



Charter Commission

Administration Building
149 Main Street
Watertown, MA 02472
Phone: 617-972-6470

MINUTES

Commissioners:

Mark S. Sideris,
Chair

Stephen P. Corbett
Michael Donham
John A. Donohue
Dennis J. Duff
Susan G. Falkoff
Anthony Palomba
Rhiana Kohl
Angeline B. Kounelis
Cecilia Lenk
Pamela Piantedosi
Vincent J. Piccirilli, Jr.
John J. Lawn, Jr.
David Siegel
Athelia Tilson

CHARTER COMMISSION MEETING TUESDAY, MARCH 29, 2011 @ 7:00 PM RICHARD E. MASTRANGELO COUNCIL CHAMBER ADMINISTRATION BUILDING

1. Roll Call: The Chair called the meeting to order at 7:00 pm, in the Richard E. Mastrangelo Council Chamber, Administration Building. Present for the meeting were Commissioners Stephen P. Corbett, John A. Donohue, Dennis J. Duff, Susan G. Falkoff, Rhiana Kohl, Angeline B. Kounelis, Cecilia Lenk, Pamela Piantedosi, Vincent J. Piccirilli, Jr., David Siegel, Athelia Tilson and Chairman Mark S. Sideris. Commissioners Lawn, Donham and Palomba arrived after the call of the roll.

2. Acceptance of Minutes: March 15th. Commissioner Corbett moved to accept the minutes of March 15th, seconded by Commissioner Duff and adopted by unanimous roll call vote with Commissioners Stephen P. Corbett, John A. Donohue, Dennis J. Duff, Susan G. Falkoff, Rhiana Kohl, Angeline B. Kounelis, Cecilia Lenk, Pamela Piantedosi, Vincent J. Piccirilli, Jr., David Siegel, Athelia Tilson and Chairman Mark S. Sideris voting in the affirmative.

3. Discussion and Vote on Charter Amendments:

a) Article 3 – Manager:

Appointments to Commission on Disability: the Chair noted that the Charter is silent on this issue.

MOTION: Commissioner Donohue moved not to make any changes, seconded by Commissioner Falkoff.

Commissioner Kounelis stated that when the Charter was written there was not a Commission on Disabilities. She indicated that she brought this matter forward in order to look at options.

Commission Piccirilli spoke in support of not making any changes and noted that all other similar appointments are also not in the Charter. He stated that the matter can be addressed by ordinance.

Commissioner Corbett agreed noting that an ordinance makes more sense.

Commissioner Siegel concurred stating that he has a concern with too much specificity in the Charter.

Marilyn Devaney, 98 Westminster Avenue – stated that the council member appointment to the Commission on Disabilities is an ex-officio appointment by the manager.

VOTE: Upon a roll call vote the motion to make no change was adopted by a vote of 11 for, 1 against and 1 abstaining with Commissioners Stephen P. Corbett, John A. Donohue, Dennis J. Duff, Susan G. Falkoff, Rhiana Kohl, Cecilia Lenk, Pamela Piantedosi, Vincent J. Piccirilli, Jr., David Siegel, Athelia Tilson and Chairman Mark S. Sideris voting in the affirmative and Commissioner Donham abstaining and Commissioner Kounelis voting no. (Commissioners Lawn and Palomba were not present).

3-2 (7) and (11) - Elimination of duplicative reporting requirements for the Manager that are not followed in practice: There was considerable discussion on whether to delete subsection 11 as it was duplicative in nature; combine 7 and 11 and require a quarterly document; or leave as is.

Commissioner Piccirilli stated that he would be in favor of eliminating section 11 and under section 7 require a quarterly report by the manager.

Attorney Goldberg concurred and indicated that section 11 is unnecessary and it is not unreasonable for the council to require a quarterly financial report four times a year.

Marilyn Devaney, 98 Westminster Avenue – spoke in support of leaving this section alone.

Commissioner Kounelis spoke in support of not making the section less stringent and require written quarterly documents.

MOTION: Commissioner Piantedosi moved to leave language alone but move up section 11 up under 7 and renumber section, seconded by Commissioner Donham.

FRIENDLY AMENDMENT: Commissioner Falkoff moved a friendly amendment to add words under (7) “a complete written report”, and in (11) “reporting to the Town Council”, seconded by Commissioner Piantedosi.

