

# **Charter Review Commission**

## **Meeting Minutes**

February 3, 2011

7 p.m.

### **Attendees**

#### **Members Present:**

Charles Woodard (Chair)  
Brigidanne Flynn  
Tom Murphy  
Jack Penney  
Decora Sandiford  
Barbara Simon  
Barbara J. Smith  
Susan Smith

#### **Members Absent:**

Isaac Diggs  
Pauline Dillard  
Mary Ann Prokosch  
Hhans Sandiford

#### **Consultants:**

Jonathan Drapkin, Director, Pattern for Progress  
Prof. Gerald Benjamin, SUNY New Paltz  
Lester Steinman, Municipal Law Resource Center

#### **Staff:**

Acting City Manager Richard F. Herbek  
Corporation Counsel Bernis Nelson  
Administrative Assistant Ann Kuzmik

#### **Guest:**

Carl Ublacker, New York State Department of State

#### **Members of the Public:**

Nancy Peckenham, NewburghCircle.com  
Janet Gianopoulos, Mount Saint Mary College

#### **Summary:**

Chair Charles Woodard opened the meeting and led the group in the Pledge of Allegiance. The minutes of the 1/19/2011 meeting were unanimously approved. Carl Ublacker, New York State Department of State was introduced.

Lester Steinman made a presentation on the powers, duties and responsibilities of the Charter Review Commission pursuant to Section 36 of the Municipal Home Rule Law. Highlights include:

Duties and responsibilities:

- The Commission must review the entire Charter and determine which portions need to be changed- they may decide to leave portions unchanged, but must explain why certain changes were proposed and not others
- The Commission must prepare a draft of a new or revised Charter
- They must also prepare a report detailing the history of the Commission's formation and operations, and a background and overview of the proposed amendments
- The Commission is authorized to conduct public hearings and provide for other publicity regarding the new or amended Charter

Getting the proposed new or revised Charter on the ballot:

- The proposition regarding a new or amended Charter must be filed with the City Clerk's office at least 60 days prior to the election at which it will be submitted to the voters. It may be submitted at either a general or special election, but if a general election occurs between 60 and 90 days after it is filed with the City Clerk, it must be submitted at that general election
- It is up to the Commission to decide when to submit the Charter changes for a vote; however, it must be filed in the City Clerk's office in time for submission to the voters no later than the November 2012 election
- The City Clerk must submit a certified copy of the text of a proposition showing all proposed changes to the Board of Elections at least 36 days prior to the election. An abstract of the ballot proposition must also be prepared in advance of this 36 day period.
- The terms of office of Charter Commission members expire on the day of the election at which the new or amended Charter is submitted to the voters; therefore, if the Commission prioritizes its review and submits amendments

focusing on a few key issues, a new Commission will have to be appointed to do the remainder of the Charter review.

While not all Charter revisions require appointment of a Commission and a referendum, all changes proposed by a Charter Revision Commission in an amended or new Charter must go to referendum.

Although statutory provisions authorize qualified voters to petition for the submission of a local law amending or providing a new City Charter, the submission of a proposition for a new or amended Charter by the Charter Review Commission precludes other citizen action to do so at the same election.

Mr. Steinman stressed that the Commission's proposed changes to the Charter do **not** have to be reviewed by City Council. The Commission essentially functions as an independent body.

Prof. Benjamin then showed a power point presentation on Home Rule and Charter Change. He said that Home Rule provides municipalities with both a "sword" and a "shield". The sword refers to powers granted to local government; the shield to limits on the state in its relationship with local government.

Although the Charter may originally have been adopted as state law, he pointed out that the local government has the authority to change its fundamental structure.

Brigidanne Flynn asked what Charter changes have to go before the voters, and which can be taken care of by the City Council through local law. Mr. Steinman suggested the Commission not focus on this, but on what they want to submit to the voters. She reiterated that they have to decide what should be a priority for the voters.

