

TOWN OF RICHMOND, RHODE ISLAND
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HOME RULE CHARTER REVIEW COMMISSION
Town Hall – Town Council Chambers
June 24, 2015
6:00 P.M.

MINUTES

A. Meeting was called to order at 6:00 P. M. by L. Valencia

B. Roll Call

Present – L. Valencia, M. Van Der Hooft, I. Lipton, B. Reyburn, R. Millar, and clerk S. Rapose
Absent – E. Liese and C. Davis

C. Approval of minutes

01 Approval of minutes from June 17, 2015 meeting

MOTION made by M. Van Der Hooft, second by B. Reyburn to approve minutes as written.

Ayes – 4

Abstain – 1 (L. Valencia)

L. Valencia stated that they had a couple of points to discuss with the Town Solicitor. In the interest of transparency, he thought it was in the best interest to have the Town Solicitor attend the meeting.

MOTION made by I. Lipton, second by B. Reyburn to have K. Ellsworth present at the meeting.

Ayes – 4

Abstain -1 (L. Valencia)

D. Unfinished Business

01 Continued discussion of potential amendments to the Home Rule Charter

L. Valencia explained that he had sent K. Ellsworth an email with several points that the Commission had been discussing.

I. Lipton stated that she had done some research with the Secretary of State's office. In 1998, two write In's had become part of the Town Council in Richmond.

K. Ellsworth explained that was the year that they did not have enough candidates.

I. Lipton stated that this past year there were 67 write in's for Town Council. She questions If E. Davis had declined, would they have had to appoint one of the write in's?

K. Ellsworth is not sure. She has drafted some language for the Commission members to look at that eliminate the issue of a write in becoming appointed. Option one is to add in the language that a write in cannot be appointed, and option two is to allow the Town Council to appoint a qualified elector.

L. Valencia believes that the first option takes care of the concern of write in's becoming Town Council members.

I. Lipton prefers option two.

B. Reyburn stated that they had already had a discussion about that.

I. Lipton likes that option two gives the Town Council, which has been elected by the voters, the authority.

L. Valencia agrees with B. Reyburn.

B. Reyburn stated that they had voted not to change that.

I. Lipton explained that they had voted to table it until they could get a legal opinion. She feels that if we elect a Town Council, and they make laws for Richmond, we should be able to trust them to appoint a qualified elector if there is a vacancy.

L. Valencia disagrees. He feels that the fair thing to do is to give it to the next person on the ballot. That person worked for that position.

R. Millar believes that option one solves the problem if write in candidates are exempt.

M. Van Der Hooft explained that option one solves her concern for write in candidates being elected. She would like to know how the Town Council would appoint a qualified elector.

K. Ellsworth explained that the Council can appoint however they want to. They may choose to advertise and pick from the applicants.

L. Valencia calls for a motion to either choose from the two options that K. Ellsworth has presented, or to table this discussion.

MOTION made by I. Lipton, second by R. Millar to choose Option two presented by K. Ellsworth and allow the Town Council to appoint a qualified elector in the event of a vacancy.

Ayes – M. Van Der Hooft

R. Millar

I. Lipton

Nay – B. Reyburn

Abstain – L. Valencia

L. Valencia explained that Clerk S. Rapose marked up the Charter with the proposed changes thus far.

K. Ellsworth thinks that they have eliminated language that doesn't need to be eliminated, and haven't made some changes that need to be made.

L. Valencia explained at the first meeting that the Commission eliminated a lot of things. The second meeting they came back and re-evaluated their mission. They needed to make position statements to present to the Town Council.

K. Ellsworth explained that there were seven different sections of the Charter that needed to be changed to make the amendments the Commission is looking for. She had prepared the ballot question in 2012 to change the Town Clerk from an elected to appointed position. The ballot question failed.

I. Lipton felt that the question was worded to fail.

K. Ellsworth doesn't recall anyone having a problem with the wording. She had many people look at it before putting it on the ballot.

L. Valencia asked S. Rapose to get the ballot question for the next meeting.

E. New Business

01 Discussion of potential amendments to the Home Rule Charter with the Town Solicitor

K. Ellsworth presented the Commission with a list of proposed changes that were in line with what the Commission was looking to accomplish.

Article 2, Section 3

MOTION made by B. Reyburn, second by I. Lipton to eliminate paragraph A from Article 2, Section 3 and add five Town Council members to paragraph B.

Ayes -4
Abstain - 1 (L. Valencia)

Article 2, Section 4

MOTION made by I. Lipton, second by B. Reyburn to delete paragraph A.

Ayes - 4
Abstain - 1 (L. Valencia)

Article 2, Section 5

MOTION made by M. Van Der Hooft, second by B. Reyburn to remove the last sentence of Article 2, Section 5, paragraph B.

