

# Charter Review Commission

Meeting Minutes

August 18, 2011

## **Members in Attendance:**

Isaac Diggs

Pauline Dillard

Brigidanne Flynn

Tom Murphy

Mary Ann Prokosch

Barbara J. Smith

Susan Smith

Charles Woodard, Chair

## **Members Absent:**

Jack Penney

## **Consultants:**

Prof. Gerald Benjamin, SUNY New Paltz

## **Staff:**

Corporation Counsel Michelle Kelson

Administrative Assistant Ann Kuzmik

Chairman Charles Woodard called the meeting to order at 7 p.m. and led the group in the Pledge of Allegiance.

## **Audience:**

Jonathan Jacobson requested and was granted permission to speak by the Chair. He said he was speaking on his own behalf, not as the Chair of the Democratic Committee or as a member of the City Democratic Committee. He said he thought the Charter revisions do

not address the relationship between the executive and legislative branches; and that the City Manager has more power than the President of the United States. The City Manager can make appointment to boards, etc. without Council approval, and these appointments should be subject to advise and consent of Council.

Mr. Murphy pointed out that Mr. Jacobson's comments were a little late- Mr. Jacobson said he did not know when the public hearing was- that it was difficult to find information in the newspapers, and he didn't know when other comments were made. Prof. Benjamin said that it sounded as if Mr. Jacobson wanted a strong mayor, although he did not say so directly. He and Barbara Smith reiterated that the commission had discussed both forms of government and had decided to retain the City Manager form of government. Brigidanne Flynn commented that it was unfair to the people who attended the public hearing to allow Mr. Jacobson to speak at this time. Following further discussion, Mr. Murphy suggested that the Commission ask Mr. Jacobson to help get the Charter Review Commission's proposed referendum passed in November.

Pauline Dillard expressed concern that the Commission did not advertise in the Times Herald Record because most of the people in the City read the Record. She said that she had also gotten complaints that there was no advertising in Spanish.

#### **AGENDA ITEMS:**

##### **Approval of Ballot Documents**

Pauline Dillard noted that at the public hearing, several people expressed concern with how the district lines would be drawn. Michelle Kelson pointed out that the Commission had decided that they would not be drawing the lines. Prof. Benjamin pointed out that after discussion, the Commission had put in a process by which the districts could be changed every 10 years (following the Census) without amending the Charter every time. He said he knew of no case in America where the districts are put in the basic document

(i.e. the Charter). Mary Ann Prokosch said that drawing the lines before the vote could almost be construed as gerrymandering in reverse.

Prof. Benjamin added that there were concerns voiced at the public hearing that the districting would negatively impact minority communities. He said that across America, at-large systems are regarded as ways of subordinating people of color; while districting systems are regarded as ways of recognizing equality.

**Proposition 1:**

Following the discussion of the Ballot documents, including Form of Submission, Abstract, and Text of City Proposition 1 the Commission approved the form of submission (ballot question) for Proposition 1, with one amendment, as follows. All members present voted in favor of the documents with the exception of Pauline Dillard who abstained.

FORM OF SUBMISSION FOR CITY PROPOSITION NO. 1

CITY PROPOSITION NO. 1

Shall the proposal by the City of Newburgh Charter Review Commission to amend the Newburgh City Charter to increase the number of members of the City Council from five (5) to seven (7), consisting of a Mayor and two (2) Council members elected at large and four (4) Council members elected from the four (4) wards into which the City is to be divided by a districting commission, be approved?

ABSTRACT OF CITY PROPOSITION NO.1

CITY PROPOSITION NO. 1

Presently, the City Council of the City of Newburgh is comprised of five (5) members, a Mayor and four (4) Council members, elected at large. The changes proposed to the City Charter by the Newburgh Charter Review Commission would increase the number of members of the City Council from five (5) to seven (7) members with the Mayor and two (2) Council members elected at large and four (4) Council members elected from wards established by a districting commission to be appointed within 180 days of the November 2011 general election.

