

THE CITY CHARTER ADVISORY COMMITTEE

Public Input Meeting

Thursday, March 24, 2011 – 7:00 p.m.

Eileen Dondero Foley Council Chambers

Present: Assistant Mayor Novelline Clayburgh, Chair; Councilor Coviello; Joshua Cyr; John O’Leary; Peter Loughlin; and Valerie French, Recording Secretary

Absent: City Attorney Robert Sullivan

I. Call to Order

Assistant Mayor Novelline Clayburgh called the meeting to order at 7:00 p.m. She then clarified for the audience members that the Police and Fire Commission recommendations would not be discussed until the April 7th Charter Committee meeting.

II. Acceptance of Minutes – March 10, 2011

Assistant Mayor Novelline Claburgh stated that she thought that it was stated at the March 10th meeting that the deadline to submit suggested recommendations would be March 31st, but it was not stated as such in the minutes. Mr. O’Leary stated that there was discussion but it was not clearly confirmed. Assistant Mayor Novelline Clayburgh stated she would like to make that consensus now that the deadline to submit recommendations will be March 31st. The committee members concurred.

Mr. Cyr moved to accept the minutes of the March 10, 2011 Charter Committee Public Input Meeting. Seconded by Councilor Coviello and voted.

III. Discussion of Suggested Amendments

Assistant Mayor Novelline Clayburgh stated that she met with City Attorney Sullivan to review the list of suggested amendments.

A member of the audience stated he was unable to locate the list on the city website and the Recording Secretary stated she would put it on the website with the updated information and hard copies were provided.

Suggested Amendment #1: 5 year term limits for Department Heads

Assistant Mayor Novelline Clayburgh stated that Attorney Sullivan advised that this was an administrative matter and not for discussion by the Charter Committee.

Mr. O’Leary stated that he agrees with something Mr. Cyr stated at the last meeting that people should be giving their whys, pros and cons, etc. when making a suggestion, so the committee knows the thought process behind the recommendation.

Assistant Mayor Novelline Clayburgh stated that is why we were going to invite the individuals who made the suggestions to the meetings that they would be discussed. She stated Councilor Dwyer has been invited to attend on April 7th to discuss her suggestion.

O’Leary moved to not recommend suggestion #1 to the Council as it is not appropriate for the Charter Committee. Seconded by Councilor Coviello and voted.

Suggested Amendment #2: Policy on elected board members taking city jobs

Suggested Amendment #4: Hiring new employees who are elected officials

Assistant Mayor Novelline Clayburgh stated these are items that can be reviewed by the Committee for recommendation to the Council.

Councilor Coviello stated it is common to have these items in City Charters and feels that we should have something in ours as well, although he does not mean to indicate that this is directed at any specific person or situation. He further stated that there is a reduction in freedom when someone is elected to the Council, School Board and Commissions and there is a concern about the appearance of impropriety so imposing a 1 year wait after the end of term would alleviate that perception.

Mr. Cyr stated that he is considering the suggestions with the general rule that the question of what is the positive measurable outcome of making this change. He asked for clarification of these suggestions. Councilor Coviello stated that this is not meant to imply that anything nefarious has happened in the past, but that in both situations in these suggestions there could be the appearance of impropriety and other cities do have these stated in their Charters.

Mr. O’Leary stated that we hire our City Manager and Superintendent of Schools to make these decisions and hopes that they do hire the best qualified candidates regardless of whether they are elected officials or not. He stated he doesn’t see the measurable benefit of tying their hands and it is not for the betterment of the community to do so and he doesn’t support these recommendations.

Mr. Cyr stated he feels there is already a small pool of qualified people to draw from already and wouldn’t want to see qualified candidates excluded because they serve as elected officials, although he is in favor of removing potential for conflict of interest. He asked if there have been any conflict of interests in the past. Councilor Coviello stated no and that people are upset that it is even being suggested that there was. Assistant Mayor Novelline Clayburgh stated that when she was on the School Board it happened 3 times and feels there is some disruption to the elected bodies when this happens.