Commissioner Donohue spoke against the friendly amendment noting that it is too complicated and noted that documentation is needed.

Commissioner Piccirilli concurred with Commissioner Donohue.

WITHDRAWAL: Commissioner Falkoff withdrew her friendly amendment. Commissioner Piantedosi withdrew her previous motion.

Attorney Goldberg noted that in reality the two provisions are doing something extremely similar and it does not make sense to play with the language.

MOTION: Commissioner Kohl moved to combine (7) and (11) into one section and add written report must be submitted not less than quarterly, seconded by Commissioner Siegel. Commissioner Falkoff requested Attorney Goldberg to review the adopted language and make changes if needed.

VOTE: Upon a roll call vote, the motion was adopted by unanimous vote with Commissioners Stephen P. Corbett, John A. Donohue, Michael Donham, Dennis J. Duff, Susan G. Falkoff, Rhiana Kohl, Angeline B. Kounelis, Cecilia Lenk, Pamela Piantedosi, Vincent J. Piccirilli, Jr., David Siegel, Athelia Tilson and Chairman Mark S. Sideris voting in the affirmative and Commissioner Palomba voting Present.

Marilyn Devaney, 98 Westminster Avenue – spoke in support of a Charter change that allows the Town Council to confirm the appointment of department heads. She noted that this change was voted by the people 2-1 by a ballot referendum some years ago.

The Chair stated that the Commission has been meeting twice a month for nearly one year and that all major Charter amendments were discussed at length and that the Commission is winding down and the time has passed for any further discussions on major issues or major changes to the Charter and further noted that the Commission chose not to address that particular item.

Commissioner Lawn is present.

3-6 Town Manager Evaluation: Commissioner Donham read his [amendment](#) and noted that currently the Charter is seriously deficient, too open ended and provides no guidance on this matter.

Commissioner Lenk spoke in support of crafting a statement that is broad but still has structure.

Commissioner Kounelis stated that the subcommittee of Personnel and Town Organization has an evaluation document in place but that she has no objection to a brief summary from the document inserted into the Charter.

Attorney Goldberg warned that the Commission must be careful of what is added to the Charter as the Town Council negotiates a contract with the Manager and additional language in this section could restrict those negotiations.

Commissioner Palomba stated that additional language would not be harmful.

Commissioner Falkoff spoke in support of no change to this section.

Attorney Goldberg indicated that she has not seen any language in any Town Charter with respect to this issue.

Commissioner Corbett stated that he would like to see the process of the Manager's evaluation continue to be flexible.

Commissioner Donham stated that he is opposed to leaving the section alone.

Commissioner Siegel noted that he would be concerned with specific language in the Charter.

MOTION: Commissioner Palomba moved that the annual review of the town manager's performance evaluation be done "using standard managerial review procedures", seconded by Councilor Kounelis.

Attorney Goldberg noted that the words "standard managerial review procedures" is not a defined term and therefore open to interpretation.

WITHDRAWAL: Commission Palomba withdrew his motion. Councilor Kounelis withdrew her second.

VOTE: Upon a roll call vote to make no change, it was adopted by a vote of 13 for and 2 against with Commissioners Stephen P. Corbett, John A. Donohue, Michael Donham, Dennis J. Duff, Susan G. Falkoff, Rhiana Kohl, Angeline B. Kounelis, Pamela Piantedosi, Anthony Palomba, Vincent J. Piccirilli, Jr., David Siegel, Athelia Tilson and Chairman Mark S. Sideris voting in the affirmative and Commissioners Lenk and Donham voting no.

- b) **Article 2-4 Compensation, Expenses:** Commissioner Donham brought forward a proposed [amendment](#) to the Charter stating that the change reflects the current procedure for the Town Council, School Committee, and Library Trustees and that he believes the review and approval by the Auditor should be mandated by the Charter in order to protect the Town.

Commissioner Piccirilli spoke against any change to this section noting an existing State law mandating this.

Commissioner Falkoff concurred with not making any changes.

MOTION: Commissioner Donohue moved to leave Charter as is, seconded by Commissioner Duff.

