

Mistretta, Susan

From: Cheney.Ward5 <cheney.ward5@comcast.net>
Sent: Tuesday, August 24, 2021 10:09 PM
To: City Council - All
Subject: Re: Charter Commission
Attachments: R-2021.01.13 Decennial Consideration of Charter Commission Pursuant to Charter Section C11-11-2-0.pdf; R-2021.08.25-152 Ordering the Question of Forming a Charter Commission.pdf

Security Notice: External sender. Use caution with hyperlinks or attachments.

Good evening City Councilors,

At first when I noted that there was a Resolution to request a Charter Commission question on the ballot, it was refreshing. However, after reading the Therefore I do have a request that the Resolution be substituted. RSA 49-B and Charter 11-11 both have specific questions provided:

RSA 49-B:4-e "Shall a charter commission be established for the purpose of revising or amending the municipal charter?"
Dover City Charter C11-11 "Shall a Charter Commission be created to review and make recommendations concerning the provisions of the Charter of the City of Dover?"

Dover would ask the question as provided for in the Charter, it is not contrary to RSA 49-B Home Rule-Municipal Charters. The Resolution for tomorrow is asking the RSA 49-B question, that is not the question needing to be on the ballot.

I have attached the Resolution presented in January and the Resolution on tomorrow's meeting. The January Resolution is clearer in that it refers to our Charter for substance and directive for a public vote whereas tomorrow's Resolution does not mention our Charter or its intention to pose the question to the voters.

The Resolution for tomorrow should be presented in a more positive tone to give a Commission in particular at this time after a pandemic and other consequential anomalies, such as the Census number delay, to fulfill the obligation of a Charter Commission question on the ballot as provided for in C11-11. This would not need approval of the State Agencies for the public to vote in November. This is not contrary to State Statute.

In the background material under I. Recent Consideration of Charter Commission there is mention that the January Resolution failed and that "this resolution is being submitted again", it is not the same resolution as in January and I hope for a Substitution minimally the first Therefore is not correct. It is not under State Statute RSA 49-B that a revision is found to be necessary. The RSA 49-B is not in consideration in terms of the directive in the Charter C11-11 and the necessity to have a Charter Commission at this time in Dover's process.

Thank you.

Please include in Council Correspondence with Attachments.

Catherine Cheney

On Aug 11, 2021, at 9:33 PM, Cheney.Ward5 <cheney.ward5@comcast.net> wrote:

Good evening City Councilors,

Councilor Shanahan looked to State Law tonight when stating he would bring forward the resolution to put the question on the ballot to have a Charter Commission. It is true that RSA 49-B Home Rule-Municipal Charters provides for a Commission being **required** when the form of Government is proposed to be changed, for example from a Town Council to a City under Council-manager plan.

The law does not preclude having a Commission for Amendments. There is nothing in the RSAs to keep Dover from having a Charter Commission. Our own Charter calls for a Charter Commission for Amendments:

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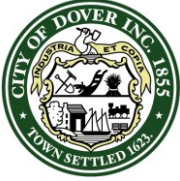
Certainly with all the updates, removing Ward designations, it is time for the question to be appropriately placed on the ballot.

Please Sponsor and Co-Sponsor the Resolution for the question to be placed on the ballot.

Please include this in Council Correspondence.

Thank you.

Catherine Cheney
9 Snows Court
Dover, NH 03820
(603) 740-4697 Home
(603) 988-1781 (Cell)



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 13.B.2.

Resolution Number: **R - 2021.08.25 – 152**

Resolution Re: Ordering the Question of Forming a Charter Commission to Appear on the Ballot for the November 2, 2021 Municipal Election

WHEREAS: RSA 49-B:4-e provides that, upon determining that a revision of the municipal charter is necessary, the City Council may, by order, submit the question of establishing a commission to revise the charter to the voters; and

WHEREAS: A “revision” is defined within RSA 49-B:4-d to constitute “any change to an existing charter that results in a change to the municipality’s form of government” to another of the forms of government outlined in the statute.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND DOVER CITY COUNCIL THAT:

A revision to the City of Dover’s municipal charter is hereby found to be necessary.

