

**MERRIMACK CHARTER COMMISSION
REGULAR MEETING
December 6, 2005**

Commission members present: Chairman Tom Mahon, Vice Chairman Heather Anderson, Robert Kelley, Finlay Rothhaus (arrived at 7:35 PM), Tim Tenhave, David Yakuboff, and Lon Woods.

Excused: Secretary Fran L'Heureux and Peter Batula

Chairman Mahon convened the meeting of the Charter Commission at 7:08 pm in the Conference Room of the Town Hall.

Announcements

There were no announcements at this time.

Public Comments

There were no public comments at this time.

Reports

Chair – Chairman Mahon noted that he has received an email from the attorney. The presence of the attorney has been requested for the meeting of December 13, 2005. Mr. Mahon noted he will give the state agencies a call and give them the sections of the charter as they are completed, if the agencies so desire. He has contacted the Town Manager regarding printing of the charter and the report. A Purchase Order number will be given to allow this printing to be done by an outside agency. Mr. Mahon noted he would touch base with the Town Clerk to make sure that everything is in order for her transmittal of the draft charter to the state agencies. Heather Anderson questioned whether there is an option for the state agencies to ask questions of the Charter Commission. Mr. Mahon noted that any such questions will be contained in a letter to the Commission. He noted that he and Ms. Anderson will be available to consult with the state agencies. The Commission will take another pass at the report. This report needs to be completed by the end of next Tuesday's meeting.

Review Additional Language for Moving to Draft Charter

Article 7.4(a)

A motion was made by Lon Woods and seconded by Tim Tenhave to move section 7.4(a):

A. Reprimand (7-0-0)

The Manager may be reprimanded by a vote of five (5) members of the Town Council. The Town Council shall adopt a resolution of reprimand stating the reasons therefore and any sanctions to be imposed, which shall be served on the Manager. Immediately upon delivery to the Manager of said resolution of reprimand, the Manager may be relieved of office and/or such duties as the Town Council may determine. If relieved by the Town Council, the Manager shall continue to receive full salary and benefits until the effective date of a final resolution of reprimand. If a final resolution of reprimand is not adopted, the Manager shall resume office forthwith.

The motion passed 7-0-0.

Article 7.4(b)

A motion was made by David Yakuboff and seconded by Heather Anderson to move section 7.4(b) as follows:

B. Removal (7-0-0)

The Manager may be removed from office by a vote of five (5) members of the Town Council. The Town Council shall adopt a resolution for removal stating the reasons therefore, which shall be served on the Manager. Immediately upon delivery to the Manager of said resolution for removal, the Manager shall be relieved of office and all further duties. The Manager shall continue to receive full salary and benefits until the effective date of a final resolution for removal. If a final resolution for removal is not adopted, the Manager shall resume office forthwith.

The motion passed 7-0-0.

Article 7.4(d)

A motion was made by David Yakuboff and seconded by Robert Kelley to change the word “will” to “pleasure” in this section. Additionally the words: “by a vote of at least four (4) members of the Town Council” was added. The motion passed 7-0-0.

Article 7.7 – Powers and Duties of the Manager

Tom Mahon noted that currently the Town Manager can initiate the Personnel Plan, but the Town Council cannot. What happens if the Town Council wants to make a change? Lon Woods noted that the Town Council can ask for this change. He noted that when the Town Council adopts the Town Manager proposed Personnel Plan it becomes the Town Council’s Personnel Plan.

Article 7.8

Tom Mahon noted that the standard for the removal of a department head is higher than the standard for the removal of the Town Manager. The Charter may want to make a distinction between the hiring and tenure of the Town Manager and the hiring and tenure of a department head.

Article 11.5 – Land Use Ordinances

Tom Mahon noted that the legislative body adopts ordinances and amendments to the land use ordinances. The Town Council is the legislative body in this instance.

Article 11.11 – Violations and Penalties

Tom Mahon noted that a violation of the Charter may not be a criminal action. “Willful violations” is a high threshold.

A motion was made by Tim Tenhave and seconded by David Yakuboff to remove this article from the table. The motion passed 7-0-0.

A motion was made by Tim Tenhave and seconded by Finlay Rothhaus to not include this section in the draft charter. The motion passed 7-0-0.

