

SPECIAL CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, JUNE 29, 2015

PORTSMOUTH, NH
TIME 6:00 PM

AGENDA

- 6:00PM – 7:00PM - Work Session Re: Wastewater Treatment Facility Upgrade - Cost and Treatment Level
- I. CALL TO ORDER (6:00 p.m.)
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE
- V. Discuss and Act on Charter Amendments as it relates to the Police Commission
- VI. ADJOURNMENT

KELLI L. BARNABY, MMC, CMC, CNHMC
CITY CLERK

NOTICE TO MEMBERS OF THE PUBLIC WHO ARE HEARING IMPAIRED: Please contact Human Resources Director Dianna Fogarty at 610-7274 one week prior to the meeting for assistance.

City of Portsmouth

Department of Public Works



MEMORANDUM

TO: John Bohenko, City Manager

FROM: Brian Goetz, Deputy Director of Public Works
Suzanne Woodland, Deputy City Attorney
Terry Desmarais, City Engineer

DATE: June 24, 2015

SUBJECT: Peirce Island Wastewater Treatment Facility
City Council Meeting June 29, 2015


At the June 15, 2015 City Council Meeting, the City Council voted to hold a work session on June 29, 2015 at 6:00 PM to discuss the Peirce Island Wastewater Treatment Facility Project. City Staff will present a number of items to the City Council including the following: a brief history of the actions leading to the existing primary treatment facility; a review of the current status of design for the current upgrade project; a summary of potential costs savings; a review of options and costs to eliminate nitrogen removal and use only secondary level treatment; and answer key questions of importance that relate to the overall project.

A draft of the presentation is attached for your use.

Peirce Island Wastewater Treatment Facility

Portsmouth City Council
Work Session
June 29, 2015


DRAFT

1 CITY OF PORTSMOUTH WASTEWATER DIVISION 

Introductions

- Suzanne Woodland, Deputy City Attorney
- Terry Desmarais, City Engineer

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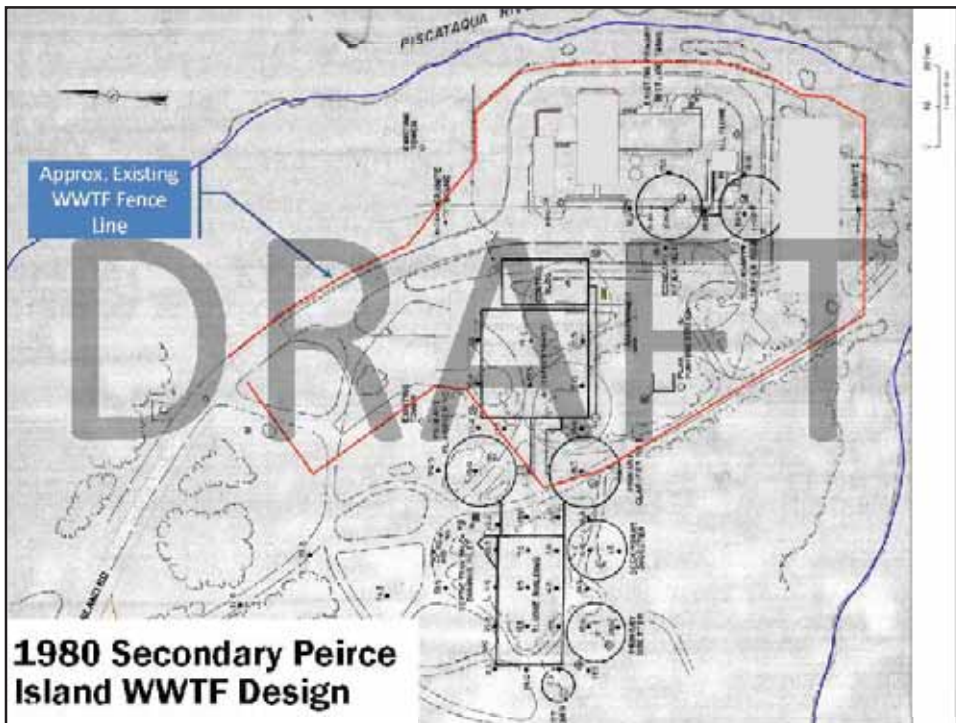
1 CITY OF PORTSMOUTH WASTEWATER DIVISION 

How Did We End Up with a Primary Treatment Facility?

- 1964 – Peirce Island WWTF Built
- 1972 – Clean Water Act Passed Requiring Secondary Treatment
- 1977 – Completed 201 Facilities Plan
- 1980 – Secondary Plant Designed
- 1982 – State Prepares 301(h) Waiver
- 1985 – NPDES Permit Issued with 301(h) Waiver



CITY OF PORTSMOUTH WASTEWATER & SOLID WASTE



1980 Secondary Peirce Island WWTF Design

Where Are We Today?

