

Newburyport City Council

Special (Remote) Meeting

January 23, 2021, 10:00 a.m. (via ZOOM)

Agenda

1. **Call to Order** (1 minute)
2. **Introduction** (1 minute)
 - a. 2021 goals
 - b. Committee assignments for 2021
 - c. Charter Article 2 ("Legislative Branch")
 - d. Newburyport Code Chapter 2, Article II ("City Council")
3. **Council Rules and Practices** (87 minutes)
 - a. Committee minutes
 - b. *@cityofnewburyport.com* email addresses
 - c. Other matters
4. **Adjournment** (1 minute)

Newburyport Charter

ARTICLE 2. - LEGISLATIVE BRANCH

Sec. 2-1. - Composition, term of office.

- (a) *Composition.* There shall be a city council of eleven members which shall exercise the legislative powers of the city. Five of these members, to be known as councilors-at-large, shall be nominated and elected by and from the voters at large. Six of these members, to be known as ward councilors, shall be nominated and elected by and from the voters from each ward; one such ward councilor to be elected from each of the six wards into which the city is divided under section 7-7.
- (b) *Term of office.* The term of office for all councilors shall be for two years each, beginning on the first Monday in the January succeeding their election, except when said first Monday falls on a legal holiday, in which event the term shall begin on the following day, and until their successors have been qualified.
- (c) *Eligibility.* Any voter shall be eligible to hold the office of councilor-at-large. A ward councilor must be a voter in the ward from which election is sought. If a ward councilor or a councilor-at-large removes from the city during the term for which elected, such office shall immediately be deemed vacant and filled in the manner provided in section 2-11. If a ward councilor removes from the ward from which elected and less than six months of the term remain, the ward councilor who remains a resident of the city may continue to serve during the term for which elected.

Sec. 2-2. - President.

- (a) *Election and term.* As soon as practicable after the councilors-elect have been qualified following each municipal election, as provided in section 9-11, the members of the city council shall elect from among its members a president who shall serve for a one year term. The method of election of the president shall be prescribed within the rules of the city council.
- (b) *Powers and duties.* The president shall preside at all meetings of the city council, regulate its proceedings and shall decide all questions of order. The president shall appoint all members of all committees of the city council, whether special or standing. The president shall have the same powers to vote upon all measures coming before the city council as any other member of the city council. The president shall perform any other duties consistent with the office that may be provided by charter, by ordinance or by other vote of the city council.

Sec. 2-3. - Prohibitions.

- (a) *Holding other city office or position.* No member of the city council shall hold any other city office or city employment. No former member of the city council shall hold any compensated appointed city office or appointed city employment until one year following the date on which the former member's service on the city council has terminated. This provision shall not prevent a city officer or other city employee who has vacated a position in order to serve as a member of the city council from returning to the same office or other position of city employment held at the time the position was vacated, but no such person shall be eligible for any other compensated appointed municipal position until at least one year following the termination of service as a member of the city council.
- (b) *Interference with administration.* No city council or any member of the city council shall give orders or directions to any officer or employee of the city appointed by the mayor, either publicly or privately.
- (c) *Felony conviction.* Any councilor who has been finally convicted of a felony criminal offense involving misconduct in any elective or appointive public office, trust or employment at any time held by said councilor shall have deemed to have vacated office and shall not be eligible to serve in any other elective or appointive office or position under the city.

Sec. 2-4. - Compensation; expenses.

- (a) *Compensation.* The members of the city council shall receive such salary for their services as may from time to time be set by ordinance. No ordinance increasing or reducing the salary of the members of the city council shall be effective unless it shall have been adopted by a two-thirds vote of the full city council. No increase or reduction in such salary shall take effect during the term in which such increase or reduction is voted, and no change in such ordinance shall be made between the election of a new council and the qualification of the new council. Subject to appropriation, members of the city council shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties.

Sec. 2-5. - General powers.

Except as otherwise provided by general law or by this charter, all powers of the city shall be vested in the city council which shall provide for their exercise and for the performance of all duties and obligations imposed upon the city by law.

Sec. 2-6. - Exercise of powers; quorum; rules.

