

MINUTES

2005 DOVER CHARTER COMMISSION

FEBRUARY 17, 2005

CITY COUNCIL CHAMBERS

7:00 P.M.

1. Moment of Silence

2. Pledge of Allegiance

3. Roll Call; Approval of Agenda

Chairman Krans stated let the record show that all commissioners are present except for Commissioner Gilmore who will be late.

Reynolds moved seconded by Dunnington to approve the agenda with all in favor.

4. Citizens Forum

Robert Duvall long time resident of ward 4 stated under the provisions of the charter is a personal advisory board made up of 3 members, himself, Bob Weisner and Tom Hardiman. They have rarely had any work on it. He feels this is because of the collective bargaining units, in case there was any dispute. The last thing they did was when the council called upon them to review applicants for city manager, he feels they did a good job as Mr. Beecher was here for a long time and he feels Paul Beecher left us and the City in good shape far better then when he came here.

Krans commented that Mr. Hardiman has said the same thing; Krans wondered what they did when they looked at the applications. Bob explained they interviewed the various candidates.

Dorothea Hooper 81 Katie Lane, Dover, thanked the commissioners for serving; she does not have a burning opinion on some of these issues. She mentioned the ward issues, and feels there is a neighborly feel in the ward for when people see you on the street they recognize them, she kind of likes that. Also they may discourage candidates from running as it is expensive; running in the ward is doable because of monetary considerations, also she walked all of ward 4 and it was humungous. Also people have told her the schools need to have a representative in the ward. She feels the elementary schools are now all represented by a ward person.

Rick Hebbard 97 Spruce Lane asked the Chairman to have people speak into the microphone because sometimes people cannot hear at home. He told them it is kind of incredible the amount of information that will come if they ask for it; he asked them to urge the people to come. He mentioned Hindle's ideas from the public hearing; he feels there is a real difference in having ward representatives as opposed to all at large people. Some of their thoughts may bring additional thoughts from others as they need to hear all ideas.

Seeing no one else wishing to speak, he closed citizen's forum.

5. Approval of Minutes:

A. February 1, 2005

Gilmore moved seconded by Boc to accept with all in favor.

B. February 14, 2005

Gilmore moved seconded by Reynolds to accept with all in favor.

6. Old/New Business:

A. Motion #2005-01 Motion to Amend the Rules (Phyllis Woods)

Woods moved to revise the rules and regulations section 1C to read "a motion to revise the city charter shall be in writing with five votes, a majority of the commission". Landry seconded the motion. Woods explained she respects the opinion of all the commissioners. She feels it is important for them to work as hard as they can on these resolutions. She does not feel it is realistic to have a 6-3 vote. Their first debate was split 4-4; all testimony at the public hearing was in favor of a majority vote. Also the city council can put an amendment on the ballot by majority vote. She wants them to ask do we want a majority of 5 to rule or a minority of 4 people to have the power to make changes to the charter. This takes away the power from the people. All we are doing is bringing recommendations to the voters. Also she is concerned we do not have any statutory authority to impose this super majority vote. In a 2004 guidebook they used it says when a question comes up we have to look to a law that grants that authority. They have received a copy of an opinion from the local government center. This letter confirms what she has been told. She does not believe we have more power than the city council. The super majority is used only for exceptions. Regardless of how well we do our work; the benefits that may be gained by a 2/3 rule will be outweighed.

Mone commented that she being a former legislator if you were to change the constitution of NH would you need a 2/3 vote. Woods says our constitution contains their personal rights so that is the reason for the 2/3 vote. Gilmore pointed out the article in the constitution. It is a much higher threshold in practice than our 6 votes would be. The statute says that we can set our own rules. He made reference to the 1996 Manchester charter commission that passed with a super majority and the simple majority charter commission in 2003 that failed. He feels the higher threshold will meet and will address the needs of the people. Reynolds says are we talking about 1-C, Krans confirmed this. Reynolds asked does Woods mean by a majority of the commission or a majority of those present. Woods says an approval by majority and 5 votes.

