

Charter Review Committee (CRC)
Town of Groton, Groton, MA 01450 978-448-1111
Meeting Minutes - March 2, 2016
As Amended on March 30, 2016, See Page 10
At Town Hall

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

Recorder: Stephen Legge

Visitors: Judy Anderson, Peter Cunningham (BOS), Anna Eliot (BOS), James Gmeiner, Tom Hartnett (former BOS), Barry Pease (Finance Comm)

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

Approval of Meeting Minutes:

The minutes of February 24th were reviewed. Mr. Robertson, Ms. Allen and Visitor Ms. Eliot suggested minor corrections. **Mr. Schulman moved the minutes of February 24, 2016 be accepted as amended by Mr. Manugian and the three people above.** Mr. Robertson seconded. The minutes were approved unanimously.

Administrative:

Mr. Manugian thanked members of the Committee for notifying him of their availability to attend Wednesday night meetings until the end of August. A tentative schedule of meetings will be developed.

Mr. Manugian announced there would be Committee discussions of earlier presentations until 8:00 PM. At 8:00 public presentations were scheduled on the subject of the Board of Selectmen. Mr. Manugian also asked the Committee for permission to again schedule public presentations for the next meeting. The Committee consented.

Discussions of Submissions Presented in Earlier Meetings (# 113, 118 and 152) (#121, 54, 60, 31, 91 and 139):

Submission # 121, regarding appointment of the DPW director by the BOS, submitted by Connie Sartini. Mr. Manugian said Ms. Sartini had withdrawn part (e) of this submission.

Commented [JG1]: Amendment #1: These three submissions numbers were replaced with the following submission numbers, #121, 54, 60, 31, 91, and 139. See page 10.

Submission # 54, regarding increasing the time the BOS has to make a decision on the appointment of a new town manager from 30 days to 45 days. In earlier discussion the Committee had decided to extend this time period further to 60 days because of the importance of the decision.

Mr. Giger moved to approve the change proposed in Submission # 54 which impacts Section 4-5 of the 2010 Charter, extending the time period to 60 days. Ms. Allen seconded. A vote was taken and the motion was approved unanimously.

Submission # 60: Mr. McCoy discussed a letter he had submitted dated February 24, 2016 which provided specific wording to change the number of selectmen required to suspend or remove a town manager from four to three (a majority of all five on the board). The letter is attached to these minutes. This provision is found in Charter Section 4-3 and is mentioned in several places.

Mr. Collins suggested including a reference to the Massachusetts General Laws and mentioning the phrase “as amended” to incorporate any future changes in the MGL. Mr. McCoy had no issue with this. Mr. McCoy also mentioned a reference in the Charter to the Open Meeting Law was incorrect. Mr. Manugian said the reference to the MGL should not be in the Charter since it is understood that all governance in the Commonwealth must be subject to them.

Mr. Schulman said he had missed the meeting where this proposal had been discussed and voted by the Committee. He wished to state he is personally opposed to this change (from four to three to suspend or remove). He said the new provision will make it harder to hire a new town manager.

Mr. Robertson moved to accept the wording for the new Section 4-3 as amended by Mr. McCoy. Mr. McCoy seconded. A vote was taken and the motion was approved 5 - 2 with Misters Collins and Schulman voting no.

Submission # 31, regarding the BOS being the chief policy making agency of the Town, submitted by Russell Harris. Mr. Collins has drafted wording for Charter Section 3-2(b)1. See the attached letter dated March 2, 2016 from Robert Collins.

Mr. Schuman objects to the limitation he believes is imposed by having to wait for Town Meeting authorization to formulate policy. Mr. Collins defended his choice of words and said the BOS should not act outside of its authority.

Ms. Allen asked Mr. Schulman for examples of the type of problem he anticipates.

Mr. McCoy said the BOS receives authority through Town Meeting. Other Town boards receive authority through state statutes and other channels. He believes it is acceptable for the BOS to be responsible for policy, when no other entity is responsible.

