



Northampton Charter **Review Committee**

Councilor Jesse M. Adams (Vice-chair)

Colleen Currie (Secretary)

Councilor Marianne L. LaBarge

Councilor David A. Murphy

Alan Seewald (Chair)

Margaret Striebel

Marc Warner

MARCH 2, 2011 - FIRE STATION COMMUNITY ROOM - 7 P.M.

PRESENT: JESSE ADAMS, COLLEEN CURRIE, MARIANNE LABARGE,
ALAN SEEWALD, MARGARET STRIEBEL, MARC WARNER

ABSENT: DAVID MURPHY

ATTENDING: ADAM COHEN - VIDEOTAPING MEETING

MINUTES

AGENDA

1. PUBLIC COMMENT

None.

2. REVIEW AND APPROVE MINUTES FROM DECEMBER 8, 2010 MEETING

Ms. Striebel moved to approve the minutes, Councilor LaBarge seconded the motion, and the motion passed unanimously.

3. REVIEW AND REVISE DRAFT REPORTS TO COUNCIL

The Committee had three reports to review: one prepared by Ms. Striebel, and edited version of Ms. Striebel's report prepared by Ms. Currie, and a report by Mr. Warner.

Mr. Seewald noted the drafts by Ms. Striebel and Ms. Currie were closer to the straw polls taken of the Committee's consensus, and Mr. Warner's version presented a partial revision of charter. Would like to

review each, decide edits needed, if any, and agree on final report which will be presented to City Council.

Mr. Warner presented his version. He noted that Ms. Streibel's draft came out at about the same time as Easthampton's charter revisions. Revisions were significant, calling for substantive changes. Done with five-member committee in same time frame we had. Draft presented to this committee recommends another committee. He felt we should have been able to do more. This was not what he had expected, what he had volunteered for.

Understands he came on committee six months into process, but still felt there would be the opportunity to discuss what needed to be changed. Whole set of issues we could have debated but didn't.

Took it on, with approach he uses in his professional consulting business: we can do this. How difficult can it be? Let's try and do it. Wasn't going to presume to present decisions on issues. However, there was consensus that document needed to be amended. He took on task of editing. Samples available from comparable communities. All the same, with name of city changed. He called Marilyn Contreas. Why are they the same? Written by the same person, person who contacted our committee. [Mike Curran.] Also the same because likely to be approved by Attorney General.

He did first three sections. Took a day. New sections not policy changes, merely editing.

To Mr. Seewald, told story of neighbor/lawyer who did not fight suit brought by tenant. Reason: knows what can happen, what can go wrong. Maybe Mr. Seewald coming from lawyer's perspective that things could go wrong.

City Council could start with revisions from us, and decide policy issues. Could do public education starting with edited version, and hopefully get that accepted and passed by voters.

Ms. Striebel - What you suggest, we had discussed, and she came to believe was beyond our purview, our mandate. The modifications which you suggest are actually substantive. Begin with assumption that a simplified document is what charter commission would recommend. She understand our mandate to be was to review existing document, to gather input from city officials and public about what works and what doesn't, to report what we had learned, and to

recommend next step, if any.

Does not disagree with assumption that charter needs revision, but recommending actual changes is outside the purview of this group. Has no sense of ownership of her draft, but feels final product must be within our mandate.

Councilor Adams - We have to report next month. There isn't time to do editing. Time was better spent discussing policy issues, which we did.

Either route chosen (home rule or special act) requires appointment or election of a charter commission. Prefers Ms. Striebel's draft - presents not only big picture - we need new document, but also points out particular policy issues.

Councilor LaBarge - Thirteen and a half years on City Council, have always heard we need new charter. Has spoken to people who served in past. Time-consuming, hard work. City Council cannot do it. Respects work you did. But we were told to gather information and present recommendation. One hundred percent in favor of forming charter committee.

Mr. Seewald - Easthampton was reviewing 10-year old charter. Very different task than we faced. Things in report he cannot agree with. For example, letter states that basic form of government does not need to change. That's not true. For example, mayor's role chairing city council, mayor's role on school committee. Letter also says biggest problem with charter is not in what it says, but how it says it. Does not agree. Believes both are big problem.