Bibber points out that this is not a big issue however he supports the 6/3 vote and will until he finds it is illegal. Right now we have a chair who does not agree with this; if he could not take the chair's word, he will have to maintain the 6/3 vote.

Krans says if we are talking about 1-C, if we do this then we are cutting out the quorum of 6 that we passed. Krans read the corrected rules as of 2/14 so he wants to know if she has addressed this quorum issue. Woods has no problem leaving the quorum at 6 but usually it is

5 or those that are required for a vote. She added a quorum of 6 to her motion. Landry stated he agrees to still second the motion. Landry still feels a simple majority is sufficient but in order to support her amendment he feels a quorum could be 5 as that was his concern and would like to offer this as a friendly amendment. He continued the voters will ultimately decide by a majority. Krans tried to clarify the motion again. Landry stated that he withdrew his second. Mone wants to know if we are eliminating Woods motion Krans asked for another second, motion fails for lack of a second Boc stated.

B. Motion #2005-02 Motion regarding Charter Change Procedure (Gary Gilmore)

Gilmore says this is really Krans motion; this is a process where we have outlined a process in which motions will become amendments and finally a package for the voters. Gilmore moved to adopt, Boc seconds the motion, saying step # 4 is missing due to a clerical error. Gilmore read step # 4 into the procedures to adopt as a revision. Step # 7 will be sometime around August 1st. Boc asked if they could group a bunch of these changes together. Dunnington says the third public hearing will be on the entire report; and we will need to have at least two more public hearings before the final adoption.

Krans says when we get to the end of this he wants all the citizens to have had a chance to speak in addition to their citizen's forum. Motion passed on a vote of 8-1 with Woods opposed.

C. Motion #2005-03 Motion regarding City Manager form of Government (Wil Boc)

Boc moved seconded by Mone. Boc explained there seems to be some rumor that this may alter the form of government here in the city and with us now looking to hire a new city manager, he does not want this to be in conflict while they are looking to hire and then when we are done have this person out of a job after a few weeks. Boc read the section C5-1.

Dunnington has a concern with this as we have told the people that we are looking to hear if there is any movement to change this section. He would like to give these people the opportunity to speak to this. He feels this is slamming the door on someone that might want to change the form of government. Landry adds he is not in favor of a strong form of government. He feels he could not support this as we do intend to have two more public hearings. He is not inclined to support it.

Woods opposes this motion this evening because we have not had any testimony supporting this, we only hear about unconfirmed rumors. We should not be driven by rumors this will set a bad precedent on a couple of counts. We all agreed to go through the charter in a line by line manner without jumping to conclusions. The whole purpose of establishing a charter commission is to look at changing the form of government. Also we have agreed to use our present charter as a frame work and if we agree that no change should be taken then no action would be taken; she does not want this speaking to convey she is in favor or not in favor of this motion.

Mone says this comes in part from the acting city manager and feels it may aid him in the search for a new city manager. Boc says he is not going to change the form of government; he feels this is important; we are doing a disservice to the citizens of the city. Anyone applying for the City Manager's position would not be inclined to come to Dover. We were elected to vote our conscious. The chance is slight so let's put it to rest.

Gilmore feels this has been brought up in a timely fashion however he would be willing to vote to table it for one meeting to allow Dover citizens to speak to this motion, he will wait for a couple of weeks and then vote on it. Most of us ran on this form of government. Dunnington agrees with Gilmore but he envisions people will speak on the articles that are listed on the actual agenda. If we put this on the next agenda, then no one comes, he will be happy to vote on it.

Reynolds stated he does not feel we need a motion to not do something; and secondly if we get through our agenda tonight that will be the first item on next week's agenda anyway and we can do this in sequence. And if anyone wants to change the form of government they would have the opportunity to speak on it. Bibber supports Boc's motion however it is easy to say nothing will happen but he is not the one looking for a city manager. He does go along with supporting one more meeting for folks to speak on it. Boc does not mind having it tabled for one more week. Krans will vote for this when it comes up, this sends a message to any applicant anywhere that may be interested in the city manager's position. When he ran, he had about 50 people come up and say you are not going to bring back a strong form of government.

