

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

Meeting Minutes - February 3, 2016
At Town Hall

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

Not Present: Jane Allen, Michael McCoy

Recorder: Stephen Legge

Visitors: Judy Anderson, Peter Cunningham (BOS), Mark Haddad (Town Manager), John Petropoulos (BOS)

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

Approval of Meeting Minutes:

The minutes of January 27th were discussed and several minor edits made. **Mr. Collins moved the minutes of January 27, 2016 be accepted as amended.** Mr. Schulman seconded. The amended minutes were approved unanimously.

Administrative Issues:

Mr. Manugian reported the BOS had authorized the Town Manager to appoint a committee to work on public records availability. Mr. Manugian is one of the appointees. The committee is making good progress to date on the issues presented to the BOS back in December.

Mr. Manugian wants to schedule more presentations on submissions made by the public in the near future. The committee felt it should have discussions of previously presented issues at the next meeting then possibly after that have the public presentations re-continue.

Chairman Manugian led the Committee in a review of the open Charter Issues List dated January 27, 2016 (see Exhibit A, attached). The following actions were taken.

For Item # 5, a motion was made by Mr. Collins to add a new section to the Charter in Article 3 as follows: “Town Clerk: The Town Clerk shall have all of the duties established by the General Laws, and shall be the custodian of the public records of the Town in accordance with the provisions of Chapter 66, Section 7 of the General Laws.” Mr.

Schulman seconded. The purpose of this change is to add a section to the Charter which will make clear the Town Clerk has these duties since they are not currently mentioned in the Charter. **The motion was approved unanimously.**

Additional comments made during the discussion: in the Section 6-4 draft for Charter change, second sentence, reference to the Finance Committee was left out. We agreed to add the Finance Committee.

Visitor Mr. Cunningham asked that Footnote # 2 on Page 10 in the draft Charter changes be deleted. **Mr. Schulman moved to accept as amended in the draft for Charter change, Section 3-2(d), including the deletion of Footnote # 2.** Mr. Robertson seconded. The motion was approved unanimously.

After discussing the twelve open items, all are now resolved except three, # 9, 11 and 13, all of which are still open action items from meetings in November and December.

Discussion of the Personnel Board:

Mr. Robertson submitted draft wording for the Charter to recognize a Personnel Board and to briefly define its responsibilities (see Exhibit B, attached). This language would probably be incorporated in a new Section 3-5, having two paragraphs, (a) Composition, Term of Office, and (b) Powers and Duties.

Mr. Collins expressed concern about the last sentence referring to “additional powers and duties”. He suggested removing the sentence entirely. The committee agreed by consensus.

Mr. Collins moved to incorporate into the Charter the amended language into a new Section 3-5 as follows. Mr. Schulman seconded.

“Section 3-5: Personnel Board

- (a) Composition, Term of Office - There shall be a Personnel Board which shall consist of three members appointed by the Board of Selectmen. Members shall serve for a term of three years, terms to be arranged such that the term of one member shall expire each year.
- (b) Powers and Duties - The Personnel Board shall function as an advisory board to the Human Resources Director, Town Manager and Board of Selectmen in the management of human resources for the Town of Groton.”

Mr. Cunningham expressed a concern that many other standing committees have no responsibility descriptions in the Charter. Mr. Collins answered there are many controversies

and much confusion around the role of the Personnel Board. Putting it in the Charter and making the role advisory formalizes its existence and role.

The motion was voted upon and approved unanimously.

Discussion of the Town Manager's Responsibilities (Submissions #17, 31, 32, 36, 38, 73 and 76):

Submission # 31 (Page 72 in the Charter Section Summary), submitted by Russell Harris. The main point is that while the BOS are not expected to administer 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 BOS - 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.

Mr. Manugian likes Mr. Harris' wording on policies and goals. He also appreciates the intent to direct the Town manager at a higher level – there is no mention of this in the current Charter.

Mr. Collins does not like the goal-setting language. Mr. Schulman responded the BOS does that now. The executive branch in government is supposed to set goals.

Mr. Giger moved to adopt in concept the proposed language, submitted by Mr. Harris in # 31, as it relates to Section 3-2(b)1 in the Charter. Mr. Harris's language, with two word changes, is:

"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 the BOS in carrying out its administrative responsibilities and make recommendations to the town meeting relating to actions required to be taken by that body." Mr. Robertson seconded.

