

Charter Review Committee (CRC)

Town of Groton, Groton, MA 01450 978-448-1111

Meeting Minutes - December 16, 2015

At Town Hall

Present: John Giger (Finance Comm), Michael Manugian (Chair), Michael McCoy, Bud Robertson (Vice-Chair [for CRC], Finance Comm), Stuart Schulman (BOS)

Not Present: Jane Allen, Robert Collins

Recorder: Stephen Legge

Visitors: Judy Anderson, Ellen Baxendale, Peter Cunningham (BOS), Josh Degan (BOS), Anna Eliot (BOS), Russell Harris, Tom Orcutt (Groton Water), John Petropoulos (BOS), Becky Pine, Lynn Ann Spadone

Call to Order: Chairman Manugian called the meeting to order at 7:00 PM.

Announcements:

Tonight, the public will have the opportunity to make presentations on the topic of the Town Manager's powers and responsibilities. Twenty-one presentations (of three minutes each) are scheduled.

The Town Manager's Powers and Duties (Submissions # 17, 36, 21, 27, 31 and 32):

Submission # 17 (Page 22 in the Charter Section Summary), submitted by John Ellenberger (Mr. Robertson read). As chairman of the Cable Advisory Committee ten years ago, Mr. Ellenberger was moved to share his experience with the newly hired Town Manager. His principal point was the Charter has concentrated too much authority and power in one position, the Town Manager. Mr. Ellenberger proposes three general changes to the Charter, but with no specific language suggestions. The first is the Town's budget process needs to be more open and driven by an independent finance committee. The second is that the hiring of Town employees needs to be more influenced by an independent and professional human resources function, with less power concentrated in the Town Manager. The final point is to question whether all appointed Town boards should be directly under the control of the Town Manager.

Submission # 36 (Page 23 and 70 in the Charter Section Summary), submitted by the present-day Cable Advisory Committee (Mr. Giger read). The committee differed substantially in tone with the points made by Mr. Ellenberger's previous submission. They stated the Town Manager has been a welcome source of guidance and advice. They further stated the Town Manager has not interfered with the operation and function of the committee, and indeed, has not unduly influenced any decision they have made. No Charter changes were recommended by this group.

Submission # 21 (Page 70 in the Charter Section Summary), submitted by the Groton Water Commission, presented by Tom Orcutt, Superintendent. Mr. Orcutt said the Water Commission recommends the reporting structure of the Water Department remain as it is, with day-to-day operations under the supervision of the Town Manager.

Submission # 31 (Page 72 in the Charter Section Summary), submitted by Russell Harris. The main point here is that while the BOS are not expected to administer the day-to-day affairs of the Town, the Town Manager should be "regularly directed" in carrying out his administrative duties. The concern is that the Town Manager's powers and relationship to the BOS are not sufficiently specific and clear in the Charter, and the Town Manager is seemingly too independent from the Selectmen. Mr. Harris proposes language for a Charter change in Section 3-2(b)1.

Mr. Robertson did not see how the proposed change would solve any problem. Mr. Harris cited a recent policy issued by the Town Manager on conduct in the town hall as over-stepping his boundaries.

Visitor Mr. Cunningham commented there are many examples of the BOS deliberating on the Town Manager's policy decisions, the implication being that he, the Town Manager, is not doing these things as independently as people might think.

Submission # 27 (Page 73 in the Charter Section Summary), submitted by Russell Harris. Mr. Harris states there needs to be a limitation on the Town Manager's ability to waive fees on construction permits and it should be in the Charter. He cited an example of a claim made that he could waive fees at his discretion (recent Blood Farm fire). Mr. Harris wants to give this power to the BOS, to be deliberated in open public session and not permit the Town Manager to do so. He stated the Town Manager could use such power for favoritism and other possible abuses.

There was discussion about this power being in the Town bylaws and not mentioned in the Charter.

Mr. Giger questioned why set a \$100 minimum limit on this when the principle, to avoid favoritism, could still be violated.

Action Item #1: Mr. Giger offered to research bylaw language on the subject of discretion to waive construction permit fees. It was reported that the Land Director for the town had said the Planning Board is also able to waive its fees.

Visitor Ms. Eliot asked if it would be useful to look at the history of waived fees to shed more light on this issue. It was concluded that the potential for future incidents was more important than the past history.

Mr. Cunningham commented there may have been a situation several years ago where a construction permit fee was waived for a Habitat for Humanity project in town. His feeling is that this issue is more appropriately handled by a bylaw change, not a Charter change.

