

FINAL REPORT  
of the  
NEWTON CHARTER COMMISSION

September 3, 1970

To the Honorable Board of Aldermen:

In accordance with the provisions of the Home Rule Procedures Act, Chapter 43B of the General Laws, the Newton Charter Commission submits herewith its Final Report to the Board of Aldermen.

The Report includes the text of the proposed new charter, explanatory material, and a statement by the commission minority.

We respectfully request that you order the proposed charter to be submitted to the voters of Newton for their approval at the next regular city election.

Respectfully submitted,

(Mrs.) Florence R. Rubin  
Chairman

Adelaide B. Ball  
Clerk

## FINAL REPORT OF THE NEWTON CHARTER COMMISSION

To the People of the City of Newton:

The proposed Charter submitted by the Newton Charter Commission herewith is the result of 33 formal meetings, all open to the public, and three public hearings, one held at Newton City Hall on December 16, 1969, a second held at Newton City Hall on January 20, 1970, and a third held at Bigelow Junior High School on July 22, 1970. Prior to the holding of the third meeting, the Newton Charter Commission adopted a preliminary report, including the text of the then-proposed Charter, all of which was published in the Newton Villager and Transcript of July 2, 1970 and mailed to every household in Newton.

The preliminary report was reviewed by the Attorney General of the Commonwealth who noted that it was a "document which reflects hard work, thoughtful discussion and careful draftsmanship as well as imagination on the part of all connected with the Charter."

Since the date of the third public hearing, the Charter Commission has reviewed all of the oral and written comments received on the proposed Charter, has made substantial changes therein, and has now adopted and is submitting this Final Report.

The present Charter of the City of Newton was adopted by the General Court of Massachusetts 73 years ago as Chapter 283 of the Acts of 1897, when the population of Newton was about 30,000. Since then, the Charter has been modified,

piecemeal, by a whole series of special acts of the General Court and by Newton's acceptance of General Laws applicable to cities and towns generally. The Charter Commission, in its deliberations, analyzed the strengths and weaknesses of the present composite Charter, tried to project the needs of the City and its citizens for the future, considered material describing structures of government in other municipalities, invited statements and testimony from all of the elected officials and many of the appointed officials of the City of Newton, met with representatives of local civic organizations, consulted with experts from within and without the City, and then tried to put together a proposed new Charter which would retain the best of what we had, clarify ambiguities, eliminate irrelevancies, and adopt new approaches where they seemed desirable.

Because of the enormous scope of the task of reviewing the many Special Acts and General Law acceptances, considering and passing upon alternative suggestions and drafting a readable document, all within the ten-month period prescribed by state statute for completion of our task, the Newton Charter Commission engaged the professional services of Attorney Michael P. Curran of Municipal Consultants, Incorporated. He or his associates attended every meeting, furnished requested information and statistics, drafted and redrafted sections of the Charter to conform with the decisions of the Charter Commission, and generally made himself available as needed. Without his help, this Report could not have been completed on schedule.

Halfway through our activities, the Newton Charter Commission lost, through death, the services of H. James Shea, Jr. Jim Shea was a devoted, conscientious, and skilled public servant with an extensive knowledge of government and the Newton political scene. He was a special person, and we shared the dismay and sadness that his death brought to all his friends. His seat was filled by the appointment of Champe A. Fisher, the runner-up in the 1969 Charter Commission election. Mr. Fisher participated fully in the activities and decisions leading to this Final Report.

The proposed new Charter which is part of this Report has been organized on the basis of function and with a view to making the instrument readable without sacrificing clarity and completeness. The principal changes which it makes in the old Charter are the following:

1. The office of Mayor has been made stronger by making it a full-time, four-year (instead of two-year) position, with clearer powers of appointment and removal of city officers; by authorizing the Mayor (for the first time) to submit reorganization plans which become effective unless rejected by the affirmative vote of the aldermen; and by providing for popular election to fill a vacancy in the office of Mayor if more than nine months of the term remain (the President of the Board of Aldermen now automatically succeeds).

2. The size, term of office, and method of election of

the Board of Aldermen is unchanged. The legislative function of the 24-man unpaid Board of Aldermen has been strengthened by permitting the Board to elect (for the first time) supporting staff to assist the Board; by permitting the Board to delegate (for the first time) some of its time consuming ministerial functions to appropriate City agencies; and by providing for popular election to fill vacancies which occur within the first fifteen months of the 24-month term (until the adoption of the recent referendum, such vacancies were filled by appointment).

