

Charter Review Committee (CRC)
Town of Groton, Groton, MA 01450 978-448-1111

Meeting Minutes - December 30, 2015
At Town Hall

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

Not Present: Robert Collins

Recorder: Stephen Legge

Visitors: Peter Cunningham (BOS), Joshua Degen (BOS), Mark Haddad (Town Manager), Russell Harris, John Petropoulos (BOS),

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

Announcements:

Mr. Manugian announced the meeting would be in three parts tonight: the Committee would first discuss regional school district, human resources and Personnel Board issues; then it would discuss Town Manager responsibilities; and finally administrative issues.

Discussion on Regional School Issues (Submissions # 127, 128, 129) submitted by APEX :

Submission # 127: (Page 29 in the Charter Section Summary), states the Charter should include some details pertaining to the Regional Agreement between the two towns, in particular the frequency and manner of review.

Ms. Allen: Is there anything in the regional agreement requiring periodic review of the agreement? Mr. Giger answered, at the present, no. But there is discussion about adding such a requirement in the near future.

Mr. Manugian: What do we need in the Charter having to do with the regional school agreement?

Mr. McCoy: Perhaps a simple statement in Charter Section 3-3 (page 10)? There was a short discussion about the merits and pitfalls of adding a simple statement such as the Town of Acton has in its charter about its regional schools (refer to earlier minutes).

Mr. Robertson moved to dismiss Submission # 127 with no change to the Charter.

Mr. McCoy seconded. The motion was approved unanimously.

Submission # 128: (Page 18 in the Charter Section Summary), refers to “sustainability” of the schools and mentions the lower rate of spending in recent years and in comparison to other towns, to which ours should be compared.

Mr. Schulman likes the Town of Acton’s statement, “the town administrator shall communicate ...” as an aspirational statement in its charter. Ms. Allen cautioned to be careful about the term “all areas” in requiring communication.

Mr. McCoy is concerned that APEX has made it clear their priority is the school budget and the town’s response to school budget needs. Aspirational statements are of dubious value in accomplishing these objectives. Also, he is concerned if we were to have such statements and get into some kind of trouble because Dunstable says or promises nothing in this regard.

Mr. Manugian offered the idea we make it clear any such statements be consistent with the regional school agreement.

Mr. McCoy said our Charter is a pragmatic one, characterized by descriptions of roles and responsibilities, and does not generally offer any aspirational statements.

Mr. Manugian countered, our Charter can have aspirational statements, but doesn’t have to have them. He then added he personally has a problem with aspirational language - it can be more confusing than helpful.

Mr. Schulman: How about including Nashoba Tech? It is not even in our discussion.

Mr. McCoy moved to dismiss Submission # 128 with no change to the Charter. Mr. Schulman seconded.

Mr. Giger said if we write aspirational material for our Charter it needs to include the Nashoba Tech population in town.

The motion was voted and approved 5-1 with Ms. Allen voting against.

Submission # 129: (Page 29 in the Charter Section Summary), proposes the Charter identify and include the principal function, powers and duties of the regional school committee.

Mr. Manugian: What is wanted by proponents of this language is good cooperation between the Town and the regional school district. Mr. Giger answered there is a good process in place already.

Mr. Manugian: Is it appropriate to put these changes in the Charter?

Mr. Schulman reminded the Committee we voted to change the Charter language for the process for appointing the Finance Committee because of negative public perceptions of the current process.

Mr. McCoy: Regarding public perceptions, the issue in his judgment is what constitutes an appropriate balance of funding. This is not a perception problem.

Ms. Allen: The Charter cannot dictate a proper or fair funding balance between Town and schools.

Mr. Robertson moved to dismiss Submission # 129 with no change to the Charter.

Ms. Allen seconded. The motion was approved unanimously.

Human Resources and Personnel Board Issues (Submissions # 41, 42, 80, and 119):

Submission # 41 (Page 26 in the Submissions by Applicable Charter Section Summary) proposes the Human Resources (HR) director be separated from a reporting relationship to line management and instead report to the BOS for hiring, firing and review purposes.

Mr. Robertson believes it is taking a step backward to remove HR from the Town Manager's oversight. In the private sector, he points out, it is common to have HR report to a VP reporting to the CEO. He felt that the Board of Selectmen was analogous to a Board of Directors and it was inappropriate for an HR Director to report to a Board of Directors.

