Waterville Charter Commission

Final Report

August 13, 2013

The Waterville Charter Commission respectfully submits this final report to the City Council. Over the past eight months, all members of the Commission have dedicated ourselves to a process of consensus. All changes contained herein were determined by a unanimous vote, and so we all hope the document, when placed up for a public vote, will receive approval.

You will find that much of this final report resembles the preliminary report submitted on June 18th. This document contains a few additions, but most of what was in the previous one remains.

Based on public input, we determined not to make any changes to two sections which generated a lot of public opinion: elimination or reduction in the number of wards, and the partisan election system. Many voters and commissioners felt they lived in a distinct community of interest within the City, and did not want to see the influence of the various communities of interest diluted through elimination of wards. Partisan elections remained unchanged, largely based on a belief that voters should be provided with as much information about candidates for office as possible.

One major change which we referred to the City Council for adoption by ordinance has been adopted: the changes to how we appoint boards and commissions. We believe this measure will open our city government to more interested parties and thank the Council for its action.

We did place the issue of third readings back under deliberation, at the request of the City Council. However, it was the opinion of the Commission that if City Councilors are concerned about finalizing any vote, it is just as simple to delay the second reading until the body feels comfortable taking a vote as it is to have a third reading. Our decision was to hold to our original decision, and eliminate third readings.

Contained below are the changes to each article of the charter. The Charter Commission hereby submits its work to be placed on the ballot for consideration at the regularly scheduled election in November. The Commission also declares its dissolution, to be effective September 13th, 2013.

Respectfully submitted,

Ed Lachowicz

Co-Chair, Waterville Charter Commission (Ward 2)

Article I: No changes.

Article II: The Mayor.

- Section 1. Clarified residency requirement for Mayor to match the City Council. Previously, the Mayor did not have to be a resident of the City to be elected, only to take office.
- Section 4. Changed when the Mayor must qualify for office. In the past, the Mayor would need to be sworn in twice: once officially in the presence of the Clerk, and once at the inauguration. This eliminates the first swearing-in. Mandated that the City Clerk must place on the agenda a discussion of removing the Mayor from office if they believe a vacancy has been triggered.
- Section 5. Clarifications and relocation of a paragraph to Article IV. Removed specific requirements for meeting notice, these are better suited for an ordinance if required at all.

Article III: City Manager. Clarifications and relocation of language, no substantive change.

Article IV: City Council.

- Section 1. Placed language defining terms in this section, it was located elsewhere and had specific dates from the previous revision that are no longer necessary. This causes no change.
- Section 3. Changed salary to be paid in quarterly salaried increments to reduce burden on payroll. This should result in little change to salaries.
- Section 4.
    - Redefined when Councilors must qualify in the same fashion as the Mayor.
    - Eliminated "excused absences" as they are subjective, instead triggering a review by the Council should anyone miss three consecutive meetings.
    - Softened absences from "shall" to "may" be removed from office, which allows the Council discretion.
    - Mandated that the City Clerk must place on the agenda a discussion of removing from office for any Councilor which may have triggered a vacancy.
    - Added 3 month residency requirement for appointed Councilors, which is the requirement for elected ones.
    - Added a method of voting for appointments where there is more than one candidate. Written ballots, containing the name of the Councilor and the name of the person they choose to appoint, are read aloud by the City Clerk. The candidate must receive a majority or a top-two (or more, if more than two tie for the lead) runoff is held. The matter is postponed if a candidate does not have a majority after the second round.
    - Removed the ability of the Mayor to break ties, as the Council should be the only body to determine the qualifications of its members.

- Section 8.
    - Provided more specific language describing the difference between resolutions, ordinances, and orders.
    - Defined a "public reading" as the title and a summary of the action.
    - Required that all Councilors vote on all matters placed before them, unless abstaining due to a conflict of interest, which must be approved by a majority of Councilors excluding the person seeking to abstain.
    - Relocated bonding paragraph to Article VII, as it belongs with Finances.
- Section 9. Added a requirement that all ordinances be submitted to the City Solicitor prior to them appearing on the Council agenda, to ensure they are properly worded and legal. Eliminated third readings, as they are redundant. Only one reading can be performed during a single meeting under this change, so it is the opinion of the Commission that this causes no substantive change.
- Section 10. Removed requirement that entire ordinances must be published in the newspaper, instead requiring publishing of summaries. Full text of any change to ordinances must be made available on the City's website within ten days.
- Section 11. Changed effective date of actions from 10 to 21 days after passage, to allow time for any effort to repeal. Currently the charter allows for 20 days to decide to take out a petition and allowing actions to take effect prior to that time frame causes the possibility that the action will be irreversible by petition. Changed the effective date from 21 days after publication to 21 days after final City Council action on an item, as this creates a clearer timeframe.

Article V: Administration.

- Section 8.
    - Eliminated the bonding requirement for City employees.
    - Eliminated the requirement that the City Clerk must notify new employees of their appointment as it is excessive.
    - Removed the requirement that all City employees must take oaths of office, and specified that elected and appointed officials, the City Manager and Solicitor, and all department heads must take oaths.
- Section 9 (old). Removed Search Committee. The Council may determine its own course of action by ordinance for how to hire a new City Manager or Solicitor and this does not need the strength of a Charter requirement.
- Section 9 (new). Added a requirement that the City carry Public Official Liability Insurance. This has no effect on the City, as we currently carry it, but it was the opinion of the Commission that citizens should know the City Charter requires the City to protect itself against internal theft.

Article VI: Code of Ethics.

