

MINUTES

2005 DOVER CHARTER COMMISSION

*WEDNESDAY*

APRIL 13, 2005 (5:00 - 6:45 P.M.)

CITY COUNCIL CHAMBERS

Chairman Krans called the meeting to order at 5:00 p.m.

Moment of Silence

Pledge of Allegiance

Roll Call; Approval of Agenda

Due to lack of a 6 person quorum at opening of meeting, Chairman Krans deferred approval of agenda until after Item #4.

Commissioners present: Chairman Allan Krans, Vice Chair Phyllis Woods, Tom Dunnington, Wil Boc and Dave Bibber. Gary Gilmore arrived at 5:10 p.m., Chuck Mone arrived at 5:20 p.m. and David Landry arrived at 5:35 p.m.

Commissioners absent: Charles Reynolds

Questions of Legal Counsel: Attorney Peter Loughlin

Krans gave an overview of the 2005 Charter Commission activities thus far then opened the floor for questions of Attorney Loughlin.

Dunnington asked if there were any motions that gave him concern from a legal standpoint, or does it seem that they are going in the right direction.

Loughlin stated that he has not done a detailed review of the motions but nothing he has reviewed thus far is a problem.

Dunnington asked for clarification that the Commission is required to present a single package for a yes or no vote as he is concerned with how this may affect voting.

Loughlin stated yes it is his understanding that this is a charter revision commission per State RSA versus the amendment process which can have multiple questions on the ballot.

Krans explained that it isn't necessary for all of the motions to be reviewed by legal counsel at this point as they still need to go to the next level of the process for 5 votes to send to legal review.

Dunnington understands this but wanted to know if there was anything glaring at this point.

Woods asked what would happen if the Council brought forth amendments to the Charter at the same time as the Commission which would take precedence or would the amendments be incorporated into the revised charter if both were passed.

Loughlin doesn't know which would take precedence.

Boc asked Woods if she knows of any amendments being considered by the Council.

Woods stated that there had been some talk that some things being considered could be deferred to the Council to do at another time that may not be recommended by the Commission and she hasn't heard back from the Secretary of State office about this yet.

Boc stated that the work the commission is doing is going to be confusing enough for the voters so the Council should be asked to not bring forth any amendments at this time.

Gilmore asked about the Merit Plan mandated by the State and does it allow for the Council to have control over non-union personnel for example, vetoing a raise for a department head.

Loughlin asked if the salary schedule is outside of the Merit Plan.

Bibber stated the salary schedule is adopted by the Council and it was clarified that most city employees belong to unions/associations and there are very few who fall under the Merit Plan.

Discussion ensued regarding the history of the Merit Plan.

Woods stated she has gone under the assumption that State RSA supercedes anything in the Charter and discussed the term "indefinite" which is included in many Charters, including Dover, and asked for clarification that regardless of whether it appears in the Charter or not, the City Manager would serve an "indefinite" term as required in the State RSA.

Loughlin stated that when the Council enters into a contract the employee can be guaranteed a certain amount of years and is not certain that there is a prohibition to limiting the number of years. He further stated that taking out the "for cause" statement ties into that as it means the Manager can be removed regardless.

Krans stated that the theory is that the State law requires "indefinite" means "at will employee" instead of "until the end of time" and is the opposite of what people have always thought it was.

Bibber asked Loughlin if he agrees with that theory.

Loughlin stated he is more familiar with this at the State level and feels that this is to be determined.

Boc stated that over the years the question has arisen whether or not the Council has line item authority over the budget with the city attorney having given the opinion a few years back that they did not and only had bottom line authority. He would like that question to be answered at some point.

Discussion ensued regarding the history of budget adoptions.

Gilmore referred to C3-4, Qualification of Council Members and what would happen if the Ward boundaries were redistricted prior to the filing period would that make the sentence referring to that

redundant.

Krans stated that if the boundaries motion #10-2005 passes we can then address that language.

***Gilmore left the meeting at 6:45 p.m.***

Woods asked about eliminating specific references to RSA's in the Charter as she thinks of the Charter as a work book that people can use to refer to more specifically. She doesn't agree with the reasoning that RSA numbers are changed frequently.