- 2007 EPA Issues Permit for Secondary Treatment
- 2010 Council Voted to Upgrade at Peirce Island
- 2011 Council Voted to Include Nitrogen Removal in Peirce Island Design
 - Middle Path Between Secondary Treatment and Limit of Technology Nitrogen Treatment
 - Approach Already Underway by Dover and Rochester
- 2013 Council Voted to Move Forward with Peirce Island BAF within Fence Line with Ability to Treat Nitrogen
- 2015 Council Reaffirmed April 2013 Decision

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CITY OF LISBON WASTEWATER DIVISION



Where are We Today? (Cont'd)

- Final Design 75% Complete
- Project Cost Estimate \$79.8M (January 2015)
- Basis of Design: 6.1 MGD Biological Aerated Filter to Meet 8 mg/L Total Nitrogen on a Season Rolling Average Basis

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CITY OF LISBON WASTEWATER DIVISION



Council Work Session with Staff

- Items for Discussion
 - Summarize Potential Cost Savings
 - Review Secondary Only Treatment Option
 - Address Key Questions

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Cost Summary

Item	Cost \$Million
Design Engineering Phase 1	\$0.1
Construction Phase 1	\$1.4
Contingency Phase 1	\$0.2
Construction Engineering Phase 1	\$0.4
Total Phase 1	\$2.1
Design Engineering Phase 2	\$4.5
Construction Phase 2	\$61.0
Island Work Premium Phase 2	\$2.6
Contingency Phase 2	\$3.2
Construction Engineering Phase 2	\$6.4
Total Phase 2	\$77.7
Total Phase 1 and 2	\$79.8

**Construction
Costs
Increase with
Time**





Cost Reduction Items Previously Considered or Already Incorporated

Item	Reason Rejected
Forego Brick Facades on All Buildings	Does Not Meet Energy Code
Eliminate Grit Removal System Upgrades	Protects Downstream Processes
Eliminate Landscaping	Needed for Wetlands Permit and Façade Screening
Item	Reason Incorporated
Forego Brick Façade on Portions of BAF	Reasonable Alternatives – Needs Council Approval
Consolidate Electrical Facilities/Reduce Headworks	Optimizes Layout
Use Precast Concrete Roof Decking	Cost Savings
Other Value Engineering Recommendations	Cost Savings

Additional Optional Cost Reduction Items

Item	Cost Reduction (\$Million)
Close Entire Island During Construction	(\$0.4)
Eliminate Odor Control	(\$1.8)
Increase Height of BAF to 33-feet	(\$2.2)
Use Overhead Electric from Pool to Facility	(\$0.7)
Use Exterior Finish Insulation System	(\$0.5)
Subtotal Reduction Items	(\$5.6)
Secondary Only Treatment	(\$6.5)
Total Reduction Items	(\$12.1)

Values are Just an Estimate.
Bidding Environment will Determine Actual Cost.



Additional Optional Cost Reduction Items

Item	Secondary Only Treatment (\$Million)	Cost Reduction Items Other Than Secondary (\$Million)	All Cost Reduction Items (\$Million)
Base Project Cost	79.8	79.8	79.8
Cost Reduction	(\$6.5)	(\$5.6)	(\$12.1)
Revised Project Cost	\$73.3	\$74.2	\$67.7

Values are Just an Estimate.
Bidding Environment will Determine Actual Cost.

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CITY OF LISBOUTH WASTEWATER DIVISION



Return to Secondary Treatment Only?

- | | |
|-------------------------------------|---|
| Initial \$6.5M Capital Cost Savings | Capital Cost Exceeds \$6.5M if Nitrogen Removal is Required Later |
| Initial Operational Savings | Redesign Extends Compliance Schedule and Increases Costs |
| Consistent with Coalition Science | Likelihood of Expensive Protracted Litigation with EPA |
| | Challenges Relationships with State Regulators |
| | Challenges Relationships with State Stakeholders |




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CITY OF LISBOUTH WASTEWATER DIVISION



Key Questions

- Why have the Costs Increased Over Time?
- Why is the Project Cost \$79.8M?
- Can We Make the Facility Smaller?
- Can We Reconsider Conventional Secondary Treatment Outside the Fence Line?



Why have the Costs Increased Over Time?

2010/2011 Master Plan/VE	2012/2013 Piloting	2014/2015 Final Design
<div style="background-color: #ADD8E6; border-radius: 50%; width: 60px; height: 60px; display: flex; align-items: center; justify-content: center; margin: 0 auto;">~\$40M</div> <p>Size Revised →</p>	<div style="background-color: #ADD8E6; border-radius: 50%; width: 60px; height: 60px; display: flex; align-items: center; justify-content: center; margin: 0 auto;">~\$65M</div> <p>+Scope →</p>	<div style="background-color: #ADD8E6; border-radius: 50%; width: 60px; height: 60px; display: flex; align-items: center; justify-content: center; margin: 0 auto;">~\$80M</div>
<p>4.3 MGD Secondary Dry Weather</p> <ul style="list-style-type: none"> • Collection System Improvements to Free Up Capacity for Future Growth (Cost Not Shown in \$40M) • In Filter Building • Minimal Upgrades to Peirce Island Facility 	<p>6.1 MGD TN8 Wet Weather</p> <ul style="list-style-type: none"> • EPA Reviewed • Flow Adjusted to 5.25 MGD • Outside Filter Building • Includes Future Growth Beyond Collection System Improvements • Change in Wastewater Characteristics 	<p>6.1 MGD TN8 Wet Weather</p> <ul style="list-style-type: none"> • Total Treatment Facility Upgrade • Construction Costs Increase Due to Inflation

Why is the Project Cost \$79.8M?