- Added a new Section 5, which requires an ordinance defining ethical conduct. Ethical conduct should be hard to redefine, and so a 2/3 majority is required to alter this ordinance in the future.

- Added a new Section 6, which requires the formation of an Ethics Committee which consists of seven residents which serve three-year terms, appointed by the Mayor with Council approval. The committee cannot contain elected officials or their families, and is required to meet at least once a year to review the ordinance and make any recommendations.

- Added a new Section 7, which repeals Sections 1-4 at such time as a Code of Ethics Ordinance is established.

- This change has the additional effect of changing a provision regarding ethical conduct which could trigger a vacancy in the office of the Mayor (Art. 2, Sec. 4C), the City Council (Art. 4, Sec. 4C), and the Board of Education (Art. 8, Sec. 4C). The Code of Ethics Ordinance shall supersede the Charter sections once adopted.

Article VII: City finances.

- Section 7. Relocated bonding paragraph from Article IV to here.
- Section 9. Reduced meeting requirement for Finance Committee from six to four times per year, and required it to provide reports to the City Council and Board of Education that provide a financial status of the municipal and school departments, as well as that of any school administrative unit the City is a part of.

Article VIII: Eminent domain. This is covered entirely by statute and has no place in the Charter. It has been removed.

Article IX: Board of Education. Made changes to match those of City Council regarding terms, removal from office, method of appointment, and so on. Made a mostly non-substantive change which defines the powers of the Board of Education when it is part of a larger school administrative structure. Empowered the Chair of the Board of Education to appoint members of the larger school administrative structure, as is currently done.

Article X: Elections.

- Section 3. Added Charter Commissioner to the list of offices which voters may need to elect.
- Section 6.
    - Eliminated elected poll wardens and poll clerks, and left this to the City Clerk and the political parties to manage as provided for in statute. Removed references to each where they appear throughout the article. Defined that the City Clerk is

required to seek Ward Clerks from each ward before shifting to at-large selection. (*It is the recommendation of the Commission that Ward Clerks be placed on the list of offices to be filled using the new ordinance for boards and commissions to increase the number of interested candidates that the City Clerk may choose from.*)

  - Changed "ward" to "polling place" regarding voting location to reflect that the City now votes in one central location, but provides capability to return to the old system.
  - Extended the timeframe by which the City Clerk must notify newly elected officials from three to fourteen days.
  - Clarified that elected officials must qualify for their office, not based on a 14-day timeframe, but as required by their position (i.e. the first meeting in January for City Councilors).
- Section 7. Strips candidates or their representatives of their capability to recount their own ballots, instead referring to statute for instruction.
- Section 9. Changed "shall" to "may" regarding partisan caucuses nominating candidates for the various offices, as there is no reason a caucus should be forced to find a candidate where none exists. Added Charter Commissioner to list of offices requiring a nominating petition, to be performed in the same manner as other ward-based offices.
- Section 10. States that the Registrar of Voters or a deputy must be available at each partisan caucus, which represents no change from what is done currently. As the Registrar or deputy is present, the requirements for the caucus chairs and secretaries regarding registration have been removed.
- Section 11. Requires that partisan municipal committees meet at least once every two years and elect a committee chair in order to nominate candidates for office.
- Section 13. This article defined the date-specific staggering of terms starting in 2005, and is no longer necessary. It has been removed and relevant information moved to the City Council and Board of Education sections.

Article XI: Recall, referendum, initiative.

- Section 1.
  - Extended time period from 20 to 21 days, as otherwise any petition taken out on a Monday has only 18 days to collect the signatures because City Hall is closed on Sundays. Given the short timeframe, three days are important.
  - Redefined number of signatures required from 15% of all registered voters to 15% of registered voters who cast ballots at the last gubernatorial election. Previously the number of signatures required was partially based on deceased voters, inactive voters, and voters who may have moved.

    - Changed "refusal" to "failure" to order election, as City Councilors cannot refuse to order an election.
    - Changed court required to order election to Superior Court, as this issue is better suited for that court and not the Supreme Judicial Court.
- Section 2. Same changes to time period (extended to 21 days) regarding the referendum.
- Section 3. Same changes regarding number of signatures, and extended timeframe from 45 to 90 days for an initiative.
- Section 4.
    - Increased number of people who need to initiate a petition from one to three.
    - Clarified that one petition can only recall one official.
    - Removed requirement to state cause for initiating recall.
    - Added requirement that petitioners must have a copy of the proposed language on hand for interested parties to review.
    - Required that the City Clerk make available to the petitioners one paper and one electronic copy of the petition.
    - Required that the Office of the City Clerk have all active petitions available for voters to sign.
- Section 5. Removed Justice of the Peace as an official which can notarize documents as they no longer exist.
- Section 7. Removed the requirement that a petition's signatures be submitted all at once, so the City Clerk has an opportunity to verify signatures piecemeal rather than all at once.
- Section 8. Halts implementation of any ordinance, order, or resolution until the results of a petition are known. Otherwise, the City could cause some actions to become irreversible before the petition period has ended.
- Section 10. Eliminated special elections for referendum and initiative. This section could use some suggestions for how to do this better, as it may cause issues with matters that appropriate funds.
- Section 11.
    - Changed earliest and latest date to notify voters about an upcoming recall, referendum, or initiative election from an earliest of 10 and a latest of 15 days to an earliest of 7 and a latest of 10 days.
    - Eliminated requirement to distribute paper copies of the full text upon request, instead requiring it be published electronically no less than 10 days prior to the election.
- Section 12. Defined referendum and initiative ballot language. A "Yes" vote on either one now means "Make the proposed change", and a "No" vote now means "Leave it like it is".

Article XII: No changes.