3. The size, term of office, and method of election of the School Committee is unchanged. The present 9-member School Committee (which includes the Mayor, ex officio) has been assigned direct responsibility for the ordinary maintenance and repair of all school buildings (heretofore divided between the School Committee, the Board of Aldermen, and the Mayor), but with an annual ceiling established as to the maximum that may be expended on this item. At the same time, the term of office of each elected School Committeeman has been limited (for the first time) to four consecutive terms; and provision has been made for popular election to fill vacancies (now filled by appointment) which occur within the first fifteen months of the 24-month term.

4. The role of the individual citizen has been strengthened by the following provisions, all of which are new to

the City of Newton:

(a) Preliminary elections are now required so as to create clear-cut contests in the final election and to avoid the possibility of election by less than a majority vote.

(b) A Citizen Assistance Officer, to be appointed by the Mayor, is now required to process citizen complaints and inquiries directed to him by citizens or referred to him, whether through the Mayor, Aldermen, School Committeemen, or others.

(c) A five-year Capital Improvement Program, presented by the Mayor, must now be considered and acted upon annually by the Board of Aldermen after a public hearing.

(d) Initiative and Referendum procedures are now made available to citizens in order to obtain Board of Aldermen or School Committee consideration or reconsideration, and eventually to submit issues to the voters.

(e) Locally elected neighborhood area councils may, on petition of a substantial number of the voters in the neighborhood, be established by the Board of Aldermen for limited local governmental functions which do not include the power to tax or to receive or spend city funds; and these councils may be dissolved by the Board of Aldermen.

(f) Complete records (including all roll calls) of the action of the Board of Aldermen are now required to be kept and are to be made available to the public.

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5. The planning functions of the City have, for the first time, been clarified as between the Planning Department, the Planning Board, and the Board of Aldermen; and the City would now be required (for the first time) to adopt a Comprehensive Plan and to review that plan each time the Board of Aldermen considers a change in zone or in the zoning laws, an urban renewal program, or expenditures for capital improvements. In order to help coordinate the present divided-authority method of undertaking and carrying out public building construction in Newton, the City is directed to establish (a) a Designer Selection Committee to review and make recommendations on the selection of architects for all public buildings, and (b) a Design Review Committee (or Committees) to coordinate the design review process for public facilities for which an architect has been engaged.

6. A Recodification and Republication of the Ordinances of Newton must be made at five year intervals, and copies of all rules and regulations adopted by City agencies must be centrally filed with the City Clerk and be made available for public inspection.

The new Charter makes other changes too, and it now places in an integrated document the "Constitution" of the City of Newton which has been scattered among the records of the City and the General Court over a seventy-year period.

The proposed Charter is presented as a single package because we were advised by the office of the Attorney General that any other procedure would have doubtful validity.

The Newton Charter Commission urges that every citizen read the proposed new Charter and the accompanying reports and summaries. Each voter will be called upon to vote on the adoption of the new Charter at the next regular City election to be held on Tuesday, November 2, 1971.

The Newton Charter Commission trusts that its efforts will be helpful for the Newton of 1971 and for many years thereafter.

Joseph G. Bradley, Vice Chairman

Champe A. Fisher

Haskell C. Freedman

Jerome Grossman

Peter F. Harrington

Richard G. Mintz

Florence R. Rubin, Chairman

# NEWTON CHARTER COMMISSION

## MINORITY REPORT

We believe the recommended Charter will increase the cost of municipal government while slowing and overworking the mechanics of our City. Under the guise of change this charter will impede rather than improve.

Our example is the inordinate requirement placed upon the Aldermen to hold open hearings for the following:

- (a) Petitions from groups in any part of Newton to set up a Neighborhood Area Council.
- (b) Petitions to enlarge or decrease a Council.
- (c) Petitions to dissolve a Council.
- (d) The Comprehensive City Development Plan.
- (e) The Capital Improvement Plan.
- (f) Initiative Petitions.
- (g) All the former in addition to hearings for zone changes, easements, etc., conducted by committees of the Board.

Our specific objections follow:

### 1. 4 Year Term for Mayor

- (a) The present term keeps a Mayor responsive to the people who must retain the power to turn out any Mayor who is insensitive to their wishes.
- (b) Election Commission statistics show smaller numbers of voters turning out for local City elections, (50%) than for State, (80%) or National (90% plus). Consider voter turnout in off years when there is no Mayoralty contest. Since School Committee and Aldermen elections occur every two years, the turnout will be less than 50%. This arrangement of 2 and 4 year terms will not encourage good voting habits.

2. Prohibition Against City Positions

We quote Attorney General Quinn, "Article 2-4 prohibits an Alderman who has never held compensated city employment or appointed office from such employment within one year from expiration of his term, while permitting an Alderman who has previously held such office or employment to resume it immediately. Such a distinction is questionable. No such distinction is made in the Conflict of Interest Law. It might also be held to be in violation of Part 1-9 of the Constitution which provides that all inhabitants of the Commonwealth have an equal right to be elected for public employment, on the ground that if the consequences of election are different in such a vital respect, their rights are not equal."

