

Town of Groton
Charter Review Committee
Minutes July 1, 2015 (Approved)
Charter Review Committee (CRC)
Town of Groton, Groton, MA 01450 978-448-1100

Meeting Minutes - July 1, 2015

At Town Hall

Present: Jane Allen, Michael Bouchard (Town Clerk), Robert Collins, Michael Manugian (Chair), Bud Robertson, Stuart Schulman (BOS)

Not present: Scott Harker

Visitors: Lauren Goldberg, attorney of Kopelman & Paige (Town Counsel); Peter Cunningham (BOS); Anna Eliot (BOS); Michelle Collette (Dir. Land Use); Melisa Doig (Dir. HR)

Recorder: Stephen Legge

Call to Order: Chairman Manugian called the meeting to order at 7:01 PM.

Presentation by Attorney Lauren Goldberg, Town Counsel:

Atty Goldberg introduced herself. She has worked on Groton's Town Charter and those of other towns in the Commonwealth. She has read and is familiar with the provisions of many other towns' charters. She is expert in the area of law having to do with charter approvals and revisions. She has also worked for the Commonwealth's Office of the Secretary of State. Atty Goldberg's presentation to the committee this evening is on the subject of how charter revision processes can work and how best to satisfy requirements of state law.

There are two principal ways in which the statutory process for charter amendments allows submission and approval by the Commonwealth of Massachusetts:

- 1) The Special Legislation Method and
- 2) The Home Rule Procedures Act under Chapter 43B.

Special Legislation Method:

This method has some important advantages. It requires only a majority vote at Town Meeting to advance for legislative review. There are no limitations as to content in amendments. The legislature can only approve or disapprove what is submitted for approval. No public hearing is required for submission to the legislature. The proposed amendments may originate with the Selectmen, a town committee or by citizen petition.

There is no requirement to submit for a special town election, only vote by Town Meeting. It is, however, acceptable to have a town wide vote. It is also sometimes advantageous to have a town wide approval as the legislature is more inclined to accept such amendments. This latter point is especially the case when more important changes are being submitted. Atty Goldberg

Town of Groton
Charter Review Committee
Minutes July 1, 2015 (Approved)

commented that the Town normally approves charter amendments after the legislature approves them.

Sometimes a portion of the amendment(s) can be disapproved by the legislature while the remainder is approved. In such cases, the Town may elect to forgo that not approved and accept the portion approved, or, re-work the portion not approved if it considers the content important.

One risk of the special legislation method is that the legislature typically requires six months to one year on average to complete its review. In one case (Town of Sandwich) Atty Goldberg pointed out a two year wait for minor changes to its charter.

Home Rule (Chapter 43B) Procedures Act Method:

This method does not require submission for legislative review. It does, however, require Town Meeting approval by 2/3 majority, and the Town Meeting must be an annual Town Meeting. Proposed amendments are reviewed by the Attorney General's office and the Commonwealth's Department of Housing and Community Development. The AG's review is oriented primarily to insuring that state laws are met and not circumvented, and that the overall submission is reasonably consistent. The AG works on a clock – it has four weeks to complete its review. If there is no objection registered during the review period, the amendment moves forward. Then there is a requirement to submit for a town wide ballot approval. The town ballot vote may not take place earlier than two months from the completion of the AG review. There is a requirement to mail a notice to all registered voters prior to the ballot.

Mr. Bouchard asked, what happens when the AG disapproves a provision? Atty Goldberg answered, the provision can be dropped or it can go back to Town Meeting for revision and approval by 2/3.

Atty Goldberg mentioned there are two different approaches that can be taken with regard to the Home Rule Method: an elected charter commission can develop and submit amendments to Town Meeting; the elected commission is required to hold (a) public hearing(s) and issue several reports. There are no content restrictions if this approach is employed. This approach is not applicable to the Groton Charter Review Committee.