Mr. Loughlin stated that if he were an elected official and a good job opened up he wouldn’t want to have to wait a year before applying. He asked if this would mean that someone needed to resign once they have put in an application or once they have been interviewed or when. Mr. O’Leary stated he would be more comfortable going in the direction that any elected official that applied for a position would have to step down before getting the job. He stated the situation has worked in reverse in the past that a City employee had to quit their job

when they ran for City Council so it should work both ways. Mr. Cyr stated that these items should probably be brought up for discussion again at another meeting.

Mr. O’Leary moved to table for future discussion.

Assistant Mayor Novelline Clayburgh stated there are 3 different options that have been discussed; recommend a 1 year waiting period as suggested; leave as is; resign position before applying for a position.

Mr. Cyr stated he would feel more comfortable voting after the public comment session.

Suggested Amendment #3: Policy for retired high government department employees running for office.

Mr. O’Leary stated that it would be difficult to determine “high level” employees and feels that it is up to the voters to decide if they don’t want that person to serve as an elected official. He stated it could be an asset or a liability, but if they meet the qualifications of a candidate, then they should be allowed to run.

Mr. O’Leary moved to determine this item not appropriate to recommend go forward. Seconded by Councilor and voted.

Suggested Amendment #5: Swearing in New members after the election, once results are certified.

Assistant Mayor Novelline Clayburgh explained that Councilor Spear suggested this because of the time between the election and the time of the swearing in is a couple of months and there is a “lame duck” Council in the meantime.

Councilor Coviello stated it is an interesting question because there was a situation with a zoning amendment that occurred this past December after the election.

Mr. Loughlin stated that there are benefits to a transition period and feels that having an election and a new Council the next week would have its own issues.

Mr. Cyr asked how much really gets done in the month of December. Assistant Mayor Novelline Clayburgh also gave the recent zoning issue as an example but felt it was appropriate for the sitting Council to vote because they had been the ones working on it for the past 2 years. Councilor Coviello concurred stating that they would have to start the whole process over in the New Year, with 3 readings, etc. He stated he isn’t aware of any historical data that this was ever a problem.

Mr. O’Leary stated when he served on the Council he found it beneficial to have the interim period to attend 3 meetings as an observer and get the informational packets and familiarize himself with the process before starting in January.

Assistant Mayor Novelline Clayburgh stated she also likes that time to say goodbye to people and there is closure. She stated that usually there is not much done in December anyway.

Councilor Coviello moved to not recommend to the Council. Seconded by Mr. O’Leary and voted.

Suggested Amendment #6: Two-thirds majority for adoption of Budget

Suggested Amendment #14: Vote for final budget should be a 2/3 vote – not simple majority

Suggested Amendment #16: Clarification of #6 that if 2/3 majority vote to adopt budget not accomplished, it would go back to previous year budget and not the City Manager recommended budget.

Assistant Mayor Novelline Clayburgh stated that Attorney Sullivan stated that the Committee can discuss this, but advised that there had been a court case regarding this and the City of Manchester lost. Mr. Loughlin stated that this law has since been changed as it was determined that it was more of a perceived effect on town budgets and not cities. He continued that he considers this recommendation to be a tyranny of the minority and if there isn’t a majority the minority should not have the control.

Mr. O’Leary stated that item 16 should be tied into this discussion. Councilor Coviello agrees and stated that this wasn’t a recommendation but a clarification of Mr. Camerons’ recommendation.

Mr. Cyr stated that this does not meet his criteria that there is a measurable positive to make this change.

Discussion was held regarding the correct wording of making motions and it was concurred that the Council will received the list of recommendations of the Committee but will make their own determination.

Mr. O’Leary moved to not recommend this to the Council. Seconded by Mr. Loughlin and voted.

Suggested Amendment #7: Stagger the City Council elections in a manner that is similar to the School Board.

Suggested Amendment #17: Changer terms of Fire/Police Commission and School Board members from 4 years to 2 years.