- Concentration of Wastewater
- Clean Water Act Requires Treatment of Wet Weather Events. Accommodate for Growth and Ability to Meet Blended Effluent Limit
- Significant Additional Maintenance Needs Defined During Design Process
- Multiple Buildings Cannot Be Repurposed
- One Existing Building Requires Remediation
- Maintenance of Operations Impacted Design Approach
- Fence Line is Fixed Limit of Site

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CITY OF LISBON WASTEWATER DIVISION



Can We Make the Facility Smaller?

- Design Basis is 6.13 Million Gallons Per Day Capacity
 - Provides Room for Growth in the City
 - Balances Wet Weather Treatment Needs
- Investigated 5.23 Million Gallons Per Day Capacity
 - Does Not Allow for Growth
 - Could Result in Sewer Connection Moratorium
 - More Difficult to Meet Wet Weather Treatment Needs
 - Does Not Fit in Filter Building

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CITY OF LISBON WASTEWATER DIVISION



Can We Reconsider Conventional Secondary Treatment Outside the Fence Line?

- Initial Capital Costs Savings (~\$10M Conceptual Level)
- Significant Capital Costs if Nitrogen is Required Later
- Future Expansion Would Have Further Impact on Land Outside Fence
- Delays Compliance Due to Re-Design and Increases Design Costs
- Impact to Archaeologically Sensitive Areas
- Impact to Natural Resource and Recreational Areas
- Would Require Land Offset Due to Grant Funding
- Likelihood of Fines and Penalties Increases
- Likelihood of Litigation with EPA

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CITY OF LISBON WASTEWATER DIVISION



Questions

DRAFT


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CITY OF LISBON WASTEWATER DIVISION



**CITY OF PORTSMOUTH
LEGAL DEPARTMENT
MEMORANDUM**

DATE: June 24, 2015
TO: JOHN P. BOHENKO, CITY MANAGER
FROM: ROBERT P. SULLIVAN, CITY ATTORNEY
RE: PROPOSED CHARTER AMENDMENTS FOR CONSIDERATION AT
THE CITY COUNCIL MEETING OF JUNE 29, 2015



Per the request of the Mayor and various Council members, attached hereto are the actual text of three (3) possible amendments to the municipal Charter which might be considered by the City Council at its meeting of June 29, 2015. For the sake of simplicity, attached are only the proposed Charter amendments and not the related documents which will need to be drafted in the event the City Council votes to hold a public hearing or to put any of these questions on the November ballot. Those documents would be drafted at a later date depending upon the decisions made by the City Council on June 29, 2015.

In order, the attached Charter amendments are:

1. A proposed Charter Amendment which would eliminate the City's Police Commission.
2. A proposed Charter Amendment which would add two new members to the existing Police Commission, one of which would be the Mayor or his/her designee and the other which would be the City Manager or his/her designee.
3. A proposed Charter amendment which would eliminate the Police Commission and create Charter authority for the City Council to adopt an ordinance providing for a civilian review board which would have the authority to investigate complaints by members of the public concerning misconduct by police officers.

Referencing my memorandum to your office dated June 5, 2015 on the topic of Charter Amendments please be advised:

PROCEDURE

The process which governs the handling of any proposed Charter amendment by the Council is described in state law at RSA 49-B, relevant portions of which are attached. Briefly, the statute requires that if the Council wishes to proceed with this proposed amendment it shall provide for notice and a public hearing. The notice must be published in the newspaper at least seven (7) days prior to the hearing before voting to put the question on a municipal ballot for referendum vote. The notice must contain both the text of the proposed amendment and a brief explanation. Subsequent to the public hearing, and within seven (7) days of receiving approval from the Secretary of State, the Attorney General and the Department of Revenue Administration under RSA 49-B:5 I, the City Council may order the proposed amendment to be placed on the ballot at the next regular municipal election held not less than sixty (60) days after that order is passed.

The final date by which the Council must vote to commence the process and be assured of time to complete it would appear to be July 9, 2015.

STATE APPROVALS

RSA 49-B:5-a requires that the City Clerk file a report with the Secretary of State, the Attorney General and the Commissioner of the Department of Revenue Administration within ten (10) days of passage by the City Council of a vote to put a proposed Charter Amendment on a referendum ballot so that those officials may, "review the proposed Charter Amendment to ensure that it is consistent with the general laws of this state". If any of those officials do not approve, the proposed Charter amendment, "shall not be placed on the municipal ballot". However, "failure to specify objections to a proposed Charter or Charter Amendment under this section shall constitute approval by the Secretary of State, Attorney General or the Commissioner of the Department of Revenue Administration".