Mr. Giger feels HR needs another resource or place to go when there is the potential for conflict with the Town Manager. It can be difficult for the HR to represent both employees and the Town Manager when the HR Director is supervised by the Town Manager. It is not an accident that the head of HR is often a vice president in the private sector.

Mr. Schulman commented the Town of Groton is not really like a big corporation in the private sector - it is a rather small town government characterized by closer relationships among staff. He is not comfortable with the comparisons with the “private sector”.

Mr. McCoy: HR needs to be an impartial third party to mediate conflicts. A conflict of interest is very possible with present reporting relationships.

Mr. Robertson: Is HR representing the staff or the organization (Town)?

Mr. Manugian: HR should be governed by a policy and should represent the staff and the Town.

Mr. Robertson: Why have HR report to the BOS when it (BOS) does not have day-to-day responsibility?

Mr. McCoy: The Town cannot have an impartial HR Director if it reports to the Town Manager.

Mr. Giger: HR should report to the Town Manager, but he would like to find a way for HR to have unfettered access to the BOS.

Visitor Mr. Haddad (Town Manager): The Town Manager is not a line manager. He is the chief administrative officer and the chief financial officer of the Town. Also, there is an existing grievance procedure which includes the participation of the BOS.

Visitor Mr. Cunningham announced the BOS were in public session in this meeting (four were present).

Mr. Schulman moved to dismiss Submission # 41 with no change to the Charter.

Mr. Robertson seconded.

Visitor Mr. Degen agreed hiring of HR director by the BOS is the correct thing to do. However, he believes the reporting relationship to the Town Manager is also correct. He said these are two different issues.

Mr. Manugian, who submitted the issue under discussion, said the reporting relationship is his issue. He believes it should be to the BOS.

Visitor Mr. Petropoulos said he appreciates the need for HR’s independence, but in our town it is very difficult for the BOS to manage on a day-to-day basis.

A vote was taken and the motion passed 5-1 with Mr. Manugian voting against.

Submission # 42 (Page 25 in the Charter Section Summary) proposes a new Personnel Policy Negotiating Team that must include one member of the Finance Committee, one member of the BOS, the Town Manager, one member of the Personnel Board and the HR director. The team must be involved in any town policy or procedure involving town employees. It would also be involved in union or employee contract negotiations.

Mr. Schulman: There typically are few changes made to personnel policy and when they are made, all of the appropriate people are involved.

Mr. McCoy: We have no definition of the Personnel Board in the Charter now. His understanding of the board is that it is currently only advisory in nature.

Ms. Allen: There used to be a personnel board which was directly involved in all employee negotiations before the Charter. The Town Meeting voted to keep the Personnel Board.

Mr. Manugian commented, from a process viewpoint anything the Committee could discuss might involve other parts of the Charter. He asked the Committee to focus on the issues at hand and be concerned later about their ramifications to other areas of the Charter. As a result we could focus on the current submission and change it after our review of Personnel Board responsibilities.

Mr. Robertson moved to dismiss Submission # 42 with no change to the Charter. Mr. Schulman seconded. The motion was approved unanimously.

Submission # 80 (Page 26 in the Charter Section Summary) was submitted by Ms. Vanessa Abraham (GPL Director). She proposes a change in the Charter language of Section 3-8(b) to replace the words “personnel board” with “Human Resources Director”.

Mr. Robertson moved to approve Submission # 80 with changes to Charter language as written in the submission. Ms. Allen seconded. The motion was approved unanimously.

Mr. Manugian suggested that discussion of **Submission # 116**, by Connie Sartini, proposing to add eleven new definitions to the Charter Section 1-9, to reduce ambiguity of terminology applying to personnel issues, be postponed to a later time when the Committee was considering all changes in definitions. The Committee agreed by consensus.

Submission # 119 (Page 27 in the Charter Section Summary) proposes to have members of the Finance Committee and the Personnel Board appointed by the Town Moderator in order to ensure their complete independence from influence by those appointing.

Mr. McCoy: Table this discussion to a time of an all-inclusive discussion of the Personnel Board.

Mr. Robertson: The only responsibility of the board now is advisory to the Selectmen.

Mr. Manugian agreed with the suggestion to postpone discussion on this subject.

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

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.

Visitor Mr. Haddad: Under Mass General Laws, the Groton Water Commission sets policy and rates.

