

Date: August 13, 2013
To: Montpelier City Council
From: Montpelier Charter Revision Committee – Elizabeth Dodge, Michael Doyle, Earl Fechter, Page Guertin, Jonathan Williams, Nancy Sherman – Chair
Andrew DeVitis and Luke Rafferty – VISTA Volunteers and staff
Re: Report of the Montpelier Charter Revision Committee

In October 2012, the Charter Revision Committee received its charge, “to analyze the contents of the city’s charter regarding anachronisms and items to be deleted, amended, or added.” The six committee members have reviewed the 14 subchapters of the charter in detail, gathering input from lawyers and professionals who have knowledge and experience related to municipal charters, city staff, and other reliable sources. We have researched state statutes and other municipal charters in our effort to propose revisions to the Montpelier Charter so that the City of Montpelier has the authority and responsibility to conduct business in a manner that best serves the long term interests of all residents.

We submit our work product to the council (see MplrChrtrREVISIONS 8.01.2013). Our proposed revisions are clarifications and updates of the charter text. The committee recommends reorganizing some sections for clarification, and when text moves from one section to another, it is underlined and appears like new text, even though it has been in another part of the charter. There are many recommendations for deleting obsolete and unnecessary charter text. Numerous deletions are replaced with new language that is consistent with current policy and procedures of city government, or with a reference to the general laws of the state that define that charter provision.

The committee has been cautious about recommending significant changes to the charter, except when it is appropriate to recommend adding language describing a current procedure to replace language that is archaic, incomprehensible, or contradictory. When particular standards or procedures are appropriate for the Montpelier city government and distinct from general law, the committee recommends new language to include them in the charter. Similarly, references to general laws of the state are included in our recommendations when they are the best definition of how city government should operate.

A brief summary of recommended changes to each subchapter follows, although the committee urges the council and interested residents to read our complete document which includes comments from the advisers who generously gave their time to answer numerous questions as we carried out our charge and worked our way through the charter.

The committee strongly recommends all the additions, changes, and deletions.

~~[with one exception. The new text proposed for addition to § 101(b) which addresses Fire District No. 1 is a significant change that is beyond the scope of the committee’s charge. We~~

~~include this new language in the charter document, but refer this proposition to the council for its consideration.]~~

SUMMARY ~ MONTPELIER CHARTER PROPOSED REVISIONS

August 7, 2013 ~ See also MplrChtrREVISIONS 8.07.2013

Recommendations for Deletions, Amendments, and Additions to the Charter

Subchapter 1: INCORPORATION AND GRANT OF POWERS

- **§ 101(b) City of Montpelier** This new language is a clarifying update and a legal formality that allows closure and termination of Fire District No. 1, created in order to access US Dept. of Agriculture loans for construction of a water system that would be integrated into the city system. This water system been consolidated into the city water system and just needs legislative approval to go out of business and merge with the city.

Subchapter 1: INCORPORATION AND GRANT OF POWERS

- **§ 104 Change of form of government** Committee, with input from advisers, recommends deletion of this unusual departure from state law; the issue of firing the city manager is addressed in subchapter 10.

Subchapter 2: CITY VOTING DISTRICTS

- **§ 201 City voting districts** New language confirms 3 voting districts for the city that are currently in place.

Subchapter 3: CITY COUNCIL

- **§ 301 Powers and duties of city council** Relocation and reorganization of existing text. New section and language listing 6 basic powers and duties of the council; acquire property, promote public health, adopt personnel policies, authorize expenditure of funds, provide for citizen participation, and set regulations for streets. Previously, the charter did not define or list the powers and duties of the council.
- Clarification about vacancies and replacement of members when absent 4 or more meetings
- Clarification about duties of president, vice president, parliamentarian
- Clarification about meetings, quorum (majority or 4 members), public meeting law
- Update of list of council appointments
- **§ 321 Ex-officio appointments** New language gives council the powers of the board of water and sewer commissioners, local board of health, and the local board of liquor control, powers which the council has exercised for many years
- **§ 322 Prohibitions and conflicts of interest** New language to go into the charter, reflecting established city policy and procedures that should be part of the charter.

Subchapter 4: MAYOR

- **§ 402 Powers and duties of mayor** Committee proposes a reorganization of

existing text with no substantial changes except requiring a statement explaining the reason for vetoing a council vote. Two “old” sections - § 404-Powers of Mayor and § 405- Duties of Mayor – are merged and become new text in § 402 with a new title Powers and Duties of Mayor. “Old” 402 text on vacancy in the office of mayor is moved into 403, also about vacancy.