The districting commission would divide the City into four (4) compact and contiguous wards in compliance with Federal and State law. New districting commissions would be established every ten (10) years to review and revise ward boundaries as necessary, based upon decennial federal census data, to ensure that the wards remain compact and contiguous and in compliance with Federal and State law.

There are nine (9) wards currently defined in the City Charter, but they are not used for City elections. Under the proposed changes to the Charter, those nine (9) wards would be eliminated and replaced with the four (4) wards to be established by the districting commission.

At the November 2013 general election, one Council member from each of the four (4) wards established by the districting commission would first be elected.

#### TEXT OF CITY PROPOSITION NO.1

EXPLANATION – Matter in *italics* is new, to be added; matter in brackets [ ] is old law, to be omitted

Section C1.20. Ward boundaries.

*The city shall be divided into four (4) wards, bounded and described as shown on the map of the city most recently filed by the districting commission in the office of the City Clerk.*

[The city shall be divided into nine (9) wards, bounded as follows:

A. The First Ward shall be that portion of the city included within the following boundaries: bounded on the north by the center line of Broadway, on the east by the east line of the city, on the south by the south line of the city and on the west by the center line of William Street and the same extended to the south line of the city.

B. The Second Ward shall be that portion of the city included within the following boundaries: bounded on the north by the center of Third Street, on the east by the east

line of the city, on the south by the center line of Broadway and on the west by the center line of Dubois Street.

C. The Third Ward shall be that portion of the city included within the following boundaries: bounded on the north by the center line of South Street, on the east by the east line of the city, on the south by the center line of Third Street and on the west by the center line of Carpenter Avenue.

D. The Fourth Ward shall be that portion of the city included within the following boundaries: bounded on the north by the north line of the city, on the east by the east line of the city, on the south by the center line of South Street and on the west by the center line of Carpenter Avenue.

E. The Fifth Ward shall be that portion of the city included within the following boundaries: bounded on the north by the center line of Broadway, on the east by the center line of William Street and the same extended to the south line of the city, on the south by the south line of the city and on the west by the center line of Lake Street.

F. The Sixth Ward shall be that portion of the city included within the following boundaries: bounded on the north by the center line of Third Street, on the east by the center line of Dubois Street, on the south by the center line of Broadway and on the west by the center line of West Street.

G. The Seventh Ward shall be that portion of the city included within the boundaries: bounded on the north by the north line of the city, on the east by the center line of Carpenter Avenue, on the south by the center line of Third Street and on the west by the center line of West Street and Gidney Avenue.

H. The Eighth Ward shall be that portion of the city included within the following boundaries: beginning at the intersection of the south line of the city with the center line of Lake Street and running, thence northerly along the center line of Lake Street to the center line of Broadway; thence, westerly along the center line of Broadway to the center line of West Street; thence, northerly along the center line of West Street and the center line of Gidney Avenue to the north line of the city; thence, westerly along the north line of the city to the west line of the city; thence, southerly along the west line of the city to the center line of Pierce's Road; thence, southerly from the center line of Pierce's Road to the center line of South Street; thence, southeasterly from the center line of South Street and along the center line of Pierce's Road south to the center line of Thompson Street; thence, southwesterly along the center line of Thompson Street to the center line of Dupont Avenue; thence, southeasterly along the center line of Dupont Avenue to the center line of Wisner Avenue; thence, southerly along the center line of Wisner Avenue and on the extension of same to the south line of the city; thence, easterly along the south line of the city to the place of beginning.

I. The Ninth Ward shall be that portion of the city included within the following boundaries: beginning at a point in the southerly line of the city where the same is

intersected by the extension of the center line of Wisner Avenue and running, thence westerly along the southerly line of the city to the westerly line of same; thence, northerly along the westerly line of the city to the northerly line of the city; thence, easterly along the northerly line of the city to the center line of Pierce's Road; thence, from the center line of Pierce's Road and southeasterly along the center line of Pierce's Road south to the center line of Thompson Street; thence, westerly along the center line of Thompson Street to the center line of Dupont Avenue; thence, southeasterly along the center line of Dupont Avenue to the center line of Wisner Avenue; thence, southerly along the center line of Wisner Avenue and on the extension of the same to the place of beginning.]

