

Charter Review Commission

Meeting Minutes

March 3, 2011

7 p.m.

Attendees

Members in Attendance:

Charles Woodard (Chair)

Isaac Diggs

Brigidanne Flynn

Tom Murphy

Jack Penney

Mary Ann Prokosch

Barbara Simon

Barbara J. Smith

Members Absent:

Pauline Dillard

Decora Sandiford

Hhans Sandiford

Susan Smith

Consultants:

Jonathan Drapkin, Director, Pattern for Progress

Prof. Gerald Benjamin, SUNY New Paltz

Staff:

Acting City Manager Richard F. Herbek

Corporation Counsel Bernis Nelson

Administrative Assistant Ann Kuzmik

Other Guests:

Alan Gaul, Mid Hudson Times

Jerry Maldonado

Summary:

Chair Charles Woodard opened the meeting and led the group in the Pledge of Allegiance. The minutes of the 2/17/2011 meeting were approved with clarification by Barbara Smith as follows: "Barbara Smith commented that it is premature to establish a sub-committee to make a presentation on the government structure not yet voted on by the committee. It is the whole body that determines the form of government it deems best suited for the City of Newburgh." This was in reference to Mary Ann Prokosch's statement that she did not wish to chair a sub-committee on governmental structure.

The Commission then began discussion on executive power. Ms. Prokosch said that she felt most Council people don't know what their powers are- that it is up to the Council to set the course, and it does not appear as if that is what they are doing. She added that she has to have training for the Zoning Board of Appeals, and they should have training before they take office. Prof. Benjamin noted that training is offered by a lot of venues including the New York Conference of Mayors on a voluntary basis. He also said that the Commission cannot by Charter establish a condition that Council members have to have training to serve- the judgment about their qualifications is made by the electorate, and to impose such a condition would be interfering with the outcome of an election.

Mr. Woodard then stated that Brigidanne Flynn would be making a presentation based on the organizational chart given out at the last meeting. Several members questioned why there was a change from the agenda- saying that they had prepared to discuss recommendations on governmental structure.

Mr. Woodard said that as long as the Commission covers all the items before them, then whether it is done in order or not is insignificant.

Ms. Flynn continued with her presentation, noting that it represented all the departments and positions as actually listed in the Charter, and their responsibilities.

Prof. Benjamin gave a presentation on the Structure of an Election to the City Council, components of which included Council size, the selection of Council leadership, the

electoral system (at-large vs. wards), term length and limits, staggered or simultaneous election of members, partisan versus non-partisan election, and voting rights of Council leadership. He compared cities in New York State with populations between 18,000 and 50,000. The number of Council members ranged from 5-11; council leadership (such as Mayor or Council president) was selected by at-large election for a specific post or in some cases, selected by elected Council members at an organizing meeting, or the leadership went to the top vote-getter. He also noted that of the six cities (of the 18 considered) with Council Manager Government, five have councils with five members, and one has seven. Five elect all Council members at large, and one elects from six districts and elects the Mayor at large.

Prof. Benjamin also briefly discussed “hybrid” or mixed systems made up of at-large and district-based Council members.

He also said that the City of Newburgh has nine wards, designed for the selection of County Supervisors that were never used to elect the City Council. The current wards cannot be used to elect Council members as they are not “substantially equal in population,” Prof. Benjamin reiterated.

Barbara Smith asked if this meant it is “futile” for the Commission to discuss going to a ward system with regard to voting. Prof. Benjamin said that the City can go to a ward system, and elect representatives from wards, but they can’t use the ward system they currently have- that the lines would have to be re-drawn.

Jack Penney pointed out that when you have public housing in a high rise you have a larger population which makes it a smaller ward or district and less property owners, so they’ve got to balance in that respect. Prof. Benjamin agreed.

Isaac Diggs asked about how population is determined- whether it is number of people, or number of eligible voters. He also asked how you account for people who may not be legal residents. Prof. Benjamin explained how the districts must be drawn based on actual

population- that you cannot take people out because they are undocumented or ineligible to vote.

Barbara Smith asked if we do not re-apportion the wards, could we still put a referendum on about whether or not to go to a ward system? Prof. Benjamin said yes as long as you give them a process for designing the wards. He reiterated that the current nine-ward system can not be used as it is unconstitutional.

Isaac Diggs asked if the Commission did decide to go to a district system, because of the Constitutional requirement about population, would they be required to put a number to the illegal community in Newburgh. Prof. Benjamin said no, would use the census figures.