A vote was taken and the motion passed 4 – 1 with Mr. Collins voting no.

Action Item #1: The Chair asked Mr. Collins to formulate appropriate language for section 3-2(b) 1 for the Committee's consideration.

Submission # 32 (page 10 in the Charter Section Summary), from Deborah Johnson, proposes, among other topics, a code of conduct for public employees be adopted in the Charter. Mr. Manugian stated this topic has already been covered in previous discussion and action by the Committee, including as it relates to the Town Manager.

Submissions # 17 and 36 (pages 22 and 23, respectively, in the Charter Section Summary), from John Ellenberger and the Cable Advisory Committee, respectively, refer to the relationship the Committee has had with the Town Manager over a span of time. **The Charter Review Committee concluded by consensus no action needed to be taken on these two submissions.**

Submission # 38 (page 12 in the Charter Section Summary), refers to several definitions needing to be considered for insertion into the Charter, submitted by the Town's department heads. It was concluded that perhaps none of this material needed to be considered in regard to the Town Manager's responsibilities, and therefore they would be considered at a later time with other definition changes.

Submission #73 (page 77 in the Charter Section Summary), from an anonymous person, expressed dissatisfaction with the Town Manager submitting budgets each year for the full amount allowed by the levy limit. The Committee concluded this issue has been addressed in prior considerations which have increased and formalized the role of the finance committee with regard to budgets.

Submission # 76 (page 77 in the Charter Section Summary), again from an anonymous person, suggests the Town Manager has too much policy making power and it should be made clear he is an employee accountable to the BOS. The Committee again concluded this issue had been properly considered in earlier discussion and action.

Discussion of the Town Manager's Responsibilities (Submissions #78, 94, 96, 97, 98, 99, 100, 113 and 121):

Submission # 78 (page 16 in the Charter Section Summary), from Ginger Vollmar, states her dislike for the term "strong town manager". She asked that it not be in our Charter. Several other issues, including ethical conduct, were raised, all very similar to those discussed just previously regarding the Town Manager.

Mr. Collins commented "strong town manager" language should not be in the Charter. There was a discussion. **A consensus was reached that none of the issues raised should be acted upon** because they had already been handled directly or were in the Charter now. The ethical conduct concern is addressed in the present Charter language in Section 1-8.

Submission # 94 (page 76 in the Charter Section Summary), from John Giger, states that ambiguity and confusion about the meaning of the term "full-time" should be addressed. The term appears in Section 4-1(b), describing the Town Manager's position.

Mr. Schulman expressed concern that defining full-time as 40 hours would be bad for the Town because the Town Manager works more than 40 hours in a typical week. Mr. Haddad commented he usually completes his first 40 hours by Tuesday.

There was discussion about possibly defining full-time as 40 hours in Section 1-9 in the Charter, where a number of definitions are found. Mr. Manugian and Mr. Schulman felt that the definition of full-time varied depending on context and should not be specified in the Charter.

Mr. Giger moved to dismiss his own request to define full-time. Mr. Robertson seconded. The motion was approved unanimously.

Regarding an unrelated issue, **Mr. Giger suggested eliminating from the Charter the entirety of Article 8.** These are transitional provisions originally put in the Charter to facilitate a changeover from a non-charter town government to the new Charter, approved in 2008. This will be considered towards the end of the Charter review process.

Submissions # 96 and 97 (page 76 in the Charter Section Summary), **from John Giger, were postponed, by consensus,** to a time when all definitions in Section 1-9 would be discussed.

Submission # 98 (Page 75 in the Charter Section Summary), from John Giger, notes that the current Charter language in Section 4-2(f) suggests all town employees' annual evaluations be conducted by the Town Manager.

Mr. Haddad said he personally evaluates all department heads, but not employees under department heads. The latter he reviews after they are personally performed by the department heads. He pointed out in such cases he can change any portion of a review with which he might disagree.

Mr. Collins moved to add the words "or review" after the words "to conduct" in Charter Section 4-2(f). Mr. Robertson seconded. The motion was approved unanimously.

Submission # 99 (Page 79 in the Charter Section Summary), from John Giger, proposed to insert language in Charter Section 4-2(g) which will ensure that Town Manager's actions to fix wages for Town employees will be reviewed by the BOS and the Finance Committee. His reasoning for this was that wages and benefits constitute a very significant portion of the Town's entire budget.

Visitor Mr. Haddad commented he cannot do anything on wages on his own. The Town's wage schedule and the approved annual budget govern his actions.

