

Charter Review Commission Workshop Meeting – May 13, 2010

Chairman Pappalardo called the meeting to order at 6:30 p.m.

Members present: Joseph Pappalardo, Dorothy Kalil, John Cronin, Maureen Donovan, Dennis DiZoglio, Robert Vogler, and Patricia Uliano. Kenneth Bourassa and Barbara Grondine were absent.

Everyone stood for the Pledge of Allegiance

ACCEPTANCE OF AGENDA

MOTION BY: D. Kalil, seconded by P. Uliano to accept the agenda as posted. UPON VOTE: UNANIMOUS.

Acceptance of the Minutes of April 7<sup>th</sup>

MOTION BY: P. Uliano, seconded by D. Kalil to waive the reading and accept the minutes of April 7, 2010.

UPON VOTE: UNANIMOUS.

Treasurer Report – No change - no monies spent by the Charter commission

Joseph Pappalardo read into the record a memo he received from Commissioner Bourassa, dated May 11, 2010 stating that he could not be in attendance and said he would appreciate it if there were no important votes taken this evening. There was a brief discussion regarding voting.

**MOTION BY: Dorothy Kalil, seconded by Maureen Donovan to follow the same guidelines as the City Council, first and second read policy**

**UPON VOTE: UNANIMOUS**

Joseph Pappalardo referenced the Lynn Charter, Article 3, Legislative Branch, Section 3-4 which states “no city councilor shall hold any compensated appointed city office of the city employment during his term and until two years following the expiration of the term.” He noted that Methuen’s charter presently states one year. He wanted to bring forward the two-year time frame to see how the commission members felt about it and also be more explicit in the wording to say “appointments after expiration of term, under no circumstances”. In the past, a Home Rule Petition was filed to waive the provision of the Home Rule Charter to allow a former city councilor to come on board as an employee prior to the one-year wait. This proposed change would say we don’t want the Charter, under any circumstances, to be changed for this purpose.

Maureen Donovan recalled an instance where a previous Councilor walked right a supervisor’s job. It was as if they were saving the position for him and it wasn’t right. No one else would apply for it. Maureen Donovan said she received calls and people were afraid to come forward to apply for the supervisory position because they were afraid of the consequences.

Dennis DiZoglio stated there are exceptions in some respects. He referenced a situation when Matt Kraunelis was on the council. Mayor Manzi was elected and wanted to make Matt his Chief of Staff. They needed to get permission from the Legislature to do that. In that case, it was not taking a posted position because the Mayor is going to select a Chief of Staff that he is comfortable with.

Pat Uliano said at the time, Council was given the option to waive the provision, signed the Home Rule Petition and supported Matt in that position.

Dennis DiZoglio expressed concern with the Chairman eliminating that option.

Joseph Pappalardo commented that the Home Rule Petition method has been a vehicle that has been used quite a bit to bypass what the Charter states. He would like to tighten the language as much as possible.

Dennis DiZoglio disagreed with the finality and inflexibility of the proposed restriction. It would be too rigid. The Matt Kraunelis case was an exception. The suggestion would preclude that from happening. Council would not have the option to file a Home Rule Petition. He believes this is governed by State statute.

Bob Vogler commented that in terms of numbers there was one Home Rule Petition, for the Chief of Staff, and the other was an appointment that may have been a violation of the Charter. He doesn't have a problem with the language "no compensated appointment – two years". It's currently one year and it should be followed but if Council deems it necessary to file a Home Rule Petition, the option is available. School Department also has the one-year wait time frame for previous School Committee members to become employees of the system.

John Cronin said he doesn't know if it is legal to preclude the City Council from putting forth a Home Rule Petition for a Charter change.

Joseph Pappalardo clarified that he has a problem with a new Mayor coming on board that was a former City Councilor, voting to allow somebody that's been close with them, as a Councilor, to come on board as Chief of Staff, waiving the provision of the charter.

John Cronin noted he doesn't believe that the City Council could be prohibited from taking a vote to ask for a Home Rule Change.