Ms. Nelson said the task is to determine what needs to be changed, and all that would go to referendum. The City Council makes changes by local law, which is not the same process as by a Charter Review Commission.

Tom Murphy asked if the Council could amend the Charter back to the way it was before the referendum; Ms. Nelson said they could, but that issue has not come up in the past.

Barbara Smith suggested bypassing that which does not require a Charter change. Ms. Nelson said they were tasked with looking at the whole Charter and deciding what should be amended.

Susan Smith had questions about limitations on adopting or amending Charters. Mr. Steinman gave examples of restrictions on municipalities to adopt certain legislation that is pre-empted by state controls.

Discussion followed about the Commission members' "Top 5" priorities in the Charter Review process.

Barbara Smith asked if it is possible to stipulate in a Charter what action would require a majority or supermajority vote. She also asked why the Charter provides for two Corporation Counsels instead of one. Ms. Nelson explained that she is the Corporation Counsel, and she has an Assistant Corporation Counsel. Mr. Steinman said most municipalities would have many lawyers. Ms. Smith asked why the number was not specific in the Charter.

Mr. Woodard encouraged taking a look at the ward system and changing the ward boundaries. He also asked for an updated organizational chart, and said performance standards should be put in the Charter.

Jack Penney noted that the Charter has wards in it, but a ward system is not in use. Prof. Benjamin said there are advantages and disadvantages of a ward system vs. an at-large system. Mr. Steinman said Article III of the Charter describes an at-large system.

Prof. Benjamin and Jonathan Drapkin compiled a score sheet based on Commission identified priorities. The list of top priorities included at-large vs. the ward system, the make-up and term lengths of the City Council; the powers of the City Manager, the duties and responsibilities of department heads, and the form of governance.

Prof. Benjamin said he would prepare discussion papers for the next couple of meetings for the Commission to comment on. Some members indicated they thought they were being “steered” in a particular direction- Prof. Benjamin reiterated that his job is to inform, not direct.

Discussion followed on how to go about revising the Charter. Mr. Woodard said the existing charter is unwieldy- for example, Articles IV-XV discuss the jobs of the City Manager and the departments that report to him, which he considers a waste of time to have articles devoted to each. He said they should review article by article.

Tom Murphy asked for a consensus on what the Commission members think is important. Jack Penney said that he agreed with going section by section- that if it is worth doing, it is worth doing well.

Decora Sandiford said he had an issue with doing this section-by-section review because of deadlines. The Chair noted that the deadlines will be determined by what the Commission wants to do- they can do bare bones to get ready for the upcoming election or go more in depth to prepare for 2012.

Mr. Drapkin suggested that the Commission structure their meetings to spend 45 minutes in the beginning dedicated to their priorities, the next 45 minutes for section by section review, and the last 30 minutes for a discussion of individual departments.

General discussion followed about wards vs. the at-large system, the number of eligible voters, and where the largest number of votes comes from in the City.

Mr. Woodard then made a motion to appoint Brigidanne Flynn as Vice-Chair; Jack Penney seconded, and the motion was approved by unanimous vote.

Barbara Simon suggested putting the time frame for Charter Review to a vote. Following discussion, and a motion by Jack Penney, the Commission voted to review the entire Charter from the beginning regardless of the time it would take. If it cannot be expedited for the 2011 ballot, then it will go to the 2012 general election. This motion was approved by all with the exception of Barbara Smith.

Decora Sandiford moved that the Commission follow Jonathan Drapkin's suggested structure for meetings- Tom Murphy seconded, and the motion was approved unanimously.

The group asked to be provided an organizational chart of City departments at the next meeting, which will be February 17 at 7 p.m. Meetings will also be held on March 3 and 17 at 7 p.m. Unless otherwise announced, meetings will be held in the City Council Chambers, 3<sup>rd</sup> floor, City Hall, at 83 Broadway.

The public is welcome and encouraged to participate.