Referendum/Petition Discussion

Tim Tenhave noted that these sections have already been acted upon and a motion to reconsider would be needed to reconsider them. David Yakuboff noted he would like to hold this discussion when Peter Batula is available.

Mr. Tenhave noted that action was taken on these sections before the Public Hearing. At the Public Hearing he heard some discomfort with this process. He suggested a staged or longer period of time for signature collection.

Mr. Yakuboff noted that the Commission has looked at the numbers and the time required to collect the correct number of signatures. He noted that if the people have something to say they will meet these numbers and times.

Finlay Rothhaus noted there is justification for changes to these sections, but he felt it would be more appropriate to discuss these issues when the entire Commission is available.

Tom Mahon noted that votes on these sections were 9-0-0. He felt that the Commission has been attentive. He noted that if the issue is strong enough and the Town Council is deaf enough the signature requirements will be met. The Town Council should be attentive to the concerns of the residents. The intent of the high thresholds is to prevent petitions/referendums from bogging down the process. He noted the Commission heard what was said at the Public Hearing. He noted if there is a "hot button" issue there will be more than one person collecting signatures.

Heather Anderson noted that the referendum is something new in this Charter. She noted that the threshold needs to be high. She noted she thinks the people will be very deliberate when they go through these processes.

Review Draft Charter

Heather Anderson noted she looked at the table of contents, then the chapter analysis. The votes are still in the draft documents, but they will be removed before the charter is submitted to the state agencies.

Article 1.3

A motion was made by Heather Anderson and seconded by David Yakuboff to strike the second paragraph from section 1.3. The motion passed 7-0-0.

Article 2

A motion was made by Lon Woods and seconded by Robert Kelley to change the title in Article 2 to Glossary of Terms and to add the following:

2-1 Definitions

A. Apparent Meaning

Unless another meaning is clearly apparent from the manner in which the word is used, the words used in this Charter shall have the meaning as defined in Section 2.1(B).

B. Specific Meaning

The motion passed 6-0-1.

Article 4

Ms. Anderson noted that she added headings in section 4.7(c). She deleted the letters A and B in section 4.8.

Article 5

In Section 5.2 Ms. Anderson combined some sentences and eliminated some numbers. She did the same thing in section 5.3.

Article 8

Tom Mahon noted there is some confusion between budgetary Town Meeting and Town Meeting in this Charter. He suggested that every time the words "budgetary Town Meeting" appear they should be changed to "Annual Meeting".

A motion was made by Tim Tenhave and seconded by David Yakuboff to make the changes as proposed by Tom Mahon. The motion passed 7-0-0.

Ms. Anderson noted that in section 8.12 she added letters for clarification.

Article 9

Some formatting changes were made to this article to make its format conform to the format of the other articles.

A motion was made by David Yakuboff and seconded by Tom Mahon to remove the words "establish an Ethics Committee to" in Section 9.6. The motion passed 7-0-0.

Article 10

Some lettering changes were made in sections 10.1, 10.2, and 10.3.

Article 12

A motion was made by Lon Woods and seconded by David Yakuboff to change the title of section 12.2 to "Effect on Incumbent Office Holders". The motion passed 7-0-0.

Further information will be made available at the next meeting regarding the abolition of the Historic District Commission.

The Commission gave Heather Anderson thanks for her work on the formatting of this charter.

Preliminary Report Discussion

Tom Mahon noted he would create an executive summary when the remainder of the report was created.

Tim Tenhave noted he was hoping to see a section on the amendments/changes made to town government with the charter. Mr. Mahon noted he tried to make the point that the initiative/referendum petitions are new tools. He will add an addendum to the report comparing the current government with the proposed government.

Mr. Mahon suggested that any further suggestions be sent to him for distribution at the next meeting.

Heather Anderson noted she will bring her laptop to the next meeting to make changes in the draft charter as the Commission makes them.

Questions from the Press

There were no questions from the press at this time.

Public Comments

There were no public comments at this time.

Comments from Commissioners

There were no comments from commissioners at this time.

Adjournment

A motion was made by Lon Woods and seconded by Robert Kelley to adjourn the meeting at 10:05 PM. The motion passed 7-0-0.

Respectfully submitted, Rita Carlton, Recording Secretary