**MOTION BY: D. Kalil, seconded by M. Donovan to state that "no city councilor shall hold any compensated appointed city office or city employment during his term or until two years following the expiration of the term."**

There was a discussion as to whether or not to include other elected officials such as the School Committee, Methuen Housing Authority, Nevins Library, or any other elected board and extenuating circumstances that could possibly require a waiver.

**MOTION BY: M. Donovan, seconded by D. Kalil to amend the previous motion to state, “Any elected official shall not hold any compensated appointed city office or city employment during his term and until two years following the expiration of the term. UPON VOTE: 6 yes, 1 no (D. DiZoglio) (K. Bourassa and B. Grondine were not present for the vote) (first read)**

Joseph Pappalardo referenced the Lynn Charter, Section 3-7, which states the administrative offices that shall be chosen by vote of the City Council. They include the City Clerk, City Solicitor, a City Electrician and two members of the Board of Assessors. J. Pappalardo suggested eliminating the City Electrician and adding that the City Council would have the right to vote in – the City Solicitor, the City Clerk, the City Accountant, and add the DPW Director.

Dennis DiZoglio noted there are checks and balances in the sense that the Mayor would have to make a recommendation to the City Council. The City Council could then review that person’s qualifications and decide whether or not the Mayor made a correct choice or not. This current system works fine. He does not agree with adding the DPW Director as he works closely with the Mayor to provide constituent services as well as Council concerns about constituent services. If the Council appoints a DPW Director and there are inconsistencies in services (snow plowing, road repair, etc), residents cannot ask the Mayor about any problems or hold him accountable for this employee’s job performance.

Bob Vogler commented that currently the City Council has the option to accept or reject the Mayor’s appointment(s). If the Council wants the authority, then the City Council has to have a personnel committee that meets and interviews all applicants of the Mayor. That’s what other cities do. He then referenced the School Department and noted that the School Committee’s appointments include the Superintendent and the Business Manager. The remaining positions are at the discretion of the Superintendent. City Council is responsible for Council employees and the City Council has the power to say “no” to the Mayor’s recommendation. That’s part of the checks and balance. He suggested establishing a personnel committee to participate in the interview process, similar to other communities.

Joseph Pappalardo noted that the City Council recently adopted a resolution providing for a personnel committee.

John Cronin asked if he is proposing, as part of the charter revision, that the City Council should interview and confirm all appointments of the Mayor.

Robert Vogler stated that the City Council can do that through ordinance and it doesn’t require a charter change. John Cronin noted it needs the Mayor’s signature. Mr. Vogler then suggested that they include a personnel committee under the duties of the Legislative body and a finance committee that’s all. (At this point, Mr. Vogler left the meeting.)

There was a brief discussion as to the positions, department heads, etc., that should be under the jurisdiction of the Mayor.

Councilor Jeanne Pappalardo, 139 Forest Street, explained the role of the “ad hoc personnel committee” which basically has no authority. All they are doing is reviewing the existing personnel ordinances – if they want to make recommendations to change them or to add to them. Originally she and Councilor Lahey spoke to the Solicitor because they wanted to participate and sit in on interviews conducted by the Mayor but were told they could not because it’s not in the Charter. If the Charter Commission places the personnel committee in the Charter, then the City Council or the personnel committee that’s elected or appointed has the right to sit in on interviews.

John Cronin noted that the City Council could refer anybody or any item to that committee. It doesn’t have to go through the Charter.

Dennis DiZoglio noted that Council has the ability now to either support the appointment or refer them to committee as suggested by J. Cronin. There is a check and balance in place. This proposed change would add an extra layer that will not make the government more efficient. It would make it less accountable to the people. He believes in a strong accountable government and the voters of Methuen deserve to know whom they can hold accountable and not shift blame to others.

Maureen Donovan noted that previously all appointment came before Council and now they don’t. She prefers the Mayor form of government but wants the checks and balances that if the Mayor wants to do something, he has to go before the Council and get their approval

Dennis DiZoglio read from the Charter, the positions being discussed: “all appointments of department heads, assistant department heads, division heads, police superior officers in the rank of Sgt or above, fire department superior officers a rank of Lt or above, the Conservation agent and all boards and commissions shall be subject to the confirmation of the majority vote of the city council.” A lot of those positions referred to are already there. You could go down to a laborer.