Ayes - 4
Abstain - 1 (L. Valencia)

Article 3, Section 4

MOTION made by I. Lipton, second by M. Van Der Hooft to amend paragraph C to read, "The Town Council shall have the authority to appoint and remove a Town Clerk, a Moderator, a Town Sergeant, and all Town employees including department heads."

Ayes -4
Abstain - 1 (L. Valencia)

L. Valencia asked K. Ellsworth to explain why she felt Article 4 should be left in.

K. Ellsworth thinks that to make it a department head as the Commission has proposed is acceptable.

L. Valencia added that in their position paper he can explain that they want to delete Article 4 and move it under Article 5.

Article 4, Section 1

MOTION made by I. Lipton, second by B. Reyburn to table the proposed amendment to Article 4, Section 1.

Ayes – 4

Abstain – 1 (L. Valencia)

L. Valencia reminded everyone that the Commission is not re-writing the Charter. They are putting forth a position paper stating what they would like to change. Those changes don't take effect until they are proposed by the Commission, the Council votes on them, and the voters vote for them.

K. Ellsworth will have a new draft of the Charter for the next meeting. She will change it to reflect any changes that have been voted on.

Article 5, Section 1

MOTION made by B. Reyburn, second by I. Lipton to table Town Solicitor's proposed changes to Article 5, Section 1.

Ayes – 4

Abstain – 1 (L. Valencia)

MOTION made by I. Lipton, second by M. Van Der Hooft to have the Town Solicitor re-draft Article 5, Section 1, paragraph C.

Ayes – 4

Abstain – 1 (L. Valencia)

Article 6, Section 3

L. Valencia explained that Article 6, Section 3 relates to the Financial Town Meeting. The Commission had intended to give the Council greater flexibility with the date, and proposed changing it to June 14th. The Commission's concern is that the second Monday in June could be June 8th. There are possible conflicts with the Fire Department and Charlho's graduation.

K. Ellsworth doesn't feel that June 14th is going to give a lot of flexibility. The closer they move it to June 30th, the bigger the risk of not having an approved budget by July 1st. Most Towns hold their financial town meeting sooner, although that may not give the Finance Board enough time. She is concerned with allowing that much flexibility. She recommends holding it in May.

M. Van Der Hooft is concerned that if the budget falls, there is not enough time to hold another Financial Town meeting before the fiscal year begins.

B. Reyburn suggested a date no later than May 31st.

L. Valencia reminded the Commission that they had voted to change the Financial Town Meeting to a date no later than June 14th. He asked if having heard what K. Ellsworth has added, if anyone would like to propose a change.

I. Lipton thinks they should change it to earlier in May as K. Ellsworth suggested.

L. Valencia asked S. Rapose to find out what dates the surrounding Towns hold their Financial Town Meetings.

M. Van Der Hooft would like to know how it would affect the Finance Department.

S. Rapose will ask the Tax Assessor and Finance Director how it will affect their offices.

MOTION made by B. Reyburn, second by I. Lipton to table discussion on Article 6, Section 3.

Ayes – 4

Abstain-1 (L. Valencia)

Article 8, Section 3

L. Valencia wanted to ask K. Ellsworth about possible amendments to Article 8, Section 3. It is about how the Charter can be amended. He is satisfied with the Charter being reviewed every 7 years. He also thinks that it is important to give the Town Council some flexibility with making amendments to the Charter. However, if there is a proposal to change the Charter from a member of the public, that there be some stipulations. He suggested maybe having them gather so many signatures for their idea before the Town Council will consider it.

K. Ellsworth explained that the people can ask the Town Council to do anything. The Town Council can say no. If you set up a procedure for a group of residents to make a Charter amendment, then the Council would have to do something about it. They may have to hold a special election which would cost the town a lot of money.

L. Valencia suggests setting the bar very high, but allowing the residents to start a grass roots movement. He would like to expand voter initiative to include amending the Charter. He asked K. Ellsworth to draft a possible amendment.

R. Millar asked about the spots marked, "Reserved" in the Charter.

K. Ellsworth explained that it was a place holder of sorts for expansion of the Charter.

MOTION made by M. Van Der Hooft, second by B. Reyburn to table discussion of Article 8, Section 3.

Ayes – 4

Abstain – 1 (L. Valencia)

F. Public Forum

G. MOTION made by M. Van Der Hooft, second by B. Reyburn to adjourn at 7:37 P.M.

APPOINTED TOWN CLERK, MODERATOR, TOWN SERGEANT

To make the positions of Town Clerk, Town Moderator, and Town Sergeant appointed positions rather than elected positions, the Charter could be amended this way:

Art. 2, Sec. 3

~~A. Every two years, on the Tuesday after the first Monday in November, the qualified electors of the Town shall elect a Moderator of the Financial Town Meeting, a Town Clerk, five Town Council members, and a Town Sergeant.~~

B: ~~A.~~ Biennially in even-numbered years, on the Tuesday after the first Monday in November, the qualified electors of the Town shall elect five Town Council members and as many members of the school committee as are necessary to fill the offices expiring that year.

