

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

Commission members present: Chairman Tom Mahon, Vice Chairman Heather Anderson, Secretary Fran L'Heureux, Robert Kelley, Tim Tenhave, Peter Batula, David Yakuboff, and Lon Woods. The Commission's legal counsel Allan Krans was also present.

Excused: Finlay Rothhaus

Chairman Mahon convened the meeting of the Charter Commission at 7:07 pm in the Conference Room of the Town Hall.

Announcements

Tom Mahon noted that December 19, 2005 is the deadline for the submittal of the draft charter to the Town Clerk.

Public Comments

Andrew Sylvia, Merrymeeting Drive, distributed a list of talking points for use by the Commission in their education of the community regarding this Charter.

Reports

Chair – Chairman Mahon noted that he has contacted the Attorney General and the Secretary of State. Both of these state agencies have been given advance copies of the draft charter. The Department of Revenue Administration was not interested in receiving an advance copy of the draft charter. If the Charter and report are completed this evening they will be given to the Town Clerk on Friday, December 16, 2005. One hundred copies of the draft charter and the report will be made for distribution to the Town Clerk, Library, and Selectmen's office. A summary of the changes this Charter will make has been created, but it is not on an item by item basis.

Mr. Mahon noted he received an email from Robert Levan, Finance Administrator, regarding Section 8 – Finance.

He noted that the Historic District Commission is basically defunct. This Commission can be removed with the draft charter.

He noted there is no mechanism in this Charter for citizens to submit appropriation petitioned Warrant Articles.

Vice Chair – Heather Anderson noted she has been revising the draft charter. She still has some changes to suggest.

Review Draft Charter

Article 4

Attorney Allan Krans noted he has no problem with sections 4.1(a) and 4.1(b).

Attorney Krans noted he likes the idea of giving early copies to the Attorney General and Secretary of State. He noted that these agencies try to create a joint letter. The Department of Revenue Administration sends a separate letter. The Attorney General's office will offer alternate language if they are unhappy with the wording. The town is not obligated to make changes as suggested by the Attorney General. Attorney Krans noted he will prepare a cover letter to send with the charter to the state agencies.

Article 12

A motion was made by Heather Anderson and seconded by Lon Woods to add the Historic District Commission to the list in Section 12.4 of certain boards and officials to be abolished with the acceptance by the citizens of this Charter. This abolition is to be effective on June 30, 2006. The motion passed 8-0-0.

Article 11

A motion was made by Heather Anderson and seconded by Lon Woods to add section 11.6(b) titled Historic District Commission. The following language will be added:

By adoption of this Charter, the voters and the Town of Merrimack expressly repeal and rescind the previous establishment of the Historic District Commission.

The motion passed 8-0-0.

Petitioned Warrant Articles (Article 8)

Tom Mahon noted that reference is made to RSA 39:3, but there is nothing specific for appropriations warrant articles on the ballot. He questioned where such information should be put in the Charter. Should it be under the initiative section or in the finance section? Heather Anderson noted it would be best put into the petition section. Attorney Krans noted that the RSA has already been cited. He noted that the addition of the wording is just a matter of style. Ms. Anderson noted that the intent is in the document. The question is whether this intent should be more clearly stated. The Commission wanted to clarify that the petitioned warrant articles are for appropriations only. Lon Woods questioned how to exclude a petitioned warrant article that does not include an appropriation.

A motion was made by Heather Anderson and seconded by Robert Kelley to add the following sentence to the second paragraph of section 8.4(c):

RSA 39:3 shall only be used for the purpose of petitioned Warrant Articles for appropriations.

The motion passed 8-0-0.

Article 8

Tom Mahon questioned why the purchasing procedures need to be detailed in section 8.10. He questioned whether items B-E can be delegated under item A.

Heather Anderson noted that Section 7.7(f) gives the Town Manager responsibility for purchasing.

A motion was made by Heather Anderson and seconded by Lon Woods to remove section 8.10b, 8.10(c), 8.10(d), and 8.10(e). The motion passed 8-0-0.

Article 10

A motion was made by Tim Tenhave and seconded by Fran L'Heureux to add the words "and hold a public hearing" after the words "finally determined to be sufficient" in section 10.2(b). The motion passed 6-1-1.

Article 8

A motion was made by Lon Woods and seconded by Peter Batula to remove the words "as submitted" and replace them with the words "documents required by the New Hampshire State Law" after the words "together with a copy of the budget". The motion passed 8-0-0.

A motion was made by Lon Woods and seconded by Fran L'Heureux to replace the words "defined as the same appropriations as contained in the operating budget authorized for the previous year, reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law" with the words "which shall be developed in accordance with New Hampshire State Law" in section 8.4(i). The motion passed 8-0-0.

Preliminary Report Discussion

A motion was made by David Yakuboff and seconded by Robert Kelley to accept the preliminary report as written. The motion passed 8-0-0.

A motion was made by David Yakuboff and seconded by Peter Batula to submit the draft charter to the Town Clerk in accordance with RSA 49-B. The motion passed 8-0-0.

Questions from the Press

It was questioned whether a non-appropriation warrant article could be couched with an appropriation warrant article. Tom Mahon noted that not every contingency can be covered.

The next meeting of the Charter Commission is scheduled for January 2, 2006. The response from the state is due back 14 days after the Town Clerk transmits the charter and report. The Town Clerk has 10 days to submit the charter and report from the date it is submitted by the Charter Commission. The January meeting will be used to discuss how to educate the community regarding the Charter and its provisions. It is unlikely that any further changes will come from the Charter Commission.

Public Comments

There were no public comments at this time.

Comments from Commissioners

Tom Mahon thanked the Commissioners for a job well done. Peter Batula noted that the Commission has overcome many differences, but have done what the community asked for when the Commissioners were elected. He noted thanks to Tom Mahon for chairing the Commission.

Adjournment

A motion was made by Peter Batula and seconded by David Yakuboff to adjourn the meeting at 10:00 PM. The motion passed 8-0-0.

Respectfully submitted,
Rita Carlton, Recording Secretary