

# Charter Commission

One Government Center  
Fall River, MA 02722

**Call To Order:** 6:00PM  
**Adjournment:** 7:56PM

## **Minutes of Charter Commission Meeting, Monday, May 16, 2016 Revised**

**DATE AND TIME:** Monday, May 16, 2016 6:00pm

**LOCATION:** Atrium, One Government Center, Fall River, MA

**PRESENT:** Atty. Assad, Vice-Chair Bartley, Cusick, Quinn, Norton, Robillard, Silvia, Clerk Venice, and Chairman Miozza.

**ABSENT:** None

**IN ATTENDANCE:** City Administrator Cathy Ann Viveiros  
Mr. Stephen Mc Goldrick, Consultant  
Ms. Marilyn Contreas, Consultant

### **Call to Order**

Chairman Miozza calls the meeting to order at 6:00pm, reads "open meeting law" statement, and asks the Clerk to call the roll. All nine members of the Commission are present and a quorum is declared.

### **New Business**

Chairman Miozza opens the meeting by stating there will be a change in venue as the Charter Commission will no longer be using the City Council Chambers to conduct their meetings. He announces that all remaining meetings of the Charter Commission will be held in the library of the Kuss Middle School located 52 Globe Mills Avenue in the south end of the city. Chairman Miozza thanks school administrator Thomas Coogan for allowing the Charter Commission to use that facility for its future meetings.

- a. Chairman Miozza asks for a motion to accept the minutes of the 4/25/16 meeting of the Charter Commission. The motion is made by Commissioner Norton and seconded by Commissioner Cusick. Motion carries 9-0.

- b. Next on the agenda is a communication from Mr. Dennis Polselli suggesting individuals with print disabilities be accommodated for their disability. Chairman Miozza and Commissioner Robillard met with the ADA work group about certain people not being able to fill out the Charter Survey because of their disability. Mr. Polselli alleges Chairman Miozza never responded to his issues in a previous correspondence but Chairman Miozza shows proof that he had. Chairman Miozza turns the floor over to Commissioner Robillard and he admits the Charter Commission missed that fact (about print disabilities) and did not make sure the survey was presented in an alternative format. He apologizes and takes responsibility for the mistake stating “we were required to have that (the survey) in an alternative format”. He states all future requests for information and documents be made available upon request to individuals of all disabilities and anyone requesting accommodations under the ADA. Chairman Miozza will reach out to the city ADA Coordinator Gary Howaycek, Esq. for a solution so that the Charter Commission can have their required Preliminary Report and Final Report published in an alternative print format. Chairman Miozza asks the consultants if they ever made accommodations for alternative printing for the blind and Mr. McGoldrick replied “just for language” translations (not for braille).
- c. The second communication addressed came from Attorney Paul Machado from the DA’s Office commenting about former Mayor Sam Sutter’s belief that there may be a way for the Commission to have questions outside of the Charter put on the ballot. Chairman Miozza states he was always of the belief that it was “an all or nothing vote” on the new Charter but reading the information from Atty. Machado there seems to be a way to have multiple charters presented for a vote. Miozza asks Mr. McGoldrick: “Could we have questions outside the Charter?” Mr. McGoldrick answers: “You can’t have two documents. You were elected to make decisions and not throw it back to the voters” to make those decisions for you. “You could have public opinion advisory questions on the ballot”. “The statute says one document and I think that’s what you need to do.” “Multiple documents may never get a plurality then how do get this passed?” Ms. Contreas states the language in Section 11 clearly states a proposed charter and a proposed charter revision in the singular (not plural). Plymouth at one time had two alternate charters on the ballot and both lost as they did not get the required 35% voter approval. Also, the Attorney General’s office, by some of their prior rulings, seems to believe it has to be a single document. Chairman Miozza makes the comment it would probably behoove us to submit one document instead of multiple documents that would not meet the required 35% threshold.
- d. Chairman Miozza appeared before the Lifetime Learning Group and gave an update and an educational presentation regarding the work the Charter Commission is doing. Mike Dion sent a Thank You letter to Chairman Miozza for doing so which Miozza addressed.
- e. School Committee member Mr. Joseph Martins is requesting the Charter Commission look into proposing that the three members of the Diman Vocational High School’s

Area School Board, which are currently appointed by the Mayor of Fall River, be elected by the voters of Fall River instead of Mayoral appointment. There is an agreement between the area towns in place as to area representation on that board and Ms. Contreas states changing the agreement between the towns may be beyond the scope of the Charter Commission. The Charter Commission would not be able to make changes to that agreement without the agreement of all the parties and we can't use the charter as a vehicle to make changes to that agreement without that consent.

