

TOWN OF NEWMARKET, NEW HAMPSHIRE
CHARTER COMMISSION
June 10, 2013

Commissioners present:

Chair Clay Mitchell, Vice Chair Phil Nazzaro, Secretary Chris Hawkins, Bruce Hawkins, Sr., Toni Weinstein, Al Zink, John Badger, Leo Filion, Kevin Cyr

Call to Order: Chair Mitchell called the meeting to order at 7:02 p.m., followed by the Pledge of Allegiance.

REVIEW ITEMS FROM LAST MEETING:

Commissioner Weinstein moved to adopt the minutes of the May 28, 2013 meeting. Commissioner Nazzaro seconded. Motion passed unanimously by a voice vote.

CONSIDER GUIDELINES FOR MEETINGS AND HEARINGS

Chair Mitchell had distributed an outline for meeting guidelines, covering responsibilities of the Chair, Length of Meetings, Meeting Process and Testimony, Voting and Attendance. Meetings, as well as sub-committee meetings, are for the Commission to conduct business and notice is governed by the Right-to-Know Law, RSA 91-A. Hearings are for public input and require posting 7 days prior, per RSA 49-B: 4 (V). There was a general feeling that public input should be allowed at more meetings, but the frequency will be discussed after the hearing under Scheduling. The Commission will decide whether to adopt the guidelines as rules and regulations after having time to review them.

PUBLIC INPUT (RSA 49-b: 4 (V))

Chair Mitchell said the purpose of the hearing was to accept public input as the Commission was in its initial stages and there would not be any dialogue or debate at this point. He asked that speakers limit themselves to 2 minutes per statement and allow everyone else to speak before returning to the podium.

Bert Allen of 56 Smith Garrison Road read from 3 emails he had sent the Commission, and asked that the first 2 be read into the record.

The issue of the school district being independent being settled. The charter commission has asked for public input for ideas of what can be accomplished with the charter. The charter administers the incorporation of the town of Newmarket and it's governing rules and abilities. There has been discussion of changing from a seven member council to a Mayor and Ombudsman. Those are paid positions with less public influence. I and many others would be opposed to such an idea. On the grounds that it would radically change the way in which decisions would be made and be detrimental to the well being of the citizens of Newmarket.

In opposition I believe to benefit the citizens of Newmarket we should add:

- 1.Line item veto power for council members on all budget, and town ordinances and fees.*
- 2.Adopt a tax cap under the provisions of RSA 32:5*
- 3. Moving from a seven member council to a larger 9(-15) member council as allowed by law, to allow the Council to serve on Commissions.*
- 4.Adopting a change of appointed boards to commissions with commission rules*
- 5.Incorporation of emergency services with surrounding communities to save taxpayer dollars*
- 6. Written mutual aid agreements with all surrounding communities who may ask for services during any emergency including spelling out all legal liabilities during said emergencies.*

7. Implementing oversight committee for all emergency services.

In conclusion I believe these changes would go a long way in benefitting the taxpayers of Newmarket.

Bert John Allen III

Mr. Allen's second email proposed implementing oversight commissions in the charter, including:

- 1. A trust commission to oversee cemeteries, libraries and parks*
- 2. Strategic transportation, a commission to oversee including roadways, parking, railroads, waterways and the dam.*
- 3. A police commission to oversee the police department*
- 4. A fire commission to oversee the fire department*
- 5. A planning and strategic development commission all to oversee all commercial development and zoning*
- 6. Strategic purchasing, an oversight commission to oversee all the towns purchasing and cost compensation for accuracy and oversights*
- 7. Strategic land use resource commission to oversee all land use, minerals, water and communications*
- 8. Budget and taxation efficiency commission to oversee budget expenditures for cost effectiveness and accuracy*
- 9. A non-profit commission to oversee all the non-profits existing within the boundaries of the town*
- 10. A local census and town demographic commission to oversee the population data of the town including the number of residents per household, the type of residence, street by street.*

Mr. Allen said his third email covered the establishment of a water and sewer district commission and a ZBA commission. He explained that the purchasing commission would go over purchases under \$10,000, which are currently within the authority of administration. He also had included a proposal about determining whether funds from the sale of town property would go to the general fund or directly to the taxpayers.

Ed Portyrata of 177 Exeter Road asked questions about the process and scope of the Commission. He was told that the Commission had not yet discussed changes to the Charter, but that it was possible that it could discuss different forms of government. He was told that the Commission was gathering information and would look at the present Charter to see what changes should be made, and would not be dealing with day-to-day operations. Mr. Portyrata said he would like to see the Town Council empowered to control all decisions and budgets for all departments, including the schools.