Attached hereto are:

1. A redline version of the relevant Municipal Charter sections showing the proposed Charter Amendments for illustration purposes; and
2. Copies of RSA 49-B:5-6 inclusive, the primary state laws regulating the Charter Amendment process.

attachment

PROPOSED CHARTER AMENDMENT #1

The Municipal Charter of the City of Portsmouth, AMENDMENT E – POLICE DEPARTMENT (POLICE COMMISSION) is hereby deleted in its entirety as is any reference contained anywhere in the municipal Charter to the election, authority or existence of a Police Commission, including but not limited to Section 6.2 Police Department (Police Commission) (deletions from existing language ~~stricken in red~~; additions to existing language **bolded in red**; remaining language unchanged from existing):

~~AMENDMENT E – POLICE DEPARTMENT (POLICE COMMISSION)~~

~~GENERALLY~~

~~Notwithstanding any other provisions of the Revised Charter, the following department of City government shall be separately identified as Charter Department, and shall be administered in accordance with the provisions of this Article.~~

~~POLICE DEPARTMENT (POLICE COMMISSION)~~

~~The policy-making body for the Police Department in the City of Portsmouth shall be a Police Commission. The Police Commission shall consist of three persons to be elected in accordance with the following.~~

~~APPOINTMENT/ELECTION TERMS~~

~~Should an elected Police Commission be approved on November 5, 1991, the Mayor of the City of Portsmouth shall appoint the first board of three Commissioners who shall assume office commencing on January 1, 1992 through January 1, 1994. In order to establish a legal and proper cycle of election in accordance with New Hampshire law, hereinafter, the first elected Board of Police Commissioners shall be elected in November, 1993 as follows:~~

~~The two candidates receiving the highest and second highest number of votes shall assume terms of four years. The candidate receiving the third highest number of votes shall assume a term of two years.~~

~~Thereinafter, each Commissioner shall be elected for a term of four years. All Police Commissioners elected from 1993 and onwards shall be elected at large and without party affiliation and may be elected for more than one term of office. In the event that a vacancy should occur on the Board, then the next runner up candidate established out of the last, most recent Board election, shall assume the balance of the vacated term. In the event that the list of candidates from the last election available to fill vacancies becomes depleted, then the Mayor shall appoint any necessary Commissioners.~~

ELIGIBILITY

~~Any person presently residing within the City of Portsmouth for not less than two years shall be deemed eligible to seek election to the Board of Commissioners.~~

REMOVAL

~~Any member of the Police Commission may be removed from office for just cause by a two-thirds vote of the City Council following a public hearing.~~

INCOMPATIBLE OFFICES

~~No member of the Police Commission shall serve on the Commission while receiving compensation from or holding any other public office within the City of Portsmouth.~~

QUORUM (VOTES)

~~All questions put before the Police Commission shall be decided by a single majority vote of the Commission. At least three members of the Commission shall be present at any meeting to constitute a quorum.~~

POWERS

~~The Police Commission shall appoint such permanent patrol officers, sergeants, captains, commanders, and police chief, as they deem necessary. The Commission shall have authority to consider and act upon any complaint and/or employee grievance(s) brought to it through such procedures. Where the Commission determines there to be sufficient cause, the Commission may, after a hearing consistent with the requirements of due process, discipline or remove any employee of the Police Department against whom such a complaint has been brought. Appeals from such decisions shall be heard pursuant to such grievance procedures as shall be established by the Commissioners or as prescribed in respective collective bargaining agreements. The commission shall assume all administrative responsibilities, which would otherwise be vested in the City Manager under this charter relating to the administration of the Department. Such power to include, but not limited to, the following:~~

- ~~A. Determine the number, location and type of facilities and installations, subject to the approval of the City Council~~
- ~~B. To determine the size of the work force and increase or decrease it's size, subject to the approval of the City Council~~

ORGANIZATION

~~The Police Commission shall, beginning January 1992, convene meeting annually in the month of January for organizational purposes. The Commission shall choose one of its members to serve as chairperson. The Commission shall choose one of its members to serve as clerk. No one member may simultaneously serve as chairperson and clerk. (AMENDED BY REFERENDUM VOTE NOVEMBER 6, 2001).~~

RULES AND REGULATIONS

~~The Commission shall make such rules and regulations for their own proceedings and the administration of the Police Department, as they deem advisable.~~

COMPENSATION

~~The Police Commissioners shall receive such compensation as the City Council may from time to time determine.~~

ANNUAL BUDGET

~~The Police Commission shall, beginning in January of 1992 (and annually thereafter), hold a public hearing prior to the finalization of its budgetary considerations so as to discover the will of the people with respect to such matters. The Commission shall then submit its annual budget request to the City Council in accordance with the remaining provisions of this Charter. The salaries and benefits of all officers and employees of the Police Department shall be considered by the Commission through timely discussion with the recognized bargaining units of said officers and employees. The Commission shall utilize such negotiator as shall be provided by this Charter, or in the absence of a Charter provision, by the City Council. The Commissioners shall then recommend the agreed upon settlement to the City Council for final approval or denial. Should it be denied, the Commission would then be required to enter into further discussion with the recognized bargaining units until such time as a settlement is reached and ultimately ratified by the City Council. The chairperson of the Commission, or his/her designees, shall report at least semi-annually to the City Council on the state of the Police Department and its operation. Such reports shall include a summary of the Department's budget, workforce, equipment, promotions, retirements and other related matters. The Commission, in its discretion, may allow the police chief to submit a letter to the Council as part of any such report. (AMENDED BY REFERENDUM VOTE NOVEMBER 6, 2001).~~

~~(ADOPTED BY REFERENDUM VOTE NOVEMBER 5, 1991)~~

ARTICLE VI - CHARTER DEPARTMENTS

~~SECTION 6.2 - POLICE DEPARTMENT (POLICE COMMISSION)~~

~~Deleted and Replaced with Amendment E by Referendum Vote November 5, 1991.~~

If authorized by referendum vote at the municipal election scheduled for November 3 2015, this amendment to become effective on January 1, 2016.