The second approach, known as a Section 10 amendment or “minor amendment” is limited as to content; only minor revisions are permissible. If the amendment(s) are considered substantial in nature, an elected commission is required under the Home Rule Act, or, submission to the legislature, as earlier explained. As an example, changes to the Board of Selectmen are considered substantial changes.

Atty Goldberg summarized the Chapter 43B drawbacks: they are that timing requirements are very specific and restrictive; there can be content limitations; and there are mailing requirements.

Mr. Bouchard commented, this board's charge is to report to Town Meeting.

Town of Groton
Charter Review Committee
Minutes July 1, 2015 (Approved)

Mr. Collins said, Groton Electric allows mailings in their bills to rate payers; does this count for the mailing requirement? Atty Goldberg responded, the mailing is required to go to all registered voters.

General discussion of how to go about charter revision:

Atty Goldberg urged the committee look at all the details of the present charter. Talk to all elected and appointed individuals in the town, and all elected and appointed boards and committees. If someone is missed, it could be a problem later.

Look for consistency in the charter provisions, grammar and spelling. Consider what needs to be updated to reflect present times. There is a simplistic, but interesting philosophical issue with any charter revision effort - should the charter reflect what is actually being done in town government, or should what is being done reflect what is in the charter?

Why Have a Charter?

Atty Goldberg listed a number of reasons why a town in this commonwealth would want to have a charter:

1. Allows a town to govern in ways outside the general laws;
2. You can do what you want, to a certain extent;
3. Can create departments more reflective of what works for the town;
4. Alters statutory authority of offices and departments;
5. Can prevent individuals from holding multiple offices;
6. Gives individuals new authorities, for example, appointing authorities;
7. Clarifies who signs warrants for payments;
8. Identifies who keeps minutes;
9. Defines notice requirements;
10. Can impose and define residency, re-call and super-majority requirements.

In response to several questions and comments about other town charters, Atty Goldberg commented that while other towns may have some good ideas and models for writing a good charter, one must be careful not to copy them without considering who our town is and how it needs to operate. One advantage of charters is that they enable a town to build its own form of government, uniquely suited to its own needs.

Committee Questions and Comments:

Mr. Collins: What might cause the legislature or the AG's office not to approve an amendment?

Town of Groton
Charter Review Committee
Minutes July 1, 2015 (Approved)

Atty. Goldberg: Be careful to try not to undermine important state laws; otherwise there is a lot of freedom to do what you want and need. In her experience, very few provisions are disapproved by the AG or legislature.

Ms. Allen: Are there charters Atty Goldberg feels are good and worth looking at?

Atty. Goldberg: All are good, but special to their own communities. (Dedham, Westwood and Sandwich were mentioned in passing.) She mentioned that if we tell her what our interests and issues are, she would be in a better position to refer us to a specific charter. It was considered that committee members might pass their thoughts on this to Mr. Bouchard, who could keep a list.

Mr. Collins: Should we have another meeting like this with Atty Goldberg later as our concerns focus and become more specific?

Mr. Robertson: Do other towns have things we really need and which are not in our present charter? Atty Goldberg will review for this, if we ask for it. This question goes beyond the scope of tonight's meeting.

Mr. Schulman: Our charter is 7-8 years old. Should we be thinking about updating our charter with respect to technology advances and also possibly e-mail protocols, since that is now much more universally used?

Mr. Schulman: Can appointed vs. elected committees be reversed with charter amendments?
Atty. Goldberg: Yes, can do.

Mr. Bouchard: Can a charter have provisions for penalties for non-compliance?

Atty. Goldberg: Be wary, and very specific about prohibitions and consequences of non-compliance. Think about unintended consequences of penalties frozen into a charter. She has some horror stories.

Mr. Manugian: Are we employing a good approach with our early vision on how to proceed with charter review and update? The following are what we presently envision doing:

1. The committee is reading through the charter – looking for things unclear.
2. A public hearing will be scheduled for later this month. We will require written input and compile all suggested changes.
3. The committee will look at changes suggested, deliberate on them and decide what to propose.
4. The committee will talk to town officers and committees.
5. The committee will make proposals and request public input.
6. The committee will propose what to send to Town Meeting for action, and a vote will be sought.