~~C. B.~~ Town Council members and school committee members shall be elected at large.

~~D. C.~~ No qualified voter shall be ineligible for election to the school committee by reason of his or her employment by the Town.

Art. 2, Sec. 4

~~A. The names of candidates for the position of Moderator, Town Clerk, and Town Sergeant shall be listed under their respective party labels, and independent candidates shall be listed under a column headed "independent."~~

B: ~~A.~~ The names of candidates for Town Council and school committee shall be arranged opposite the title of the office to be filled. The order of the names on the ballot shall be determined by a lottery conducted by the Board of Canvassers. All candidates shall be listed under their respective party labels and independent candidates shall be listed under a column headed "independent."

~~C. B.~~ No more than one candidate's name shall appear in each horizontal line.

~~D. C.~~ The Board of Canvassers shall determine the arrangement of ballots except as provided in this Charter and except as otherwise provided by the laws of the State of Rhode Island.

Art. 2, Sec. 5

B. If a Town Council seat or a School Committee seat becomes vacant, the Town Council shall appoint the unelected candidate who received the greatest number of votes

for that office in the most recent general or special election. If that person is unavailable, the Town Council shall appoint in sequence the unelected candidates who received the next greatest number of votes. If no appointee is available from among any of the candidates for that office in the most recent general or special election, the Town Council shall appoint a qualified elector to serve the remainder of the term. If a vacancy is declared in the office of Town Clerk, Moderator, or Town Sergeant, the Town Council shall appoint a qualified elector to serve the remainder of the term.

Article 3, Sec. 4

The Town Council shall have the authority to:

C. Appoint and remove a Town Clerk, a Moderator, a Town Sergeant, and all Town employees, including department heads.

Art. 4, Sec. 1

~~A Town Clerk who is a qualified elector shall be elected at large appointed in the manner provided by Article 2 5 of this Charter, to serve for a term of four years or until a successor is elected and qualified. The Town Clerk shall hold no other paid office or employment in the service of the Town during his or her term of office and for one year after his or her term of office ends.~~

Art. 5, Sec. 1

B. The Town Administrator shall be the chief administrative officer of the Town. It shall be the responsibility of the Town Administrator to:

1. Advertise for and interview applicants for the positions of Town Clerk, Moderator, and Town Sergeant, and for positions as directors of Town departments. The Town Administrator shall submit to the Town Council a list of qualified candidates, and the Town Council shall make an appointment from among the candidates listed.

Art 6, Sec. 3

C. The Moderator shall preside at all regular and special Financial Town Meetings during his or her term of office. He or she shall have the authority to manage the business of the meeting and to maintain peace and order. If the elected Moderator is unavailable to serve at any meeting, the Town Council shall appoint a substitute for that meeting.

ARTICLE 2, SECTION 5

To eliminate the possibility that a write-in candidate could be appointed to the Town Council or School Committee, the Charter could be amended this way:

Section 5 – Vacancy in elective office.

A. The Town Council shall declare that a vacancy exists in any elective Town office if the incumbent dies, submits a written resignation to the Office of the Town Clerk, ceases to be qualified as an elector, or is convicted of a felony or a crime involving moral turpitude.

B. If a Town Council seat or a School Committee seat becomes vacant, the Town Council shall appoint the unelected candidate who received the greatest number of votes for that office in the most recent general or special election. If that person is unavailable, the Town Council shall appoint in sequence the unelected candidates who received the next greatest number of votes. Write-in candidates shall not be considered unelected candidates eligible for appointment. If no appointee is available from among any of the candidates for that office in the most recent general or special election, the Town Council shall appoint a qualified elector to serve the remainder of the term. If a vacancy is declared in the office of Town Clerk, Moderator, or Town Sergeant, the Town Council shall appoint a qualified elector to serve the remainder of the term.

To eliminate the automatic appointment of the unsuccessful candidates in the previous election, the Charter could be amended this way:

Section 5 – Vacancy in elective office.

A. The Town Council shall declare that a vacancy exists in any elective Town office if the incumbent dies, submits a written resignation to the Office of the Town Clerk, ceases to be qualified as an elector, or is convicted of a felony or a crime involving moral turpitude.

B. If a Town Council seat or a School Committee seat becomes vacant, the Town Council shall appoint the unelected candidate who received the greatest number of votes for that office in the most recent general or special election. If that person is unavailable, the Town Council shall appoint in sequence the unelected candidates who received the next greatest number of votes. If no appointee is available from among any of the candidates for that office in the most recent general or special election, the Town Council shall appoint a qualified elector to serve the remainder of the term. If a vacancy is declared in the office of Town Clerk, Moderator, or Town Sergeant, the Town Council shall appoint a qualified elector to serve the remainder of the term.