

CITY COUNCIL

AND CITY STANDING COMMITTEE

**Special Ordinances & Administration Meeting**

**Monday, April 26, 2010 – 6:30 p.m.**

**Kyrouz Auditorium – City Hall**

**Present: Chair, Councilor Sefatia Theken; Vice Chair, Councilor Anne Mulcahey, Councilor Bruce Tobey**

**Absent: None.**

**Also Present: Councilor Hardy; Councilor Paul McGeary; Linda T. Lowe; Ab Khambaty; Fred Cowan; Joseph Grace**

**The meeting was called to order at 6:30 p.m.**

**1. *Review of the City Charter***

**Councilor Theken** explained this meeting was called on the 10 year review of the City Charter as is required by that document and opened the public hearing. She indicated that former City Councilor Jeff Worthley had sent her an email expressing his interested in being involved in a review committee on the Charter Review should one be formed.

**Linda T. Lowe**, City Clerk gave the Councilors and the public an overview on what the City Charter review involved from Charter Revisions under Charter Sec. 10-1(b) (memo on file). There are some limits to the charter review when you're not using an elected Charter Commission. This review would be conducted pursuant to the Home Rule Procedures in MGLc.43B for home rule charters. Every municipality has the power to amend its existing Charter so long as amendments are in compliance with Chapter 43B. There are, however, certain matters which may be amended only by means of a Charter Commission. As the O&A conducts its 2010 review, it should keep the limitations expressed in MGL c43B Sec. 10 in mind. "Only a Charter Commission elected under this chapter may propose any change in a charter relating in any way to the composition, mode of election or appointment, or terms of office of the legislative body, the Mayor, or City Manager or the Board of Selectmen or Town Manager". For example, the Committee may not propose amendments to sec. 3-11 governing a vacancy in the office of the Mayor or sec. 4-5 concerning a vacancy on the School Committee; however, the Committee may propose changes to sections 7-1 to 7-3 relating to reorganization plans. In other words, everything else is subject to review and to amendment if that what's the review committee proposes. The review committee will not make the changes but produce a report. This committee will produce a report, giving it to the O&A Committee as proposed update changes to the City Charter. Then O&A would make their recommendations to the City

Council. This is a home rule charter and why you have flexibility where you can make changes to it. Chapter 43 B is the home rule law which what you may and may not do.

**Councilor Theken** asked that Ms. Lowe's memo be placed on the web site. She noted this is a ten-year update and not to expect all changes to happen quickly. She asked if the home rule procedures be changed.

**Ms. Lowe** responded this is a home rule charter and why you have flexibility where you can make changes to it. Chapter 43 B is the home rule law that governs what you may and may not do with home rule charters. The primary restriction to keep in mind is anything having to do with the manner of election.

**Joseph Grace**, 75 Holly Street noted he was on the last charter commission; there were only two. He would like to go before the state legislature and ask them every 10 years that a question go on the ballot, "Shall there be a charter commission" because there's no way to get enough signatures to have charter commission. He felt a charter commission was the right place to make changes to the charter. A charter should be voted on by the public. That's how a charter is made. Sometimes you vote on the whole charter; sometimes you put questions separately. It's never going to happen again unless something goes before the State legislature asking for a Charter Commission. You need 5,000 signatures. It's too hard to do. We spent almost a whole year meeting once a week to do the Charter over again.

