

8 June 2020

From: Richard J. Norton
To: Ms. Jennifer West
CC: Mr. Kevin Aguiar
Mr. Richard Rainier

Subject: Report of Portsmouth Charter Review Committee

It is my pleasure to inform you that the Portsmouth Charter has completed the duties to which it was assigned. The list of all passed motions will be found on page 2 of this report. The committee's work was thorough and the charter most diligently reviewed.

I would like to commend the following citizens of Portsmouth for their dedicated work and strong sense of civic duty.

Mr. Joseph Baker
Mr. Donald Clukies
Mr. Terry Lee Dickinson
Mr. Benjamin Furriel
Mr. Stephen Gaul
Ms. Nancy Grieb
Ms. Conni Harding
Mr. George Kassis
Mr. Paul Kelly
Mr. Paul Kesson
Capt. Jim Kitzmiller, USN.
Mr. John McDaid
Ms. Michelle McGaw
Ms. Jhodi Redlich
Mr. David Reise
Mr. Roy Streit
Mr. Mark Thayer
Ms. Katy Vachon
Ms. Kathleen Wilson

Mr. Fred Murano served in exemplary fashion as the Vice-Chair.

Mr. Mark Katzman is most deserving of special notice and praise. He was absolutely essential as the Committee Secretary and the work of the committee would not have been possible without his dedication, positive attitude and keen attention to detail. While the contribution of each member of the committee was valuable, that of Mr. Katzman was indispensable.

I would also like to thank Mr. Richard Rainier, Ms. Jennifer West and the town and school leaders who appeared before the committee to answer specific questions and provide clarification.

I believe the work of the Charter Review Committee is now complete. When you put this matter on one of your meeting's agenda, I and no doubt other members of the Committee will be happy to attend (virtually) to address any questions you may have.

Richard J. Norton
Chair, Portsmouth Charter Review Committee

All Approved Motions as of June 4, 2020

Mr. Richard Norton was elected to be the committee chair. Mr. Frederick Marano was elected to be committee vice-chair and Mr. Mark J. Katzman was elected to be committee secretary.

A motion was approved that we ask the Council to direct the Town Clerk (or other persons under the direction of the council) to make the appropriate changes/corrections. For example: Section 102 does not indicate that the position of "Town Sargent" has been eliminated. There is a typo in Section 207 (o): the word "provide" should be "provided." Section 501 does not have a note indicating that the Town Clerk is no longer an elected position. Section 1002 "Transfer of Appropriation" currently states "The Council shall have *author* to make any changes..." when the appropriate term clearly should be *authority*. A motion was approved to ask the Council that throughout the entire Charter the use of the word "chairman" be changed to the gender-neutral term "Chair". The CRC strongly recommends to the Town Council that the official copy of the Town Charter (as available from the Town Clerk or via the Town's website) be carefully proofread for typographical errors.

A motion was approved that the Charter should indicate that all town departments operate on a fiscal year basis of July 1 (of one calendar year) to June 30 (of the following calendar year) **as currently implied (but not clearly stated) in charter sections 208(1) and 304(a).**

A motion was approved regarding **Section 102** ("Form of Government") that an editorial note should be added indicating that according to Section 501, **the position of Town Sargent has been eliminated, and that the Town Clerk is now, per town referendum, a non-elected position appointed by the Town Council.**

A motion was approved regarding **section 201** that the second sentence ("The names of all candidates for Town Council...") be replaced with the stricken and added text thusly: "The names of all candidates for Town Council who shall have qualified to appear on the ballot shall be listed ~~under~~ **along with** their respective party designations in an order determined by the Board of Canvassers by the drawing of lots regardless of party designation or affiliation."

