

**TOWN OF NEWMARKET, NEW HAMPSHIRE  
CHARTER COMMISSION WORKSHOP  
SEPTEMBER 16, 2013  
TOWN LIBRARY**

Commissioners present:

Chair Clay Mitchell, Vice Chair Phil Nazzaro (arriving at 7:15 p.m.), Secretary Chris Hawkins, Bruce Hawkins, Sr., Toni Weinstein, Al Zink, John Badger, Leo Filion, Kevin Cyr

Chair Mitchell called the meeting to order at 7:06 p.m., followed by the Pledge of Allegiance. Commissioner Chris Hawkins had prepared a red-lined copy of the Charter including Commissioners Filion's notes. That copy had not been sent to Attorney Ratigan, who had prepared his own red-lined copy. It was decided to begin with recommendations for Article 4 of the current Newmarket Charter.

**ARTICLE 4: ADMINISTRATION OF GOVERNMENT**

Commissioner Chris Hawkins said he had included Town Administrator Fournier's suggested language to clarify the duties and responsibilities of his position.

**4.1: TOWN ADMINISTRATOR**

The Commissioners discussed the pros and cons of changing the title of the position to Town Manager. The term Town Administrator is not used in State Statute, and the duties and responsibilities in Newmarket are those assigned to a Town Manager. Commissioner Filion cautioned that if the State changed the duties of a Town Manager, the Town would have to also make changes. Although changing the title would not change the current duties and responsibilities, some in town would perceive this as an amplification of the role, and could be a difficult point to sell. By consensus, the Commission agreed to stay with the title of Town Administrator.

**4.2: QUALIFICATIONS**

Town Administrator Fournier had recommended adding the phrase, "*..nor engage in any other business or occupation unless with the approval of the majority of the Council.*" This would prevent a Town Administrator from taking a second job or moonlighting. The Commissioners discussed whether the Town Administrator should be required to be a resident of Newmarket. The current Charter states, "*..need not be a resident of the Town or the State at the time of appointment.*" The phrase, "*..at the time of appointment*" had been removed. Seabrook had lost a court case that would have forced a residency requirement.

**4.3: ANNUAL REVIEW OF ADMINISTRATOR**

Town Attorney Ratigan had suggested adding the review should be conducted "*at least*" annually, and eliminating the word "*such*" from the phrase, "*As part of such review..*", in favor of, "*As part of an annual review..*". He also recommended adding the sentence: "*More frequent reviews may be conducted when, in the sole discretion of the Council, such periodic reviews are desirable.*" The Commissioners had no objections to the changes.

**4.4: REPRIMAND OR REMOVAL FROM OFFICE**

The time period for which an Acting Town Administrator may serve was changed from 90 to 120 days.

**4.5: ACTING TOWN ADMINISTRATOR**

No changes were discussed.

#### 4.6: POWERS AND DUTIES OF TOWN ADMINISTRATOR

The entire Section had been deleted and recommended suggestions were intended to clarify and add to the list of duties and responsibilities of the Town Administrator to reflect what he actually does and have a catch-all phrase at the end. The Commissioners discussed the necessity of the amount of detail in the changes. The powers and duties were spelled out by State Statute. There was discussion of referencing the Administrative Code for the job description and the precedence of the terms in the contract where specific goals were outlined and which referenced the Charter. A positive aspect of including detail in the Charter would be to establish accountability. A possible negative of including a specific list of duties could be that something not included, but necessary, would not be addressed, such as economic development or grant writing. The Commissioners discussed the final catch-all phrase: *"He shall perform such other duties as may be prescribed by the Charter or required of him by ordinance or resolution, not inconsistent with this Charter as now are or hereafter may be conferred by municipal ordinance or conferred upon mayors of cities and selectmen of towns by general laws."* The Commissioners discussed the length of time necessary to enact an ordinance or resolution. It was decided to further clarify the Section by adding a phrase at its beginning that, *"the powers and duties included, but were not limited to"* above the list. The responsibility of writing and accepting grants could be added to the list. Commissioner Chris Hawkins will work on the specific language and discuss it with the Town Attorney.

#### 4.7: LIMITATION OF AUTHORITY

No changes were discussed.