Mr. Collins is concerned about past examples of the BOS overreaching.

Mr. Giger thinks Mr. Collins' wording is reasonable, clarifies and establishes a proper boundary.

Mr. McCoy moved to accept the language developed by Mr. Collins for Section 3-2(b)1 as amended. Mr. Collins seconded.

Visitor Mr. Pease recalled instances of Town Meeting voting on an issue, but the BOS not being bound to the decision. The BOS interpreted the vote as a recommendation.

Mr. Cunningham: What does goal-setting" mean? Does it consist more of having visions or does it imply directing specific actions?

Visitor Ms. Eliot is concerned about the Town Meeting/BOS interface. What is binding on the BOS? Ms. Allen said Town Meeting can direct the BOS to do some things.

Mr. Giger: Warrant articles should make it clear whether they are binding, advisory or something else in nature.

Mr. Schulman said he does not want to overload Subsection 1 of 3-2(b). He would like to keep the first line of Mr. Collins' language proposal, but delete the latter part.

Mr. Schulman moved to amend Mr. McCoy's motion for wording for Section 3-2(b)1 by putting a period after "of the town" and deleting the remaining words. Ms. Allen seconded.

Mr. Collins argued against the removal of the words, saying it leaves the impression the BOS has more power than it actually does. And that would be a harmful perception, he added.

A vote was taken on the amendment and it was defeated 1-6 with Mr. Schulman voting yes.

A vote was taken on the main motion and it was approved 6-1 with Mr. Schulman voting no.

Submission # 91, regarding the BOS delegating its authority to award and execute contracts for services and supplies in Charter Section 3-2(b)4, by John Giger. Mr. Giger believes such delegations should always be specific and in writing.

Ms. Allen moved to accept Mr. Collins' wording proposed in his letter of March 2, 2016, by adding the words "by a vote of the Board at a posted meeting" to the end of the sentence in Section 3-2(b)4. Mr. Giger seconded. A vote was taken and the motion was approved unanimously.

Submission # 139, regarding hearing requirements for removal or suspension of a town manager, by Jane Allen. Mr. Collins developed language for Charter Section 4-3(a)2 to clarify the Town Manager’s entitlement to an executive session at the Town Manager’s request. Refer to the attached letter from Mr. Collins dated March 2, 2016. Mr. Collins questioned whether he should bold or underline the word “and” in the proposal to highlight the need for the statutory requirements to be met. The committee felt that there was no other use of bolding in the Charter and that other provisions were equally important. Therefore, the committee recommended against bolding.

Mr. Schulman objected to the language “if the circumstances meet the statutory requirement for an executive session”. He feels it is implied everything we do is subject to statutory law, so what is the need to say this, and should it be said after everything else we write into the Charter.

Mr. Giger agreed with Mr. Schulman’s point. State laws would naturally be consulted whenever there was a question about appropriateness.

Mr. Collins offered to insert the word “may” in place of “shall” and remove the statutory language.

Ms. Allen moved to accept the original language from Mr. Collins, inserting in Charter Section 4-3(a)2 a sentence after the second sentence reading “This hearing shall be held in an Executive Session if requested by the town manager and if the circumstances meet the statutory requirements for an Executive Session.” Mr. McCoy seconded.

There was a discussion about the actual process described in Charter Section 4-3(a). The Charter does not specifically entitle the Town Manager to an executive session.

Mr. McCoy questioned whether we should modify Paragraphs 2 and 3 in this section. **The discussion ended with Mr. Schulman moving to table the motion.** Mr. Giger seconded. The Committee voted unanimously to table pending generation of improved wording.

Action Item #1: Mr. Manugian asked Mr. Collins to reconsider the wording in this section of the Charter and bring an improved language proposal back for consideration.

Discussions of submissions presented at earlier meetings ended at 8:10 PM.