VOTE: Upon a roll call vote, the motion was adopted by a vote of 14 for and 1 against with Commissioners Stephen P. Corbett, John A. Donohue, Michael Donham, Dennis J. Duff, Susan G. Falkoff, Rhiana Kohl, Angeline B. Kounelis, Cecilia Lenk, Pamela Piantedosi, Anthony Palomba, Vincent J. Piccirilli, Jr., David Siegel, Athelia Tilson and Chairman Mark S. Sideris voting in the affirmative and Commissioner Donham voting no.

- c) **Article 6 – Organization: 6-2 (b)** Council can amend reorganization plans:

The Chair indicated that currently under the Charter the Council can vote up or down the submitted reorganization plan.

Attorney Goldberg noted that sections 6-1 and 6-2 work together and that once the Council votes down a reorganization plan they can submit an alternative plan by ordinance.

Commissioner Lenk spoke in favor of not making any changes to this section.

Commissioner Palomba stated that a change in this section would open up dialogue on the issue.

MOTION: Commissioner Falkoff moved to leave this section alone, seconded by Commissioner Donham.

VOTE: Upon a roll call vote, the motion was adopted by a vote of 12 in favor, and 3 against with Commissioners Stephen P. Corbett, John A. Donohue, Michael Donham, Dennis J. Duff, Susan G. Falkoff, Angeline B. Kounelis, Cecilia Lenk, Pamela Piantedosi, Vincent J. Piccirilli, John J. Lawn, Jr., David Siegel, and Chairman Mark S. Sideris voting in the affirmative and Commissioners Kohl, Tilson and Palomba voting no.

d) Article 8 – General Provisions:

8-1 Change the requirement regarding Charter review: Commissioner Falkoff spoke in support of deleting the word “shall” and replacing with the word “may” review the Charter etc., and to delete the word “persons” and insert the word “residents”.

Attorney Goldberg noted that the word “may” makes the vote to review the Charter a choice rather than a mandate.

Commissioner Palomba, Tilson, and Piantedosi spoke in support of leaving “shall” in place.

MOTION: Commissioner Donohue moved to leave the word “shall” in place and to change the word “persons” to “residents”, seconded by Commissioner Duff.

VOTE: Upon a roll call vote the motion was adopted by unanimous vote with Commissioners Stephen P. Corbett, John A. Donohue, Dennis J. Duff, Susan G. Falkoff, Rhiana Kohl, Angeline B. Kounelis, Cecilia Lenk, Pamela Piantedosi, Vincent J. Piccirilli, Jr., John J. Lawn, Jr., Anthony Palomba, Michael Donham, David Siegel, Athelia Tilson and Chairman Mark S. Sideris voting in the affirmative.

8-5 Review of Ordinances

Commissioner Donohue moved to leave section as is, seconded by Commissioner Duff.

MOTION: Commissioner Piccirilli spoke in support of a proposed change and moved to delete the existing paragraph and replace with the title: Codification of Ordinances” and insert: “All town ordinances shall be re-codified each year ending in a 5 or 0 and this task shall be conducted by the Town Clerk. Any discrepancies, conflicts, ambiguities in the ordinances discovered in this process by the Town Clerk shall be reported to the Town Council”.

Commissioner Lenk and Kounelis spoke in support of the change.

WITHDRAWAL: Commissioner Donohue withdrew his previous motion. Commissioner Duff withdrew his second.

Attorney Goldberg spoke in support of hybrid language that in years ending in 2; there be a re-codification but that each year the Town Clerk will go through all the adopted ordinances and make sure they are all inserted in their proper place and publish them on the town's website. She further noted that the town attorney can assist with the major review while the Town Clerk is responsibly for the annual re-codification process.

Councilor Piccirilli re-read language as follows:

All town ordinances shall be re-codified annually and this task shall be conducted by the Town Clerk. Any Discrepancies, conflicts or ambiguity in the ordinances discovered during this process shall be presented in a report by the Town Clerk to the Town Council within the said year.

Attorney Goldberg noted that in the ten year review you might want to let the town attorney look at these issues but leave the language in the Charter opened ended so that the Town Council may decide.

MOTION: Commissioner Duff so moved the hybrid language, seconded by Commissioner Kounelis.