#### 4.8: APPOINTMENT OF DEPARTMENT HEADS

The entire Section had been deleted, and the list of specific department heads had been eliminated. Departments and job descriptions of department heads would be included in the Administrative Code, which would be referenced in the Charter. This would make it easier to eliminate, add or shift duties of a department. The Police Chief is covered under State Statute. The Commissioners discussed whose role it was to set compensation for department heads, the Council or Administrator. Newmarket does not have a detailed pay scale, and currently raises are given on merit rather than seniority. The Town Administrator sets pay and informs the Council. It was felt that pay scales should not be placed in the Charter. Whether or not to establish a pay scale would be a policy decision of the Council. The Section states that department heads are recommended by the Administrator subject to approval by the Council, and are selected on the basis of qualifications, training and experience. There is no reference to compensation. Past practice is that the Council sets the pay for the Chief of Police, but does not get involved with the selection of a Finance Director. Commissioner Chris Hawkins will ask the Town Attorney to clarify what should be subject to Council approval.

#### 4.9: ANNUAL REVIEW OF DEPARTMENT HEADS

Town Attorney Ratigan had added a phrase to establish that reviews can be conducted more often than annually.

#### 4.10: SUSPENSION OR REMOVAL OF DEPARTMENT HEAD

The suggested recommendation was to remove the details of the time frame for written specifications for notification of reasons and demands for a hearing, and place both in the Personnel Policy.

#### 4.11: NON-INTERFERENCE WITH TOWN ADMINISTRATION

The current Section had been deleted and replaced with more descriptive language that added accountability. RSD49:D -11 specified non-interference.

#### 4.12: DEPARTMENTS/AND ADMINISTRATIVE CODE

The specific list of department heads had been removed and their job descriptions were to be placed in the Administrative Code. The Commissioners discussed, *"the duty of the Administrator to draft and submit to the Council within nine (9) months after assuming office, an ordinance consistent with the Charter to be titled 'Administrative Code'.."*. There might not be a need to create an entirely new Administrative Code by a new Administrator, but it was felt that he should look at it and suggest where any updates or changes were needed. Asking for recommended changes could also be a question for a Search Committee to ask. By consensus, the Commission decided to retain the language.

#### 4.13: TOWN CLERK/TAX COLLECTOR

The Commission had previously decided to make no changes to this Section. Chair Mitchell had confirmed with the previous Town Clerk/tax Collector that she had not recommended splitting the position.

#### 4.14: TOWN ATTORNEY

The Commissioners did not discuss any changes to this Section.

#### 4.15: FISCAL AFFAIRS; TREASURER; INVESTMENT ADVISOR; AUDIT

The Commissioners discussed whether this should continue to be an elected position. The red-line for the Charter changed the language to read: *"There shall be a Treasurer who shall be appointed by the Town Administrator, subject to the consent of the Council. The Town Administrator shall appoint the Treasurer solely on the basis of qualifications, education, and experience to perform the duties of the office."* There were 2 main reasons for suggesting the change: with the difficulty in finding people to run for office, there was a possibility that an unqualified person could be elected to this office; and this would allow more supervision of the office. The suggested change did not reflect on the person holding the position. The Treasurer is required by State Statute, and has check writing authority and acts as a second set of eyes in reviewing finances. There was a question about compensation for the Treasurer. It was decided to leave the red-line in place for the present, and to find out what the compensation is for the Treasurer. However, the phrase, *"subject to the consent of the Council"* will be changed to, *"subject to approval of the Council."*

#### 5.7: CAPITAL IMPROVEMENT PLAN

Commissioner Filion had suggested that sentence I in Section A., outlining the membership of the CIP Committee, be removed from this section and added to Section 11: Administrative Committees. He cited 674:8, enabling legislation for CIPs. The Commissioners discussed including the school in the Charter's itemized list of capital improvements that should have CIPs. The school is included in the State Statute, and has to have a CIP to accept impact fees. As the school is included in the Town's Master Plan, it was decided to add the school.

#### 6.2: PERSONNEL PLAN

There was removal of the sentence that stated, *"the Council shall consider and act on said amendments within ninety (90) calendar days after the submission."* The language was unclear as to the outcome if action is not taken.

Commissioner Zink brought up the subject of responsibility for longer-term budgetary forecasts for the financial welfare of the town. Although everyone was in favor of having this be an on-going process, there was no language to stipulate who would be responsible for preparing, at the minimum, 5-year data. The Commissioners discussed if this should be done by the Finance Director, Town Administrator, Town Council, Budget Committee or CIP Committee. The Budget Committee's duties are restricted by State Statute. There was no evidence in any other Charter that the Commissioners had seen of language that included longer-term budget forecasting. However, by consensus, the Commissioners agreed that this was important, and Commissioner Chris Hawkins will look for language that can be used, and try to find out if this belongs in the Charter. The Commissioners discussed CIPs that had experienced lower appropriations than were necessary to accomplish necessary improvements or purchases in the future. In order to reduce taxes, contributions to CIPs were often reduced. The needs still remained, and expenses were not avoided, merely delayed. This also would be a way in which Councilors would become accountable for not endorsing necessary annual contributions. It was thought that budget forecasting would create common knowledge and help the town focus on upcoming issues.