John Carmichael of 44 Elm Street said that he had read the Charter and corresponding RSAs and had some suggestions for changes, based on Newmarket retaining the Council/Manager form of government. He said that Newmarket was a community of volunteers and he felt that the terms full-time and part-time employee needed to be defined. He asked that his handout be included in the record.

Section 3. 4 Qualifications of Councilors

No Councilor shall, during his term, be eligible to hold any other Town position of remuneration nor shall he transact any business with the town except pursuant to **Article 7 of this Charter**

(Seek changes – due to past conflict w/Town Councilman who was a volunteer EMT (paid for Ambulance runs and EMT training). This is a small town that relies on Volunteers, and we can't afford to exclude volunteer firemen/EMT/Special Police Officers serving in town government)

ARTICLE 7. – CONDUCT OF OFFICIALS

Section 7.1. Conditions for Holding Office

B. **"No employee of the Town shall be eligible to serve as a Councilor"**

"No full-time [defined as weekly 30 + hours] employee shall be eligible to serve as a Councilor"

Section 7.3 Disqualification from Decision-Making Process

A. No elected or appointed officer or employee of the Town shall take **"part in a decision"** concerning the business of the Town in which he or a member of his family, directly or indirectly, has a financial interest, aside from his salary as such officer or employee, greater than any other citizen or taxpayer.

A. No elected or appointed officer or employee of the Town shall take **"part in a voting decision"** concerning the business of the Town in which he or a member of his family, directly or indirectly, has a financial interest, aside from his salary as such officer or employee, greater than any other citizen or taxpayer. ***["This does not preclude the member from being part of the discussion leading up to a voting decision."]***

Section 3.8 Ordinances

C. After passage of the ordinance's first reading, it shall be published at least once together with a notice of the time and place when and where it will be given a public hearing and be considered for final passage. The first such publication shall precede the date of said hearing by at least five (5) working days. **Publication for purposes of this Section shall mean the publication of a notice in any paper distributed in the Town of Newmarket,** stating the number and title of the ordinance, and either the text of the ordinance in full or if the full text is not published, then an adequate explanation of the proposed ordinance and information as to where and when any interested person may obtain a copy of the complete ordinance.

+ Electronic distribution via Town Newsletter, Local Newsletter, Local Digital on-line Community/News Services

Section 3. 11. Codification of Ordinances

The Town Council shall prepare a revision or codification of the ordinances of the Town which are appropriate for continuation as local laws of the town and at least every ten (10) years perform a comprehensive review of the codification.

+The Town Council **or its representative** shall prepare a revision...

ARTICLE 4 – Section 4.14. Town Attorney

The Town Council shall engage as needed such attorneys as are deemed in the best interest of the Town to provide legal advice to the Council, Administrator, Town departments, boards and other agencies and represent the Town in any legal proceedings. Such attorneys shall on Council direction perform any other duties prescribed by this Charter or by ordinance.

Attorney consultation is expense – often with dubious results. The Charter Commission needs to clarify wording to limit inquiries to the Town Attorney, and establish a chain of command, i.e. Town Administration (as he is responsible for holding to the set Attorney budget.) This precludes 7 councils or various Department/ Commission members from contacting the Attorney individually.

John Brackett of 19 Central Street wanted the Commission to look into the terms of broadband contracts and how they are negotiated. He felt there was more competition coming, and thought that should be considered before locking into long-term contracts.

As no other residents came forward, Bert Allen explained that the budget and taxation commission that he proposed would provide checks and balances by cross checking expenditures under \$10,000. He said the school

and town were separate corporations, and the town had no authority over the school budget. He had suggested that the Council be enlarged so that members could serve on all the commissions.

Mr. Portyrata asked if the Commission intended to discuss any items for the charter during the meeting. Chair Mitchell said they would very generally go over the topics they intended to cover in the next few months.

Bert Allen suggested that the Commission look for ways to circulate information to those without access to a computer, perhaps by posting information on bulletin boards around town.

Public input closed at 7:29.

SCHEDULE:

Commissioners had been given a draft outline of a schedule showing deadlines and milestones, and it was emphasized that there is not a great deal of time for work to be completed. Prior to the October 14th deadline for a preliminary report draft, the Commission would have to decide and deliberate on major and minor issues it wanted to address and the form of government it wants to recommend. Most of that work would be done in July and August so that work can begin on the preliminary report in September. Commissioner Hawkins will prepare the draft of the preliminary report. The report must go before Town Council by October 30th, and be sent to the state by November 7th, and state comments must return to the Commission by December 7th. The statutory date for the final report is December 31st. The Commission intends to meet on the 2nd and 4th Monday of every month, but meetings can be added. Much depends on whether the Commission decides to make changes to the existing charter or develop a new charter.

