

**MERRIMACK CHARTER COMMISSION
REGULAR MEETING
SEPTEMBER 13, 2005**

Commission members present: Chairman Tom Mahon, Vice Chairman Heather Anderson, Secretary Fran L'Heureux, Peter Batula, Robert Kelley, Finlay Rothhaus (arrived at 7:25PM), Tim Tenhave, and David Yakuboff. Excused Absence: Lon Woods

Chairman Mahon convened the meeting of the Charter Commission at 7:03 pm in the Conference Room of the Town Hall.

Reports

Chair – Chairman Mahon distributed a proposed schedule for Charter drafting. There are some pieces still missing from this schedule. These will be filled in as time goes on. The Commission's attorney has not yet responded to the Commission's latest queries submitted the later part of last week. He noted that he had received an email from Carol Lang regarding the work being done by the Commission. He noted that he forwarded this email to members of the Commission.

Vice Chair – There were no reports from the Vice Chair at this time.

Public Hearing

Chairman Mahon noted that this is an interim step in the drafting process. The Commission to this time has made some basic decisions. The Commission has decided that the proposed form will be a 7 member town council with staggered terms for the councilors. The councilors will be elected at large. The Commission wanted to give the public an opportunity to let the Commission know their thoughts on the job done so far by the Commission. The draft charter must be completed by December 18, 2005. The Commission will hold another Public Hearing in November. The draft will be sent to the required state agencies for review. The Commission has until February 1, 2006 to create a final version of the Charter to be presented to the Board of Selectmen. The final version will be presented to the voters on the ballot in April 2006.

Norman Phillips, 18 Edward Lane, noted he looked up the charters of Derry and Durham. He noted that his main impression of these charters is that the Town Council is more powerful than the Board of Selectmen. He noted he does not know that this will go over well with the voters. He noted that any attempt in the past to reconsider SB2 has been defeated by a wide margin. The voters have refused to give the Board of Selectmen the right to buy land in the past. He noted he doesn't feel that the people want to give the Board of Selectmen more power.

Tim Tenhave noted that in Derry the Town Council is both the legislative and governing body. The Commission is looking to allow the town council to be the governing body, but not necessarily the legislative body.

Tom Mahon noted that Durham still has some form of town meeting.

Carolyn Whitlock, 239 Baboosic Lake Road, questioned why a 7 member Town Council is better than a 5 member Board of Selectmen. Mr. Mahon noted that the 7 members will provide more representation and perhaps lessen the responsibility for individual members.

Mrs. Whitlock noted that in the Selectman's job the work is expected. There is meeting preparation and public hearing attendance. She noted that there are extra invitations to meetings, etc. These extra invitations are sometimes a problem. She noted that adding another person or two will not cause any relief in the time for preparation and meetings. She noted it may cause meetings to be longer as there will now be more opinions to consider.

Peter Batula questioned what constitutes a quorum at the current Board of Selectmen's meeting. Mrs. Whitlock noted that 3 of the 5 members constitutes a quorum. Mr. Batula questioned how many Selectmen are needed for a majority if only 3 members are present. Mrs. Whitlock stated that 2 members would constitute a majority in those circumstances. Mr. Batula questioned whether 2 people making decisions for the entire town is sufficient. Mrs. Whitlock stated that she does not look at it that way. She noted that if there are only 3 Selectmen present any decision can be postponed until there are more members present.

Mrs. Whitlock questioned whether a Town Council would prohibit petitioned Warrant Articles. Mr. Mahon noted this would depend on the form the government takes under the charter. There is language for initiative and referendum. He noted that several communities have "citizen concerns" when a citizen can go to the governing body to ask them to act on issues. If the petition signature threshold is met, an issue can go to the governing body for inclusion on the ballot.

Mrs. Whitlock noted she appreciates the time spent by the Charter Commission members on research as representatives of the community.

Mrs. Whitlock questioned what will happen to the current Board of Selectmen if the form of government is changed. Mr. Mahon noted that the answer to this would be part of the transition plan provided by the Charter. The Board of Selectmen could disappear or the members of the Board could be maintained with the addition of 2 members to become the Town Council. (Finlay Rothhaus arrived at this time.) This issue would need to be worked out.

Mr. Batula noted that one of the difficulties of this work is that the people can see it as against them, but he noted the Commission is looking further down the road. He noted that he has a problem with the possibility that 2 people can be making decisions for the entire population of Merrimack.

John Grady, 7 Woodward Road, commended the Charter Commission for the work done so far. He noted he feels that the Commission is on the right track and he agrees with some of their decisions and disagrees with others. He noted that sometimes it is time to move on. He noted that the problem with the Board of Selectmen is that it has no power to speak of. People are always dumping on the Board of Selectmen. Sometimes the Board micromanages the town. He noted that the Budget Committee is

made up of dedicated people, but it is an additional level of bureaucracy. The department heads must begin preparation of their budgets in September, and then meet with the Town Manager, the Board of Selectmen, and the Budget Committee. Sometimes in the meeting with the Budget Committee nothing is changed. Sometimes the Budget Committee is little more than a debating society. He noted that he is not sure that the Budget Committee is time well spent. He noted there are usually only a handful of people at the Deliberative Session. He noted that about 8,500 people voted for a budget of about \$27M. He noted that 1/8 of the people voting did not vote on the budget. He noted he thinks the Charter Commission is on the right track. He noted that form that makes the Town Council both the legislative and governing body should not be ruled out by the Commission. He noted that change comes hard. He noted that Merrimack needs to change. He hopes that the Charter Commission does a real education process to educate the voters as to why they have done what they have done.