AND, BE IT FURTHER RESOLVED THAT:

The following question shall appear on ballot of the City of Dover’s November 2, 2021 municipal election: “Shall a charter commission be established for the purpose of revising or amending the municipal charter?”

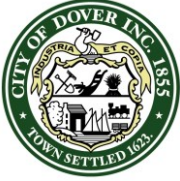
AUTHORIZATION

Approved as to Funding: Daniel R. Lynch
Finance Director

Sponsored by: Councilor Dennis Shanahan

Approved as to Legal
Form and Compliance: Joshua M. Wyatt
City Attorney

Recorded by: Susan M. Mistretta
City Clerk



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 13.B.2.

Resolution Number: **R - 2021.08.25 – 152**
Resolution Re: Ordering the Question of Forming a Charter Commission
to Appear on the Ballot for the November 2, 2021
Municipal Election

DOCUMENT HISTORY:

First Reading Date:	Public Hearing Date:
Approved Date:	Effective Date:

DOCUMENT ACTIONS:

VOTING RECORD		
Date of Vote:	YES	NO
Mayor Robert Carrier		
Deputy Mayor Ciotti		
Councilor Michelle Muffett-Lipinski, Ward 1		
Councilor Deborah Thibodeaux, Ward 3		
Councilor Marcia Gasses, Ward 4		
Councilor Dennis Shanahan, Ward 5		
Councilor Fergus Cullen, Ward 6		
Councilor John O'Connor, At Large		
Councilor Lindsey Williams, At Large		
Total Votes:		
Resolution does does not pass.		

RESOLUTION BACKGROUND MATERIAL:

I. Recent Consideration of Charter Commission

Pursuant to the City's Charter (C11-11), at least once every ten years the City Council shall consider whether to form a Charter Commission. In January 2021, the City Council considered that issue in a resolution ([R-2021.01.13-012](#)) that failed.

Due to recent public interest expressed by certain citizens in possibly considering or forming a Charter Commission, this resolution is being submitted to again present the City Council with an opportunity to consider the issue of forming a Charter Commission.

II. General Overview of Process

The process of forming a Charter Commission begins with ordering a question to be placed on the ballot for voters to decide whether to convene a Charter Commission. Pursuant to RSA 49-B:4-e, the City Council may order that ballot question whenever the City Council "determine[s] that a revision of the municipal charter is necessary."

For the question ordered by this resolution to appear on the November 2, 2021 ballot, the City Council must adopt this resolution and issue an order at least 60 days in advance of the election. *See* RSA 49-B:3, III; RSA

 CITY OF DOVER	CITY OF DOVER - RESOLUTION Agenda Item#: 13.B.2. Resolution Number: R - 2021.08.25 – 152 Resolution Re: Ordering the Question of Forming a Charter Commission to Appear on the Ballot for the November 2, 2021 Municipal Election
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49-B:4-e, III. Otherwise, the City would need to conduct a special election on the formation of a Charter Commission.

If the ballot question in this resolution is ordered to be placed on the ballot, then a subsequent special election (Citywide) would need to be convened for electing members of the Charter Commission. The Charter Commission would likely need an established budget beyond the \$100 envisioned in RSA 49-B:4, IV, given needs such as obtaining certification of a New Hampshire attorney. *See* RSA 49-B:4, VI(b).

III. “Revisions” versus “Amendments”

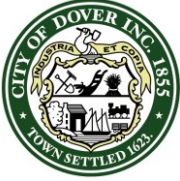
The statutes concerning municipal charters have different provisions and processes for undertaking “revisions” as compared to “amendments.”

A “revision” is defined within RSA 49-B:4-d to constitute “any change to an existing charter that results in a change to the municipality’s form of government” to another of the forms of government outlined in the statute. By statute, “amendments” are defined as any changes to the Charter that are not a revision. *See* RSA 49-B:4-f. In 2014 ([Laws 2014, Chapter 292](#)), the legislature enacted these clarified definitions, making it easy to discern what is a “revision” versus an “amendment”.

Only a Charter Commission may undertake and propose a “revision.” “Amendments” may be proposed by the City Council and, if approved by the reviewing state agencies, placed directly on the ballot for voters’ consideration. *See* RSA 49-B:5. While Charter Commissions may entertain amendments as part of its review of a “revision,” *see* RSA 49-B:4-e, IV, the threshold necessary for the City Council to invoke the process of forming a Charter Commission is a determination that a “revision” (meaning a change in the City’s form of government) is necessary. *See* RSA 49-B:4-e, I.