Mr. Collins proposed inserting the language "within the limits of the approved annual budget".

Mr. Manugian asked does anyone review the Town Manager's decisions on wages. The response was yes - the BOS and Finance Committee review and approve all such decisions. Decisions incorporated in the proposed budget in December then get implemented in the new fiscal year starting in July.

Mr. Schulman moved to insert the words "the approved budget," after the words "... established by" into Charter Section 4-2(g). Mr. Robertson seconded. The motion was approved unanimously.

Submission # 100 (page 79 in the Charter Section Summary), by John Giger, proposed to remove the term "officers" from Charter Section 4-2(j), depending on how the term eventually will be defined. **This submission was deferred by consensus to a time when definitions, in Charter Section 1-9, would be addressed.**

Submission # 113 (page 4 in the Charter Section Summary), from Connie Sartini, makes the case that the Town Manager's powers must be clearly articulated in the Charter to be subject to the oversight of the BOS. **The Committee agreed by consensus this issue had already been discussed and addressed.**

Submission # 121 (page 19 in the Charter Section Summary), from Connie Sartini, made a number of points about the powers and duties of the Town Manager in Charter Section 4-2.

Ms. Sartini stated she wished to see "strategic management" not part of day-to-day administrative management of the Town (the term is not expressly mentioned in Section 4-2). Mr. Collins and Mr. Schulman made the point that the Town Manager's administrative management responsibilities should contain a strategic element, which should not be deleted or prohibited. A case in point is the work done by the Town Manager to redesign the Land Management function in the town in such a way that made the Town much more user-friendly.

Ms. Sartini proposed that the BOS approve any removal of a Town employee. The power to remove is granted to the Town Manager in Section 4-2(c).

Mr. Schulman asked if the BOS is to ratify new hires, why would it not also ratify terminations. Mr. Robertson asked if this would be done in executive session.

Mr. Haddad said the BOS can hear complaints about employees, and it usually needs to be in executive session. Employees can, however, elect to have the hearing in public session. Mr. Haddad commented no one in Groton has been fired during his administration. There are of course some incidences of people leaving by their own choice after disciplinary procedures had been started. He does not recommend BOS involvement in terminations – it would politicize the

firing process and undermine the Town Manager. He added, every employee has been and will be treated fairly by him.

Mr. Giger commented “fair” is in the eyes of the beholder.

Mr. Cunningham commented he agrees BOS approval of terminations would politicize the process and he feels the board does not want this. The public should not necessarily know all about a given termination.

Mr. Schulman: In his experience, the Town Manager has always discussed issues of employee difficulty with the BOS ahead of time. Mr. Haddad added he always keeps the BOS informed in all stages of discipline cases. Mr. Schulman said when people resign under duress, they still have the option to complain personally to the BOS.

Mr. Manugian said then the BOS has an advisory position in these matters. Mr. Schulman answered the BOS keep track of what is happening. The public should trust their BOS.

Mr. Haddad pointed out the state, in the 1994 Education Reform Act, took discipline power away from school committees and gave it to the superintendents.

Mr. Collins moved to leave the language in Charter Section 4-2(c) currently as written. Mr. Robertson seconded. The motion was approved 4 – 1 with Mr. Manugian voting no.

Action Item # 2: Mr. Giger offered to do research on Ms. Sartini’s point raised in regard to Submission 121(e).

Administrative Matters:

Mr. Manugian commented as a point of order that he had acted as an advocate on certain earlier matters without turning over the chair to Mr. Robertson. He asked if the committee would prefer a formal transfer of responsibility to the vice chair under these circumstances. The committee members briefly discussed this and concluded it was clear when Mr. Manugian was advocating and did not need to formally turn over the responsibilities of the chair in each case.

Mr. Manugian reminded everyone of the Committee’s decision not to meet next Wednesday, February 10th. At the next scheduled meeting on February 17th, it is anticipated the Committee will continue its own deliberations on the Town Manager and BOS responsibilities. Mr. Schulman said he could not be in attendance. It is expected the public will be asked to re-continue making public presentations on submissions in the following meeting on February 24th.

The meeting was adjourned with unanimous consent at 9:28 PM.