Subchapter 5: CITY MEETINGS, NOMINATION AND ELECTION OF OFFICIALS_

- **§ 501 City meeting - § 506 Voter checklist** Advisers on the charter issues suggest referencing state law that defines annual meeting, notice and elections as well as deletion of old language that attempted to define these detailed procedures.
- ~~§ 5-507. Presiding officer at city meetings~~—This section is recommended for deletion, as suggested by charter advisers. City meeting and moderator are obsolete. Business is conducted by Australian ballot,
- ~~§ 508 Method of voting tax appropriation~~ This section is recommended for deletion, as suggested by charter advisers. It specified separate votes on tax appropriations for schools, general fund, and recreation. It is not necessary to have a separate ballot item for recreation, and § 807 Recreation governance states that the recreation budget shall be an integral part of the city budget, so this contradiction is deleted.
- **§ 5-512. Other Vacancies in city offices** Text from § 5-513 merged with § 5-512, as recommended by charter advisors, allowing for deletion of 5-513. Vacancies created.

Subchapter 6: SCHOOLS

The committee did not review this part of the charter. It is outside the scope of our charge.

Subchapter 7: CITY ORDINANCES

- **§ 702 Ordinance adoption, notice, and effective date** New language updates and clarifies this section, making it consistent with current procedures, including the specification that a Montpelier ordinance takes effect 15 days from the date that the council completes its adoption process. Updates to § 702 allow deletion of § 703.
- **§ 705 Violation of an ordinance** Old language in this section is recommended for deletion because the text is obsolete and partly contradictory with state law. New language references the relevant state statute.
- **§ 707 Public nuisances** Old language in this section, addressing violations by non-residents, is obsolete. New language recommended by JPG allows the city to address issues that are public nuisances and makes old language in § 708 redundant and unnecessary.
- ~~§ 708 Liability for damages~~ This section is recommended for deletion, as suggested by charter advisers because it is outside the proper authority of a charter.

Subchapter 8: BOARDS AND COMMISSIONS

- **§ 803 Board of civil authority and § 804 Board of abatement of taxes** New

language and reorganization of old language creates two separate sections for these two boards, including the features that are unique to their function in Montpelier and referencing general state law as appropriate. An advisor noted that the clerk is a member of the Board of civil authority, and it should be so stated in the charter, as well as refer to the general law section that defines the reasons you can request abatement. Updates to § 803 and § 804 allowed for deletion of § 808.

- **§ 807 Recreation governance** To clarify and update this section, the committee deletes the option to create a “bureau of recreation,” preserving 4 remaining options for governance – municipal department of recreation; delegating governance to a) appointed recreation board or b) school board or c) another existing city board or commission. In c) committee eliminates language stating “in the case of a commission, elected at large at the annual meeting of the city.” Committee revised (d) to clarify that recreation budget is an integral part “of the city budget and under the control of the city or its designee.”
- **§ 808 Council authority over boards and commission** Committee recommends this new section to address council authority to create and eliminate/consolidate boards and commissions, and remove non-participating members. In addition, future situations may arise when there is little or no interest in running for a position (Green Mount Cemetery Commission and Parks Commission are elected) or being appointed to a position (Rec Board, Conservation Com., Tree board and several others are appointed).
- **§ 809 Youth members** Committee recommends new section to give council authority to appoint youth members to boards and commissions, with qualifications and no power to vote.

Subchapter 9: ADMINISTRATION

- **§ 902. Annual city budget** Charter’s date of March 1 for the manager’s budget proposal is deleted. New language reflects current process for setting a schedule for preparing the proposed fiscal budget and council’s authority to set budget submission date.
- **§ 905. City clerk and § 906 City treasurer** Committee reorganizes text to make separate sections for the clerk and the treasurer, indicating that the authority and additional duties of the clerk are defined in general laws of the state. The treasurer is now a council appointed officer and city employee (see § 317 Council appointments). Old language in § 906 is deleted – there is no administrative code.
- **§ 908. Payment of contractual accrued liability** This entire section is deleted because it was added for a specific purpose and will not be useful or needed again.
- **§ 911. Authority of police officers** This section is deleted because the committee’s charter advisers say it is covered by general law and is redundant.

Subchapter 10: CITY MANAGER

- **§ 1001 Appointment, eligibility and qualifications** Committee recommends giving the council the authority to decide about a residency requirement for a city manager,

and allowing this decision to be made when the council prepares an employment contract with a new city manager.