Following review of applicable law and discussion with the New Hampshire Attorney General’s Office, it would appear that “amendments” to the City’s Charter initiated by City Council are most clearly envisioned by, and should normally follow, the designated statutory procedure for amendments in RSA 49-B:5, and not the Charter Commission formation process in RSA 49-B:4-e.

In addition, voters may always directly petition for ballot questions, including the question concerning formation of a Charter Commission or “amendments” to the City Charter. *See* RSA 49-B:4-e, II; RSA 49-B:5, II & II-a.



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 13.B.3.

Resolution Number: **R - 2021.08.25 – 153**

Resolution Re: Ordering Amendments to the City's Charter to Appear on the Ballot for the Municipal Election on November 2, 2021

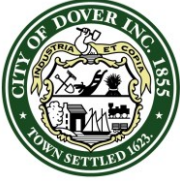
- WHEREAS: Pursuant to [R-2021.07.14-032](#) and [R-2021.06.23-120](#), the City Council, after duly noticed public hearings, approved two final reports on proposed amendments to the City of Dover's City Charter, entitled: (1) "City of Dover's Revised Final Report on Proposed Charter Amendments #1 Through #4, #6 Through #9, and #11 Through #22 to Be Placed on the Ballot for November 2, 2021 Election"; and (2) "First Addendum to City of Dover's Final Report on Proposed Charter Amendments to Be Placed on the Ballot for November 2, 2021 Election" (hereinafter referred to collectively as "Final Reports"); and
- WHEREAS: For purposes of this resolution, the proposed charter amendments in the Final Reports have been consolidated into a single document attached to this resolution entitled "Charter Amendments to Be Placed on the Ballot for November 2, 2021 Election"; and
- WHEREAS: The New Hampshire Attorney General, New Hampshire Secretary of State, and New Hampshire Department of Revenue Administration, who, pursuant to RSA 49-B:4-a, have reviewed and approved the proposed charter amendments within the Final Reports; and
- WHEREAS: Each of the charter amendments and ballot questions set forth in the attached document entitled "Charter Amendments to Be Placed on the Ballot for November 2, 2021 Election" are hereby found to be necessary for the reasons set forth therein.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND DOVER CITY COUNCIL THAT:

Each of the charter amendments and ballot questions set forth in the attached document entitled "Charter Amendments to Be Placed on the Ballot for November 2, 2021 Election" are hereby ordered to, and shall, appear on the ballot at the next regular municipal election on November 2, 2021. For the avoidance of any doubt, the foregoing order applies to the Amendments/Ballot Questions in the attached document entitled "Charter Amendments to Be Placed on the Ballot for November 2, 2021 Election" numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20.

AND, FURTHER BE IT RESOLVED THAT:

The City Clerk is directed to take all actions prescribed by law to cause the charter amendments to appear on the ballot for the November 2, 2021 municipal election. The City Clerk shall determine the sequence and numbering of the ballot questions. Furthermore, pursuant to RSA 49-B:6, III(b), at least two weeks prior to the date of the election, the City Clerk shall: (i) update the accompanying list of proposed amendments to correspond to the numbering of the final ballot questions (if different than the sequence and numbering used in the attachment to this resolution), (ii) cause printed copies of the amendments to be available to voters in the City Clerk's office, and (iii) shall post the amendments and any summary thereof in the same manner that proposed ordinances are posted.



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 13.B.3.

Resolution Number: **R - 2021.08.25 – 153**

Resolution Re: Ordering Amendments to the City's Charter to Appear on the Ballot for the Municipal Election on November 2, 2021

AUTHORIZATION

Approved as to Funding: Daniel R. Lynch
Finance Director

Sponsored by: Councilor Dennis Shanahan
Councilor Lindsey Williams
Councilor Fergus Cullen

Approved as to Legal
Form and Compliance: Joshua M. Wyatt
City Attorney

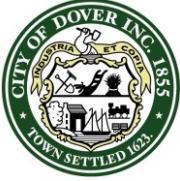
Recorded by: Susan M. Mistretta
City Clerk