**** The next meeting is scheduled for Wednesday, February 17th, at 7:00 PM. ****

Exhibits:

- A. CRC Action Items 2016-01-27
- B. Letter to CRC members from Attorney Collins dated October 28, 2015
- C. Letter to CRC members from Attorney Collins dated November 18, 2015
- D. Wording proposed by Mr. Robertson regarding the Personnel Board dated February 3, 2016
- E. Letter to CRC members from Attorney Collins dated February 3, 2016 concerning Section 3-2(d) Appointing Authority in the 2010 Charter

Town of Groton
Charter Review Committee

Charter Issues List, 20160127 @ 1521

1. Minutes of 20151007: Information Technology discussion (page 5), missing approved language for this approved Add. RC Resolved 20160203, jrg.
2. Minutes of 20151118: Submission #105 (page 5). missing results of Action Item #2, Charter language for Submission #105. RC Resolved 20160203, jrg.
3. Minutes of 20151028: Missing results of Action Item #1 (page 2), copies of management reports associated with recent audits. MM Resolved 20160203, jrg.
4. Minutes of 20151028: Missing results of Action Item #4 (page 6). specific language for #62. MMc Resolved 20160124, jrg.
5. Minutes of 20151104: Submission #150 (page 4), missing specific wording for this approved submission. RC Resolved 20160203, jrg.
6. Minutes of 20151104: Missing results of Action Item #2 (page 7), need specific wording for this approved change. RC Resolved 20160203, jrg.
7. Minutes of 20151104: Submission #67 (page 9), missing Action Item #3, specific language for this approved submission. RC Resolved 20160203, jrg.
8. Minutes of 20151104: Submission #57 (page 10), missing Action Item #4, specific language for this approved submission. RC Resolved 20160203, jrg.
9. Minutes of 20151104: Submission #106 (page 10), missing Action Item #5, specific language for this approved submission. RC Open
10. Minutes of 20151209: Submission 142: Action Item #3 (page 6), may still be open. SS
11. Minutes of 20151209: Submission #121: Action Item #2. No one assigned to complete this action item. MM Open
12. Minutes of 20151209: Discussion of Charter Change in Section 3-2(d), Action Item #4, miss approved wording for this action. RC Open
13. Minutes of 20151216: Action Item #4 (page 7) may still be open. SS Open

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28 October 2015

The Groton Charter Review Committee
Michael Manugian, Chairman
Town Hall
173 Main Street
Groton, MA 01450

(21)

Dear Committee Members:

I wish to offer the following as possible language dealing with Comments 150 and 79:

Comment 150 (Custodian of the Public Records):

~~ected Officials~~

Add a section to Article 3 as follows:

MIN OF 02-03-16
3-9
MRC 3-9 to 3-10

ADD
→

~~Town Clerk: The Town Clerk shall have all of the duties established by the General Laws, and shall be the custodian of the public records of the Town in accordance with the provisions of Chapter 66, Section 7 of the General Laws:~~

Comment 79 (Information Technology)

Add a section to Article 5 as follows:

Information Technology Department: There shall be a Department of Information Technology which shall plan, manage, coordinate and maintain the Town's website, electronic record-keeping and methods of electronic communication so as to ease citizen's access to municipal information and public records, and to provide such other functions and services as the Town Manager, Board of Selectmen, or Town Clerk deem advisable.

use
existing
IGNORE
THIS

I wish to share some thoughts regarding the request that there be a Custodian of the Public Records (comment 150).

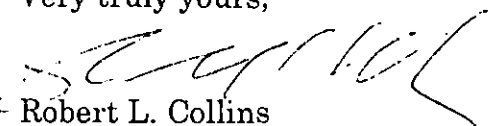
Chapter 66, Section 7 stipulates that the Town Clerk is the custodian of public records of the town unless the bylaws (or presumably the Charter) stipulates otherwise. It is established practice that the records maintained by the Town Clerk are those stipulated by statute; this would not include correspondence to and from municipal boards and members of the various boards and committees, minutes of meetings, and the many other minutia which finds its way into the various offices in the Town Hall.

The duties of the Town Clerk, and the many documents which a Town Clerk must maintain or provide attestations to encompass several hundred statutory provisions; a copy of the five pages of the index to the General Laws dealing with this subject is attached. I believe that it would be unduly complicated for these all to be spelled out in the definition of the Town Clerk and his or her duties.

I would also tend to believe that creating a new and separate position of Custodian of Public Records would be superfluous, and also confusing.

It might make sense to have a statement in the charter indicating that municipal employees (which term would include those serving on Boards) are responsible for the retention of municipal records in their possession as required by law and in accordance with guidelines published by the Secretary of the Commonwealth.