A number of issues have come up. How many signatures should be needed to get on the ballot? He doesn't know. Not willing to again recommend piecemeal changes. Two city councilors on committee are saying they have way too much on their plates already to be drafting a charter. The only way a city council can draft a charter is to appoint a charter committee.

Has known Mike Curran at least 25 years. Has been through charter review with him. Has been through charter commissions. I know what job is. Not just lawyer, I'm a municipal lawyer. And not just a municipal lawyer, but a municipal lawyer existing in milieu of Northampton and Amherst for almost thirty years. I know what it takes to get things done in these communities. This is not a value judgment, but quick and easy is not what Northampton is about. It is not a quick and easy job to create a document that is probably going

to be the foundation of this communities government in more or less the same form for, fill in the blank, a hundred years.

Not enough to say there are all these other communities that have these documents and they work. How do you know they work? How do you know what parts of those documents work? How do you know how those communities compare to ours? I think we would be justifiably criticized, and the Council would be justifiably criticized if it just threw together a document such because every other community that Mike Curran happened to serve created this document. Don't think it would have political will behind that process, and don't think it should have political will behind that process.

There are decisions to be made in a new charter that are beyond the scope of lay people's ability. I know you disagree with that. I believe, and state legislature believes, that when a charter is being drawn, a charter commission must have an appropriation, office space, and the rest of it. The State recommends it's too important a process to do haphazardly. I agree with that because I've been through it, in communities like Amherst, and like Northampton. Don't agree with representations you propose we make to the Council are supportable. Thank you so much for the work you did, but there have been too many band-aids put on this document, and don't think we can draw it out of whole cloth without support. This committee recognized that long ago. Before you joined, committee had recognized this is a bigger project than a charter review-ever-ten-year committee can do.

If we were reviewing Easthampton's charter it would be easy. Easthampton created its charter with a special act based on the work of a committee designed and supported to do that, not just by city council putting something together.

Ms. Currie - I don't know if you had an opportunity to read the minutes from the beginning of this committee. I came in with same attitude you did. We should look at the existing charter, and clean it up. There was absolutely no agreement with that position. I believe the minutes make that clear. It was not going to happen. It was not our job. I had to gain an understanding of our mandate.

When you came on, it was so clear to you: If it needs to be edited, then edit it. May come from your job. There's a problem, you find solution.

We're not unfamiliar with the process of drafting. Ms. Striebel has had experience with charter revisions. The councilors have had repeated requests that this charter be changed. Councilors had also been told about particular issues which need to be addressed. Those are what ended up in the draft recommendation. Those are what were the subject of discussions.

You were at meetings when past and present city officials, and community members spoke, few but involved, with experience about what has come before city council, Best Practices, any setting available. The same issues were raised again and again. It's only a handful of issues. More may be identified. The decisions will be made by the people. Not just cleaning up the language. It may be that ours ends up looking a lot like Braintree and whatever other communities with similar charters. But the content will include things that are not important to people in Braintree or Easthampton, but are wickedly important to people in Northampton. This may be a beginning, but it feels like a bandaid. A lot of effort, but it's going to happen in any event.

There may be the sense, why not just do this? Partly it's not our job, and partly it's not the whole job. Why do it piecemeal again? Let a committee be appointed, let them hire a professional, Mike Curran or someone else, let them have a budget and staff, and do the whole thing, including the debate we didn't have because our job was to gather the information. Let the community speak, and make the decisions on the policy issues. Then have the document drafted by a professional. Then in ten years when another committee like ours is appointed, they will be looking at a fresh document. Maybe it will only require some editing. Maybe new issues have arisen.

Ms. Striebel - The fact that it took a day would give hope to whatever comes next.

Mr. Warner - Didn't mean to be disparaging, or to suggest that efforts were not wholehearted or not for the good of the city.

Let me respond to points made.

Beyond scope - [The ordinance providing for a charter review committee calls for a report] outlining its review and recommending any changes. I believe these changes are exactly what we would have done.