*Section C1.21. Establishment of ward system; terms of office; districting commission.*

*Within one hundred-eighty (180) days of the adoption at the November 2011 general election of a proposition for the establishment of a seven (7) member City Council comprised of a Mayor and two (2) council members to be elected by the qualified voters of the City and four (4) council members to be elected by the qualified voters in each of four (4) wards into which the City is to be divided, there shall be established a commission on districting to divide the City into four (4) single-member wards. The wards shall be drawn to be compact and contiguous and in compliance with the established standards of State and Federal law for equal and fair representation of all people in the City of Newburgh.*

*Every ten (10) years thereafter, not later than one hundred-eighty (180) days following the availability of the necessary decennial federal census data, such a districting commission shall again be established and shall meet to evaluate the then existing wards and redistrict them as necessary so that they remain compact and contiguous and in compliance with established standards of State and Federal law for equal and fair representation of all people in the City of Newburgh.*

*The districting commission shall be comprised of seven (7) members who are City residents, are eligible to register and to vote and are not elected government or political party officials. Each member of the City Council shall appoint one member of the initial districting commission and the five (5) members so appointed shall appoint the remaining two (2) members. All appointments shall be made in the manner set forth in this section. For all districting commissions subsequently empanelled every ten (10) years thereafter, each member of the seven (7) member City Council shall appoint one member to the districting commission as provided herein.*

*The City's Citizen Advisory Committee shall be responsible for developing a pool of individuals interested and qualified to serve on the districting commission. To establish that pool, the Citizen Advisory Committee, at least ninety (90) days prior to the anticipated first meeting of the districting commission, shall widely solicit interest in serving on the districting commission through such means as direct mail and email contact with civic groups, public service announcements on radio and television and in daily and weekly newspapers and announcements on the City's website. Persons wishing to serve on the districting commission shall indicate their interest in writing in the*

*manner provided for by the Citizens Advisory Committee, setting forth the reasons for their interest and identifying parts of their background and experience that they believe might qualify them for this task.*

*The Citizens Advisory Committee shall review the applications submitted, verify that they meet the eligibility criteria of this section and provide a listing of qualified applicants to the City Council no later than forty-five (45) days prior to the anticipated first meeting of the districting commission. Within twenty-one (21) days after the submission of the pool of applicants, each council member shall make his or her appointment to the districting commission. For the initial districting commission, the five (5) members so appointed shall then make the final two (2) appointments from the Citizens Advisory Committee's pool within twenty-one (21) days thereafter. In the event of a vacancy created by death, resignation or otherwise, the vacancy shall be filled in the same manner as used to select the member whose absence created the vacancy.*

*Prior to finally determining the boundaries of the wards, the districting commission shall hold a public hearing and accept public comment on its proposed districting plan. No later than April 1, 2013 and, in subsequent decades, no later than April 1 of the first year of the decade ending in "3", the districting commission shall finally determine the boundaries of the wards and shall cause a map of the City to be prepared showing in detail the location of each ward and the boundaries thereof. The original map so made shall be filed in the Office of the City Clerk and copies thereof shall be filed in the Offices of the County Clerk and the Board of Elections of the County. The ward boundaries shall be deemed established after such filing is complete.*

*At the first biennial City election held not less than one hundred twenty days (120) after the establishment of such ward system, one resident elector of each of the four (4) wards shall be elected as a Council member there from for a term of four (4) years beginning on the first day of January next succeeding such election. No election shall be held at the November 2013 general election to fill the two (2) at-large Council member positions whose terms expire on December 31, 2013. The Mayor and the two (2) Council members elected at-large at the November 2011 general election shall continue to serve in those positions until the expiration of their terms on December 31, 2015. At the November 2015 general election, these three (3) at-large offices will be filled for four (4) year terms commencing on the first day of January next succeeding that election.*