- (a) *Exercise of powers.* Except as otherwise provided by general law or by this charter, the legislative powers of the city council may be exercised in a manner determined by it.
- (b) *Quorum.* The presence of six members shall constitute a quorum for the transaction of business. Except as otherwise provided by general law or by this charter, the affirmative vote, taken by roll call vote, of six members shall be required to adopt an appropriation order. Except as otherwise provided by law or this charter, the affirmative vote, taken by roll call vote, of a majority of the full city council shall be required to adopt any ordinance.
- (c) *Rules of procedure.* The city council shall from time to time adopt rules regulating its procedures, which shall be in addition to the following:

- (1) Regular meetings of the city council shall be held at a time and place fixed by ordinance. All regular meetings of the city council shall provide for a period of public comment, provided however, the city council may promulgate rules that regulate such period of public comment as deemed appropriate.
- (2) Special meetings of the city council shall be held at the call of the president or at the call of any six or more members, for any purpose, by causing a notice of the meeting to be delivered in hand or to the place of business or residence of each member of the city council. This notice shall, except in an emergency of which the president shall be the sole judge, be delivered at least 48 weekday hours in advance of the time set and shall specify the purpose or purposes for which the meeting is to be held. A copy of each such notice shall immediately be posted in accordance with applicable laws.
- (3) All sessions of the city council and of every committee or subcommittee of the council shall at all times be open to the public unless another provision is made by law.
- (4) A full, accurate, up-to-date account of the proceedings of the city council shall be kept by the city clerk, which shall include a record of each vote taken, and which shall be made available with reasonable promptness following each meeting. Unless otherwise provided by law, the minutes of any executive session shall be made available as soon as their publication would not defeat the lawful purposes of the executive session.

Sec. 2-7. - Access to information.

- (a) *In general.* The city council may make investigations into the affairs of the city and into the conduct and performance of any city agency.
- (b) *City officers, members of city agencies, employees.* The city council may require any city officer, member of a city agency or city employee to appear before it to give any information that the city council may require in relation to the municipal services, functions, powers, or duties which are within the scope of responsibility of that person and within the jurisdiction of the city council.
- (c) *Mayor.* The city council at any time may request from the mayor specific information on any municipal matter within its jurisdiction, and may request the mayor to be present to answer written questions relating thereto at a meeting to be held not earlier than seven days from the date of the receipt by the mayor of said questions. The mayor shall personally, or through any designated city officer or employee, attend such meeting and respond to said questions. The person so attending shall not be obliged to answer questions relating to any other matter.
- (d) *Notice.* The city council shall give a minimum of seven days' notice to any person it may require to appear before it under the provisions of this section. The notice shall include specific questions on which the city council seeks information, and no person called to appear before the city council under this section shall be required to respond to any question not relevant or related to those presented in advance and in writing.

Sec. 2-8. – Appointments of the city council.

The council shall, by a majority vote, elect a city clerk to hold office for three years and until said city clerk's successor is qualified. The city clerk shall have such powers and perform such duties as the council may prescribe, in addition to such duties as may be prescribed by law.

The city clerk shall keep the records of the meetings of the city council. Subject to appropriation, the city council may employ such additional staff as it deems necessary.

Sec. 2-9. - Ordinances and other measures.

- (a) *Measures.* No measure shall be passed finally on the date on which it is introduced, except in the case of an emergency. Except as otherwise provided by the charter, every adopted measure shall become effective at the expiration of ten days after adoption or upon the signature of the mayor, whichever occurs first. No ordinance shall be amended or repealed except by another ordinance adopted in accordance with the charter, or as provided in the initiative and referendum procedures.
- (b) *Emergency measures.* An emergency measure shall be introduced in the form and manner prescribed for measures generally except that it shall be plainly designated as an emergency measure and shall contain statements after the enacting clause declaring that an emergency exists and describing its scope and nature in clear and specific terms. A preamble which declares and defines the emergency shall be separately voted on and shall require the affirmative vote of two-thirds of the full city council. An emergency measure may be passed with or without amendment or rejected at the meeting at which it is introduced. No measure making a grant, renewal or extension, whatever its kind or nature, or a franchise or special privilege shall be passed as an emergency measure, and except as provided by the laws of the commonwealth, no such grant, renewal or extension shall be made otherwise than by ordinance. An emergency measure shall become effective upon adoption or at such later time as it may specify.
- (c) *Charter objection.* On the first occasion that the question on adoption of a measure is put to the city council, if a single member present objects to the taking of the vote, the vote shall be postponed until the next meeting of the city council whether regular or special. If two members present shall object, such postponement shall be until the next regular meeting; but for an emergency measure at least four members present, in all, must object. This procedure shall not be used more than once for any specific matter notwithstanding any amendment to the original matter. A charter objection shall have privilege over all motions but must be raised prior to or at the call for a vote by the presiding officer and all debate shall cease.

Sec. 2-10. - City council confirmation of certain appointments.

The mayor shall submit to the city council the name of each person the mayor desires to appoint to any city office as a department head or as a member of a multiple-member body, but not including any position which is subject to the civil service law. The city council may refer each name submitted to it to a standing committee of the council which shall review each candidate for appointment and may make a recommendation to the full city council not less than seven nor more than forty-five days after the referral. The committee may require any person whose name has been referred to it to appear before the committee, or before the city council, to give any information relevant to the appointment that the committee, or the city council, may require. Appointments made by the mayor shall become effective on the forty-fifth day after the date on which notice of the proposed appointment was filed with the city clerk unless approved or rejected by the city council within the forty-five days.

