael Lyons

22 *Move to adjourn*

23 **SECOND:** Cathy Stacey

24 **VOTE:** 9-0-0

25 **The motion carried unanimously.**

26 Without further business, the meeting adjourned at 10:00 p.m.
27

29 Notes/Minutes Taken by: Sandra Maxwell
30

31 Approved: Salem Charter Reform Commission
32

33 Date: August 6, 2009