PROPOSED CHARTER AMENDMENT #2

The Municipal Charter of the City of Portsmouth, AMENDMENT E – POLICE DEPARTMENT (POLICE COMMISSION), is hereby amended and shall read as follows (deletions from existing language ~~stricken in red~~; additions to existing language **bolded in red**; remaining language unchanged from existing):

AMENDMENT E - POLICE DEPARTMENT (POLICE COMMISSION)

GENERALLY

Notwithstanding any other provisions of the Revised Charter, the following department of City government shall be separately identified as Charter Department, and shall be administered in accordance with the provisions of this Article.

POLICE DEPARTMENT (POLICE COMMISSION)

The policy-making body for the Police Department in the City of Portsmouth shall be a Police Commission. The Police Commission shall consist of ~~three~~ **five (5)** persons: **three (3) of whom are to be elected and who shall serve** in accordance with the provisions following; one being **the City Manager or his/her designee who shall serve such term as determined by the City Manager; and one being the Mayor or his/her designee who shall serve such term as determined by the Mayor.**

APPOINTMENT/ELECTION TERMS

Should an elected Police Commission be approved on November 5, 1991, the Mayor of the City of Portsmouth shall appoint the first board of three Commissioners who shall assume office commencing on January 1, 1992 through January 1, 1994. In order to establish a legal and proper cycle of election in accordance with New Hampshire law, hereinafter, the first elected Board of Police Commissioners shall be elected in November, 1993 as follows:

The two candidates receiving the highest and second highest number of votes shall assume terms of four years. The candidate receiving the third highest number of votes shall assume a term of two years.

Thereinafter, each Commissioner shall be elected for a term of four years. All Police Commissioners elected from 1993 and onwards shall be elected at large and without party affiliation and may be elected for more than one term of office. In the event that a vacancy should occur **among the elected members of** ~~on~~ the Board, then the next runner-up candidate established out of the last, most recent Board election, shall assume the balance of the vacated term. In the event that the list of candidates from the last election available to fill vacancies becomes depleted, then the Mayor shall appoint any necessary Commissioners.

ELIGIBILITY

Any person presently residing within the City of Portsmouth for not less than two years shall be deemed eligible to seek election to the Board of Commissioners.

REMOVAL

Any member of the Police Commission may be removed from office for just cause by a two-thirds vote of the City Council following a public hearing.

INCOMPATIBLE OFFICES

No member of the Police Commission shall serve on the Commission while receiving compensation from or holding any other public office within the City of Portsmouth, **except for the City Manager or his/her designee.**

QUORUM (VOTES)

All questions put before the Police Commission shall be decided by a single majority vote of the Commission. At least three members of the Commission shall be present at any meeting to constitute a quorum.

POWERS

The Police Commission shall appoint such permanent patrol officers, sergeants, captains commanders, and police chief, as they deem necessary. The Commission shall have authority to consider and act upon any complaint and/or employee grievance(s) brought to it through such procedures. Where the Commission determines there to be sufficient cause, the Commission may, after a hearing consistent with the requirements of due process, discipline or remove any employee of the Police Department against whom such a complaint has been brought. Appeals from such decisions shall be heard pursuant to such grievance procedures as shall be established by the Commissioners or as prescribed in respective collective bargaining agreements. The commission shall assume all administrative responsibilities, which would otherwise be vested in the City Manager under this charter relating to the administration of the Department. Such power to include, but not limited to, the following:

- C. Determine the number, location and type of facilities and installations, subject to the approval of the City Council
- D. To determine the size of the work force and increase or decrease it's size, subject to the approval of the City Council

ORGANIZATION

The Police Commission shall, beginning January 1992, convene meeting annually in the month of January for organizational purposes. The Commission shall choose one of its members to serve as chairperson. The Commission shall choose one of its members to serve as clerk. No one member may simultaneously serve as chairperson and clerk. (AMENDED BY REFERENDUM VOTE NOVEMBER 6, 2001).

RULES AND REGULATIONS

The Commission shall make such rules and regulations for their own proceedings and the administration of the Police Department, as they deem advisable.

COMPENSATION

The Police Commissioners shall receive such compensation as the City Council may from time to time determine.