Need for new committee - No, by statute there is not. If you're doing a home rule charter, yes it requires a committee. But if doing a special act, you just submit to the legislature, showing its been presented to and approved by voters. No requirement for a committee.

Budget - For printing and distributing to citizenry. \$6500 for printing.

Basic structure is sound. Referring to strong mayor and city council. Don't believe whether mayor chairs city council meetings is considered basic structure.

Not suggesting piecemeal changes. Throw out and use modern charter format. Provide new template. It's clear, can find things.

Don't make changes about who chairs city council meetings, etc.

Put edited version to vote.

Past efforts in Northampton involved substantive changes. Did not get approved by voters.

Can take current provisions and put into modern format. Not controversial changes. Selling selves short by saying you don't have time. Can get a few volunteers to finish editing, and end up with clean charter. Will have done a service to city.

Councilor Adams - Clarification. Special act doesn't require committee to be appointed? **Mr. Seewald** - Not required. **Councilor Adams** - didn't realize that, but not to be sarcastic, believes his role is policy maker, not editor.

Ms. Striebel - Just a general observation. Doesn't agree this is neutral document. Even titles imply certain assumptions about government. To the extent a budget is a policy document – although it consists of numbers, it reflects policy. Powers of the city - "Subject only to express limitations on the exercise of any power of function by a municipal government in the constitution or general laws of the Commonwealth, ..." as a voter, I would look at that and say, "Oh my God, what does that mean?" Not neutral editing. The language of the outline itself implies an understanding of government and roles and functions inherent to government that may or may not be something this community will embrace.

Mr. Warner - Lawyerese.

Ms. Streibel - Not defending lawyerese for the sake of lawyerese. I really believe in role of community to participate in shaping its government. Language is the way government is communicated. Don't believe it's neutral. Just editing is not neutral. It implies certain assumption about what's added and what's deleted. Not disagreeing with what you've done, but don't believe it's within purview of what she signed up to do. I signed up to say does this need to be changed? I would like this effort to succeed. If just goes to public as document to vote up or down, that they have not had an opportunity to know about through a substantive, informed, communicating process, it'll just go down again. We will have wasted, maybe not money, if just the council does it, but all the councilors' time. I'm a believer in process. If I had believe this to be our mandate, I would have embarked on a very different process this year than the process we went through.

Mr. Seewald - What are the "express limitations on the exercise of any power or function by a municipal government in the constitution or general laws of Commonwealth"? You need to be able to answer that question. **Ms. Streibel** - At the transfer station on Saturday. **Mr. Seewald** - Exactly. Are you going to be able to answer that question? That's what a consultant is going to do. That's exactly what a consultant does. S/he's going to list out exactly what all the ...

Mr. Warner - Come on. What is says is the City of Northampton is a creation of the State of Massachusetts and we have to yield to whatever the Legislature says we have to do. This is what that means. In layman's language, I can answer that question.

Mr. Seewald - But what are they?

Mr. Warner - I don't know. Chapter 40B. The whole thing is here. All the things that are laid out by the state. Come on. We are Americans and we are Massachusetts. That's what that means.

Ms. Striebel - I don't take it that way. **Mr. Seewald** - I don't either.

Councilor LaBarge - I appreciate what you did. A lot of work. But not my role. Can we do as city councilors? I do not think so. I have to disagree with you, based on talking to others who were involved in process in the past. Had to rush just to try to get it on the ballot. These were very professional people.

Mr. Warner - I think you're underestimating strengths within the community.

Councilor LaBarge - You're expressing your opinion. We also have opinion about what we believe our roles to be on this committee.

Councilor Adams - I think you're overestimating your resources.

Mr. Seewald - I think you are. Don't know who in the city you think is going to advise the council on the details. I agree some things are very easy, e.g., getting rid of Overseer of the Poor. But when you get down to ... You tell me, how many signatures should it take to get on ballot?

Mr. Warner - That's not what I'm doing here.

Mr. Seewald - Someone has to do that.

Mr. Warner - No they don't. They don't have to do that in 2011.