**MOTION BY: J. Cronin, seconded by M. Donovan to amend Section 3.3 – Mayoral appointments to state, “that the City Council shall confirm all appointments made by the Mayor” (like Council used to do, including seasonal employees, laborers, patrolmen, etc.)**

**UPON VOTE: 5 yes, 1 no D. DiZoglio (Robert Vogler, B. Grondine and K. Bourassa were not present for the vote) (first read)**

John Cronin asked if the City Solicitor would present the actual wording to the proposed changes. Joseph Pappalardo stated that the City Solicitor will prepare everything and the commission would review what he puts together.

Dennis DiZoglio recalled the process used when he was Mayor by the then Fire Chief Ken Bourassa to interview a group candidates for Captains and Deputies. They looked at issues whether they could climb up ladders and felt comfortable with heights, whether they were EMTs, and looked at a lot of the issues that they needed to know about. He relied on their expertise and recommendations. Now the suggestion is to have the Mayor present names to Council and Council would ask the questions: “Can you climb a ladder?” Do you feel comfortable with heights? Why did you select this person?” It becomes an opportunity for disruption, grandstanding, creating an unsettled environment as we try to bring on these people. It brings about scrutiny that is not necessary.

John Cronin noted that the community just went through a big scrutiny that wasn't necessary because Council didn't have the authority to confirm the appointments and the people that qualified them, civil service, rejected the appointments that were made.

Dennis DiZoglio said it was the checks and balances with Civil service.

There was a brief discussion on Council votes ref: Consideration of Appointments, the idea of a personnel committee asking for an opportunity to meet and interview the candidates, committee review, and Section 3.9 Appointments to city office as outlined in the Lynn Charter.

Joseph Pappalardo then referred to the Lynn Charter and read Section 3-11 Management Audits – A complete management Audit of each city agency shall be made at least once in every eight years. (Provision attached)

**MOTION BY: D. Kalil, seconded by M. Donovan to adopt Section 3-11 – Management Audits as stated in the Lynn Charter and read by Chairman Pappalardo**

John Cronin questioned the cost of such audits and asked that language be included to cover the cost within the municipal budget. The cost could double the \$50,000 or \$75,000. If the City Council is going to do this audit there has to be money in the City Council budget. He suggested speaking to the City Solicitor regarding the appropriate language.

Dennis DiZoglio agreed and noted it could be quite expensive for an eight-year period. He suggested phasing the audits into eight different groups, i.e., Fire Dept, Police Dept, Community Development, City Auditor, etc.

There was discussion as to whether or not the Management Audit should be combined with the Financial Audit, items included, related costs, placement within the Charter, scheduling of such audits, the benefits of such an audit during the recent police department debacle, and the possibility of the Mayor or the City Council soliciting proposals in January for a financial audit to be done perhaps on July 1st, and perhaps conducting a finance/management office audit once every eight years, staggered, to ensure fiscal and management responsibility. It is important to include a funding source.

**UPON VOTE: UNANIMOUS (first read)**

Vice Chair Dorothy Kalil referred to the Methuen Home Rule Charter, page two, under Legislative Branch in section 2-1 paragraph c) the election and the term - right now it states the term of office of all members of city council shall be for two years beginning on the first secular day in January after their election and until their successors are qualified no person shall hold office of the City Council for more than three consecutive terms.

**MOTION BY: D. Kalil, seconded by M. Donovan to add additional language as part of the sentence “or non consecutive terms” in paragraph c). D. Kalil noted it would bring back lifetime term limits, before the change made in 1999.**

**MOTION BY: Dorothy Kalil, seconded by M. Donovan to amend motion to include the Mayor and School Committee.**

Members discussed term limits prior to the vote in 1999, confusion surrounding the ballot questions put forward in 1999, boards and commissions who currently have

term limits, pros and cons of lifetime limits, recent election results, incumbents vs. newcomers, and whether or not to include all elected officials.