ANNUAL BUDGET

The Police Commission shall, beginning in January of 1992 (and annually thereafter), hold a public hearing prior to the finalization of its budgetary considerations so as to discover the will of the people with respect to such matters. The Commission shall then submit its annual budget request to the City Council in accordance with the remaining provisions of this Charter. The salaries and benefits of all officers and employees of the Police Department shall be considered by the Commission through timely discussion with the recognized bargaining units of said officers and employees. The Commission shall utilize such negotiator as shall be provided by this Charter, or in the absence of a Charter provision, by the City Council. The Commissioners shall then recommend the agreed upon settlement to the City Council for final approval or denial. Should it be denied, the Commission would then be required to enter into further discussion with the recognized bargaining units until such time as a settlement is reached and ultimately ratified by the City Council. The chairperson of the Commission, or his/her designees, shall report at least semi-annually to the City Council on the state of the Police Department and its operation. Such reports shall include a summary of the Department's budget, workforce, equipment, promotions, retirements and other related matters. The Commission, in its discretion, may allow the police chief to submit a letter to the Council as part of any such report. (AMENDED BY REFERENDUM VOTE NOVEMBER 6, 2001).

(ADOPTED BY REFERENDUM VOTE NOVEMBER 5, 1991)

If authorized by referendum vote at the municipal election scheduled for November 3 2015, this amendment to become effective on January 1, 2016.

PROPOSED CHARTER AMENDMENT #3

The Municipal Charter of the City of Portsmouth, AMENDMENT E – POLICE DEPARTMENT (POLICE COMMISSION) is hereby deleted in its entirety as is any reference contained anywhere in the municipal Charter to the election, authority or existence of a Police Commission, including but not limited to Section 6.2 Police Department (Police Commission) and is further amended by the addition of a new provision (deletions from existing language ~~stricken in red~~; additions to existing language **bolded in red**; remaining language unchanged from existing):

~~AMENDMENT E – POLICE DEPARTMENT (POLICE COMMISSION)~~

~~GENERALLY~~

~~Notwithstanding any other provisions of the Revised Charter, the following department of City government shall be separately identified as Charter Department, and shall be administered in accordance with the provisions of this Article.~~

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~~APPOINTMENT/ELECTION TERMS~~

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~~Thereinafter, each Commissioner shall be elected for a term of four years. All Police Commissioners elected from 1993 and onwards shall be elected at large and without party affiliation and may be elected for more than one term of office. In the event that a vacancy should occur on the Board, then the next runner-up candidate established out of the last, most recent Board election, shall assume the balance of the vacated term. In the event that the list of candidates from the last election available to fill vacancies becomes depleted, then the Mayor shall appoint any necessary Commissioners.~~

ELIGIBILITY

~~Any person presently residing within the City of Portsmouth for not less than two years shall be deemed eligible to seek election to the Board of Commissioners.~~

REMOVAL

~~Any member of the Police Commission may be removed from office for just cause by a two-thirds vote of the City Council following a public hearing.~~

INCOMPATIBLE OFFICES

~~No member of the Police Commission shall serve on the Commission while receiving compensation from or holding any other public office within the City of Portsmouth.~~

QUORUM (VOTES)

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POWERS

~~The Police Commission shall appoint such permanent patrol officers, sergeants, captains, commanders, and police chief, as they deem necessary. The Commission shall have authority to consider and act upon any complaint and/or employee grievance(s) brought to it through such procedures. Where the Commission determines there to be sufficient cause, the Commission may, after a hearing consistent with the requirements of due process, discipline or remove any employee of the Police Department against whom such a complaint has been brought. Appeals from such decisions shall be heard pursuant to such grievance procedures as shall be established by the Commissioners or as prescribed in respective collective bargaining agreements. The commission shall assume all administrative responsibilities, which would otherwise be vested in the City Manager under this charter relating to the administration of the Department. Such power to include, but not limited to, the following:~~

- ~~E. Determine the number, location and type of facilities and installations, subject to the approval of the City Council~~
- ~~F. To determine the size of the work force and increase or decrease it's size, subject to the approval of the City Council~~

~~ORGANIZATION~~

~~The Police Commission shall, beginning January 1992, convene meeting annually in the month of January for organizational purposes. The Commission shall choose one of its members to serve as chairperson. The Commission shall choose one of its members to serve as clerk. No one member may simultaneously serve as chairperson and clerk. (AMENDED BY REFERENDUM VOTE NOVEMBER 6, 2001).~~

~~RULES AND REGULATIONS~~

~~The Commission shall make such rules and regulations for their own proceedings and the administration of the Police Department, as they deem advisable.~~

~~COMPENSATION~~

~~The Police Commissioners shall receive such compensation as the City Council may from time to time determine.~~

~~ANNUAL BUDGET~~

~~The Police Commission shall, beginning in January of 1992 (and annually thereafter), hold a public hearing prior to the finalization of its budgetary considerations so as to discover the will of the people with respect to such matters. The Commission shall then submit its annual budget request to the City Council in accordance with the remaining provisions of this Charter. The salaries and benefits of all officers and employees of the Police Department shall be considered by the Commission through timely discussion with the recognized bargaining units of said officers and employees. The Commission shall utilize such negotiator as shall be provided by this Charter, or in the absence of a Charter provision, by the City Council. The Commissioners shall then recommend the agreed upon settlement to the City Council for final approval or denial. Should it be denied, the Commission would then be required to enter into further discussion with the recognized bargaining units until such time as a settlement is reached and ultimately ratified by the City Council. The chairperson of the Commission, or his/her designees, shall report at least semi-annually to the City Council on the state of the Police Department and its operation. Such reports shall include a summary of the Department's budget, workforce, equipment, promotions, retirements and other related matters. The Commission, in its discretion, may allow the police chief to submit a letter to the Council as part of any such report. (AMENDED BY REFERENDUM VOTE NOVEMBER 6, 2001).~~