*The Corporation Counsel of the City shall be the legal advisor to the districting commission. The City shall provide for such other appropriate staff and support for the Commission as may be necessary for the districting commission to properly discharge its duties.*

*Any districting commission created in accordance with the provisions of this section shall go out of existence not later than sixty (60) days after it has adopted and filed, as required herein, the final map of the wards of the City. In the event that the ward boundaries so established are declared to be invalid by a final judgment of the highest court of competent jurisdiction ruling on their validity, the districting commission shall*

*be reactivated to study and prepare new ward boundaries subject to the procedures and requirements above.*

Section C3.00. Municipal officers enumerated.

The officers of the City or municipality shall be as follows:

- A. One Mayor, [four (4)] *six (6)* Councilmen and one City Judge [,.]. *The Mayor and two (2) Councilmen* elected by the qualified voters of the City [.] *and four (4) Councilmen* elected by the qualified voters of the wards from which they are elected.

Section C3.11. Residential qualifications of elective officers.

All elective officers of the City shall be qualified electors of the City[.]. *Council members elected from wards shall be residents of those wards.* [t]The removal of any such officer from the City, *or from a ward in the case of a Council member elected from a ward,* during his term of office shall render the office held by him vacant.

Section C3.22. Vacancies in office.

Any vacancy in an elective office occurring from any cause other than expiration of term shall be temporarily filled by appointment of the Council. *When a vacancy occurs in the position of a Council member elected from a ward, the person selected to fill that vacancy shall be both a qualified elector of the City and a resident of that ward.* Such temporary appointment shall continue in effect until the first day of January next following the next general election held after such appointment. At the next general election following any such vacancy in an elective office, a successor shall be elected to serve the unexpired portion of the term for which the vacating officer was elected, unless such term shall expire on or before the first day of January next following such general election in which case such successor shall be elected for a full term.

Notwithstanding the provisions hereof, the City Manger shall have the power and authority to designate a person to fill any such vacancy, except that of member of the Council, until the same shall be filled by temporary appointment of the Council.

Section C4.00. Legislative powers fixed in Council.

All the legislative powers of the city, however, conferred upon or possessed by it, are hereby fixed in a board to be known as the “Council of the City of Newburgh” and to be composed of the Mayor and [four (4)] *six (6)* Council members. It shall be, for all purposes, the Common Council of the City. The Mayor and the other [four (4)] *six (6)* members of the Council shall each receive an annual salary of nine thousand dollars (\$9,000.00), payable in equal monthly installments.

*The Charter changes set forth in Sections C1.20, C1.21, C3.10, C3.11, C3.22, C5.00 and C5.01 shall be effective upon their adoption by the voters of the City of Newburgh at the November 8, 2011 general election. The Charter changes set forth in Sections C3.00 and C4.00, if adopted by the voters of the City of Newburgh at the November 8, 2011 general election, shall become effective on January 1, 2014.*

**Proposition 2:**

Following review and discussion of the Ballot documents, including Form of Submission, Abstract, and Text of City Proposition 2 the Commission approved the form of submission (ballot question) for Proposition 2 with correction of one typographical error, as follows. All members present voted in favor of the documents with the exception of Pauline Dillard who abstained.

FORM OF SUBMISSION FOR CITY PROPOSITION NO. 2

CITY PROPOSITION NO. 2

Shall the proposal by the City of Newburgh Charter Review Commission to amend the Newburgh City Charter to change the method of appointment, replacement and removal of the City Manager be approved?

ABSTRACT OF CITY PROPOSITION NO. 2

CITY PROPOSITION NO. 2

The City Manager is the Chief executive and administrative officer of the City of Newburgh. Currently, the City Manager is appointed by and serves at the will of the City Council.

Under the changes proposed to the City Charter by the Newburgh Charter Review Commission, a majority plus one vote of the City Council would be required to appoint or remove the City Manager. The City Council would be authorized to appoint the City Manager to serve either for an indefinite period at the will of the Council or for a definite term not to exceed two (2) years, with or without a written contract of employment.