Mary Ann Prokosch commented that the only thing the Commission would be doing is saying how many wards they want- Prof. Benjamin also recommended they say how they would define those wards. He also said that even in a district with very little votes, you are assured that the less affluent and less influential parts of town would have a voice at the table. Ms. Prokosch added that having multiple candidates from a ward, rather than only one who gets elected because a lot of family live in that ward could provide for better representation.

Mr. Woodard noted that in one election, 3 council people lived on the same block and the 4th one lived around the corner.

Mary Ann Prokosch said that she thought the Commission should do a “straw poll” to see how members felt about the governmental structure.

Barbara Smith said she spent a lot of time thinking about why the City is in its current situation. She visited the City Historian and did other research to find out how long the government has been in its current state, and the cause and effect. She distributed her information to the Commission, and also commented that it may be that the form of

government is good as it is, but they need to try to find the cause and effect of the constant changes within the government. She said most of it was not due to the Charter- but it was the people involved in government. She suggested perhaps safeguards are needed within the Charter to provide checks and balances, and to stop the turnover of City Managers.

Charles said that he thinks what Barbara is asking for is a bit premature- that the Commission can't determine the traits they are looking for in various people until they decide the government structure. Jack Penney said Barbara provided information so the Commission can understand the problems so they can decide what kind of Government to have. You don't decide what kind of government you want and then decide how to fix it.

Isaac requested the Commission discuss the best Executive Structure for the City. He said that he thinks the City should keep what they have, but work on reforming it providing some of the checks and balances. He says he likes that with the manager system, the City can at least draw talent in from outside the City. His fear with the strong Mayor system, the pool of people is not necessarily open to those who are outside the City. With the City Manager government, you have people who have live here and have stakes here, and you can hire a professional who brings a broad pool of experiences from outside the City.

Thomas Murphy said he agrees with a lot of what Isaac said, but pointed out that there are other options- for example, a strong Mayor with a Chief Administrator who is not directly responsible to the Council. Having the Chief Administrator only responsible to the Mayor would take the Administrator out of the line of fire of the Council. The government has been a mess with City Managers coming and going.

Prof. Benjamin said he agreed this was a possibility- could get an excellent manager working for an elected Mayor, and that big cities like New York City have that system. Another option is to shelter the City Manager from the kind of turbulence experienced in the past by having a structured contract.

Bernis clarified that current Charter has language that all contracts are subject to appropriation, which means that if you enter into a contract with the City Manager that is longer than one day, you will have to provide enough money to pay them as well as any replacement if you decide to get rid of them. At any given time you must have a City Manager. So, if you hire a manager on Jan. 1 and enter into a contract with them through Dec. 31, according to the Charter you would have to have two times the appropriation sitting in the budget- to pay the current manager through Dec. 31 as well as the replacement. Isaac Diggs asked if this stipulation would impede the search for another City Manager.

Discussion then continued as to the form of government:

Mary Ann Prokosch said she is not in favor of the strong Mayor. The current form of government they have now, where they can draw a professional person as City Manager might not exist with a strong Mayor. Having been on the Governance Committee for the Master Plan, she believes there are things that could be done to improve relationships between the Council and the City Manager and make the elected officials better. She said they felt that having a Ward System and a two year term could increase accountability for elected officials.

Tom Murphy raised a point of order- that he felt this conversation should have taken place at the beginning of the meeting, not now as it was nearly 9 p.m.

Mary Ann Prokosch then made a motion to conduct a straw poll as to the form of government the Commission wanted to recommend, Council Manager, Strong Mayor, or an alternate form. Isaac Diggs seconded. Six members were in favor of continuing with the Council Manager form of government, none were in favor of strong Mayor, and two abstained from voting.

Brigidanne Flynn made a motion that the total agenda for the next meeting be devoted to discussing the type of government the Commission wishes to propose. She said that every one should be at this meeting.

Charles Woodard then said the group needed to define a quorum. He made a motion that it be 50 percent plus one. Mary Ann Prokosch seconded, and the motion was approved. They also decided that the Chair would only vote if there was a tie.

Mr. Woodard called for the vote on the next meeting agenda. Isaac Diggs said he felt like they already voted on a specific structure with the straw poll, and it did not need to be brought up for another discussion at the next meeting. He asked how the agenda could be possibly modified to take in the concerns of the other two members who did not vote.

Mr. Murphy also said the group had already agreed on the type of government they wanted, and seconded Ms. Flynn's motion, adding that the first agenda item should be discussion of other forms of City Manager government. The motion was carried.

The meeting adjourned at 9:27 p.m.

The next meeting will be on Thursday, March 17 at 7 p.m. in the City Council Chambers, City Hall, 83 Broadway. The public is welcome and encouraged to participate.