A motion was made to amend **Section 201** with the insertions of text herein noted in bold text and text eliminated as herein noted by stricken text:

A motion was approved regarding **section 202** (Town Council Qualifications) to modify the language of this section with added text as noted herein in bold: "Members of the Council shall be qualified electors of the Town of Portsmouth and shall hold no other paid public office or employment in the service of the Town or of the State **or of any quasi-municipal corporation, nor any paid elective** or paid non-civil service appointive office under the Federal Government. **Nor shall any elected official of a Portsmouth-based quasi-municipal organization have any financial or vendor relationship with the Town of Portsmouth during their term of office, or for one year thereafter.**"

A motion was made to amend **Section 202** by adding the text herein noted in bold:

Qualifications. Members of the Council shall be qualified electors of the Town of Portsmouth and shall hold no other paid public office or employment in the service of the Town or of the State, nor any paid elective or paid non-civil service appointive office under the Federal Government. Current service as **employment by a Federal Government agency, employments by a contractor supporting a Federal Agency or department**, notary public, membership in the National Guard or Naval, Air or Military Reserve shall not disqualify persons for Council membership. No member of the Council shall be eligible to accept any other paid local Town Office or employment during his/her term on the Council or for a period of one year thereafter, hold any paid appointed or paid non-elective Town Office. The Office of any Council member who shall, during his/her term, cease to meet the foregoing qualifications, shall be deemed vacant. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984; as further amended November 8, 1994; eff. date November 8, 1994.) **The motion was approved** by 7 members, with 6 members voting in opposition (George Kassis, John McDaid, Michelle McGaw and Richard Norton)

A motion approved with regard to **Section 204** to add: **"In the case of the absence of the Town Council President, the Vice President shall be the presiding officer."**

A Motion was approved regarding **Section 207** to add a section stating: **"The council shall have the power to approve an Emergency Management Plan which shall include the detailing of a line of succession of authority in the event of an emergency."**

A Motion was approved regarding **Section 207 (b)** which currently States: "The Town Council shall ...[have the power] (b) to appoint standing and temporary committees, but no legislative powers of the Council may be delegated to these committees." The motion was to add the following: **"Individuals appointed shall be selected from those who have submitted the designated application to the Town Clerk."**

A motion was approved to insert the following (bold text) into **section 208 (2)**: Immediately following the adoption of the provisional budget, it shall be published **on the Town's website and** in a newspaper having general circulation in the Town, showing the initial requested total amount of each department by the Town Administrator and School Committee and the recommended total amount of the Town Council.

A motion was approved to amend **Section 208 (3)** with regard to the number of days that the provisional budget shall be provided to the public prior to public hearings: Within thirty (30) days of the approval and publication of the provisional budget, public hearings shall take place. The Council shall have printed and available copies of the provisional budget for public distribution at least ~~five (5) days~~ **ten business days** prior to public hearings. The time and place for holding of these hearings shall be included with the publication of the provisional budget. (Amended November 2, 2004, eff. date same.)

A motion was approved regarding **section 209** "Vacancies". The current language would be stricken and replaced with **"If a vacancy occurs in the membership of the council, for whatever reason, the members of the council shall appoint to the council the next highest vote getter from the most recent past election."**

A motion was approved regarding **section 602** (Fire Department) to delete the text noted herein as stricken and replace with the text note in bold as follows: "There shall be a Fire Department, the operating head of which shall be the Fire Chief, who shall be a fireman with at least ~~five (5) years~~ **ten (10) years'** experience in the fields of fire-fighting and fire prevention

A motion was approved regarding **section 605** (Parks and Recreation) to change the second sentence "The Department shall be headed by a Director..." To "The Department shall be headed by a **Manager**..."

A motion was made by Connie Harding and Seconded by Fred Marano to amend section 701 with text added as herein noted in bold text:

School Committee. There shall be a **non-partisan** School Committee consisting of seven (7) members each of whom shall be elected from the Town at large by the electors of the Town of Portsmouth, to serve for a term of four (4) years and until a successor is elected and qualified. Four (4) members of the Committee shall be elected at the first election after the adoption of this Charter and at said elections every fourth year thereafter and three (3) members shall be elected at the subsequent biennial election and at said elections every fourth year thereafter. All members of the School Committee in office when this Charter goes into effect shall continue in said positions as members of the School Committee until the expiration of the terms for which respectively they were chosen. **The name of all candidates for School Committee who have qualified to appear on the ballot shall be listed in order determined by the Board of Canvassers by the drawing of lots. Each elector shall cast his/her vote for no more than three or four (as determined by the biennial election sequence) candidates for school committee and 3 or 4 (as determined by the biennial election sequence) shall be declared elected. The motion was approved by 7 members with 6 voting in opposition (John McDaid, Michelle McGaw, George Kassis, Kate Wilson, Paul Kelly and Mark Katzman.**

