

Charter Review Committee (CRC)

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

Meeting Minutes - February 17, 2016

At Town Hall

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

Not Present: Stuart Schulman (BOS)

Recorder: Stephen Legge

Visitors: Judy Anderson, Peter Cunningham (BOS), Anna Eliot (BOS), Mark Haddad (Town Manager), Scott Harker, Russell Harris, Barry Pease (Finance Comm), John Petropoulos (BOS), Art Prest (Finance Comm)

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

Approval of Meeting Minutes:

The minutes of February 3rd were reviewed with amendments as added by Mr. Manugian. **Mr. Collins moved the minutes of February 3, 2016 be accepted as amended.** Mr. Robertson seconded. The minutes were approved unanimously with Ms. Allen and Mr. McCoy abstaining due to absence from the meeting.

Previously Discussed Issues:

Mr. Collins presented his proposed wording for **Submission #105** having to do with the Town providing a full account of the status of funds held on an annual basis. The Committee had voted to require this in principle at a previous meeting. Mr. Collins' recommendation is in a letter to the Committee, dated February 17, 2016, and is attached to the minutes. He proposes wording for insertion into Section 6-7 in the Charter which presently requires audits of the town's finances and fiscal procedures. His proposal is to require a review of all funds held by municipal departments of the town, and that it be a record available to the public, but not to require a presentation Town Meeting.

Mr. Giger took issue with the end of calendar year deadline, explaining the information would be more useful if provided 90 days earlier so it could be used to develop the next fiscal year's budget due by December 31st.

Ms. Allen asked why the funds' status would be relevant to the next year's budget. Mr. Giger explained any unplanned deficits in funds would need to be made up by the Town in the next budget cycle.

Mr. Collins moved to accept his language in the attached letter, with one exception, that his text will begin as follows: "Within 90 days of the end of each fiscal year..." (This would ensure that information was available for budget consideration 90 days before the end of the calendar year.) Ms. Allen seconded. The motion was voted and approved unanimously.

Discussion of the Town Manager's Responsibilities (Submissions # 121, 138, 149, 151 and 159):

Submission # 121 (Page 19 in the Charter Section Summary), from Connie Sartini. Many points were made in this submission. All points have been previously discussed and decided with one exception: Mr. Giger's action item from the last meeting to do research on Ms. Sartini's point raised regarding charter Section 4-2(e). Since this action item was not completed, discussion of this submission was deferred.

Submission # 138 (Page 77 in the Charter Section Summary), from Jane Allen. Ms. Allen proposes to remove the term "highway surveyor" from Charter Section 4-2(d) and replace it with "Department of Public Works Director".

Visitor Mr. Haddad commented there are a number of references to the highway surveyor in Article 4. Putting in "Department of Public Works Director" in 4-2(d) will set up conflicts with these. His recommendation is to just remove "highway surveyor" and not to put in a substitute title.

Ms. Allen moved to change Charter Section 4-2(d), to read as follows: "Whenever a vacancy occurs in the office of police chief or fire chief, to select and present at least two qualified candidates to the board of selectmen for appointment by the board to the office, as provided for in section 3.2(d)." This deletes the reference to the highway surveyor. Mr. Collins seconded.

Mr. Pease said the net effect of this change is to remove the requirement to present two candidates to the BOS for highway surveyor. Mr. Haddad concurred. The committee was also satisfied with the effect of this change.

The motion was voted and approved unanimously.

Submission # 149 (Page 81, in the Charter Section Summary). Mr. Petropoulos feels it is important to put in the Charter the Town Manager may not make changes to public safety staffing without public disclosure to and approval from the BOS, in public session.

Mr. McCoy said he agrees in principle with this idea, but questions the need to make a change to the Charter. Mr. Robertson agreed.

Visitor Mr. Cunningham said current practice is for the Town Manager to talk to the BOS before making public safety staff changes. The BOS is already handling this issue.

Mr. Giger said he is ok with handling the issue by means of administrative policy, but does not favor Charter change. He went on to suggest the Committee propose a formal policy to the BOS for handling this in the future.

Mr. Giger moved the Committee convey to the BOS a recommendation that there be a written policy to ensure operational reductions of public safety staffing by the Town Manager are approved by the BOS in a public meeting. Ms. Allen seconded.