Presentations by the Public on the Number of Members and Limitations on Length of Service for the BOS (Submissions # 33, 35, 112, 61, 69):

Submission # 33 (Page 35 in the Charter Section Summary), proposed by Peter Cunningham. Mr. Cunningham refers to Section 3-2(a) in the Charter and proposes the current five members of the BOS be reduced to three. In 2003, Groton increased its selectmen from a three-member

board to five. The need for greater oversight of Town operations was the reason for the increase. The majority of towns in the Commonwealth have three member boards. Ayer recently reduced its membership from five to three. Pepperell rejected a proposed increase from three to five.

Mr. Manugian: How much time is spent being a selectman in Groton? Mr. Cunningham answered it depends on the season of the year and the issues at hand. It is cyclical with a slow time in the summer usually. Also it depends on the individual selectman - they choose their level of involvement. It is necessary to spend a substantial amount of time preparing for town meetings.

Mr. Schulman commented the interpersonal dynamics may be an issue and varies for the size of the board.

Mr. Collins observed Mr. Cunningham had served on both a three-member and a five-member board. Mr. Cunningham said there was more work pre-Charter in managing the day-to-day operations of the town. There was a greater need for a five-member board. Mr. Cunningham said it is easier to achieve harmony on a three-member board in his experience.

Submission # 35 (Page 45 in the Charter Section Summary), proposed by Barry Pease. Mr. Pease proposes selectmen be limited to three full elected terms (of three years each), or a maximum 11 years in cases where a person is elected for less than a full term to fill in for a vacated office. He also feels strongly that selectmen must not hold any other elected or appointed offices. Mr. Pease justifies in detail his position on these two issues in his submission.

Submission # 112 (Page 51 in the Charter Section Summary), proposed by Barry Pease. In this submission Mr. Pease proposes the BOS continue to have a five-member board. He argues a larger board will be more representative of the populous, that it would provide more internal checks and balances and it is a better deliberating and decision-making body for the specific instance of suspending or removing a town manager. Mr. Pease points out that when one considers only the 69 town manager municipalities in Massachusetts, only five have three-member boards of selectmen. Mr. Pease also refutes the idea that harmony is more possible with a three-member board. Furthermore, he states harmony is not always a good thing – good government often is a result of differences of opinion.

Submission # 61 (Page 51 in the Charter Section Summary), proposed by James Gmeiner. Mr. Gmeiner proposes the number of selectmen be reduced to three members. He argued three are more likely to be civil with one another and there would be fewer difficulties getting the board together from a scheduling standpoint. Mr. Gmeiner also states with a town manager handling day-to-day business there is less work to be done.

Mr. Gmeiner proposed that transitional election to a three-member board be handled in such a way that instead of running for specific seats, the top three finishers get the three positions with the top vote-getter winning a three-year seat the next highest vote-getter winning the two-year seat, and the third person winning the one-year seat.

Submission # 69 (Page 51 in the Charter Section Summary), proposed anonymously. This person proposed that the BOS be reduced to three members. The reason cited was “we have a strong town manager”.

Presentations by the Public on the Number of Members and Limitations on Length of Service for the BOS (Submissions # 70, 78, 154 and 167):

Submission # 70 (Page 16 in the Charter Section Summary), proposed anonymously. This person proposed returning to a three-member BOS. Reasons cited for this change were a strong town manager and the expectation of less bickering.

Submission # 78 (Page 51 in the Charter Section Summary), proposed by Ginger Vollmar. Ms. Vollmar wishes the present five-member BOS to remain. She adds there should be a limitation of three full terms served.

Submission # 154 (Page 52 in the Charter Section Summary), proposed by Michael Bouchard. Mr. Bouchard proposes retaining a five-member board. He suggests that close votes on issues of 3-2 are more meaningful and hold greater significance than 2-1 votes on a three-person board.