~~(ADOPTED BY REFERENDUM VOTE NOVEMBER 5, 1991)~~

ARTICLE VI - CHARTER DEPARTMENTS

~~SECTION 6.2 – POLICE DEPARTMENT (POLICE COMMISSION)~~

~~Deleted and Replaced with Amendment E by Referendum Vote November 5, 1991.~~

Article III – OFFICERS AND EMPLOYEES

SECTION 3.16 – CIVILIAN REVIEW BOARD

The City Council is hereby authorized to create by ordinance a Civilian Police Review Board to investigate complaints by members of the public concerning misconduct by police officers. The ordinance adopted under the authority of this provision shall describe the membership and composition of the Board, method for selecting such members, the authority of the Board and the procedures to be followed by the Board.

If authorized by referendum vote at the municipal election scheduled for November 3 2015, this amendment to become effective on January 1, 2016.

TITLE III
TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

CHAPTER 49-B
HOME RULE--MUNICIPAL CHARTERS
Amendment of Municipal Charter

Section 49-B:5

49-B:5 Charter Amendments, Procedure. –

- I. The municipal officers may determine that one or more amendments to the municipal charter are necessary and, by order, provide for notice and hearing on them in the same manner as provided in RSA 49-B:5, V(a). Within 7 days after receiving approval from the secretary of state, the attorney general, and the commissioner of the department of revenue administration under RSA 49-B:4-a, the municipal officers may order the proposed amendment to be placed on a ballot at the next regular municipal election. In the case of municipalities with biennial elections, the municipal officers may order amendments to be placed on the ballot at either the next regular municipal election or the next state biennial election, whichever occurs earlier, that occurs not less than 60 days after the order.
 - (a) Each amendment shall be limited to a single subject, but more than one section of the charter may be amended as long as it is germane to that subject.
 - (b) Alternative statements of a single amendment are prohibited.

- II. On the written petition of a number of voters equal to at least 20 percent of the number of ballots cast in a municipality at the last regular municipal election, but in no case fewer than 10 voters, the municipal officers shall, by order, provide that proposed amendments to the municipal charter be placed on a ballot in accordance with the procedures set out below:
 - (a) Each amendment shall be limited to a single subject but more than one section of the charter may be amended as long as it is germane to that subject.
 - (b) Alternative statements of a single amendment are prohibited.

- II-a. The following procedure shall be used in the alternative method set out in paragraph II:
 - (a) Any 5 voters of the municipality may file with the municipal clerk an affidavit stating that they shall constitute a petitioners' committee.

Such affidavit shall be signed by the members of such committee and an additional 20 voters of the municipality and shall include:

- (1) The language of each proposed amendment.
 - (2) The names and addresses of the committee members.
 - (3) The address to which all notices to the committee are to be sent.
- (b) The petitioners' committee, or voters of the municipality designated by the committee, may circulate the petition and file it in proper form.
- (c) Promptly after the affidavit is filed by the petitioners' committee, the clerk shall file a certified copy of the affidavit, including the proposed amendment, for review of the proposed amendment in accordance with RSA 49-B:4-a. Promptly after receiving approval of the proposed amendment from the state officials under RSA 49-B:4-a, the clerk shall issue petition blanks to the committee.
- III. (a) The petition forms shall read substantially as follows: "Each of the undersigned voters respectfully requests the municipal officers to provide for the amendment(s) of the municipal charter as set out below." If more than one subject is included in a petition, each subject shall be addressed in a separate amendment. Each signature affixed to a petition shall be in ink or other indelible instrument and shall be followed by the place of domicile of the voter with street and number, if any. No petition shall contain any party or political designation.
- (b) The clerk shall note the date of each petition form issued and all petitions, unless sooner filed, shall become null and void for every purpose on the 120th day after the date of issue.
- (c) Each petition form shall have printed on its back an affidavit to be executed by the circulator, stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be genuine signatures of the persons whose names they purport to be, that each signer has signed no more than one petition, and that each signer had an opportunity before signing to read the petition.
- (d) Petition forms shall be assembled as one instrument and filed at one time with the clerk. The clerk shall note thereon the date of filing.
- III. Within 20 days after the petition is filed, the clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective, shall promptly send a copy of the certificate to the petitioners' committee by mail, and shall file a copy with the municipal officers.