Mr. Robertson: Be careful of specific language here; issues of overspending the budget or under-spending can make matters more complicated, especially as they might impact union contract terms. Mr. McCoy argued the issue at stake is the staffing itself and its impact on public safety, not the budget impact.

Mr. Haddad referred to some recent decisions on staffing in the Fire Department. He said he did not cut staffing - he ordered reductions in overtime because it was causing overspending of the budget. Mr. Haddad mentioned the Fire Department does not have stated minimum staffing levels like the Police Department does. The police mandate a minimum of two patrolmen on duty on every shift.

Mr. Giger suggested minimum staffing levels be defined for the Fire Department also.

Mr. Haddad said there are three full-time fire fighters on each shift, normally. If one were to be sick, a per diem employee would be called in. Mr. Giger asked if there should be a minimum of four on each shift, the regular three staff and a supervisor.

Mr. Manugian commented we would be micro-managing, especially if we are talking about specific numbers of staff.

Visitor, Mr. Harker said Mr. Petropoulos' concern is for public safety.

Visitor Mr. Harris commented the issue is should the BOS be involved when public safety is confronting a serious emergency (and likely contemplating overtime).

Mr. Giger withdrew his earlier motion to recommend policy to the BOS.

Mr. McCoy moved to dismiss Submission # 149 with no change to the Charter. Mr. Collins seconded. A vote was taken and the motion passed 5 – 1 with Mr. Giger voting no.

Submission # 151 (Page 80, in the Charter Section Summary), from John Petropoulos, takes a hard look at the realities of day-to-day responsibilities to run the town, and how these should be split between the Town Manager and the BOS. Submission # 31 from Mr. Harris also addressed these issues and was discussed and decided in the previous meeting. Mr. Collins had been tasked with developing language to implement the Committee’s decision. Since this issue had already been addressed, the Committee agreed to take no further action on submission #151.

Submission # 159 (Page 80, in the Charter Section Summary), from Michael Bouchard, refers to a statement in Charter Section 4-2 which says the Town Manager shall be responsible to the BOS for the proper administration of all town affairs. Mr. Bouchard feels this is a sufficient and clear statement of accountability , and does not need to be changed. The Committee felt this was also covered by the decision made on Submission # 31.

Mr. Collins moved to dismiss Submission # 159 with no change to the Charter. Mr. McCoy seconded. The motion was approved unanimously.

Discussion of the Town Manager’s Responsibilities (Submissions # 163, 164, 60 and 122):

Submission #163 (Page 79, in the Charter Section Summary), from Bob and Becky Pine is a cover letter for other specific proposals for Charter change. **The committee agreed there was no need to take action on the Submission since it was a cover letter only.**

Submission #164 (Page 79, in the Charter Section Summary), from Bob and Becky Pine. The Pines state that the Town Manager appears to have an unduly large authority under the Charter to appoint ad-hoc committees. An example of such a recent committee is the one appointed to select the fire station site. They argue the case that the BOS and/or Town Moderator should have this authority because they have greater knowledge of appropriate townspeople and can create more balanced and representative committees.

Mr. Manugian proposed to postpone discussion of this submission to “committee” discussions at a future time. The Committee agreed with this approach.

Submission # 60 (Page 83, in the Charter Section Summary), from Michael Manugian is in reference to the Charter provisions in Section 4-3 referring to removal and suspension of the

Town Manager. At present the requirement is for a minimum affirmative vote of four of five selectmen. Mr. Manugian wishes to see this changed to a simple majority.

Mr. Collins said the town manager role is a very important one and he favors maintaining the 4/5 requirement because of the potential impact to the community.

Mr. Robertson countered in most cases a majority rule is acceptable.

Mr. McCoy commented a 3 -1 vote with one abstention would not be sufficient under the current Charter. He favors three of five to remove or suspend. Mr. Giger agreed.

Mr. Collins: There is a risk of politicizing the decision by reducing the requirement. It makes our government less stable.

Ms. Allen (a former member of the original Charter Committee): the logic of the original Charter Committee was that the termination of the Town Manager was a big deal. It should require a larger vote.

Mr. Cunningham (a former member of the original Charter Committee): Removal and suspension are very serious matters and require egregious circumstances. They should require a super-majority. Mr. Cunningham added there was significant support for this idea from outside sources as well.

Mr. Giger does not like the characterization of a simple majority as a “whim”.

Mr. Collins argued as the matter being voted rises in importance, the voting requirement should also rise.