The proposed changes would specify educational and experience qualifications for the City Manager and, require that additional procedural steps be taken by the Council prior to removal of the City Manager.

The proposed changes would provide for the designation of an appointed City officer as Acting City Manager during the City Manager's temporary absence or disability. In the event of a vacancy in the office of City Manager, the City Council would be authorized to designate an appointed officer of the City to serve as Interim City Manager while the Council selects a new City Manager.

EXPLANATION – Matter in *italics* is new, to be added; matter in brackets [ ] is old law, to be omitted

## TEXT OF CITY PROPOSITION NO. 2

Section C5.00. Selection; qualifications; removal from office.

- A. *Selection. The Council, by a majority plus one vote of its entire membership, shall appoint a City Manager who shall be the chief administrative and executive officer of the City.*

*The City Manager may be appointed:*

- (1) for an indefinite period to serve at the will of the Council;*
- (2) for a definite term not to exceed two years, at the expiration of which term the City Manager may be reappointed from time to time in the discretion of the Council, but in no event shall any one period of appointment be for more than two years; or*
- (3) for a definite term not to exceed two years under a written contract of employment, which contract shall contain such terms and conditions as may be specified by the Council. Nothing in such contract of employment shall conflict with the provisions and requirements of this Charter. In the event of any such conflict, the provisions and requirements of this Charter shall be controlling. Such contract of employment may be renewed from time to time in the discretion of the Council but no one renewal period shall be for a period in excess of two years.*

- B. *Qualifications. The City Manager shall be appointed solely on the basis of executive, administrative and professional qualifications. The City Manager shall have (1) a master's degree with a concentration in public administration, public affairs or public policy, or an equivalent graduate degree, and two years experience in an appointed managerial or administrative position in a local government or other related experience; or*

*(2) a bachelor's degree with a concentration in public administration, public affairs or public policy, or an equivalent degree, and five years of experience in an appointed managerial or administrative position in a local government or other related experience.*

*No elected official of the city shall be eligible for the position of City Manager until the expiration of at least one year after separation from the city government.*

- C. Residency. The City Manager shall be subject to the residency requirements set forth in Section C3.00 of the Charter provided, however, upon initial appointment, the City Manager shall be permitted to establish residency in the city within 120 days of appointment. The Council, where circumstances warrant, may grant one 60 day extension of this period.*
- D. Removal. Notwithstanding whether the City Manager is appointed for an indefinite period or a definite term, and without any requirement that cause be demonstrated, the Council may remove the City Manager from office in accordance with the following procedures:*
- (1) The Council shall adopt by affirmative vote of a majority plus one of all its members a preliminary resolution for removal, which must state the reasons for removal, and which may suspend the City Manager from duty for a period not to exceed 30 days. Such suspension shall not deprive the City Manager of salary for such period, but no reimbursable expenses may be charged to the city or to a city department by the suspended City Manager for the term of such suspension. A copy of the resolution shall be delivered to or served upon the City Manager personally or by leaving it at the office of the City Manager in the city within five days after its adoption.*
  - (2) The City Manager, within five days of the service or delivery of the preliminary removal resolution, shall have the right to file a written request with the Council for an opportunity to be heard at a public meeting of the Council. In the event that the City Manager makes such request, the opportunity to be heard shall be afforded at a regular or special meeting of the Council to be held within 15 days of the Council's receipt of such request. The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority plus one of all its members at any time after the City Manager is afforded the opportunity to be heard at a Council meeting or, if no opportunity to be heard is timely requested, after five days from the date when a copy of the preliminary resolution was delivered to or served upon the City Manager.*

- (3) *The City Manager shall continue to receive salary until the effective date of the final resolution of removal. The action of the Council in suspending or removing the City Manager shall be final and binding.*

[The City Manager shall be the chief administrative and executive officer of the city. He shall be selected by the Council upon the basis of his administrative and executive qualifications. He may be suspended or removed from office at the pleasure of the Council.]