- f. Clerk Venice gives an update on the status of the Commission's site on the city's webpage. She thanks newly hired Dawn Lewis who is working with her to develop the webpage. Right now the names and email addresses of all the Commissioners have been added along with a few past agendas and minutes of meetings. Commissioner's bios will be added to bring that up to date. Ms. Lewis has requested information pertaining to the history of our Charter and other pertinent Charter information to help educate the public on the Charter revision process. Clerk Venice will continue to work with Ms. Lewis to update and improve the information on the city's webpage.
- g. Chairman Miozza talks about Charter enforcement and questions who has responsibility for enforcement of the Charter asking: "If the citizen's vote for the Charter (revisions) in 2017 what is the mechanism to ensure that the executive and legislative branches of government follow what we put forth?" He wants to know what the mechanism of enforcement will be. He asks: "Can we put something into the Charter? Can fines be issued?" "How do we ensure what we propose will be followed?" Consultants will respond at a future time.
- h. The tabulation of the Charter Survey results was then discussed. There were 5,238 completed surveys and 80% have been entered into the computer. Chairman Miozza thanks all who participated in the tabulation process. Chairman Miozza proposes having an extra meeting on June 13, 2016 at 6:00pm at the Kuss Middle School to review the survey results. Once that is done then the Commissioners can go back to the proposals they have on hold pending the outcome of the survey. Motion made by Co-Chair Bartley and seconded by Robillard to have said meeting at Kuss Middle School on Monday, June 13, 2016 to discuss and review the results of the survey. (The meeting was eventually rescheduled for 6:00pm on June 20, 2016 at the Kuss Middle School Cafeteria because of a scheduling conflict with the City Council's budget hearings.)
- i. The Commissioners received draft language and information on certain citizen's relief mechanisms (free petition, initiative petition, referendum petition, and recall petition) and discussion points from the consultants since the last meeting. These citizen relief mechanisms exist in most charters throughout MA.

Ms. Contreas explains a free petition would allow a person to require the city council to consider an issue. If a certain amount of signatures are obtained the city council must conduct a public hearing on the issue. The free petition guarantees access to a city council public hearing but the city council is not required to take any action.

Ms. Contreas then explains an initiative petition is a step up from a free petition and is an action that the community wants that the city council hasn't acted upon. It is a long multi-step process requiring a number of signatures to the City council asking for a certain action. The city council will act or not act, accept the initiative or not, or pass an alternative substitute measure that will be considered a rejection of the original initiative petition. The citizens will then be required to gather additional signatures to put the question on the ballot for the voters to decide the issue. The charter provisions will provide a time line, a procedure to be followed, and identify who does what and when they do it.

Ms. Contreas then explains a referendum petition is used when the city council has acted and the citizens are not happy. It is a shorter process and has a shorter timeframe. It requires a number of signatures be obtained in order to bring the question to the voters who will decide if they approve of the council's action and want to keep it or not.

Ms. Contreas then addresses the recall initiative which has procedures different from what the city currently has. They provide better and clearer direction, require the recall election to be a separate election, and if the person is recalled the vacancy will be filled by the applicable charter language regarding filling of vacancies with no need for an election.

There are other options such as having non-binding public opinion advisory questions put on the ballot as well.

- j. The Commissioners now address Section 4-4 (c) Health Insurance once again. Ms. Contreas suggests the language dealing with health and life insurance for both the city council and the school committee should be removed from the Articles dealing with the City Council and School Committee and incorporated into the general provisions section of the new charter and be applicable to both the city council and the school committee members. A motion was made by Commissioner Norton and seconded by Commissioner Assad to move the language regarding health and life insurance coverage to the to be written general provisions section of the charter. Motion carries 9-0.

Ms. Contreas proposed some language for Section 4-6 and after much discussion it was agreed to keep the language of 4-6 Tabled.

Section 4-7 is a new section that addresses the "Interference with Administration" prohibition. After discussion a motion was made by Vice Chair Bartley and seconded

by Commissioner Silvia to accept Section 4-7 in its entirety. Motion carries 8-1 with Commissioner Robillard opposed.

Section 4-8 is a reformatted version of the old Section 4-6 and the numbering of this section has changed from the old 4=6 to a new section 4-8. A motion was made by Commissioner Assad, seconded by Commissioner Cusick to accept the reformatted section 4-8. Motion carries 9-0.

- k. The Commissioners now continue deliberations on Article 6 Finance and Fiscal Procedures. Chairman Miozza states the Commission has previously accepted the language of Section 6-1, Section 6-2 with the change to 75 days instead of 60, Section 6-3 with the change to 45 days instead of 30, Section 6-4 was tabled. Section 6-5 was approved as amended, Section 6-6 was to be addressed, and Section 6-7 was to be renumbered from 6-6 to 6-7. Miozza recommends voting independently on Section 6-6 concerning language for an independent audit and then consider action on a forensic audit.

A motion to adopt Section 6-6 as written then have a discussion on a forensic audit was made by Commissioner Norton and seconded by Vice-Chair Bartley. Motion carried 9-0.

After considerable discussion on including language requiring a forensic audit a motion was made by Commissioner Robillard to have a full blown forensic audit from an outside independent firm of all accounts and positions in city government every ten years. There was no second on the motion and the motion failed.

#### **LIST OF COMMUNICATIONS**

- a. Letter from Dennis Polselli
- b. Letter from Atty. Machado
- c. Letter of thanks from the Lifetime Learning Group
- d. The Diman Agreement

Commissioner Robillard makes a motion to accept and place on file the correspondence found in a-d above. Motion seconded by Vice Chair Bartley passes 9-0

#### **Adjournment**

Motion made by Commissioner Robillard to adjourn the meeting, seconded by Silvia. Motion carries 9-0.

Chairman Miozza close the meeting at 7:56pm