Mr. McCoy offered another scenario: a vote of 3 – 0 would not be sufficient to remove. He feels this is not right.

Mr. Manugian believes the present minimum four requirement affords too much protection to the Town Manager. When the Charter was first formulated it might have made more sense to do this to ensure stability while the town adjusted to operation with a Town Manager, but now we have had experience and should feel confidence in a majority decision.

Mr. Collins: We need to look at the law on this. Mr. Manugian countered that it was unnecessary to look at the law since some existing charters of other towns only required a simple majority.

Visitor Ms. Eliot: Keep this provision as it is. Removal should require an almost unanimous decision. Only egregious behavior should merit removal. Refusal to renew a contract is a different matter and may reasonably be done by a majority.

Visitor Mr. Prest agrees with Mr. Collins and thinks going to a majority would allow politicizing decisions.

Visitor Mr. Pease: Regarding earlier references to statutes, the state will not decide this kind of issue. It is the province of the Charter to define what kind of vote is needed for removal. His view is the people who elect the people, of whom a majority make a decision, should be trusted.

Visitor Mr. Harris stated more town charters require three of five, not four, in his anecdotal experience.

Mr. Collins moved to keep the requirement of four votes of the selectmen to suspend or terminate a town manager. There was no second, so the motion could not move forward.

Mr. McCoy moved the BOS be empowered to remove a town manager by a majority vote. Ms. Allen seconded.

Mr. Robertson asked must all the BOS be voting so that a majority requires three?

Mr. McCoy withdrew his motion and offered a new one: Section 4-3 in the Charter shall change “the affirmative vote of four members” to “the affirmative vote of three members”.

Ms. Allen seconded. The motion was voted and approved 5-1 with Mr. Collins voting no.

Submission # 122 (Page 83, in the Charter Section Summary), from Connie Sartini. This submission again refers to Section 4-3 and favors a reduction in voting requirement, but has the additional requirement that the grounds for suspension and removal be defined.

Mr. Cunningham said the reasons for removal must be stated in the resolution for removal in accordance with Charter Section 4-3(a)1.

Mr. McCoy moved to dismiss the requirement to define grounds in the Charter. Ms. Allen seconded. The motion passed unanimously.

Discussion of the Town Manager’s Responsibilities (Submissions # 139, 101 and 53):

Submission #139 (Page 79, in the Charter Section Summary), from Jane Allen is in reference to the Charter provisions in Section 4-3 referring to removal and suspension of the Town Manager. Ms. Allen asks if the Town Manager is entitled to an executive session hearing if he/she does not request a public hearing.

Mr. Collins moved to adopt Ms. Allen’s wording in Submission # 139 for now. Mr. McCoy seconded.

Mr. Cunningham said the rights of individuals in such cases are covered in the Open Meeting Law. A vote was taken and the motion was approved unanimously.

Action Item #1: Mr. Collins offered to develop proper wording for Section 4-3 to reflect Ms. Allen’s concern for the Town Manager’s right to an executive session in the event of a removal or suspension resolution.

Mr. McCoy noted that there were multiple references in the Charter to the number of selectmen required to vote for Town Manager removal or suspension. **He moved that all such references be changed from a required four to a required three.** Mr. Robertson seconded. The motion was voted and approved 5 – 1 with Mr. Collins voting no.

Submission # 101 (Page 84, in the Charter Section Summary), from John Giger. In Charter Section 4-4(b) the Town Manager is given authority to appoint a capable officer of the town to perform the duties of town manager in his temporary absence of seven days or more. Mr. Giger takes issue with the words “officer of the town”, saying the term “officer” has no specific definition.

Mr. McCoy noted there is a definition for “officer” in Section 1-9(l). Mr. Giger said he does not like that definition. Mr. Manugian suggested Mr. Giger research definitions and offer something better.

Ms. Allen commented it makes sense for the Town Manager, or the BOS in cases where they must approve the appointment, to consider other capable people outside of town government, or even a paid professional.

Ms. Allen moved to dismiss Submission # 101 with no change to the Charter. Mr. McCoy seconded. The motion passed unanimously. As a result there was no need at this time to develop a different definition of the word officer.

Submission # 53 (Page 84, in the Charter Section Summary), from Michael Manugian. Section 4-5 of the Charter specifies the method for appointment of the Town Manager Screening Committee, which solicits, receives and evaluates applications for the town manager position. Mr. Manugian wishes to limit screening committee membership to one member only from each of the BOS and the Finance Committee. He is not advocating a change in the number of members each committee has the right to appoint (BOS – 3, Fin Comm -2), but rather only the final membership on the screening committee.