- **§ 1003. Oath of office** City manager takes the same oaths as other city officers – the Oath of Allegiance to the State and the Oath of Office, as prescribed in the State Constitution and as they appear in subchapter 14 General § 1401 Oaths of office. (§ 1401 is updated to correctly and completely present Chapter II of the State Constitution § 56 Oaths of Allegiance and Office)
- **§ 1004 Removal of city manager** Revisions are recommended for this section, referring to general law and the city manager’s employment contract that address conditions for dismissal rather than defining a complex process in the charter.
- **§ 1005. Vacancy in the office of city manager** Text is revised to indicate that during vacation and planned absences, the city manager designates an acting manager to perform the duties of the office, most likely the assistant city manager. Council would appoint an acting city manager in the event that the city manager is incapable of performing the job; is medically unable; or fails to make the appointment.
- **§ 1007. City manager appointments** Committee removes obsolete offices; clarifies that city manager has authority for both appointments and removals; updates list of currently appointed positions; recommends adding that appointments serve indefinitely or as defined by contract, unless removed by the city manager.
- **§ 1008. Termination of appointments** Deletion of this section is recommended. Committee and charter advisers find it confusing and controversial. It is unnecessary and redundant because the city manager has power to hire and fire (§ 1006).

Subchapter 11: ~~INDEBTEDNESS; SINKING FUNDS;~~ BONDS AND NOTES FOR IMPROVEMENTS

- **§ 1110. Debt limits** All text is recommended for deletion and replacement with one new sentence that references general laws of the state. Using the general statutory debt limit allows the council flexibility to develop and revise a debt management policy as circumstances dictate. Also, tying the city’s debt limit to the general statutory formula allows the statutory exclusions to the debt limit calculation to apply.
- **§ 1113. Advertisement** All text is recommended for deletion because it is archaic. New text is one sentence that references general laws of the state.
- **§ 1119. Temporary loans in anticipation of taxes and for current expenses** All text is recommended for deletion and replacement with a new sentence that references general laws of the state. The new text also addresses loans for current expenses and allows deletion of §1120.
- **§ 1122. Special indebtedness for water purposes, sewage disposal, and heat improvements** New text that is clear and comprehensible is recommended, replacing the old, obsolete text.
- **§ 1125. Budget surplus and deficit** New section is recommended so that the charter confirms that the city council has available to it all of the alternatives under the general statute.

Subchapter 12: ASSESSMENT AND COLLECTION OF TAXES, WATER AND HEAT RATES

- **§ 1201 Assessment of taxes and establishment of tax rate** This section establishes that the council shall assess taxes as the voters have approved in a vote on the budgeted tax appropriation amount for support of city departments, etc. New, additional language offers opportunity to change the way at the fiscal budget is approved, if at some time in the future, the council or voters want to change from voting on the budgeted tax appropriation amount and vote on the total budget amount.
- **§ 1202. ~~Warrant and a~~ Notice of tax bill and due date** through **§ 5-1203. Tax payment schedule** Text edits and reorganization in these sections to make them consistent with current procedures and ordinances on preparation of tax bills, including reference to “due date,” accommodating installment billing, eliminating different treatment for resident and non-resident taxpayers, applying penalties to just the installment amount overdue rather than the whole tax amount.
- **§ 1204. Delinquent taxes** All text is recommended for deletion because this topic is covered in additions to § 1205 Warrants on delinquent taxes, water, sewer, thermal energy bills

Subchapter 13: ~~PUBLIC WORKS;~~ SPECIAL ASSESSMENTS, TAKING PROPERTY FOR PUBLIC PURPOSES

- **§ 1301 Taking property for public purposes and § 5-1302. Procedure for taking property** Committee strongly recommends incorporating all new language in these two sections that present the city’s current procedure for taking property for public purposes. Old text is recommended for deletion because it is complicated and based on taking property for highways. Including the new language allows for deletion of several other sections with old, out of date language, specifically §§ 1306, 1314, 1315, 1316, 1317, 1318, 1319, and 1320.

New text in 1301 provides for notice to affected property owners and gives council authority to construct infrastructure, improvements, facilities “as public health or public good require.”

New text in 1302 sets two-part procedure for taking property. For highways and urban renewal, council proceeds in same manner as provided by law. When city determines real estate is necessary and owner refuses to sell at reasonable price, public hearing to determine damages/payment to interested persons; payment made before taking possession. If disagreement on payment, resolution processes defined.

- **§ 1311. ~~City sheriff~~ Tax collector authority to sell property** Edits replace the obsolete title “city sheriff” with reference to the correct city officer.

Subchapter 14: GENERAL

- **§ 1401 Oath of allegiance, oath of office** Committee recommends edits so that the

charter includes the full text of the Oath/Affirmation of Allegiance and the Oath/Affirmation of Office, as prescribed by the Constitution of the State of Vermont, chapter 2, § 56.

- **§ 1404 Continuation in office** All text is recommended for deletion because it was a transitional provision that is no longer useful or necessary.
- **§ 5-1405. Amendment of charter** Update of text and reference to general law is included to define the process for charter changes.
- **§ ~~5-1412~~. Charter effective** This section is recommended for deletion because the charter became effective long ago, and this provision can be safely removed.