Mr. Schulman: There is cooperation and overlap in work done by the Water department and the Department of Public Works. It is good to keep the Water Department operations under the Town Manager. The West Groton Water Supply District is a completely separate operation and political entity, not a part of the Town of Groton. Different state statutes apply as well.

Mr. Giger moved to keep the Groton Water Department reporting relationships as they are with no changes to the Charter. Mr. Schulman seconded. The motion was approved unanimously.

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 the Town Manager 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.

Mr. Haddad: The only fees that have been waived (in his time on the job) have been for the Housing Authority, the new fire station and other Town properties. The reason for

these waivers was to save money for the taxpayers. There was no waiver for Blood Farm, even though it had been talked about.

Mr. Manugian: Who decides to waive such fees? Mr. Haddad answered the Town Manager, the source of the authority. Mr. Cunningham said the Planning Board also has its own rules about waiving fees.

Mr. Giger said he has researched this issue. The Planning Board has the authority to set and waive fees. Mr. Giger commented he is not yet finished with this research (an action item had been spelled out earlier).

Mr. Haddad: There was at one time a town counsel opinion given on this topic – he will get this for Mr. Giger.

Visitor Mr. Harris: There may be good reasons to waive fees, but he thinks decisions should be made in public session.

Visitor Mr. Cunningham said he is worried that mundane matters may be required to be handled in public and will unnecessarily complicate and slow down our processes. This is a solution looking for a problem.

Mr. Giger said wait until he is finished with his research.

Visitor Mr. Petropoulos commented he thinks it may be appropriate to regulate license fees in general, but not at the level of the Charter.

There was a consensus among Committee members to table this topic until Mr. Giger's research had been completed.

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 - this is not what voters want. Mr. Harris proposes language for a Charter change in Section 3-2(b)1, which he said came from the Town of North Andover’s charter. This language follows.

"The Board of Selectmen shall serve as the chief goal-setting and policymaking agency of the town and, as such, shall not normally administer the day-to-day

affairs of the town, but shall instead regularly direct the Town Manager to help it in carrying out its administrative duties, and make recommendations to the town meeting relating to actions required to be taken by that body."

Mr. Schulman suggested referring to the Selectmen's "Procedures and Practices" document, dated 2012. He said they need to put some more definition in this, but said the Town Manager consults with the Board often and does take advice from them. It is a cooperative relationship and a good one in Mr. Schulman's opinion. He further commented even though it is the Town Manager's responsibility to terminate employees, he has never actually done this to date. Mr. Schulman believes Mr. Haddad would consult with the Board before doing so.

Mr. Robertson commented the Charter in Section 4-2 says the Town Manager is "responsible for proper administration of the Town".

Mr. Giger, having read the original Charter language believes Mr. Harris's wording is an improvement and clarifies the relationship between BOS and Town Manager. He feels it does not take anything away from the Town Manager.

Visitor Mr. Petropoulos commented the language change has more to do with the duties of the BOS than those of the Town Manager.

Misters Manugian and McCoy noted it would make sense to replace the vague word "it" in the third line with "BOS".

Visitor Mr. Cunningham feels these new words are unnecessary. The BOS already has a sufficient role in supervising and influencing the Town Manager.

Visitor Mr. Haddad said he also sees no problem with the present wording, Mr. Giger does not see wording to the effect of "goal-setting" in the Charter language, referring to the BOS. He feels that wording may be a good addition to the Charter.

Visitor Mr. Degen feels the new language will allow the BOS to interfere with the Town Manager's exercise of his responsibility. It is not needed.

Mr. Cunningham: The BOS is already involved with goal-setting.

Mr. Giger suggested the BOS should set goals for committees. Mr. Schulman countered the BOS should not do this - most committees generally set their own goals.

Mr. Manugian: Prior questionable behavior in BOS meetings is a problem, to be sure. But he does not see that we can solve such problems in the Charter. Mr. Manugian is dubious that the proposed wording will be helpful.

Mr. McCoy: How much involvement/interference by the BOS is necessary or appropriate in the conduct of the Town Manager's or committees' business? While many committees are very independent and set their own goals, ultimately the BOS is responsible for town governance.

Mr. Manugian asked, does anyone feel the BOS does not have sufficient authority to direct or re-direct the Town Manager?

Mr. Cunningham: The BOS does and can do what is needed.