Sec. 2-11. - Filling of vacancies.

If a vacancy occurs at any time in the office of a councilor elected by and from the voters at large, such vacancy shall be filled forthwith by a majority vote of all the remaining members of the city council for the remainder of the unexpired term. If a vacancy occurs, before the last six months of the term, in the office of a councilor elected by and from the voters of a ward, the city council shall forthwith order an election to fill such vacancy for the remainder of the unexpired term. If a vacancy occurs in the last six months of the term of said office, such vacancy shall be filled forthwith by a voter of the ward as elected by a majority vote of all the remaining members of the city council for the remainder of the unexpired term.

Newburyport Municipal Code

ARTICLE II. - CITY COUNCIL

Footnotes:

Charter reference— Number of members of city council, M.G.L.A. c. 43, § 59; salaries of mayor and members of city council to be set by ordinance; to receive no other compensation from the city, M.G.L.A. c. 43, § 17A; authority of council to request information of mayor, M.G.L.A. c. 43, § 19; conflicts of interest, M.G.L.A. c. 43, § 27; public contracts, M.G.L.A. c. 43, § 28 et seq.

Cross reference— Depository for bonds of city officials, § 2-4; salary of the mayor, president of the city council and city councillors, § 2-126; officers and employees, § 2-126 et seq.; assessor, § 2-151 et seq.; city auditor, § 2-171 et seq.; city treasurer/collector, § 2-271 et seq.; sealer of weights and measures, § 2-296 et seq.

Sec. 2-26. - Appointments.

All appointments shall be made by the mayor with the consent of the city council unless otherwise provided in the Charter or Code.

Sec. 2-27. - Time and place of meetings.

(a) All meetings of the city council shall be held at the council chamber in city hall in the city at 7:30 p.m., except as hereinafter provided.

(b) In case it shall be impracticable to hold any meeting at the place provided in this section, it shall be held at such other convenient place in the city as the president of the city council shall direct.

Charter reference— Time and place of regular and special meetings of council to be fixed by ordinance, M.G.L.A. c. 43, § 18(2).

State Law reference— Open meetings, notice, etc., M.G.L.A. c. 39, § 23B.

Sec. 2-28. - When regular meetings are held.

Regular meetings of the city council shall be held on the second and last Monday of each month, except when otherwise ordered by the city council. For the months of July and August, combined, the council shall schedule a total of three (3) regular meetings, each to occur on any Monday.

Charter reference— Majority of members of council to constitute a quorum, M.G.L.A. c. 43, § 18(1).

Sec. 2-29. - Special meetings.

(a) Special meetings of the city council shall be held at the call of the president or at the call of any six (6) or more members, for any purpose, by causing a notice of the meeting to be delivered in hand or to the place of business or residence of each member of the city council. This notice shall, except in an emergency of which the president shall be the sole judge, be delivered at least forty-eight (48) hours in advance of the time set and shall specify the purpose or purposes for which the meeting is to be held. A copy of each such notice shall immediately be posted in accordance with applicable laws.

(b) The mayor may at any time call special meetings of the city council, for any purpose, by causing a notice of the meeting to be delivered in hand or to the place of business or residence of each member of the city council. This notice shall, except in an emergency of which the mayor shall be the sole judge, be delivered at least forty-eight (48) hours in advance of the time set and shall specify the purpose or purposes for which the meeting is to be held. A copy of each such notice shall immediately be posted in accordance with applicable laws.

Sec. 2-30. - Performance of duties of mayor upon absence, disability.

Whenever, by reason of sickness, disability, absence from the city or other cause, the mayor shall be unable to perform the duties of the office, the president of the city council shall be the acting mayor and perform said duties, in accordance with section 3-8 of the Charter.

Charter reference— Filling vacancies in office of mayor and city council, M.G.L.A. c. 43, § 59A; duties of city council with respect to vacancies, M.G.L.A. c. 43, § 26.

Sec. 2-31. - Committees designated; membership.

There shall be nine (9) standing committees of the city council: committee on budget and finance; committee on education; committee on general government; committee on licenses and permits; committee on neighborhoods and city service; committee on planning and development; committee on public safety; and committee on public utilities; and committee on rules. Each such standing committee shall consist of three (3) members of the city council. The president of the city council shall serve on the committee on general government, as its chair, and the mayor may serve as a fourth, ex officio, non-voting member of such committee.

Sec. 2-32. - Responsibilities of committee on general government.