3. Clerk of the Board of Aldermen

In the current charter, the Board appointed City Clerk is the Clerk of the Board. The new charter allows the Board to hire a separate clerk which adds unwarranted expense.

4. Limitation in Office

A School Committee member is limited to four consecutive terms without limitations placed on other elected officials. This is discriminatory.

5. School Building Maintenance and Repair

We consider excessive the 4% limit of the previous years School budget for Maintenance and Repair. In 1971 this

equals \$846,000. We prefer 2.3% or \$487,000.

6. Planning Department

Only the Planning Department is specified. This Department is no more important than other City Departments, therefore leave it out, or describe all Departments.

7. Comprehensive Plan

The requirement that the Aldermen must adopt this plan results in inflexibility. It prevents easy modification because changes require a public hearing each time a modification is suggested.

8. Nominating Signatures

A very democratic procedure in the present Charter is the small number of signatures required for nominations (Mayor 100, School Committee and Aldermen at-large 50, Ward Aldermen 25). Thus the ordinary citizen can be heard by running for office. The increase required (Mayor 400, School Committee and at-large 150, ward 50) is unwarranted since the new Charter has provided for preliminary elections which serve to reduce candidates to appropriate numbers for final elections.

9. Neighborhood Area Councils

This is fine for grass roots participatory government in gigantic cities, but isn't required for Newton which has a successful history of locally active groups. To require legalization exacerbates problems and fosters local pressure groups.

10. Public Hearings

Too many public hearings are required. To add the extra burdens of this Charter would lead to a flight of Aldermen from public service.

11. Initiative and Referendum

We favor; however, 15% of the voter's (7257) signatures are required for an initiative petition on the ballot but only 10% (4838) for a referendum petition.

12. Ballot Clarification

Our attempt to place in this Charter an article clarifying the locations of office on the ballot was unsuccessful. Our purpose was to simplify the physical arrangement of the ballot so that every voter would realize that he could vote for all eight contests for School Committee, 16 Alderman at-large and one from his ward, in addition to the Mayor. Unfortunately, past history indicates that the number of people who leave the voting booth without voting completely could have changed the results of the elections.

13. School Committee and Aldermanic Vacancies

The small number who voted in July on the referendum for filling aldermanic vacancies by special election suggests that only a small minority will vote at special elections at an election cost of \$19,000. We feel a better method for filling vacancies would be to appoint the runnerup from the last election. If no runnerup is available then the seat could be filled by appointment by the present Board and in the case of the School Committee by the Board and the School Committee.

14. Retaining Present Method of Electing the School Committee (4-1A)

Under Massachusetts law, School Committees are completely autonomous in passing operating budgets and no City officials have the right of veto. Therefore, it was our desire to design some method for electing members to the Committee which would make it easier to provide for better minority representation. We attempted to provide a more responsive body by providing for some direct ward representation. This Charter has strengthened the power of the Committee by putting budgetary control of building maintenance and repair under it without providing any other checks or balances. Since over 50% of the total city budget goes for schools we feel that this charter is unacceptable.

So that the long hours and dedicated work of this Charter Review Commission will not have been fruitless, it is our hope that the Executive and Legislative branches of Newton City Government will extract the worthwhile articles from this Charter and take the necessary steps to add them to our present charter.

Respectfully submitted,

Adelaide B. Ball

Alvin Mandell

2 September, 1970

The following is a brief summary of the proposed charter:

ARTICLE 1 provides for the continuation of the City of Newton as a corporate entity and reserves for the city all the powers to which it is entitled.

ARTICLE 2 describes the composition, method of election and of filling vacancies, term of office, and powers and duties of the Board of Aldermen. The size of the Board remains at 24 members -- 16 to be elected at large and 8 by wards. No salary is provided for Aldermen. In order to assist them in the performance of their duties, the Board of Aldermen is given the power to choose a Clerk of the Board and such other staff help as they deem necessary. The Board is also empowered to transfer some of its functions to appropriate city agencies. Vacancies occurring before the last nine months of the 2-year term are to be filled by special election.

ARTICLE 3 describes the term of office, the method of filling a vacancy, and the powers and duties of the Mayor. The office of Mayor has been strengthened by making it a full time position, by increasing his term from 2 to 4 years, and by requiring a 2/3 vote of the Board of Al-

dermen to reject the Mayor's choice of appointees for most of the offices under his authority. The Mayor retains control over removal of his appointees, and his veto power has been clarified. The Mayor is directed to appoint a Citizen Assistance Officer who shall be responsible for processing citizen complaints, keeping a grievance file, and assisting the public in its dealings with local governmental agencies. A vacancy in the office of Mayor during all but the last nine months of his term will be filled by a special election.