Mr. Seewald - Suggesting we make easy changes, and leave for another ten years the mayor presiding over the city council, the mayor as the chair of the school committee, the same number of signatures to get on the ballot, and all the other things that people have come to us and said are a problem, just remain in the document substantively for another ten years until the next group like us get together?

Mr. Warner - I want to have a change in this document. I think the great contribution you can make it to bring the city a modern charter, to let it have an easy document that can change. If the city councilor wants to change those issues, now would be an opportunity to bring it up. Whether you need to have a broader group of citizens who are then going to bring in outside counsel and outside staff, I don't think that actually is appropriate right now. I think if you do these things, this is what has a chance to pass. You run the risk of not doing anything this coming you, because you don't have a committee, because you try to take on these big substantive issues that have undermined opportunities to make a new document.

We are coming at this from different views. Approach I've taken is "How tough can this be? We can figure this out". We have a bright community. We do have the resources we can use on a volunteer basis. I'm not saying I'm going to be the arbiter of the number of

signatures needed to get on the ballot, or whether city clerk should be appointed, and the other types of changes that have come up in meetings. For that you need a broader view. I would have liked to have been part of the debate. Believed we could have debated and come up with answers. But for right now, the change we can make is to give the city a clean document, so at least that can pass. With a good educational campaign, even in a community with great skepticism, and a concern that maybe we're not hearing things honestly from our city government, these are issues you can get a broad range of people to recognize these are really not all that controversial, and this would be big improvement over the charter we have today.

Councilor Adams - Was there a question to Mr. Warner would you leave the other issues and not tackle them for another decade? Would you answer that, please? Is your suggestion to edit and leave the other questions?

Mr. Warner - Yes. The objective I have, and I believe the rest of the committee shares, is to have something that can pass. Don't bog the chance that something will pass by putting on these issues that will be controversial.

Mr. Seewald - Missing point. You try to pass a charter with mayor presiding city council, it won't pass. You try to pass a charter with mayor chairing the school committee, it won't pass. These are the issues which have to be tackled in order for the charter to pass and to be meaningful. We could go on having the mayor chairing the city council. We've done it for 130 years. We could go on doing it with the document we have. Nothing is going to change by just cleaning up the document we have and leaving the substantive errors of our ways in place. The point here is we need the commission or committee to recommend how to reform this government, not simply to edit a document. That's not what it's about. If you just want to edit the document, I'm sure you can do that without a committee. It's obvious you can - you did it. That's the easy work. The hard work is figuring out the policy issues which are problematic in our current charter. There are several of them. Those were the things identified as issues by the mayor, current and former councilors, and the citizens who appeared before us. Not simply saying the legislative powers shall be vested in the city council. Anyone can do that. That's easy. Understand, it's not about easy. It's about getting it right. And this just simply punting the mayor chairing the city council and chairing the school committee, city clerks being elected rather than appointed, that's just punting it for ten years from now.

Mr. Warner - If I'm punting this, it's because I want to see something happen. This is an opportunity. Start with things that are non-controversial. Give the city a template to go and make these changes. There's a lot you can do to improve the current charter by just making these changes and bringing in modern charter language. The types of issues you talk about making are important, and if I'm punting these ... and it may not have to be ten years. Frankly I don't know why you have to abide by this issue of doing it only once every ten years. Start the process, get this done, and do like Easthampton did, and make other changes two years down the road.

Mr. Seewald - Don't think that's what Easthampton did. They revised their charter completely in 1999, and ten years last made fine tuning adjustments.

Mr. Warner - Make those big changes, make the broad document changes now. You have a chance to get something to happen. It's no skin off anyone's nose to give this a try, to punt that other mission of the bigger changes down a year from now, at least you will have something to change.

Mr. Seewald - The changes you've made would take the committee that I think the rest of us are calling for the same one day it took you to do. Those are the easy things. It's the hard things that need to be dealt with. I'm sure if you want to do the rest of it and turn it in to Councilor Narkiewicz, he could do exactly what you want. He doesn't need the committee. The council doesn't need the committee. It needs the committee to recommend the hard choices.

Mr. Warner - I agree. It think we were the committee.

