

## **Charter Review Commission Meeting Notes – October 22, 2018**

Attendance - Karen Farber, Richard Olson, Ned Kitchel, and David McConnell attended the meeting in person while Dave Goldberg and Sean Mahoney attended via conference speaker phone. Mary Nelson, Bill Lunt, and Rachel Reed were neither present in person or via telephone.

Also in attendance – Nathan Poore, Amy Tchao, Amy Kuhn and Caleb Hemphill.

Chair Farber opened the meeting at 5:45 and recognized that a quorum could not be achieved with only four of nine members present in person. All attending in person or via telephone agreed to continue the meeting while acknowledging it could not be considered an official meeting of the Charter Commission nor could there be any action taken at the meeting.

### **1. Discussion with the Town Attorney regarding most recent legal opinion on the proposed Charter revisions.**

Amy Tchao described an amended legal opinion on the proposed charter revisions, specifically those proposed revisions that are included in the Nov 6, 2018 referendum ballot, Question 2. She specifically outlined concerns about Section 402, where proposed language would exclude both town employees and library employees from serving on the School Board. She cited the following from her letter: “I have discovered an issue with one of the recommended changes to the Charter. The Commission’s effort to make reciprocal a number of parallel provisions in the Charter pertaining to the Town Council on the one hand and the School Board, may have led to an unintended consequence that may be contrary to law in one specific instance. The companion provisions at issue involve sections of the Charter dealing with the qualifications of Town Councilors (Section 202) and School Board members (Section 402).

Specifically, the proposed amendment to Section 202 governing the qualifications of Town Councilors clarifies that, in addition to a Town employee, neither a School Department employee nor a Falmouth Memorial Library employee may serve as a Town Councilor. The proposed amendment to Section 402 governing the qualifications of School Board members was intended to provide a similar, reciprocal restriction on the qualifications of School Board members as was proposed by the amendment in Section 202; thus, it states that, in addition to a School Department employee, neither a Town employee nor a Falmouth Memorial Library employee may serve as a School Board member.”

Amy Tchao further stated that she regretted this oversight, but she thought it was important to bring it to light as soon as possible. She went on to state that she recommends that the proposed change to Section 402 of the Charter prohibiting town and library employees from serving on the Falmouth School Board be removed from the Charter in the event that the slate of Charter revisions is approved by the voters on November 6<sup>th</sup>. Under 30-A MRS § 2104, the municipal officers have the authority to determine that a specific amendment to the charter should be considered and, by order, can propose that the proposed amendment be placed on a ballot at the next regular municipal election to be held at least 30 days after the order is passed, which in this case will occur in June of 2019. The Town Council thus has the authority, following a hearing, to remove the potential constitutional infirmity contained in Section 402 as amended, prior to the entire Charter revision taking effect on July 1, 2019.

Nathan Poore then explained that it's also important to understand the options that are not available including pulling the item from the Nov 6 ballot or having the Charter Commission proceed with amendment for June rather than the Town Council.

The members of the Charter Commission that were present did not have any specific questions about the substance of the matter but did discuss process and whether they should try to informally express some sort of sentiment of support for what is outlined in a proposed resolution. It was determined that Chair Karen Farber would offer a statement to the Council at their meeting later this evening.

## **2. Resolution on proposed Charter revision and recent legal opinion.**

No action could be taken as there was no quorum for the meeting.

The conversation concluded at 6:30 PM.

Notes prepared by, Nathan Poore