Mr. O’Leary stated he feels we are pricing ourselves out of the representative form of government because it is expensive for people to run for office every 2 years. He continued that one of the questions raised by this suggestion is what about the Mayor which he feels would be elected by the Council and that would eliminate people spending a lot of money to get the most votes to become Mayor. He stated that the Mayor is basically a figurehead and can appoint people to boards and commissions, but other places do select a Mayor by Council votes every year or it could be done another way.

Assistant Mayor Novelline Clayburgh stated that the Mayor and Assistant Mayor could both be selected by the Council as they select the Chair and Vice Chair of the School Board that way.

Mr. Cyr asked for clarification of how the school board is elected currently. Assistant Mayor Novelline Clayburgh explained that there are 4 year terms with 4 members elected at a municipal election and then 5 members elected at the next municipal election so they are staggered with the most turnover at a time being 5 members.

Councilor Coviello stated that 4 years is a long term and stated that he found the information he requested from the City Clerk very interesting in terms of filling vacancies. He stated that when someone is appointed to fill a term, they are expected to then run for another 4 year term and it then becomes 5 year minimum and decisions are also being made by someone that was not elected by the voters for that time as well. He then discussed choosing a Mayor from within the Council stating that currently he feels that it is an independent position elected by the people, but if the Council selected it from within then there could be or at least the appearance of "horse trading".

Mr. O'Leary stated that between the City Council, School Board and Commissions, the Council is the "glamour" position and most people end up running for more than one 2 year term anyway. He stated that the first year is spent learning the job and he felt he was more effective towards the end of his term with the experience.

Councilor Coviello stated that he also feels that staggering terms takes away the public's right to send a message when they are unhappy with the current Council.

Mr. Cyr stated that the problem to be solved with this suggestion is the potentially expensive race and the perception that you need to spend a lot of money to get elected so some people may choose not to run and also having the Council select the Mayor would solve the issue of people voting a certain way (bullets) to elect who they want for Mayor and therefore not fully voting for a full Council.

Assistant Mayor Novelline Clayburgh stated her suggestion is a 3 year term for the Council and keep selecting the Mayor by the highest vote getter. Mr. O'Leary stated the downside of that is that there would then be elections every year and municipal would coincide with a State or Federal and that isn't allowed so it would have to be held on a different date.

Mr. Loughlin stated he has a problem with selecting the Mayor by the Council as it would cause alliances to be formed. He stated we currently have the purest form of democracy.

Mr. O'Leary moved to table for further discussion. Seconded by Mr. Loughlin and voted.

Suggested Amendment #8: Place a question on the ballot to give citizens opportunity to weigh in on the continuation of Fire and Police Commissions or to have them appointed by the Mayor/City Council. **Item will be discussed at the April 7th meeting.**

Suggested Amendment #9: 5 Ward Councilors and 4 At-Large Councilors

Assistant Mayor Novelline Clayburgh stated that Attorney Sullivan stated this is a revision and not an amendment.

Mr. O'Leary stated that right now the Council represents the entire city and if they were elected by Ward, then they would make decisions on their one section of the city instead of the city as a whole.

Mr. Cyr stated that he understands that the impression is that the Council doesn't represent all of the people in the City, partly economically and partly location. He stated with Wards the cost of running for election would be less and the Ward representative could relate more to peoples concerns of that area. He asked what areas the current Council represents. After some discussion it was determined that Wards 3 and Ward 5 do not have resident Councilors.

Mr. O'Leary stated right now we select the best 9 people out of the however many run citywide, but with Wards you may only have 1 person run or deals made for one person to run for a ward and another at-large etc.

Mr. Loughlin stated he is not in favor of this because it would be hard to find representatives for every ward. He stated he has experienced this type of government in other cities and prefers the way we do it.

Councilor Coviello moved to not recommend to the Council. Seconded by Mr. Loughlin and voted.