Gilmore moved seconded by Mone to table, motion passed on a vote of 8-1 with Reynolds opposed.

They took a 5 minute recess. Krans left for a meeting.

Woods called the meeting back to order, saying the chair had to leave for a brief time but will return later.

D. Motion #2005-04 Motion to authorize Chair to appoint Legal Counsel Committee (Charles Reynolds)

Reynolds moved seconded by Landry to authorize the chair to appoint a committee of charter commission members to ascertain the availability of attorneys to provide legal advice and counsel to the commission with an estimated cost and terms of engagement, related experience and to take whatever appropriate steps are necessary to make an informed recommendation to the commission. The purpose is to get things moving and to have our own legal counsel through the process. It would be unduly burdensome for the commission as a whole to be interviewing, he leaves it to the chair to appoint who ever he wants and the number of members is up to the chair. Boc asked if the intention is to get lawyers on deck. Reynolds says it would be the motion to find how much services would be and to bring it back to the commission as a whole. Mone wondered if any body could recommend any attorney. Woods says we already have in our rules that the chair can appoint any committees. All were in favor of the motion.

E. Scheduling of Upcoming Meeting

Woods says the third Thursday the council chambers are not available,

but our rules say

we will meet on the 1st and 3rd Thursday. Joyal says if you want these meetings televised the room is not available on the 3rd Thursday. Gilmore stated just change the rules to meet on the 1st and 4th Thursday of the month. Reynolds says we do not need to amend the rules because our rules allow the chair to amend them.

Discussion continued about meeting on the 24th of this month; but this will not work for Dunnington and Gilmore on the 24th. Krans says we start on the 10th. Woods says also there may be the 4th Wednesday available to them. Gary cannot be here next week. Boc suggests the meeting should be the 10th and the 24th of March. Landry says there is already the flexibility of setting the dates in our rules. Boc likes the 10th and 24th of March and we can then review the schedule again on the 24th. All were in favor.

7. Review of Articles:

Article I - Incorporation: City and Ward Boundaries

Commissioner Woods read the first section C1-1. Mone wants a motion to not change this. Woods says she doesn't feel we need motions now if we are not changing anything.

Reynolds wants to deal with the issue that Mr. Marston mentioned at the public hearing. Woods states point of order, she would like to have C-1 addressed to make sure there is no comment. Gilmore explained Mr. Marston's intent was C1-3 and does the actual ward lines need to be within the charter. She has verbiage to say that all the ward boundary verbiage is not in the city charter.

Reynolds suggests we find out if we could remove this language and put it similar to the budget language. Mone says it is under state statute that we must re-align the boundaries every 10 years. We still need to have the ward boundaries. Boc is feeling we will get far a field and we will have the items all mixed up together if we don't stick to each section. Mone is correct on the reason we change the ward lines. This allows for one person to have one vote. Boc wants to be careful that we are talking about C1-2 now. Gilmore feels the charter should establish the wards but the boundaries should be in another place. Boc says C1-1 and C1-2 will remain unchanged if amended with accordance with federal law. The intent is to see if we can remove the ward boundaries language; Reynolds wants to follow our rules for what our intent is for step one, step two, step three. Boc asked Reynolds to write up the new C-1 section.

Article II - Elections

Woods read the first part of article C2-1. Boc says there are several major issues that could be changed here. Should we break them down one at a time as there are major components to this section. Reynolds asked do we need to connect this with section C1 and C3. Dunnington would like to discuss the ward workers and hold off on the conduct of the election; we cannot discuss this section without discussing the other sections first. Boc wants to discuss the term of office, Gilmore says given there are a number of contentious issues maybe we should adopt