Mr. Degen feels it is always possible to have an off-line discussion with the Town Manager. He can ask for an issue to be brought up at a BOS public meeting. The process works.

Mr. Haddad: There is plenty of interaction with the BOS, plenty of checks and balances. The Town Manager works for the BOS.

Mr. McCoy: He is not saying anything is wrong with the current processes, but we may need to address the public's perception of an imbalance of power between the Board of Selectmen and the Town Manager.

Mr. Haddad: Be careful not to overly regulate or complicate. The BOS has plenty of authority now. Policies and goals are the same thing.

Mr. Giger said policies and goals are not the same thing.

Mr. Robertson agreed with Mr. Giger.

Mr. Robertson moved to dismiss Submission # 31 with no changes to the Charter. Mr. Schulman seconded.

Mr. McCoy: Do these proposed words harm the Charter or our governance? Mr. Schulman answered yes, they could make things unnecessarily complicated.

Mr. Degen said the BOS should set policy and goals for the Town Manager.

Mr. Cunningham: Look at the current language in the Charter, Section 3-2(b)(3). It says “in conjunction with other elected town officers and multiple member bodies, develop and promulgate policy guidelines designed to bring all town agencies into harmony ...”

Mr. Petropoulos stated the Charter should codify important things. Include “goal-setting”.

Mr. Schulman added, setting appropriate goals is good. But all participants need to respect statutory requirements.

Mr. Schulman moved to amend Mr. Harris’ submission: Charter Section 3-2(b)(1) should be modified as follows: The BOS shall serve as the chief policy-making and chief goal-setting agency of the town. Mr. Robertson seconded.

Mr. McCoy moved to amend the amendment by incorporating the second half of the language Mr. Harris proposed, but was dropped in the original amendment. Mr. Giger seconded.

Mr. Harris warned the Committee to not think narrowly. Consider what the townspeople want and are asking for.

Mr. Petropoulos thinks the second half of Mr. Harris’s language is good - it clarifies.

Mr. Giger: The BOS is never relieved of its responsibility to the town. The BOS defines what is “proper”.

A vote was taken on Mr. McCoy’s amendment to Mr. Schulman’s amendment. Because the vote ended in a three to three tie, the motion was deferred to a future meeting.

Because of the tie vote, there was some uncertainty about the decision on the amendment to the amendment and Chair Manugian declared to take the whole issue into the next meeting. The discussion on this submission ended at 9:22 PM.

Approval of Meeting Minutes:

The minutes of Wednesday, December 9, 2015 were discussed. A remark attributed to Mr. Collins had been questioned, but was still unresolved because Mr. Collins was again not present to respond to this. Mr. Manugian asked Mr. Giger to get in touch with Mr. Collins and resolve the issue. An approval vote was suspended until the next meeting.

The minutes of December 16, 2015 were moved to be accepted by Mr. Robertson. Mr. Schulman seconded. The minutes were approved by a vote of 5-0 with Ms. Allen abstaining because of absence from that meeting.

Other Administrative Business:

Mr. Manugian announced there would be additional presentation of submissions from the public at the next meeting on January 6th. These concern the selection, appointment, review and termination of the Town Manager in addition to general recommendations.

Mr. Manugian said three members (Misters Manugian, McCoy and Schulman) had indicated inability to attend a meeting on January 13th. **There was a consensus to cancel this meeting due to a lack of a sufficient number of committee members.**

Mr. Manugian informed the Committee that Mr. Giger had drafted a new copy of the Charter with changes proposed by the Committee. These changes are flagged for easy identification. He has also, separately, developed a list of all changes approved by the Committee to date.

Action Item #1: Mr. Manugian asked all members to review these documents and be prepared to recommend format changes, if any, and approve them for publication on the web site after the next meeting.

Mr. Giger announced he had heard from the Department of Revenue (Mass) concerning the Committee's 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. He said DOR has not returned a definitive "not allowed" response, but his interpretation is that the capital item ballot requirement may not be allowed by the DOR.

Action Item #2: Mr. Manugian asked Mr. Giger to ask the Town Manager to ask Town Counsel to respond to the capital ballot question.

Once the Committee receives the response on this issue from Town Counsel, it will have received responses from the Attorney General, DOR and Town Counsel. At this point the Committee will reopen discussion.

The meeting was adjourned with unanimous consent at 9:30 PM.

**** The next meeting is scheduled for Wednesday, January 6th, at 7:00 PM. ****