*Councilor Tobey entered the meeting at 6:37 p.m.*

**Councilor Theken** asked Former Councilor Abdullah Khambaty to join a review committee as well as Mr. Worthley.

**Mr. Khambaty** stated the charter says that you don't have to go to the state that there must be a review of the charter every zero year. But it doesn't say every zero year you can establish a charter commission. It depends as to what kind of review would you like to do. What you are doing is not a public hearing. You, as a body, are trying to get the input on what area of the charter you would like to make changes. That's what you can do. But you can't turn around and say what is written in it you can change. For example, you can't change the title of the administrative assistant to the Mayor. You can't drop the word "Administrative Assistant", nor "to the Mayor". You can't say that person would be a Chief Administrative Officer – it isn't. It is very easy-there is in the charter checks and balances. If you were to read chapter 1, that tells you what it is and isn't. The details for change can be worked on. School members can't on their own do certain things without abiding by the rules and regulations. You can't hire, for example, a Community Development Director without that person being selected without the help from the Planning Board. It's not just three of you, but you can ask other people to sit with you and go through chapter by chapter and see if there's anything we can change. There are certain things in the charter paragraphs that need to be changed. Why it should be changed is from discussion amongst you. The City Councilors could look at combining the City's Purchasing Department with the School Department's purchasing; that is something you could look at. He felt Councilor Tobey could help the Committee quite a bit. He noted the School Committee membership used to be every three years in a staggered way. He understands why it was changed when in his last year as a School Committee member, some of the members felt that they should throw everybody out and then all have to run. In the last election, only three new members were elected. What did we gain? That should be looked at again. If you try to do that, now you have to have a charter commission.

**Councilor Theken** stated Mr. Khambaty was willing to be on the Charter Review Committee, reminding him he'd already agreed twice. She wanted this evening to proceed to give everyone an opportunity to express what they wanted to see changed, and this was just the first step. She would appreciate his attendance at those meetings when he can. She'll be talking to Ms. Gilman, School Committee Chair, to see who from their membership might be able to be appointed to the Charter Review Committee.

**Mr. Khambaty** stated he was willing to help again and to participate.

**Councilor Theken** closed the public hearing on the Charter Review. She will be looking forward to Mr. Grace and Mr. Khambaty's input.

**Councilor Tobey** noted when he came on as City Solicitor in 1982 there were piles of paper on his desk; one was dealing with the aftermath of the 1980 review. It was inconsequential issues like commas, semi-colons, capitalizations. It required expense; required staff time; which had to be on a ballot and voted on. It complicated the election process. In his opinion, we shouldn't knock ourselves out on a word-by-word review, but rather, take this as an opportunity to show the community that the questions that really need to be considered are fundamental and large: Is this the right form of government? Are the term structures appropriate? Is the allocation of seats at large vs. ward appropriate, balanced? It's the history of 35 years to be considered. Please don't get caught in the same trap of commas, semi-colons and capitalizations that hampered the Council in 1980.

**Councilor Theken** hoped that wouldn't be the case. She remembered in 2000 that O&A took a broader view in that review. She wasn't sure they could change terms on the charter, so they're going to take what they can and can't do; and the Charter Review Committee, will give input to the O&A to bring it to the full City Council.

## **2. Other Business**

**Councilor Theken** she received a notice from the City Clerk's office that during the municipal code review and update that there was a motion on the bus stop on Main Street and Pleasant Street, which she read to the Committee (on file). It was approved by the City Council and had a trial period of 120 days. This was Gloucester City Council CERTIFICATE OF VOTE Certificate Number: 2009-142, voted Tuesday, June 16, 2009. This is so the City Council can make this change a permanent one.

**MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council that the Gloucester Code of Ordinances, Sec. 22-283, entitled "Bus stops and taxi stands" be amended by ADDING Main Street, 170 feet from the intersection with Pleasant Street for a distance of 40 feet.**

**Ms. Lowe** noted that the Muni-Code is an update on the municipal codes going back to 1975 for an official update anyplace that is fully compliant and up to date. This company is the biggest municipal ordinance company in the country. They will update it up to the date she gives them and will become part of the new website creating a link to it.

**Councilor Theken** noted that the Committee will be updated by the City Clerk when this effort is completed. She thanked Ms. Lowe for her effort.

**Ms. Lowe** gave credit to her office and to the Community Development office.

*Councilor McGeary entered the meeting at 6:56 p.m. creating a quorum of the City Council.*

**Councilor Theken** noted next Monday will be a regular meeting of the O&A.

A motion was made, seconded and voted unanimously to adjourn the meeting at 6:57 p.m.

**Respectfully submitted,**

**Dana C. Jorgenson**

**Clerk of Committees**