a procedure for changing it tonight, or maybe we should wait until motions can be brought forward, but he doesn't believe we can. Boc wants to discuss if two years is long enough. Boc would like to talk about the term of office. The public feels we should change the term from 2 year to 4 year terms. He feels this is too long a time for people to serve. This is in keeping with what congress and the house of representatives does; you don't have to throw people out. Reynolds agrees that 4 years is not manageable and people like to re-elect their reps every two years. Dunnington says this issue has been kicked around for years and we did try staggered terms. But you do run the risk of having a council or school board coming in with no experience. In his first year he looked to the experienced people on the council. It is hard to find people to run quite often and if we extend it for an additional two years it would be even harder to find people to run. The continuity is the thing that bothers him the most. Mone asked is there anything under state statute on having half the election one year and half the election next year. Boc stated the theory is excellent, but people did not like it; he continued the supreme court made a ruling so we cannot have term limits now. Gilmore says as a voter he likes being able to elect his councilor every two years. Landry says would that go away if every one was elected at large. He also mentioned the down time between the November election and the inauguration date. Landry feels there may be more support for a 4 year term. Gilmore says there is one other major issue on staggered terms because we are not allowed to hold an election on the same day as a state election. Woods wants to give them some thought to a 3 year term. Boc says we have to make some decisions pretty soon. He would like our consensus tonight to change the term of office to more years. Boc agrees we do a disservice to everybody if we do not make a decision. Woods feels we have assured people that we will allow ample input. We also have set up an 8 step plan. Dunnington says there has been input from the public on the ward system and the totally at large council. At 9 PM, Krans has returned. Dunnington feels you may get people to run but if everyone is not from their own ward you may eliminate a lot of good people if they are all from the same ward whereas if they were at large, they could all run. In Portsmouth it works quite well and leads to a simple way to elect a mayor and mayor pro-tem; and you have a procedure in place to replace a councilor that leaves creating a vacancy.

Boc says the chair has returned with a plaque and he would like them to it read. Woods read that it is for volunteer of the year 2004 from the city of Dover to Allan Krans.

Boc says all at large councilors is called the Portsmouth model, if this is adopted a lot of other things would fall into place. This is really the biggest thing we are going to address. Boc feels fairly strongly there are several pros and several cons on this.

Landry agrees on the magnitude of the issue and he feels you are assured a larger pool of candidates with an all at large system, as a voter you are more empowered if allowed a vote on everybody. For an all at large council, some people have talked about a disproportionate number of people from one part of the city but people have a right and obligation; winners come from the voters. He feels it is a big issue and he has thought about this for a number of years. He has a concern where we have not many candidates. He continued you may want to keep the mayor race separate from the rest of the council. Boc says if you have a ward person that runs for several years, you know who to call if you need to. Dunnington sees the other side, people running at large but are new to politics and are unknown, if people don't know about you, you have to go out and meet people. Also the cost factor is involved, in the ward you can go door to door and you don't have to spend a lot of money on the campaign. He is not convinced either way. Landry says people would be more empowered if they could elect all 9 councilors.

Gilmore feels we are mixing several issues at once. He agrees with Landry we would have more candidates unfortunately if a person is not known, they would not be elected. He feels this is born out similarity for the council at large positions. Gilmore says for the record he came in third on the last at-large council race. He feels name recognition has to be a huge hurdle when you consider the cost involved to run. Gilmore also feels there is a huge issue with getting school board people to run. Krans says there may some issue that we address that could be either way and we pass the issue on to the voters and let them decide. Both systems will work but this may be one of the issues to pass along rather than try to reach a decision amongst ourselves. Mone says if we were to put it for the voters to decide; you cannot let the voters make that decision; this is either a vote for the whole thing up or the whole thing down. Reynolds says what he is proposing to pass along to the voters is that we change it to all at large candidates so he can vote for who is changing his tax bill. Boc says Krans convinced him that this is the biggest issue here. Mone says you can't put this as two separate questions.

They took a brief break.