Loughlin stated it is a policy decision not a legal one but does think that it makes sense to take out specific references. He stated that the Secretary of State will decide if that is required or not.

Landry discussed spending caps stating that there is a motion proposed that would require a 2/3 vote of the Council to pass a budget increase of over 3% of the previous years' budget. He isn't sure if a specific amount should be set or if it should be tied to a CPI, etc. but regardless he would like to have clarification for the public if this is something that can be done.

Loughlin stated that in town meeting governments and Senate Bill 2 towns the budget is voted up or down by the people so there is no mechanism needed in that case, but is not sure about this particular scenario and will have to research it.

Krans clarified that the motions still have to be voted by the Commission to go to legal and is a matter of following the rules.

Woods stated that it is clear that the Commission will be presenting a total Charter to the voters regardless of whether every section is changed or not, but wonders whether the whole revised charter will go before the Secretary of State, DRA and Attorney General or if just the sections that are changed will be reviewed.

Loughlin stated the whole document will be sent but each department will focus of the issues that they are specifically interested in.

Discussion continued regarding the issue of getting legal opinions prior to the Commission vote and the upcoming time line.

Landry asked about City employees serving on boards and commissions and is there a law prohibiting this.

Loughlin explained that city employees often serve as ex-officio non-voting members of boards such as the Planning Board, but is not aware of any law prohibiting it.

The Commission thanked Attorney Loughlin for attending the meeting and recessed at 6:20 – 6:25.

Krans stated that there is now a quorum so they will now address item #3, Approval of Agenda as well as adding approval of minutes for 03/31/05 and 04/07/05.

Woods moved to approve the agenda, seconded by Mone. Motion passed on a 6-0 vote.

Boc moved to approve the agenda with the addition of minutes, seconded by Landry. Motion passed on

a 6-0 vote.

Boc moved to approve the 03/31/05 minutes, seconded by Landry. Motion passed on a 6-0 vote.

Boc moved to approve the 04/07/05 minutes, seconded by Landry.

Woods amended the word "parody" to "parity".

Motion to adopt as amended passed on a 6-0 vote.

Discussion: Additional Issues Raised by Speakers and Letters

Krans explained that this is a list of items that have been brought up in discussions, e-mails, letters, etc. that have not been acted upon as of yet by the Commission and would like input.

Long term debt/borrowing

Dividing school budget into two sections; funds needed for "adequate" education and all other funds needed

Preamble to the Charter; bill of rights

4 year terms for city councilors/school board

3 year terms for city councilors/school board

Staggered terms

Finance Director directly reporting to City Council

Separate election for Mayor Pro Tem/Deputy Mayor; 2<sup>nd</sup> place for Mayor to be Deputy Mayor

Finance Committee of private citizens

Reform of assessment/appraisal system and abatement procedure

Abolition of Personnel Advisory Board

Pay City Councilors \$5,000/year

Reform purchasing policies

Conflicts of interest

"Blue book" audit

Right-to-Know law

Restriction of city employees on all city commissions and boards

Office of Municipal Investigations

Bibber discussed the issue of employees serving on boards and commission and personally isn't sure that it is a good idea.

Woods wonders if it is being suggested because there is a lack of volunteers to serve on these boards.

Landry stated that employees on the boards serve as a valuable resource but isn't sure that they should be voting members. He stated that there are too many gray areas on this issue, so it may be better to say no.

Mone explained that he had wanted to serve on the Recreation Advisory Board back when he worked for the City but couldn't and feels that this is taking away from someone who lives in the city who also works for the city.

Boc stated that perhaps this decision should be left up to the Appointments Committee who interview people and recommend them to the Council or not and can decide if there is a conflict of interest or not.

Woods stated that there are several issues on the list pertaining to Finance and asked if we could ask the Finance Director Jeff Harrington to come to a meeting to address these issues.

6. New/Old Business

7. Adjournment

Mone moved to adjourn at 6:45 p.m., seconded by Woods. Motion passed unanimously.

Respectfully submitted,

Valerie A. French

Recording Secretary