Submission # 167 (Page 52 in the Charter Section Summary), proposed by Berta Erickson. Ms. Erickson proposes reduction of the BOS membership to three. She comments a three-person board will be somewhat less expensive for the Town and will be easier for the Town Manager to work with. She also believes a three-person board will be more harmonious.

The public presentations were completed at 8:35 PM.

Discussion of Submissions Presented Tonight – Number of Selectmen:

Mr. Robertson: Leave the board at five members. Harmony is really not an important parameter. Harmony will always be a function of personalities, not the number of selectmen. The real question is what should the board be doing. While three members may be able to make decisions faster, five members can do more work for the Town. If there were to be no town manager then a three member board might be better to make decisions more efficiently. With a

town manager it is better to make more considered decisions. Five members provide more access to selectmen for citizens.

Mr. Collins: Is it better to go back to three? He is not now so convinced. There is security in numbers. Five allows for greater representation of the citizenry.

Mr. Schulman: Five is good and reasonable. All of his experience is with five.

Mr. Giger: Five is a good number. He is concerned that with a three-member board, if one cannot make a meeting then two people make decisions for the town. Three of five is better.

Ms. Allen: Her instinct is to go with three. She believes three people will take their jobs more seriously.

Mr. McCoy: He favors five. Two people can freeze out a third person on a three-member board. With five members we can have division, but two cannot dominate.

Mr. Robertson moved to retain a five-member board of selectmen. Mr. Giger seconded.

Mr. Manugian said there is plenty of work for a five-member board to do.

Visitor Mr. Hartnett (a former selectman): He was on the last three-member board before 2003. He was also on the first five-member board and chaired it as well. Mr. Hartnett was going to advocate for three members, but he is strongly influenced by Mr. Robertson's arguments in favor of five.

Ms. Eliot originally favored a three-member board, but she has learned to like the diversity of five. She recommends sticking with five.

Mr. Cunningham agrees with Mr. Robertson that the need for harmony is secondary. The difference between a town manager and a town administrator is having the hiring and firing responsibility. A three-member board has the advantage that two may not discuss town issues between themselves outside of meetings (legally), and Mr. Cunningham thinks this is best for the Town.

Chairman Manugian called for a vote. The motion to retain a five-member board was approved unanimously.

Mr. Giger followed up on this issue and moved to dismiss all other submissions as to their proposals to reducing membership on the BOS to three. Mr. McCoy seconded. The motion was approved unanimously.

Discussion of Submissions Presented Tonight – Term Limits of Selectmen:

Mr. Collins: Are term limits wise?

Ms. Allen agrees, they may not be wise.

Mr. Giger likes the idea of term limits, but it does sometimes run up against the problem of not having enough candidates to run.

Ms. Allen: It takes time in office to accrue the experience to become good at what one does. It takes time to learn how to participate on a board. Long-serving people can better serve the Town.

Mr. Robertson: Fresh blood is good. A five-person board makes term limits less necessary (by virtue of its diversity and average terms). Mr. Robertson favors no term limits.

Mr. Giger: The voters decide term limits through their votes. They limit terms by voting no.

Mr. Schulman: Incumbency has tremendous power. George Washington limited himself to two terms as our first president. His example motivated followers in office until the 1940s. Mr. Schulman is not in favor of term limits, but he feels people should limit themselves.

Mr. Collins moved not to adopt term limits for the Board of Selectmen. Mr. Robertson seconded. A vote was taken and the motion carried unanimously.

Discussion of Submissions Presented Tonight – Participation in Other Elected Offices by Selectmen:

Mr. Schulman favors no other offices, elected or appointed, by the members of the BOS.

Mr. Collins: Are there any problems that can be cited in the past?

Mr. Robertson: There are possible conflicts of interest. Also BOS members of an outside board or committee may have undue influence.

Mr. McCoy: This is an undemocratic idea. Voters should have the power to decide who they want in elected offices.

Mr. Schulman moved to adopt the spirit of the language used in Submission # 35. This language was “...a member of the BOS may not simultaneously hold any other elective town office, unless specifically authorized by law or by-law.” Mr. Robertson seconded.