#### 7.1: CONDUCT OF OFFICIALS

B. The words "*full time*" had been added, which would allow a part-time employee to serve as a Councilor. This would be consistent with RSA 69.

#### 8.2: INITIATIVE PETITIONS

No changes were suggested as this Article is consistent with State Statute.

#### 11.1: ADMINISTRATIVE COMMITTEES

Commissioner Filion said the make-up of the CIP Committee reflected current practice: 1 member and 1 alternate each from the Council, Planning Board and Budget Committee plus ex-officio members. He said he didn't recall that the Council had appointed members previously, and thought boards should be able to appoint their own members. Town Administrator Fournier had suggested that the ex-officio members not be named by title, so the suggestion was to state that, "*The CIP Committee shall appoint all ex-officio members it feels are necessary...subject to Town Council approval.*". The make-up of the CIP Committee is in enabling legislation in Chapter 674:5. Section 5.7 of the Charter stated the Committee will prepare CIPs for any capital improvements proposed for the next 6 years. The Commissioners discussed adding a member of the School Board to the membership of the Committee and appointing the Superintendent as an ex-officio member. This will be discussed with the Superintendent and School Board.

#### 11.1: E: WATER AND SEWER UTILITY DISTRICT

Authority to establish a water/sewer district was delineated by SB 11-Local 31: 136, I: "*For the purposes of this subdivision, the legislative body of any city or town shall have the authority by a majority vote to establish one or more water and/or sewer utility districts and designate a water and/or sewer utility commission to be the governing body to manage the activities of the district.*" Commissioner Filion felt they should begin with this step, and later work on establishing a Village District after the w/s commissions had more experience. He felt this should be in the Charter, as he did not think the Council would act on passing it. Commissioner Nazzaro said the Council had discussed the fact that those not using the utilities were allowed to vote on warrants pertaining to water and sewer. It was felt that enabling language should be put in the Charter to authorize the Council to establish a district, and Commissioner Chris Hawkins will discuss this with Town Attorney Ratigan. The Commissioners also discussed alternatives to have a decision made to establish a district: having a warrant by petition separate from the Charter; having a referendum; or, invoking SB11, which allows 10 voters to petition the legislative body to establish a water/sewer district.

### 3.4: QUALIFICATIONS OF COUNCILORS

Commissioner Weinstein said they had discussed training for Councilors at previous meetings, and asked if it was going to be included. Chair Mitchell said there was support for this in the questionnaires that had been returned, but there was really no way to enforce it. However, training was provided by LGC, and it is possible to have training in Newmarket. The Council can direct the Administrator to have LGC come to Newmarket. The Town Administrator had previously stated his commitment to training.

### 3.8: ORDINANCES

Commissioner Chris Hawkins was to ask Town Attorney Ratigan the differences between an ordinance and a resolution, as this is not defined in the Charter. Commissioner Nazzaro felt that the Master Plan should be revised every 5 – 10 year to stay current, and the updates should be codified.

B. Suggested language changes included changing the notice time for publication of public hearings for ordinances from 5 business days prior to 7 calendar days. The change also stipulated that the ordinance and date be published not just in the newspaper, but in 2 other public venues. Probably, the ordinances and notices would be posted in the Town Hall and perhaps the library or post office. The last sentence stated that the Council could not act on an ordinance until at least 7 days after the public hearing.

### 11.1.E: ANNUAL MEETING BETWEEN TOWN COUNCIL AND SCHOOL BOARD

This was a meeting not suggested in the current Charter.

NEXT MEETING: SEPTEMBER 23, 2013

Town Attorney Ratigan will attend the next meeting. Commissioner Badger said he should be asked prior to the meeting if the changes to the Charter had to be presented as a whole revision, or could be separated as amendments. Commissioner Chris Hawkins will update the red-lines to the Charter.

Commissioner Chris Hawkins moved to adjourn and Commissioner Zink seconded. Motion carried unanimously, and the meeting adjourned at 9:30 p.m.

Respectfully submitted,

Ellen Adlington, Recording Secretary