Atty. Goldberg: The process sounds good. One suggestion – invite town boards, individuals and department heads to submit suggested changes in writing.

Town of Groton
Charter Review Committee
Minutes July 1, 2015 (Approved)

Mr. Manugian: We are worried about the mandatory nature of a 30-day deadline for a public hearing.

Atty. oldberg: Don't worry so much about this – but try to keep in the spirit of meeting this requirement by moving forward.

Mr. Manugian: We are concerned with the issue of anonymous input. What should we be thinking about this?

Atty. Goldberg: All is public record, so people wishing anonymity should be very careful not to offer their names, even “in confidence”.

Mr. Manugian: Can we revise the number of citizens required to present petitions under Mass law?

Atty. Goldberg: A charter can change this, if the change is considered consistent with state law.

Mr. Manugian: If there are conflicts between a charter and state law, what takes precedence? What is the hierarchy of laws?

Atty. Goldberg: Generally speaking, certain areas are regulated in state law. Environmental restrictions are one such example. Don't try to change these sorts of things. But functions and ways of governing can be different, and if adopted in a charter (and approved by the commonwealth) will take precedence over existing state law. For much scope, a charter is considered at the same level of hierarchy as state law.

If a charter is silent on a certain issue, state law provisions will apply on this particular issue. Town by-laws and regulations will be subservient to charter provisions which might apply. Inconsistencies must be addressed by revising by-laws and regulations.

Mr. Collins: Can we require in a charter revision that 3 selectmen must come (one each) from all three precincts while two are elected at large?

Atty. Goldberg: Yes, you can do this, but think of possible unintended consequences – what if no one is running from one or two precincts?

Mr. Cunningham (from the audience): How many details should be in a charter?

Atty. Goldberg: Be careful about time requirements and deadlines. They can often cause more problems than good. Think of a charter like a constitution – it is a declaration of general principles on how governing is to take place.

Atty. Goldberg concluded her remarks and left the meeting at 8:32 PM.

Public Hearing Discussion:

Ms. Allen asked, should we approach all department heads and committees at the same time?

Mr. Manugian said, it is the consensus of the committee that we do that.

Town of Groton
Charter Review Committee
Minutes July 1, 2015 (Approved)

It was moved and seconded that the first public hearing be scheduled for Wednesday, July 22nd, this month.

Mr. Collins commented, it is a tough time of year to get the public's attention. It was proposed to extend the time for submission of written comments from the public to Friday September 18th.

The first motion was approved unanimously. The September 18th deadline for submission was moved, seconded and approved unanimously. Mr. Bouchard will put out a notice in the papers.

Discussion ensued about what to do in the public hearing. It was decided to 1) Present the process of charter revision to the public, 2) Explain the hierarchy of laws vs. the charter, and 3) Request comment from the public concerning charter content. It was further agreed that the hearing would begin at 7:00 PM and end not later than 9:00 PM.

Mr. Robertson asked, are we accepting comment on the process, or content only, or both?

Mr. Manugian asked, what is the mechanism for submission and acceptance of public comment. Discussion ensued regarding a new website which is already operational, through which the public's comments will be facilitated. Comments are to be submitted as proposals for change, with justification included. There will be a log for comments submitted with dates and a number ID. The committee will consolidate inputs and put the results on the website.

Approval of Minutes and Other Business:

Mr. Manugian said we will postpone approval of last week's minutes (6/24) due to complications with getting them distributed in a timely way.

Mr. Manugian requested that all committee members come to next week's meeting prepared to tell which Wednesdays for the next two months they will be able to attend CRC meetings.

The meeting was adjourned with unanimous consent at 8:57 PM.

**** The next meeting is scheduled for Wednesday, July 8th. ****

Respectfully submitted,

Michael Bouchard, Clerk
Stephen Legge, Recorder