- (a) A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within 2 days after receiving the copy of his certificate. Within 10 days after the date of filing of the notice of intention, the committee may file a supplementary petition to correct the deficiencies in the original petition. Such supplementary petition shall in form and content comply with the requirements for an original petition under paragraph III.
 - (b) Within 5 days after the filing of a supplementary petition the clerk shall complete and file a certificate as to its sufficiency in the manner provided for in an original petition.
 - (c) When an original or supplementary petition has been certified insufficient, the committee may, within 2 days after receiving the copy of the clerk's certificate, file a request with the municipal officers for review. The municipal officers shall inspect the petitions and shall make due certificate thereof, copies of which shall be filed with the municipal clerk and mailed to the committee. The certificate of the municipal officers shall be a final determination of the sufficiency of the petitions.
 - (d) Any petitions finally determined to be insufficient shall be void. Such petitions shall be stamped void by the clerk and shall be sealed and retained by the clerk in the manner required for secret ballots.
- IV.
- (a) Within 10 days of receipt of a report that a petition is sufficient, the municipal officers shall by order provide for a public hearing on the proposed amendment. The notice of the hearing shall be published in a newspaper having general circulation in the municipality at least 7 days prior to the hearing, and shall contain the text of the proposed amendment and a brief explanation. The hearing shall be conducted by the municipal officers or a committee appointed by them; provided that in the case of an amendment submitted by voter petition, the hearing shall be conducted by the municipal officers. If, as a result of the public hearing, substantive changes are made to the proposed amendment, a second hearing shall be held. Notice of the hearing and the conduct thereof shall be as provided in this section.
 - (b) Within 7 days after the last public hearing, the municipal officers or the committee appointed by them shall file with the municipal clerk a report containing the final draft of the proposed amendment and a written opinion by an attorney admitted to the bar of this state that the proposed amendment is not in conflict with the general laws or the constitution. In the case of a committee report, a copy shall be filed with the municipal officers. Upon such filing, the provisions of RSA 49-B:4-a shall apply in the same manner as for a charter

adoption; provided, however, that the municipal officers or the appointed committee shall be substituted for the charter commission for purposes of RSA 49-B:4-a, III.

- (c) Within 7 days after the approval by the secretary of state, the attorney general and the commissioner of the department of revenue administration, or within 7 days after the last public hearing in the case of an amendment submitted by voter petition, the municipal officers shall order the proposed amendment to be placed on the ballot at the next regular municipal election. In the case of municipalities with biennial elections, the municipal officers shall order the amendments to be placed on the ballot at either the next regular municipal election or at a special municipal election that occurs not less than 60 days after the date of the order.

Source. 1979, 241:1. 1988, 223:4, 5. 1991, 304:13. 1992, 96:2, 3. 1995, 53:2. 2005, 38:1. 2008, 230:1, 2, eff. Aug. 19, 2008. 2014, 292:2, eff. Sept. 30, 2014.

General Provisions Applicable to Charter Actions

Section 49-B:6

49-B:6 Submission to Voters. – The method of voting at municipal elections when a question relating to a charter revision, a charter adoption, or a charter amendment is involved shall be in the manner prescribed for municipal elections. In a town, the question shall appear on the ballot before any other questions except the election of officers. In a city, the question shall appear in the order determined by the city clerk.

- I. In the case of a charter revision or a charter adoption the question to be submitted to the voters shall include a summary prepared by the charter commission which explains both the current form of government used by the municipality and the changes in that form of government which will occur if the charter revision or charter is approved by the voters. The question to be submitted to the voters shall be in substance as follows:

"Shall the municipality approve the (charter revision) (charter) recommended by the charter commission?"

- II. (a) Subject to subparagraph (b), in the case of one or more charter amendments, each amendment shall be voted upon separately and the question to be submitted to the voters on each amendment shall be in substance as follows:

"Shall the municipality approve the charter amendment reprinted (summarized) below?" Each such question shall be followed by the text or a summary of the amendment.

- (b) Alternatively, at the discretion of the charter commission, 2 or more amendments may be listed and voted upon together. In such case, the question shall be in substance as follows:

"Shall the municipality approve the charter amendments reprinted (summarized) below?" The question shall be followed by the text or summary of each of the amendments that are being voted upon together.

- III.
 - (a) In the case of a charter revision or charter adoption, at least 2 weeks prior to the date of the election the municipal officers shall cause the final report of the charter commission to be printed, shall make copies available to the voters in the clerk's office, and shall post the report in the same manner that proposed ordinances are posted.
 - (b) In the case of one or more charter amendments, at least 2 weeks prior to the date of the election, the municipal officers shall cause the proposed amendment and any summary thereof to be printed, shall make copies available to the voters in the clerk's office, and shall post the amendment and any summary thereof in the same manner that proposed ordinances are posted.
- IV. If at least 3/5 of the ballots cast on any question under paragraph I favor acceptance, the new charter or the charter revision shall become effective as provided in subparagraph (a). If a majority of the ballots cast on any question under paragraph II favor acceptance, the charter amendment shall become effective as provided in subparagraph (b).
 - (a) Charter revisions, new charters, or repeals of charters adopted by the voters shall become effective immediately for the purpose of conducting necessary elections; otherwise charter revisions, new charters, and repeals of charters shall become effective on the first day of the next succeeding municipal year or as specified in any transition provisions of the charter.
 - (b) Charter amendments adopted by the voters shall become effective on the first day of the next succeeding municipal year or on a date determined by the municipal officers, whichever occurs first.

Source. 1979, 241:1. 1983, 34:1. 1985, 128:1. 1991, 304:9, eff. Aug. 23, 1991. 2014, 292:2, eff. Sept. 30, 2014.