At the request of the Chairman, D. Kalil reiterated the motion

**MOTION BY:** D. Kalil, seconded by M. Donovan that the language would read “the term of office of all members of the City Council and the School Committee shall be for two years beginning the first secular day in January after their election until their successors are qualified. No person shall hold office of the City Council or School Committee for more than three consecutive terms or non-consecutive terms.

Discussion on whether or not the Vocational School, Methuen Housing Authority, or Nevins Library have term limits, candidates leaving Council and then running for School Committee, returning to Council after two years service on School Committee, the separation of individual sections of the Charter that pertain to term limits.

**MOTION BY: M. Donovan, seconded by D. Kalil to amend the original motion and include “all elected offices” “the term of office for all elected offices in the city shall be for two years beginning on the first secular day in January after their election and until their successors are qualified. No person shall hold office of any elected branch for more than three consecutive terms or non-consecutive terms.**

Dennis DiZoglio suggested separate votes on Section 2-1 City Council, the Section pertaining to School Committee and the Mayor because he would like to see the section regarding the Mayor changed to perhaps two four-year terms.

**UPON VOTE: 5 yes, 1 no Dennis DiZoglio (Robert Vogler, Barbara Grondine, and Ken Bourassa were not present for the vote) (first read)**

At the request of the Chairman, members discussed future meeting dates. The Chair asked that he be notified if there are any problems with scheduling. He noted he hopes to get this done, give the information to the City Solicitor in order to submit it in proper form to the voters.

The next meeting is Wednesday, May 19, 2010, at 6:30 p.m. in the Great Hall, Searles Building.

ADJOURN

MOTION BY: D. Kalil, seconded by M. Donovan to adjourn.

UPON VOTE: UNANIMOUS

The meeting adjourned at 8:00 p.m.

Submitted by,

Linda Gagnon, Public Recorder

Section 3-11 Management Audits (excerpt from Lynn Charter)  
Adopted for first read 5/13/10

- a) In General – A complete management audit of each city agency shall be made at least once in every eight years in order to accomplish the following purposes:
  - 1) To identify any areas which hinder or prevent the city agency from performing its assigned responsibilities, goals or objectives and to offer suggestions for the removal of such obstacles and to suggest ways in which the responsibilities, goals or objectives might better be met.
  - 2) To evaluate the adequacy of management practices being utilized in the agency, with respect to fiscal controls and use of available personnel and equipment.
  - 3) To suggest specific ways and means by which the functions and services of the agency might be improved.
  
- b) Elements to be Considered – Each such management audit shall include, but need not be limited to, a consideration of the following:
  - 1) Organization, staffing and manpower
  - 2) Adequacy of financial controls
  - 3) Facilities and equipment
  - 4) Goal setting long and short range
  - 5) Procurement practices
  - 6) Overtime policies
  - 7) Cost comparisons with other municipalities and comparable private enterprise activities
  
- c) Organization of Reports – Each management audit shall consist of the following parts:
  - 1) Introduction – A brief explanation of the methods used to conduct the audit
  - 2) Scope – A statement of the extent of the examination made
  - 3) Major Contacts – A listing of the names of all persons interviewed in the conduct of the management audit and an outline of the procedures followed.
  - 4) Findings – Details of the practices found during the management audit, which, in the opinion of the audit team, requires modification or other change in order to strengthen and improve the agency and its performance.
  - 5) Recommendations – Specific suggestions for actions to be taken either by the agency itself through changes in its own internal policies and operating procedures, or by the city council, based upon specific findings made.

d) Administration – The city council shall be responsible for the conduct of all management audits under this section. The city council shall determine which city agencies shall be reviewed in any particular year and shall provide a schedule to assure that each city agency is so audited at least once in every eight years. The city council shall determine the manner in which such audits shall be conducted and shall award all contracts for professional consulting services in connection therewith. The city council may delegate the details of the overview of such audits to a standing committee, or to the city auditor or other designee who shall keep it fully informed of the implementation of all changes suggested in such audit reports by the city agencies concerned.