A motion was approved regarding **Section 702** which states; "Qualifications. Members of the School Committee shall be qualified electors of the Town of Portsmouth. They shall hold no other elected office in the Town or State nor any other paid public office or employment in the service of the Town". The motion was that this section be amended with the addition of these words after the end of the above stated sentence: "**or any quasi municipal organization.**"

A motion was approved regarding **section 704** (compensation of school committee members) to **change the words "salary" and "salaries" to "compensation."**

A motion was approved regarding **section 706** (school committee organization and rules) to change this section as follows: (additional text in bold and removed text stricken): "The School Committee shall elect from its membership a ~~Chairman~~ and a ~~Vice-Chairman~~, **and a Clerk** both of whom shall serve at the pleasure of the School Committee. ~~The School Committee shall also appoint a Clerk who shall be a member of the School Committee and shall serve at the Committee's pleasure.~~ The ~~Chairman~~ or the Clerk may sign any orders and official papers, and the Clerk under the direction of the School Committee, shall keep a journal of the proceedings of the Committee."

A motion was approved regarding **section 708** (Appointment of a Superintendent) to amend this section with the addition of the words in bold: "Appointment of a Superintendent. The School Committee shall appoint **by a vote of a majority of school committee members** a Superintendent of Schools as its Chief Administrative Agent..."

The committee was informed by Emily Copeland, Chair of the School Committee, that **section 710** (Appointment and Removal of Other School Employees) and **section 913** (Collective Bargaining... School Committee) are not in compliance with current state law.

A motion was approved that section **710** should be revised by removing from the charter the words herein noted by stricken text:

~~Appointment and Removal of Other School Employees. The School Committee shall have the power to determine the number and duties of all employees in the department subordinate to the Superintendent of Schools, and shall have the power to remove and, in addition to give advice and consent concerning the appointment of all such employees upon the recommendation of the Superintendent of Schools, except as otherwise provided by the laws of the State.~~

A motion was approved regarding **section 902** [Public Records] to delete the text noted herein as stricken:

“902. Public Records. All records and accounts of every department and agency of the Town shall be deemed to be public records and shall be open to inspection by any citizen of the state without giving any reason therefore, at all reasonable times and under reasonable regulations established by the Council, ~~except those records and documents the disclosure of which, in the opinion of the Council, would tend to defeat the lawful purpose which they are intended to accomplish, and except~~ such records as are required by the laws of the state to be kept confidential.

Article 903. Conflict of Interest. A motion was approved to modify the text of this section with the words stricken as noted here (via stricken text) and words added (as indicated here in bold text): ... In case of personal interest as defined by State Statute or by the Ethics Commission, in the proposition before him/her as a Town Official, he/she shall notify, ~~in writing,~~ the Town Administrator, **via written notice to the Town Clerk,** of the fact and nature of his/her personal interest and abstain from voting on or otherwise participating in, that matter.

Article IX (Miscellany) 903. Conflicts of interest. A motion was approved to amend this section with the words added in bold text: “In accordance with State Statute, Rhode Island General Law Section 36-14-1 et seq., as well as any rules and/or regulations promulgated by the Rhode Island Ethics Commission, no official of the Town, elected or appointed, shall utilize his/her position to forward, directly or indirectly, his/her personal benefit **including but not limited to financial benefit.**”

Article IX Section 913. A motion was approved that the following words herein noted by stricken text be removed from section 913: No collective bargaining agreement between the Town of Portsmouth and any labor organization ~~including School Department employee unions~~ shall become effective unless and until ratified by the Portsmouth Town Council.