Submission # 32 (Page 10 in the Charter Section Summary), submitted by Deborah Johnson (not present). Ms. Johnson is concerned with the possibilities that the Town Manager can sign off on budgets, raise salaries (selectively), to gain favor, and approve “impressive capital projects” to build a resume. Ms. Johnson wants to limit the Town Manager’s power to do these things.

The Town Manager’s Powers and Duties (Submissions # 76, 78, 113, 121):

Submission # 76 (Page 77 in the Charter Section Summary), submitted anonymously. It is asserted here the residents of the town want a Town Manager with limited independent powers who works as a proxy for the Selectmen when performing administrative duties, not an official with independent policy-making powers. It is proposed to change Charter wording to reflect this understanding, although no specific change is proposed.

Submission # 78 (Page 16 in the Charter Section Summary), submitted by Ginger Vollmar (Mr. Manugian read). Ms. Vollmar asks that there not be a “strong town manager” form of government in Groton. She believes the Town Manager should oversee day-to-day operations, but should not have any policy making role. Policy making should be reserved for the BOS. She also feels the Town Manager is disrespectful to the BOS and needs more direct oversight.

Submission # 113 (Page 4 in the Charter Section Summary), submitted by Connie Sartini (Mr. Robertson read). Ms. Sartini wants the Charter to make clear the BOS are in charge and are accountable to the taxpayers of the Town for the actions of their government. She states “the Town Manager is an employee of the Town through the Selectmen and should have no independent powers – other than what is assigned to him by the BOS.”

Submission # 121 (Page 19 in the Charter Section Summary), submitted by Connie Sartini (not present). Eight different proposals are made to modify Charter language specifically or generally

with regard to the division of authority and responsibility of the Town Manager and other parties, including the BOS and other elected officials.

Mr. Manugian commented the finance and budget issues raised have already been addressed in earlier meetings.

Mr. Schulman: There is some non-factual material in this submission.

Mr. McCoy: The letter identifications in the submission do not match up to the Charter sections.

Mr. Manugian said that the committee should simply focus on the content of the submission rather than the incorrect citations of sections of the charter.

The Town Manager's Powers and Duties (Submissions # 149, 151, 159 and 164):

Submission # 149 (Page 81 in the Charter Section Summary), submitted and presented by Jack Petropoulos. Mr. Petropoulos proposes that the "Town Manager may not make changes to public safety without public disclosure and ..." must obtain approval from the BOS in a public session. He cited several instances where decisions were made affecting staffing which had a negative impact on public safety. He maintains that the Town Manager has no limitation on his ability to do this and suggests a Charter change to fix the problem.

Mr. Robertson: Why not consider other important departments too in this regard, like the library?

Mr. Giger: Why narrow the constraint to only staffing? Mr. Petropoulos acknowledged that it may make more sense to talk about "coverage" than "staffing".

Mr. Manugian asked for specific examples of the issue. Mr. Petropoulos said cuts in the EMS roster and cuts in overtime in the Fire Department have resulted in less EMS resources available resulting in less coverage.

Submission # 151 (Page 28 in the Charter Section Summary), submitted and presented by Jack Petropoulos. This proposal was discussed in last week's meeting.

Submission # 159 (Page 80 in the Charter Section Summary), submitted by Michael Bouchard and read by Mr. Schulman. "The Charter states that the Town Manager shall be responsible to the Board of Selectmen for the proper administration of all town affairs (Section 4-2)." Mr. Bouchard said this is a clear statement of accountability, and does not need to be changed.

Submission # 164 (Page 25 in the Charter Section Summary), submitted by Bob and Becky Pine, and presented by Ms. Pine. Ms. Pine stated the Town Manager is given the authority to

appoint all ad hoc committees to work on special projects. She proposes this authority be given instead to the BOS and/or the Town Moderator, with the Town Manager having no involvement. She states the Selectmen in particular are more likely to know more qualified people and create more balanced, representative committees.

Mr. Robertson: Reading Section 4-2 in the Charter, he does not see a definition of ad hoc defined. Ms. Pine said she does not want the Town Manager solely appointing the project specific committees. She thinks it might be ok for the Town Manager to participate with the BOS in the process.

Mr. McCoy: According to Charter Section 4-2(c) the Town Manager appoints and removes appointed employees. The appointments, however, must be approved by the BOS within 15 days or the appointment is considered rejected.

Mr. Manugian asked what specifically needs to be changed in the Charter?

Mr. Schulman asked does Ms. Pine's proposal allow the BOS the right to charge the Town Manager with authority to appoint a committee?