Suggested Amendment #10: Full Time Mayor form of Government

Suggested Amendment #12: Strong Mayor form of Government, possible ward Councilors

Assistant Mayor Novelline Clayburgh stated that Attorney Sullivan advised that this is a revision and not an amendment.

Mr. Cyr stated that for the size of this community we would be limiting ourselves in being able to find a resident with all of the skills required for that position.

Councilor Coviello stated that the City Manager form of government offers stability for city departments instead of electing someone new every 2 years and historically we have done well with our current system and has made Portsmouth a great place to live.

Mr. Cyr moved to not recommend to Council. Seconded by Mr. Loughlin and voted.

Suggested Amendment #11: Term Limit for City Manager

Mr. O'Leary moved to not recommend as this is a policy issue. Seconded by Councilor Coviello and voted.

Suggested Amendment #13: Citizen Comment Session monthly to allow for back and forth discussion with Council

Suggested Amendment #25: Town Hall style meetings held 2-3 times a year for citizens to express concerns and get immediate feedback from Council.

Assistant Mayor Novelline Clayburgh stated Attorney Sullivan advised that these are policy decisions but she likes the idea and may recommend it at the Council level to maybe do this once or twice a year.

Suggested Amendment #15: Term limit for City Negotiator

Mr. O'Leary stated this would be a management decision.

Councilor Coviello moved to dispose this item as it is a policy issue. Seconded by Mr. O'Leary and voted.

Assistant Mayor Novelline Clayburgh stated this may be a good time to stop working on the list so we can hold public comment before the 90 minute deadline.

Councilor Coviello stated that the next meeting discussion of the Police and Fire Commission won't take up the whole meeting and feels the list can be finished at that time. He also stated he will be away on the 7th but would like to participate by conference call as has been done by Councilor Dwyer at Council meetings. The Committee agreed.

IV. Public Comment Session

Assistant Mayor Novelline Clayburgh then opened the public comment session:

No one in the audience wished to make a comment.

Mr. Gamester asked the Committee to review the rest of the list as far as if they would be addressing them as a committee or not.

Suggested Amendment #18: Mayoral candidates run specifically for the position of Mayor –
Assistant Mayor Novelline Clayburgh stated Attorney Sullivan advised that this is a revision and not an amendment.

Suggested Amendment #19: Independent Audit made available to Council within 120 days -
Assistant Mayor Novelline Clayburgh stated Attorney Sullivan advised that this is a Council policy decision.

Suggested Amendment #20: Change full-time Negotiator to either full-time or part-time (current one is part-time).

Assistant Mayor Novelline Clayburgh stated Attorney Sullivan advised that this is an administrative decision.

Suggested Amendment #21: Establish a permanent Charter Review Committee

Assistant Mayor Novelline Clayburgh stated Attorney Sullivan advised that this is not constitutional as the State requires this be done every 10 years.

Suggested Amendment #22: All union contracts must be voted by a 2/3 vote. ??????

Suggested Amendment #23: Report on CIP projects at the first meeting in January each year.

Assistant Mayor Novelline Clayburgh stated Attorney Sullivan advised that this is a Council policy decision.

Suggested Amendment #24: Fire/Police Commission, add a section that would allow the City Councilor to appoint an alternate that could be a non-voting person to strengthen the two Commissions. *(Item will be discussed at the April 7th meeting)*

Suggested Amendment #26: Section 6.3.H – Student Member of School Board – add the teacher representatives to this section or remove section entirely.

Assistant Mayor Novelline Clayburgh stated that this is her suggestion which the committee can address as an amendment.

Seeing no one else wishing to speak, the Chair closed the Public Input session.

V. Miscellaneous/Unfinished Business

Assistant Mayor Novelline Clayburgh stated that the next meeting will be held April 7, 2011 at 7:00 p.m. in the City Council Chambers.

VI. Adjournment

At 8:20 p.m., Mr. O’Leary moved to adjourn. Seconded by Councilor Coviello and voted.

Respectfully submitted by:

Valerie A. French
Deputy City Clerk