Krans called them back to order stating we are currently on section C2-1. Reynolds mentioned that we discussed in his absence at Boc's suggestion we will talk about the entire section and then take a vote on the section. Boc asked if could take a straw vote to move this along. Landry feels this is a balancing issue; he benefited from the ward system. He too wants a straw vote. Woods still has a problem with the straw vote. She was originally leaning towards an all at large but in listening to several people who she respects she wants their opinions. In a straw pole she would vote for it but would not want to be held to this. We need to start somewhere says Reynolds. Krans agrees wants to listen to the voters. This straw vote should not be interpreted that it will lock us in. Gilmore has a question on the process, will we bring a written draft, anyone can bring a written draft any at any time says Boc, with a consensus of a straw vote, no one will put it in written draft form. Krans says and it only takes four votes to get to the next public hearing. The next step would be to get it in writing, then it would come back for step two; Mone volunteered to investigate different communities and how their system works. Krans agrees that Mone can write it up.

Gilmore wants to separate the school board and council. Straw vote was taken on the school board issue with all in favor of an all at-large school board. Straw vote on an at-large city council passed on a 6-3 straw vote with Gilmore, Bibber and Mone opposed. It was decided someone in favor should write it. But if someone else gets the urge, feel free to write it.

Reynolds wants to discuss how to elect the mayor, Boc says it will be tough depending on if we go with an all at large or not. Then he would use the Portsmouth model with the top vote getter to be mayor and call the next highest vote getter the deputy mayor. Landry has some concerns about the person that gets mayor he feels a person really should want to be mayor. Landry stated if the person that gets the highest number of votes is elected and he does not want the position; it can then go to the next highest vote getter. Reynolds says it is a practical matter to him and has no more responsibility than the rest of the council. We give the mayor an additional role and we are not giving that person some greater authority he would be in favor of the top vote getter being mayor or you could give the mayor more authority such as veto power. There is a little clout in being the top vote getter.

Woods can see both sides to his issue and she gives great weight to what Hindle has said on this issue. Dunnington feels the way our system works is the mayor is the figure head for the city and if everyone is at large you are drawing from a pool of people that are qualified to be at

the mayoral level. If when running at large you know if you get the top vote, you would be mayor; he does not see a problem and build in the fact that anyone that really does not want the position would not have to accept it. Mone asked do you want veto power also. If the mayor was to have veto power you would need a separate election for mayor he says. Gilmore says are we having a ceremonial mayor or one with expanded powers. In Portsmouth no one has ever turned down the mayor positions; he agrees with Dunnington if we went with that system and you were number one you would want the number one position. Bibber does not want to see us get hung up on veto power, this was just an example.

Krans asked for a straw vote on electing the mayor in an at large system by having the mayor be the top voter and the second highest would be deputy mayor with the understanding that the top vote getter wants it, all were in favor of the motion, unanimously.

Krans says he would like citizens to come speak on this at the next meeting.

Reynolds asks would the school board chair still be as it is, elected amongst themselves. Boc says this is another discussion, this is the Portsmouth model. Boc's vote would be to allow the school board to elect the school board chair. Gilmore says it should be the top vote getter. He added the school board hires and fires their own people says Gilmore. Reynolds is onto a great idea if the at large is top vote getter. Woods is not in favor as we are talking about the budget and getting it on board very early. She feels the school board has elected people with prior experience and she would like to leave this up to the school board. Mone asked does the school board run the school department the same as the council runs it's departments. Boc says it is the same for both; they have no supervision over the superintendent.

Krans asks for a straw vote non binding on having the school board chair be elected with the all at large with Woods and Landry opposed on a vote of 7-2.

Boc asked if we stay with the ward system how are we going to elect the mayor. He wants to wait until the next meeting to discuss this issue.

Reynolds is looking for names to serve on the legal committee.

Krans asked for people to volunteer to be on the legal committee to investigate legal counsel. Woods, Dunnington and Reynolds were appointed by the chair to be on the legal research committee. Woods asked what the time frame is for that committee, Krans wants a report at the next meeting just to keep them all updated. Dunnington stated he is going to be gone for the next two weeks. Bibber agreed to serve on the committee in Dunnington's place.

Secretary Gilmore wants to deal with the next item; Boc disagrees and moved to adjourn at 9:55 PM with Landry seconding the motion and all in favor.

Article III - City Council

Article IV - Schools

8. Adjournment

Submitted by,

Judy Gaouette

City Clerk

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