ARTICLE 4 describes the composition, method of election and of filling vacancies, term of office, and the powers and duties of the School Committee. The present size, term of office, and method of election are retained -- 8 members to be elected at large, one from each ward, for two-year terms. The Mayor continues to serve as the ninth member, ex officio. No person, however, shall be eligible for election to the School Committee for more than 4 consecutive terms. Vacancies in all but the last nine months of a term are to be filled by special election. The power to provide ordinary maintenance and repairs on all school buildings is transferred from the Mayor and the Board of Aldermen to the School Committee up to a max-

imum expenditure equal to 4% of the School Department's annual operating budget. Additional sums may be appropriated for this purpose by the Mayor and the Board of Aldermen.

ARTICLE 5 describes procedures for the adoption of the annual budget and for long-range fiscal planning. The present balance of power in regard to the budget is retained by having the Mayor prepare and submit the budget and allowing the Board of Aldermen to cut but not increase recommended appropriations. Changes in procedures in regard to the Capital Improvement Program call for publishing the summary of the report in a newspaper, a public hearing, and adoption by the Board of Aldermen of this 5-year fiscal plan.

ARTICLE 6 describes procedures for reorganizing the administrative departments to achieve more efficient, orderly, and convenient conduct of the business of the City. The Board of Aldermen and the Mayor may submit plans to reorganize or abolish existing city agencies or to create new ones. A reorganization plan submitted by the Mayor may not be amended by the Board of Aldermen and shall take effect, unless rejected by the Board of Aldermen, within 90 days of submission.

ARTICLE 7 describes the planning function and outlines the role of the Planning Department, the

Planning Board, and our elected officials in regard to matters affecting the future development of the city. The Planning Department is to formulate a Comprehensive Plan, help prepare the Capital Improvement Program, assist the Planning Board, and advise the Mayor and the Board of Aldermen about action relating to the development of the city. The Comprehensive Plan is to be adopted by the Board of Alderman and may be modified by them from time to time. It is to serve as a guide to all aldermanic action concerning land use. The Planning Board is to be composed of 5 appointed members who shall serve for 5-year staggered terms. It is a citizen agency which shall be consulted on all matters relating to the Comprehensive Plan.

ARTICLE 8 describes nomination and election procedures. All city elections shall be nonpartisan, and preliminary elections shall be held in October when there are more candidates than twice the number required to be elected to a particular office. The number of signatures required on nomination papers has been increased to 400 for Mayor, 150 for Alderman at Large, 50 for Ward Alderman, and 150 for School Committeeman. Candidates will draw lots to determine the order in which their names shall appear on the ballot.

ARTICLE 9 describes the organization of neighborhood subunits of government to encourage citizen involvement in government through the establishment of neighborhood councils. The establishment of a neighborhood service area may be requested by a petition signed by 20% of the registered voters in the area concerned. The Board of Aldermen may approve, disapprove, or modify the petition; set the boundaries for the neighborhood area; dissolve it at some later date. A neighborhood council shall consist of 5 to 9 voting members elected for a 2-year term by the voters in the particular neighborhood, and the ward aldermen representing that area who shall have no power to vote. It shall have only such powers and functions as authorized by the Board of Aldermen. A neighborhood area council may accept funds from public and private sources, excluding the City of Newton, and its financial records shall be subject to city audit.

ARTICLE 10 describes procedures whereby citizens may introduce measures before the Board of Aldermen and the School Committee with the eventual placement of such measures on the ballot for decision by the voters. The signatures of 50 voters on a petition seeking the passage of a measure makes a public hearing mandatory. An initiative

petition signed by 15% of the registered voters of the city ensures that the measure will appear on the ballot if the Aldermen or the School Committee do not take favorable action. This article also describes referendum procedures to allow the placement of a question on the ballot so that the voters may repeal a measure passed by the Board of Aldermen or the School Committee. To allow enough time for a referendum petition to be circulated, and yet not allow dangerous delays in the legislative process, most measures do not become effective until 20 days after adoption. A referendum petition requires the signatures of 10% of the city's registered voters which must be collected during that 20 day period.

ARTICLE 11 describes general provisions dealing with certificates of election, oaths of office, meetings of qualified voters, recodification and publication of the ordinances, direction to the Aldermen to establish improved procedures for the construction of public buildings, and other matters which do not properly fall within the content of any other article.

ARTICLE 12 describes transitional provisions that assure the continuity of government and the orderly transfer of records and duties after the new charter is adopted.