Mr. Seewald - I would certainly recommend you to the committee.

Mr. Warner - We should have made the hard choices. I never would have gotten on a committee that was just a rubber stamp to recommend another committee.

Ms. Currie - That's not our mandate.

Mr. Seewald - We have different perspectives on what a bandaid is. To simply clean up language of non-controversial things, that frankly don't matter because they already are what we do, is another bandaid. It doesn't change the substance of the problems we have the charter.

It's not just that there is the Overseer of the Poor and the Board of Almoners. That we could remove from the charter overnight. That's not what this is about. It's about perhaps not having the mayor preside over the city council. Those are the things that need to be done. If we do what you suggest, people may feel good that we have a modern language in a charter, but we're still operating in a 19th century model.

Mr. Warner – Something to work on for the next committee then, but at least we'll have passed something.

Councilor Adams - This is not being productive. No one is changing their mind.

Mr. Seewald - You're right. I think we have to move on. I would like us to start with a review of Ms. Currie's revisions of Ms. Striebel's draft. I made a couple edits I would propose. Page 2, paragraph that begins, "The Charter Review Committee met initially with Marilyn Contreas.." Under number 1 - the Home Rule Charter process requires a petition... Actually that's a combined process - whether to elect a commission, and if so to elect the Commission, is all done on one ballot. His change: "a vote by the electorate on the question of whether to establish a Commission and, to the extent that the voters decide in favor of that question, the election of Commissioners". Under number 2, a Special Act Charter, where it talks about city electoral approval of the proposed charter, that's not a requirement. I add "in most cases".

Other changes: when referring to the events we held for the public officials and citizens, they were not public hearings, they were public fora. A public hearing is a very specific thing, adjudicatory in nature. Other than that, the combination [by Ms. Striebel and Ms. Currie] has nailed it.

Councilor Adams - I move that we forward what you two [Ms. Striebel and Ms. Currie] have done with the minor revisions [by Mr. Seewald] as the recommendations for the Council to consider. Ms. Striebel seconded the motion.

Mr. Seewald - Discussion?

Ms. Currie - Don't we also file minority report?

Mr. Seewald - I believe minority can file minority report.

Councilor Adams suggested Mr. Warner come to council meeting to discuss what he believes were our shortcomings and what you envisioned. And anyone else, of course, but I know you feel strongly about what you've done.

Mr. Seewald - Let's stay on the final report. I'd like to discuss that. And then we can discuss whether we should also file a minority report on behalf of the minority. I'd entertain a motion on that. But I'd like to deal with the motion on the table now. Further discussion on final report?

Mr. Warner - These other pieces – the large committee, be provided with a budget, staff, and the ability to hire consultants – are all to be part of the committee report as well?

Mr. Seewald - Yes.

Ms. Striebel - That was a suggestion made at a variety of meetings. I would characterize the sense from listening to people that to make any change meaningful in terms of the city defining how it understands its well functioning in terms of government, a fairly large and inclusive process needed to be established.

Mr. Seewald - And that to the extent the committee felt it was necessary, the committee had the ability to hire professionals to help it do its work. Frankly, have not seen a charter be adopted without the help of consultants. Maybe they're not necessary, but ...

Ms. Striebel - In Franklin County when we re-did the charter, we had staff that performed the same function. It takes a lot of work.

Councilor LaBarge - I agree with that. Marilyn Contreas talked about consultants, and how they are needed. I think they are. I don't think this is an easy project. It's a long process. If you want to do something right, you don't want to do it quick. You want to do it professionally and let it be right.

Mr. Seewald - Further discussion on the proposed final report?

Ms. Striebel - Would it circulate to the committee members?

Mr. Seewald - Before I send it in?

Ms. Striebel - No, I just want to have a copy of it.

Mr. Seewald - Absolutely. When I send it in, I would send it to committee members.

Mr. Warner - Anybody have any idea of the amount of money the city would spend to hire outside consultants?

Mr. Seewald - No idea.

Ms. Currie - You have experience with this being done in other towns.

Mr. Seewald - Last time I did it was in Amherst, probably fifteen years ago. I think it probably spent \$10,000.