Very truly yours,


Robert L. Collins

RLC/jel

Exhibit C to Charter Review Committee
02-03-16 Meeting Minutes

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18 November 2015

The Groton Charter Review Committee
Michael Manugian, Chairman
Town Hall
173 Main Street
Groton, MA 01450

Dear Committee Members:

I wish to offer the following language for the Committee's consideration:

(150)

Records Management:

Add a new subsection (n.) to Section 4.2 reading as follows:

To develop policies for and to oversee the preservation, management, and administration of all municipal records so as to facilitate the access to same.

(67)

Budget and Budget Message:

Amend Section 6.2 to read as follows:

The Board of Selectmen, the Town Manager, the Finance Team, and the Finance Committee shall meet each year prior to October 31st to determine the budgetary goals for the subsequent fiscal year. The Town Manager, after consultation with the Board of Selectmen and the Finance Committee, shall submit to the Finance Committee a proposed balanced operating budget with an accompanying budget message, summary, and supporting documents which follows the budgetary goals determined at the meeting(s) referenced in the first sentence prior to December 31st of each year for the next fiscal year. The summary of the proposed budget shall identify deviations from the current

operating budget and outline the reasons for these changes, The Town Manager shall have the summary of the operating budget published in a local newspaper and placed on the Town's website contemporaneously with the submission of it to the Finance Committee; this publication shall indicate the times and places at which copies on the proposed budget with the accompanying documentation are available for examination by the public.

Amend Section 6.4 as follows:

57

Insert the words "or Finance Committee" after the words "Board of Selectmen" in the second sentence.

(Note: I wonder if it wouldn't make more sense to re-word this sentence so that it reads: "Except as may otherwise be required by the General Laws, it shall be in the form which the Town Manager, the Board of Selectmen and Finance Committee, deems desirable.")

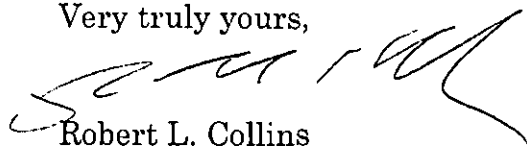
Capital Improvement Plan

106

Amend Section 6.6 as follows:

Change the wording of the first sentence to read as follows: "The Town Manager shall submit a capital improvement plan to the Board of Selectmen and the Finance Committee prior to December 31st of each year."

Very truly yours,



Robert L. Collins

2016-02-03
Bud R

Article 5-5

Exhibit D to Charter Review Committee
02-03-16 Meeting Minutes

~~Section 3-A~~: Personnel Board

(a) Composition, Term of Office - There shall be a Personnel Board which shall consist of three members appointed by the Board of Selectmen. Members shall serve for a term of three years, terms to be arranged such that the term of one member shall expire each year.

(b) Powers and Duties - The Personnel Board shall function as an advisory board to the Human Resources Director, Town Manager and Board of Selectmen in the management of human resources for the Town of Groton. The Personnel Board shall have additional powers and duties as may be authorized by this charter, by law, or other Town Meeting vote.

Sent from my iPad

Exhibit E to Charter Review Committee
02-03-16 Meeting Minutes

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3 February 2016

The Groton Charter Review Committee
Michael Manugian, Chairman
Town Hall
173 Main Street
Groton, MA 01450

Dear Committee Members:

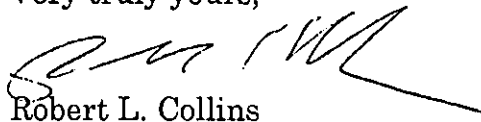
I wish to offer the following as possible language for the Committee's consideration:

Section 3-2(d) Appointing Authority:

Amend the section to read:

The Board of Selectmen shall appoint the Town Manager, Town Counsel, Finance Committee, Personnel Board, Zoning Board of Appeals, Conservation Commission, Council on Aging, Housing Partnership, and such other Boards, Committees, and/or sub-committees created by Town Meeting vote or as may be authorized or required by the General Laws or by this Charter. The Board of Selectmen shall also appoint a Chief of Police and Fire Chief from candidates selected in accordance with Section 4-2(d) herein. The Chief of Police shall serve under Section 97A of Chapter 41 of the General Law. The Fire Chief shall serve under Section 42 of Chapter 48 of the General Laws.

Very truly yours,


Robert L. Collins