Ms. Eliot said forcing only one elected position deprives voters of their will. At the least there should be a provision to allow someone elected to the BOS an opportunity to finish their term on a preceding board or committee.

Mr. Pease said in defense of the original proposal to limit elected offices, the BOS members have an incredible amount of influence.

Visitor Ms. Anderson said persons holding lesser board positions than BOS should also not be allowed to hold two elected offices.

Mr. Manugian called for a vote. The motion passed unanimously.

Action Item #2: Mr. Collins will develop language to implement the idea of one elected office only for members of the BOS.

Final Administrative Matters:

Mr. Pease suggested reconsidering the previous approved motion to limit elected offices for the BOS and expand the idea to limit appointed offices as well.

Action Item #3: Mr. McCoy recommended the language in Submission #152, for Charter Section 3-2(b) 4 be reconsidered by Mr. Collins and brought before the Committee again at a future meeting.

The meeting was adjourned with unanimous consent at 9:18 PM.

**** The next meeting is scheduled for Wednesday, March 9th, at 7:00 PM. ****

Exhibit: Letter from Attorney Collins to Charter Review Committee dated March 2, 2016, subject: proposed wording for Section 3-2(b)1, Section 3-2(b)4 and Section 1 4-2(2.).

Charter Review Committee

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

Amendment #1 to Meeting Minutes of March 2, 2016

April 3, 2016

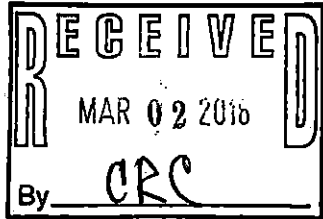
At its meeting on March 30, 2016, an administrative error in the minutes of the Charter Review Committee's meeting on March 2, 2016 was brought to the committee's attention.

By unanimous vote, the committee voted to amend the March 2, 2016 minutes as follows: Change the last major heading on page 1, which reads: "Discussion of Submissions Presented in Earlier Meetings (#113, 118, and 152)" to read "Discussion of Submissions Presented in Earlier Meetings (# 121, 54, 60, 31, 91, and 139)".

Please see the committee's minutes for its meeting on March 30, 2016 for details regarding this vote.

This amendment simply corrects a typographical error made at the time the March 2, 2016 minutes, were prepared.

Amendment prepared by John R. Giger, Member & Clerk, Charter Review Committee.



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2 March 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(b)1:

This suggested language deals with Submission 31, which seeks to clarify the Board of Selectmen's role as "chief policy making agency of the town" (this language now appears in the Charter).

Amend the section by deleting the current language and replacing it with:

"1. serve as the principal goal- setting and policy-making agency of the town for matters within its statutory authority and for those matters for which the Town Meeting has directed the Board to act;"

Section 3-2(b)4 :

This suggested language deals with Submission 91, which seeks to require documentation of the delegation of authority authorized by that section.

Amend the section by adding the words "by a Vote of the Board at a posted meeting." to the end of the sentence.

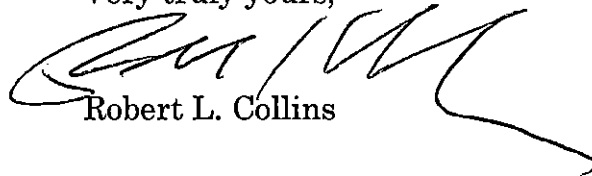
Section 4-3(2.)

This suggested language deals with Submission 139, which involves hearing requirements for the removal or suspension of a town manager.

Amend Section 4-3(2.) by inserting a sentence after the second sentence of this section reading:

"This hearing shall be held in an Executive Session if requested by the town manager **and** if the circumstances meet the statutory requirements for an Executive Session."

Very truly yours,

A handwritten signature in black ink, appearing to read "R. Collins", written over the typed name.

Robert L. Collins