The committee on general government shall be concerned with supervision of city properties whose custody has not been assigned to a specific municipal department, and the following municipal departments: city clerk; city solicitor; registrars of voters, information technology; and human resources. The committee shall have charge of and supervision over the city council chambers.

Cross reference— Departments, § 2-316 et seq.; planning and development, § 2-326 et seq.; police, § 2-346 et seq.; finance, § 2-371 et seq.

Sec. 2-33. - Responsibilities of committee on public safety.

The committee on public safety shall be concerned with all the activities in the police, fire, and health departments, the harbor commission and harbor master, the animal control officer, the parking clerk, and public parking and traffic needs and regulations.

Cross reference— Police department, § 2-346 et seq.; fire department, § 2-361 et seq.; stopping, standing and parking, § 13-266 et seq.

Sec. 2-34. - Responsibilities of committee on neighborhoods and city service.

The committee on neighborhoods and city service shall be concerned with all the activities: in the department of public services with the exceptions of public parking and traffic, and of water and sewer services, including, without limitation, municipal lighting, street sweeping, and city cemeteries; and regarding youth services, the public library, the veterans agent, the parks commission and department, and the council on aging.

Cross reference— Streets, sidewalks and other public places, ch. 12; cemeteries, § 12-101 et seq.

Sec. 2-35. - Responsibilities of committee on licenses and permits.

The committee on licenses and permits shall evaluate and make recommendations on all applications for licenses and permits that come under the jurisdiction of the city council.

Cross reference— Licenses, permits and business regulations, ch. 9; committee on licenses and permits shall inspect all proposed taxing vehicles, § 15-31.

Sec. 2-36. - Responsibilities of the committee on planning and development.

The committee on planning and development shall be concerned with all the activities and jurisdictions of the office of planning and development and its director; the affordable housing trust; the conservation commission and its conservation agent; the planning board; the zoning board of appeals; the historical commission and any local historic district commissions; and the commission on disabilities.

Cross reference— Planning and development department, § 2-326 et seq.; zoning, app. A.

Sec. 2-37. - Responsibilities of the committee on education.

The committee on education shall be concerned with the proper use of school properties, and the activities and policies of the school committee and act as a liaison between the school committee and the city council on issues of education and school finances.

Sec. 2-37.1. - Responsibilities of committee on budget and finance.

The committee on budget and finance shall be concerned with all issues of city finances including issues relating to city revenues and the city budget, including, without limitation, all the activities and jurisdictions of the city auditor, city treasurer, tax assessor, and tax collector.

Sec. 2-37.2. - Responsibilities of committee on public utilities.

The committee on public utilities shall be concerned with all issues including activities and policies of the water and sewer commission, and requests from public utilities.

Sec. 2-37.3. - Responsibilities of committee on rules.

The committee on rules shall be concerned with keeping the rules of the city council.

Sec. 2-38. - No executive duties to be performed; nature of duties; access to information.

None of the committees of the city council shall perform any executive duty except as ordered by the city council, but shall perform the duties usually performed by committees of deliberative bodies. In the performance of such duties, each committee on the affairs of the department relating to which it is constituted shall at all proper times be afforded by the head of the department such information and access to books, files and records as it may reasonably require to enable it to become acquainted and keep itself familiar with the condition and workings of the various departments of the city government.

Sec. 2-39. - Reserved.

Editor's note— An ordinance adopted Mar. 12, 2018, repealed § 2-39, which pertained to approval of certain bills and derived from Code 1971, § 2-61.

Sec. 2-40. - Expenditure of money.

None of the committees of the city council shall have the expenditure of any money except by special order of the city council.

Secs. 2-41—2-43. - Reserved.

Editor's note— An ordinance adopted Mar. 12, 2018, repealed §§ 2-41—2-43, which pertained to clerk of committees—appointment, term of office, compensation; and duties and derived from Code 1971, §§ 2-63—2-65.

Sec. 2-44. - Filing of grant applications.

(a) Any application for a grant filed with any other government agency or its subdivisions, private entity, not-for-profit entity, trust or individual submitted by or on behalf of the city shall

simultaneous with said application, also be filed by the person or body submitting said application with the city clerk as a public record.

(b) For purpose of this section, a grant shall be any request for funds, goods, services, information services or analysis and/or anything of value.

(c) Within three (3) business days of receiving such an application, the city clerk shall inform each present city councillor of the existence of the filing. The communication shall include but not [be] limited to, the entity with which the application is filed, the person or body making the application on behalf of the city and a brief description of the nature of the application.

(d) This section shall apply to all appointed and elected officials and employees of the city and all boards, commissions and authorities operating within and on behalf of the city.

Secs. 2-45—2-60. - Reserved.