DOCUMENT HISTORY:

First Reading Date:	Public Hearing Date:
Approved Date:	Effective Date:

DOCUMENT ACTIONS:

VOTING RECORD		
Date of Vote:	YES	NO
Mayor Robert Carrier		
Deputy Mayor Ciotti		
Councilor Michelle Muffett-Lipinski, Ward 1		
Councilor Deborah Thibodeaux, Ward 3		
Councilor Marcia Gasses, Ward 4		
Councilor Dennis Shanahan, Ward 5		
Councilor Fergus Cullen, Ward 6		
Councilor John O'Connor, At Large		
Councilor Lindsey Williams, At Large		
Total Votes:		
Resolution does does not pass.		



CITY OF DOVER

CITY OF DOVER - RESOLUTION

Agenda Item#: 14.B.1.

Resolution Number: **R – 2021.01.13 – 012**

Resolution Re: Decennial Consideration of Charter Commission Pursuant to Charter Section C11-11

WHEREAS: Pursuant to Section C11-11 of the City of Dover's Charter, at least once every ten years beginning in 2011 the City Council must consider whether to form a Charter Commission to review and make recommendations concerning the City's Charter; and

WHEREAS: As stated in the background of this resolution, a Charter Commission is required whenever a City undertakes a proposed "revision" to the City Charter, as defined in RSA 49-B:4-d to mean a change in the City's form of government.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND DOVER CITY COUNCIL THAT:

Shall a Charter Commission be created to review and make recommendations concerning the provisions of the Charter of the City of Dover?

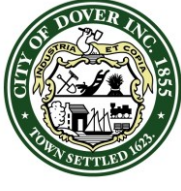
AUTHORIZATION

Approved as to Funding: Daniel R. Lynch
Finance Director

Sponsored by: Mayor Robert Carrier
By request

Approved as to Legal
Form and Compliance: Joshua M. Wyatt
City Attorney

Recorded by: Susan M. Mistretta
City Clerk

 CITY OF DOVER	CITY OF DOVER - RESOLUTION Agenda Item#: 14.B.1. Resolution Number: R – 2021.01.13 – 012 Resolution Re: Decennial Consideration of Charter Commission Pursuant to Charter Section C11-11
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DOCUMENT HISTORY:

First Reading Date: 01/13/2021	Public Hearing Date: N/A
Approved Date: 01/13/2021	Effective Date: 01/13/2021

DOCUMENT ACTIONS:

Deputy Mayor Ciotti moved for its adoption; seconded by Councilor Shanahan.
Roll Call Vote: 2/6; Failed. Deputy Mayor Ciotti and Councilor Cullen voted in favor.

VOTING RECORD		
Date of Vote: 01/13/2021	YES	NO
Mayor Robert Carrier		X
Councilor Michelle Muffett-Lipinski, Ward 1		X
Councilor Dennis Ciotti, Ward 2	X	
Councilor Deborah Thibodeaux, Ward 3		X
Vacant, Ward 4		
Councilor Dennis Shanahan, Ward 5		X
Councilor Fergus Cullen, Ward 6	X	
Councilor John O'Connor, At Large		X
Councilor Lindsey Williams, At Large		X
Total Votes:	2	6
Resolution does not pass.		

RESOLUTION BACKGROUND MATERIAL:

[Section C11-11](#) of the City’s Charter requires that the City Council periodically consider whether to form a Charter Commission to review and make recommendations concerning the City’s Charter.

By statute, a Charter Commission is only required where a City undertakes a “revision” to the City’s Charter, which the statutes governing municipal charters define as a change to the City’s form of government. *See* [RSA 49-B:4-d](#); *see also* [RSA 49-B:4-e](#).

Minor “amendments” to the City’s Charter, such as those being studied currently by resolution authorizing the Ordinance Committee ([R-2020.10.28-186](#)), do not require the formation of a Charter Commission.

Accordingly, unless the City Council would like to form a Charter Commission to explore changing the City’s current Council/City Manager form of government, there is no need or requirement to form a Charter Commission at this time.

Document Created by: Legal	R-2021.01.13 Decennial Consideration of Charter
Document Posted on: June 24, 2021	Commission Pursuant to Charter Section C11-11
	Page 2 of 2