Section C5.01. *Acting or Interim City Manager.*

*The City Manager may designate any appointed officer of the city to act as City Manager during the absence or disability of the City Manager, and the person so designated, during the continuance of such absence or disability, shall perform all the duties and have all the powers of the City Manager. In the absence of a designation by the City Manager, the Council may make such designation.*

*In the event that a vacancy occurs in the office of City Manager due to death, resignation or otherwise, the Council shall immediately commence the process for selecting a new City Manager in accordance with the requirements of Section C5.00 of the Charter. Within ten (10) days of the occurrence of the vacancy, the City Council shall designate an appointed officer of the city to serve as Interim City Manager. The Interim City Manager shall serve in that position until a new City Manager is appointed, provided, however the Interim City Manager may not serve more than six months unless the Council, by resolution, certifies the necessity for the continuation of the Interim City Manager and sets forth the reasons why a new City Manager has not been appointed. Upon the adoption of such resolution, the Interim City Manager may continue to serve for no more than an additional six months.*

[The City Manager may designate any officer of the city to act as City Manager during the absence or disability of the City Manager, and the person so designated, during the continuance of such absence or disability, shall perform all the duties and have all the powers of the City Manager. In the absence of a designation by the City Manager or in the event of a vacancy in the office of City Manager, the Council may make such designation.]

Section C3.10. *Terms of office.*

The terms of office of the elective officers of the City shall be as follows: Mayor, four (4) years; Councilman, four (4) years; and City Judge, six (6) years. The terms of office of the Civil Service Commissioner shall be six (6) years. *Except as otherwise provided in Section 5.00,* [T]he terms of office of the City Manager and of the City Clerk shall be at the pleasure of the Council. The terms of office of all City officers appointed by the City Manager shall be at the pleasure of the City Manager. Any or all such appointive City officers may, by action of the City Manager and with the approval of the Council, be

placed in the competitive class of the municipal civil service. No such action shall be taken less than ninety (90) days prior to a general City election.

*The Charter changes set forth in Sections C1.20, C1.21, C3.10, C3.11, C3.22, C5.00 and C5.01 shall be effective upon their adoption by the voters of the City of Newburgh at the November 8, 2011 general election. The Charter changes set forth in Sections C3.00 and C4.00, if adopted by the voters of the City of Newburgh at the November 8, 2011 general election, shall become effective on January 1, 2014.*

**Other Business:**

Barbara Smith presented the Media Committee report. She noted that the Committee had agreed that it would not be the best thing for individuals to go out on their own to disseminate information- that it would be best to do it as a team. Isaac Diggs commented that perhaps there might also be a hub where a log is kept, and people can post information. Mary Ann Prokosch suggested a press release be put out so groups and organizations can contact the Charter Review Commission if they want them to present the proposed revisions.

Pauline Dillard asked if Commission members could go out one on one to disseminate information. The Commission decided that it was all right to respond as an individual to neighbors or people who might come up and ask questions, but the message should be consistent. She reiterated that most people in the City read the Times Herald Record, and the information was not being printed there. It was suggested that the Media Committee contact a Record reporter or editorial board and ask them to do a story.

Tom Murphy suggested reaching out to the political parties and asking them to support the Charter revisions.

Roxie Royal, a member of the audience, said as Chair of the City Democratic Committee, she supported the Charter changes. She said she had taken a newspaper article to her church and asked them to put it in their bulletin, and she offered to take the article to more churches. She invited the Commission to come to her church and speak, and to

speaking at the Democratic Committee meeting. Barbara Smith said she would get in touch with Roxie.

Further outreach suggestions included visiting the Heights Association, Club 60; and putting up signage; 50 lawn signs will cost \$235.

**Next Steps:**

The Media subcommittee will meet and decide on a signage design prior to the next meeting of the full Commission. The next Charter Review Commission meeting will be Thurs. Sept. 15 at 7 p.m. in City Council Chambers, 83 Broadway.