VOTE: Upon a roll call vote, the motion was adopted by unanimous vote with Commissioners Stephen P. Corbett, John A. Donohue, Dennis J. Duff, Susan G. Falkoff, Rhiana Kohl, Angeline B. Kounelis, Cecilia Lenk, Pamela Piantedosi, Vincent J. Piccirilli, Jr., John J. Lawn, Jr., Anthony Palomba, Michael Donham, David Siegel, Athelia Tilson and Chairman Mark S. Sideris voting in the affirmative.

8-11(c) - Clarification of conviction that may be a basis for removal from office:

Attorney Goldberg stated that a change in the language would eliminate any loop holes and that any person, while serving in office and convicted of a felony under the Commonwealth or United States jurisdiction can be removed from office.

Commissioner Kohl spoke in support of the change and stated that the mechanism is clearly defined by the United States Department of Justice and thus is a consistent source.

The Chair stated that the Commission must decide whether it will be an automatic removal or a vote of the Town Council.

Commissioner Palomba spoke in support of leaving the Charter as is with respect to that issue, requiring a unanimous vote of the Town Council for removal.

Commissioner Tilson agreed.

MOTION: Commissioner Siegel moved to delete and insert “any person convicted of a felony under any United States jurisdiction while holding office”, seconded by Commissioner Palomba.

AMENDMENT: Commissioner Duff moved a friendly amendment to remove said person by a 2/3 vote, seconded by Commissioner Donohue.

Commissioners Palomba and Tilson spoke against the friendly amendment.

VOTE: Upon a roll call vote on the motion as amended, the motion was adopted by 12 for and 3 against with Commissioners Stephen P. Corbett, John A. Donohue, Dennis J. Duff, Susan G. Falkoff, Rhiana Kohl, Angeline B. Kounelis, Cecilia Lenk, Pamela Piantedosi, Vincent J. Piccirilli, Jr., John J. Lawn, Jr., Michael Donham, and Chairman Mark S. Sideris voting in the affirmative and Commissioners Tilson, Siegel and Palomba against.

MAIN MOTION: Upon a roll call vote on the Main Motion, it was adopted by 14 for and 1 against with Commissioners Stephen P. Corbett, John A. Donohue, Dennis J. Duff, Susan G. Falkoff, Rhiana Kohl, Angeline B. Kounelis, Cecilia Lenk, Pamela Piantedosi, Vincent J. Piccirilli, Jr., John J. Lawn, Jr., Anthony Palomba, Michael Donham, David Siegel, and Chairman Mark S. Sideris voting in the affirmative and Commissioner Tilson against.

MOTION: Commissioner Piantedosi moved to schedule an additional meeting date as determined by the Chair, seconded by Commissioner Duff and adopted by unanimous voice with Commissioners Stephen P. Corbett, John A. Donohue, Dennis J. Duff, Susan G. Falkoff, Rhiana Kohl, Angeline B. Kounelis, Cecilia Lenk, Pamela Piantedosi, Vincent J. Piccirilli, Jr., John J. Lawn, Jr., Anthony Palomba, Michael Donham, David Siegel, Athelia Tilson and Chairman Mark S. Sideris voting in the affirmative.

It is noted that the remaining articles will be taken up at the next Charter Commission meeting as follows:

e)Article 9 – Transitional:

9-6 Update based on current organization and practice

f)Mandatory Town issued email addresses for all elected officials, library board of trustees, school committee and town council.

4. New Business: The Chair recognized Marilyn Devaney, 98 Westminster Avenue who reiterated her previous spoken support of having the Town Council confirm appointments of department heads.

5. Adjournment – 9:00 pm: Commissioner Piccirilli moved to adjourn the meeting at 9:45 pm, seconded by Commissioner Donohue and adopted by unanimous vote with Commissioners Stephen P. Corbett, John A. Donohue, Dennis J. Duff, Susan G. Falkoff, Rhiana Kohl, Angeline B. Kounelis, Cecilia Lenk, Pamela Piantedosi, Vincent J. Piccirilli, Jr., John J. Lawn, Jr., Anthony Palomba, Michael Donham, David Siegel, Athelia Tilson and Chairman Mark S. Sideris voting in the affirmative.

I hereby certify that at a regular meeting of the Charter Commission for which a quorum was present, the above minutes were adopted by voice vote on April 25, 2011.

Mark S. Sideris, Commission Chair