Chuck Mower, 4 Depot Street, noted that in his opinion the Charter Commission is on the wrong track. He noted he had hoped the Commission would identify the failures in the present form of government and let the public know of these failures. He noted the current form of government has worked well over time. He noted that Merrimack is a stronger community for the public participation. He noted he remains unconvinced as to why he should support the Town Council form of government. The Board of Selectmen is intended to be a policy board. The administration is intended to carry out the policies of the Board. The current form is working well. He noted he is troubled by the penchant to increase the standards for bonding and significant capital improvements. He noted the town has tried to get a 2/3 majority to meet minimum standards and has found this difficult. He noted the demographics have changed in town and will continue to change. The current form is a sophisticated municipal organization, and, he noted, he would be saddened to see this changed without looking at the pitfalls of changing. He noted he remains confident that the current form is sound and efficient. He noted he would like to see some minor changes. The Charter Commission will give the people a choice between the current system and an unknown form. He noted the current form can serve the town well into the future. The government needs to work better.

Mr. Mahon questioned the minor improvements Mr. Mower suggested need to be made. Mr. Mower declined, noting he hoped that the Charter Commission would have suggestions that would be wholly their own.

Andrew Silvia, 22 Merrymeeting Drive, noted that bond measures could be passed with 2/3 or 3/5 majorities. He noted that a cap on bonds or a rating limit would be good. He noted that 5 members on the governing board is too few, while 9 is too many. He noted that the process has moved along too fast. He noted this is not the fault of the Commission, but rather of the deadlines set forth in the law. The governing and legislative bodies need as many opinions as possible. He noted it is probably less costly to run for a district position than for an "at large" position.

David McCray, 19 Trowbridge Drive, noted he feels confident about the future of Merrimack government. He suggested that the Commission not be afraid to do a complete overhaul of the form of government. He noted he agrees with the vote taken to go forward with a 7 person council. He noted that 7 members would make it easier

for citizens to find someone to speak with regarding an issue. There would be more people to reach out to in this larger council. There would be more discussion at a 7 member council. He noted he believes the town should get rid of the Budget Committee. He noted this Committee is more bureaucracy than substance. He noted they give no real benefit to the public. They create a minimum impact on the budget. He noted he believes that the public should still vote on the budget. He noted that a 7 person council would be more effective. Such a council would allow more time to make sound decisions to put before the people. He noted he feels that the town should get rid of the Deliberative Session. The people deserve the right to speak. The only thing that matters in the end is collective opinion of the people in April. The people asked for an alternative. The choice is between the current form and another form.

Mr. Mahon noted that the Commission has asked for an opinion of their attorney regarding the Deliberative Session. It is Tom's feeling that with an official ballot Town Council form there is a need for the legislative body (the voters) to discuss what appears on the official ballot. There is no clear indication at this time that the Deliberative Session can be eliminated. It is, however, the strong desire of the Charter Commission to eliminate the Deliberative Session.

Pete Hinkle, 1 Pondview Drive, noted his concern is that he sees the current form as unique and desirable. He noted that the people can participate in many different ways. The people are accustomed to participating. He questioned the effect on the ability and opportunity of the people to participate in the new form under consideration.

Mr. Mahon noted there are different forms of participation. He noted the Commission is not trying to take away the opportunity of the people to participate. He noted there may be initiative and referendum questions. Some of the methodologies are different. He noted there would be significant differences if the Deliberative Session is eliminated. Other significant changes would be the thresholds for initiatives and referendums. There is a possibility of petitions to the Town Council to address concerns of the people.

Mr. Hinkle questioned whether there would be opportunities to allow for more participation. Mr. Mahon noted that most charters with Town Councils provide opportunities for participation through the procedures of the Town Council.

Heather Anderson noted that election as a Town Councilor is still available as it is currently with the election of selectmen. There is still an opportunity to be elected or appointment to town boards, etc.

Mr. Mahon noted that there could be 2nd and 3rd readings of issues for additional discussion.

Tim Tenhave noted that public participation can be written into the Charter.

The public hearing was declared closed by Chairman Mahon at 8:16 PM.

Response from Attorney

Chairman Mahon noted there has been no response from the Commission's attorney at this time.

Minutes of September 6, 2005

A motion was made by Heather Anderson and seconded by Robert Kelley to table action on these minutes at this time. The motion passed 8-0-0.

Questions from the Press

There were no questions from the press at this time.

Other Business

Peter Batula questioned whether the Town Clerk in the form chosen is elected or appointed. Tom Mahon noted that in town forms the Town Clerk is elected. The Clerk is only appointed in city forms. Mr. Batula questioned whether this is a good thing. Mr. Mahon noted he has no problem with this election. Mr. Batula noted this is a responsible position, is there a need for a knowledgeable person. Mr. Mahon noted that the Town Clerk's Association has a certification process. This certification requires 2 or 3 years of study. There is also a parallel Tax Collector's certification. There is a re-certification process every 2 or 3 years.

Adjourn

A motion was made by Tim Tenhave and seconded by Peter Batula to adjourn the meeting at 8:35 PM. The motion passed 8-0-0.

Respectfully submitted,
Rita Carlton, Recording Secretary