Ms. Striebel - Ten is what came into my mind.

Councilor Adams - Would like other members to come to council meeting at which it's discussed, in case they have anything to add.

Councilor LaBarge - May be should think about putting them on the agenda.

Councillor Adams - I'm sure this will be on the agenda, so we could ask to recognize them.

Councilor LaBarge - What I'm suggesting is putting them in for a presentation. Coming to the open public session, they only have three minutes.

Councilor Adams - I'm not talking about open public session. I'm talking about when we recognize something like Wayne or Ned or someone like that.

Councilor LaBarge - We should put them in for a presentation.

Councilor Adams - We'll put them in for a presentation.

Mr. Seewald - Further discussion on proposed final report?

Mr. Warner - When would you submit it?

Mr. Seewald - Tomorrow? As soon as I can. Need to look at my calendar to see how soon I could do it, but this week.

Mr. Warner - Why don't you wait until Monday, if you don't mind. I'm strongly considering submitting a minority report. I might not, but I'd like to submit mine within the same time period as you submit yours.

[An exchange between Councilor Adams and Mr. Warner about whether the committee needed to/had the right to vote on a minority report.]

Mr. Seewald - Would like to deal with motion on the floor. Hearing no further discussion, those in favor? [Ayes] Opposed? Abstention. I didn't get your vote [to Mr. Warner].

Mr. Warner - To submit the committee's report. Of course, submit it, but I don't want to be a part of it, don't want my name attached to it.

Mr. Seewald - So you're a nay vote?

Mr. Warner - Sure, I'll be a nay.

Mr. Seewald - Just wanted an aye, nay, or abstention. So, would you record a five to one vote. Any further motions?

Councilor Adams - I think we should vote on what we're forwarding to the council. Certainly you [to Mr. Warner] can submit anything you want, but are we submitting solely this [the report just adopted], or are we as a committee forwarding a minority report, too?

Ms. Currie - No. I thought Mr. Warner would submit his report. This one is signed by Mr. Seewald. Mr. Warner's will be signed by him. I'd like us to get a copy, if this isn't it.

Mr. Warner - I'll give it some more thought, take into account the comments made this evening. I have not been doing this with closed ears.

Mr. Seewald - I don't think anybody's been doing this with closed ears. I certainly want everybody to feel that they've been given an opportunity to be heard. We disagree, but there's nothing disagreeable about disagreeing.

Ms. Striebel - One of the recommendations in the report is to edit the charter and make it readable and accessible.

Question - If it's characterized as a minority report, does that imply the committee has embraced it as a minority report? Because I don't embrace it as a minority report. I don't know that it represents my participation in the committee.

Mr. Seewald - It's the report of those not voting in favor of this report. This is a public entity, and Mr. Warner as a citizen can submit anything he wants. I'm happy for council to have both perspectives. I'm comfortable with mine. One of the things about being a lawyer for as long as I have, and I'm sure Ms. Currie would agree, and Councilor Adams in his experience, I don't mind people taking a different position, as long as it's not frivolous. Yours is far from a frivolous position.

Mr. Seewald - Thank each of you for service on this committee. Thank you to Adam Cohen for being here and providing what you do for the city, not just for this committee, but elsewhere. An incredible service.

Every one of you has done .. Let's put the councilors aside. They do yeoman's service, but thank you all. Thank you to drafters.

Ms. Striebel - I appreciate your gratitude. Did it because I believe the City of Northampton has a wonderful personality, and this is an opportunity for Northampton to embrace wants to look in the future, to structure its government in a way that's functional and efficient for accomplishing the business of the coming years. That's why I participated.

Mr. Seewald - Thanks to Ms. Currie for minutes.

Ms. Currie - It's just what I do - I take notes. Question - any idea when this will be before the council?

Councilor Adams - Council President puts it on the agenda. Doesn't think it'll be all that long.

4. NEW BUSINESS

None.

5. ADJOURN - **Councilor Adams** moved to adjourn; **Councilor LaBarge** seconded the motion. Motion passed unanimously. (8:17 P.M.)