The Commission discussed possible guest speakers and the need to have input early in the process. Don Jutton of MR I had approached Commissioner Zink and asked to speak to the Commission about what Newmarket's government would be if it was starting anew. As a consultant, he had familiarity with Newmarket and other towns with different forms of government. There was a feeling that the Commission might find it difficult to institute a wholly different form of government within its time frame, and there was a suggestion that changes could be done in 2 stages, with major changes going onward after the term of this Commission. The Commission is allowed to continue 60 days after submitting its final report to municipal officers, but only to finish up its work. Town Administrator Fournier was asked for suggestions of other speakers. He suggested Tom Mahon, past Chair of the Merrimack Charter Commission and a former consultant with Primex, as a person who knew about all forms of municipal government. Once the Commission heard about various types of government, it could determine which forms came closest to solving Newmarket's major and minor issues. The previous Charter Commission had produced a report which addressed issues and Town Administrator Fournier will see that the members have copies. It was decided that Commissioner Zink will contact Mr. Jutton and Town Administrator Fournier will contact Mr. Mahon and coordinate the two to speak at either the June 24th or July 8th meeting.

Documents provided in PDF form may be posted on the town's web site. The Commission discussed gathering of additional input and alternative ways to get information to the community. It was suggested that the Commission email educational information to groups with their own email lists, such as the Newmarket Business Association. Scheduling of more public input sessions will be done as the process continues. While it is not necessary for townspeople to read the full charter to present concerns and identify major issues, it would be helpful to have concerns about the process and how decisions are made, and if possible, specific changes to the charter in writing or at meetings. The first meeting of each month could have public input as part of the consideration process, while the second meeting would be reserved for decision making. The issues under

consideration could be posted on the web site. (Throughout the discussion, it was pointed out that the schedule outline was a draft and could change if need be.) The Commission's consensus was that Chair Mitchell will prepare a one-page letter for general circulation advising the townspeople of the opportunity for public input at the July 8th, August 12th and September 9th meetings. The town newsletter and web site can carry information to the public, along with Facebook and Twitter.

MAJOR ISSUES/PROCESS ISSUES:

Commissioners were asked to submit their ideas of issues the Board should address at the June 24th meeting to the Town Administrator for distribution. The town's intern, Donna Pohley, will be assisting the Town Administrator and Commission. There was a suggestion that the discussions should be driven by the issues facing Newmarket now and in the next ten years. Once issues are identified, the Commission can determine what form of government would be closest to providing solutions. If, for example, an issue was determined to be affordability, the Commission would look for ways within the charter that could address this. Another suggestion was that the Commission identifies not only issues, but opportunities for the next decade. The members should also review the evening's public input. Town Administrator Fournier will have the list of items within the charter that are inconsistent or whose implementation is not clear. The Town Attorney, John Ratigan, will also be present at the June 24th and future meetings. If town employees who are residents or non-residents do not feel comfortable approaching the Commission, Commissioner Cyr will gather their concerns and bring them to the Commission. He didn't believe that the Commission would be dealing with day-to-day policies, but with a larger framework.

There was a discussion as to why the last Charter Commission's recommendation failed at the polls. It is most important that the Commission be aware of what the public will accept in preparing its recommendations. This Commission could look at the previous Commissions report to see what sections still needed updating. Even though the last Commission's recommendations did not pass, the Council had been able to make 2 changes: providing neutrality in the Charter and cleaning up conflict of interest language. The recommendation had been presented as one proposal. It is possible to prepare warrant articles with individual changes listed separately under a general heading/category so that one change does not negate the entire charter. Once complete, the Commission members will have to actively advocate the charter and educate the public as to the changes and reasons for them. Commissioner Hawkins, who will be drafting the preliminary report, emphasized that it should be clearly written and short.

RECAP:

1. Identify issues with as much explanation as possible for discussion at the June 24th meeting and send to the Town Administrator by Monday, June 17th. The aggregate list should be returned to the Commissions by Wednesday, June 19th.
2. The Town Administrator and Commissioner Zink will coordinate the 2 speakers for the July 8th or June 24th meetings.
3. Chair Mitchell will draft a one-page outreach letter for the newsletter with the dates for the 3 public input sessions and send it to the Town Administrator for the town newsletter.
4. Town Administrator Fournier will send the report of the previous Commission to members.
5. Town Administrator Fournier will distribute the list of articles in the charter that are inconsistent.

Commissioner Nazzaro moved to adjourn and Commissioner Hawkins seconded. Motion carried unanimously by voice vote, and the meeting adjourned at 8:30.

Respectfully submitted, Ellen Adlington, Recording Secretary