Mr. Robertson said he had no concern for greater than one BOS member on the screening committee. He mentioned the possibility of expanding membership numbers in order to better incorporate the broader public.

Ms. Allen asked Mr. Manugian, who was on the initial screening committee, if seven was enough for total membership. Mr. Manugian said yes. However, he felt that if three of the seven were selectmen, for example, that they might dominate the other members of the committee.

Mr. Collins moved to approve Submission # 53, reading: “Limit to no more than one member each of BOS and Finance Committee at any point in time.” Mr. McCoy seconded.

Mr. Petropoulos argued it is better to have a diversity of selectmen members on the screening committee – keep things as they are. Mr. Manugian answered it is possible to get diversity without two or three selectmen.

Mr. Cunningham: The Town Manager is accountable to the BOS. It seems reasonable to give the BOS a bigger say in who is recommended for the job.

Mr. McCoy said citizen representation is good (favoring Mr. Manugian’s proposal).

Ms. Eliot said the BOS wants a broad representation of the citizenship.

Mr. Harris said he favors the proposal. Town Manager can be a political position. The legitimacy of the selection process is important.

Mr. Giger moved to amend the motion to read a limit of two selectmen instead of one. Mr. Robertson seconded. A vote to amend the original motion was defeated 2-4 with Ms. Allen and Misters Collins, Manugian and McCoy voting no.

The main motion was then brought to a vote and was approved unanimously.

Administrative Matters:

Mr. Manugian invited comments from the Committee and the public.

Visitor Mr. Harker complained that some seven months have passed and some members of the public have yet the opportunity to make presentations on their submissions.

Mr. Manugian responded to Mr. Harker by explaining the process by which the Committee is organizing, hearing, discussing and deciding the issues presented to them last fall. He also pointed out the large number of issues brought forth by the public. He assured that all would get their chance, and indeed it was the Committee’s plan to again hear further presentations in the

next week or two. The process is to hear all presentations by topic, then discuss and approve changes, then move on to the next topic, whenever possible.

Mr. Petropoulos reminded the Committee it had earlier asked him to provide comments on the Personnel Board he personally had had with some lawyers and other selectmen. He offered to still provide this in the near future, but that there was some difficulty in that parts of the information were heard in executive session and were not yet public. Mr. Manugian observed that the Committee had made its decision on the Personnel Board in recent meetings and that the information need no longer be provided. The Committee agreed.

The meeting was adjourned with unanimous consent at 9:15 PM.

**** The next meeting is scheduled for Wednesday, February 24th, at 7:00 PM. ****

Exhibit: Letter from Attorney Collins dated February 17, 2016, subject: Section 6 (perhaps as an addition to 6-7).

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17 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 6 (perhaps as an addition to 6-7):

This suggested language deals with Submission 105, which seeks to require a full rendition of all funds held by the town be outlined on an annual basis:

Amend the Section 6 by adding a provision which would read:

“At the end of each calendar year, every municipal department shall prepare a summary of all funds (which term shall include but not be limited to monies, bonds, notes, and promissory obligations of others) held by such departments, which shall be in a form approved by the Town Treasurer and prepared in accordance with recognized accounting principles. This summary shall include both a snapshot summary as of the first day of the fiscal year as well as a complete statement of additions to and deletions from such account(s) during the preceding twelve months. This information shall be provided to the Town Manager, who shall disseminate the information to the Finance Committee and the Board of Selectmen. It shall further be made available without cost to members of the public at request.”

There are deviations from Submission 105, which I wish to explain. I consulted with Michelle Collette, the Groton Land Use Director regarding this matter. Currently, each account is reconciled monthly; this review is done by the Land Use Director, the Treasurer, and the Tax Collector.

End of construction season (December of each year) reviews are done of bonds being held by the Town.

Attempting to explain to the uninitiated how a "593 Account" or subdivision bond works would be very time consuming, and since these sorts of funds and obligations are not actually municipal funds in the normal sense, I am not convinced that time needs to be taken at Town Meeting. I do believe, however, that it is important that it be mandated that these reviews are actually performed. The suggested language is thus a compromise aimed at accomplishing that end.

Very truly yours,



Robert L. Collins