Visitor Mr. Cunningham asked what is problematic about any committee to which she refers in terms of the make-up of members?

The Town Manager's Powers and Duties (Submissions # 94, 96, 97 and 98):

Submission # 94 (Page 76 in the Charter Section Summary), submitted by John Giger. Mr. Giger would like a clearer and better definition for types of employees mentioned in the Charter than "full-time". Full-time seems to have many connotations including different numbers of hours worked per week and levels of entitlement to benefits.

Submission # 96 (Page 76 in the Charter Section Summary), submitted by John Giger. Mr. Giger wishes to clarify through better definitions in the Charter which individuals are included in the phrase, "including all appointed officers and their respective departments".

Submission # 97 (Page 76 in the Charter Section Summary), submitted by John Giger. In Section 4-2(c) of the Charter Mr. Giger notes the BOS approves or rejects appointments by the Town Manager of department heads, officers, employees and appointed members of town government, but has no role or authority in cases where the Town Manager chooses to remove (fire) such appointees. He questions this seeming imbalance of authority given to the Town Manager under the Charter.

Mr. Schulman commented the BOS has the authority not to re-appoint a previously appointed committee member.

Submission # 98 (Page 75 in the Charter Section Summary), submitted by John Giger. In this submission Mr. Giger said the Charter's wording states the Town Manager is to individually evaluate performance for each and every town employee. He doubts that this is current practice, and would rather clarify wording to insure that such evaluations take place, but permit some of his subordinates to actually conduct the evaluations.

The Town Manager's Powers and Duties (Submissions # 99, 100 and 138):

Submission # 99 (Page 79 in the Charter Section Summary), submitted by John Giger. In Charter Section 4-2(g) the Town Manager is given the authority to "fix the compensation of town officers and employees appointed by him ...", and certain guidelines (constraints) are listed. Mr. Giger would like the BOS or Finance Committee to participate in these decisions.

Submission # 100 (Page 79 in the Charter Section Summary), submitted by John Giger. Mr. Giger proposes to remove the word "officers" from Section 4-2(j) which gives the Town Manager the responsibility and authority to enforce town laws, Charter provisions, town meeting votes and directives of the BOS. His reason is that the word "officer" is not properly defined and is ambiguous. He added that the word may stay in if at some point it becomes better defined.

Submission # 138 (Page 77 in the Charter Section Summary), submitted by Jane Allen (not present). In Charter Section 4-2 Ms. Allen proposes to replace the words (position) "Highway Surveyor" with the words "Public Works Director" since this is, in fact, the way the organization is structured. There is a reference to the position in Subsection (d).

This concluded the public presentations scheduled for this evening, at 8:49 PM.

Approval of Meeting Minutes:

The minutes of Wednesday, December 9, 2015 were discussed. Mr. Schulman asked for a change to one of the remarks attributed to him. Mr. Manugian corrected statistics given in the meeting on the number of submissions discussed and addressed by the Committee to date. A remark attributed to Mr. Collins was questioned, but Mr. Collins was not present to respond to this. Mr. Manugian decided to suspend the approval vote on the minutes until Mr. Collins could be consulted.

Other Business:

Action Item #3: Mr. Manugian stated Mr. Giger has offered to keep a running draft of a revised Charter which incorporates changes voted by the Committee to date. Mr. Giger proposes to put the draft up on the website by December 30th.

Mr. Manugian asked Mr. Giger if he has heard from the Town Counsel or the Mass Department of Revenue (DOR) concerning questions raised earlier about the legality of sending financial issues to the ballot when they qualify neither as Proposition 2-1/2 overrides nor debt exclusions. Mr. Giger thinks he might hear back from DOR later this week. Mr. Manugian will not reopen discussion on these issues until we have heard from both parties.

Mr. Collins had action items for language changes to the Charter but is not present tonight.

Mr. Schulman commented on his action item referring to differences in the Mass General Laws dealing with the four departments having elected officials in the Town, these being the Water and Sewer departments, the Groton Public Library and the Electric Department. Each department is treated differently, and under a different section of the law. As a result it might not be practical to insert a policy covering all such employees in the Charter.

Action Item #4: Mr. Manugian asked Mr. Schulman to email to the Committee the details and references he had found.

There will be no meeting next week on Wednesday, December 23rd. There will be a “working meeting” of the Committee on Wednesday, December 30th, where issues already presented will be discussed, but there will be no public presentations. The public, as always, is invited to the working meeting.

The meeting was adjourned with unanimous consent at 9:02 PM.

**** The next meeting is scheduled for Wednesday, December 30th, at 7:00 PM. ****