

Town of Groton

173 Main Street
Groton, MA 01450
Tel: 978-448-1100
Fax: 978-448-2030



Charter Review Committee

Michael Manugian, Chair
Bud Robertson, Vice Chair
John Giger, Clerk
Jane Allen
Robert Collins
Michael McCoy
Stuart Schulman

Meeting Minutes

Date: March 9, 2016

Time: 7 p.m.

Location: Town Hall, 1st Floor Meeting Room, 173 Main Street, Groton

Attending: Bud Robertson, John Giger, Michael Manugian, Michael McCoy, Jane Allen, Stuart Schulman

Absent: Robert Collins

Visitors: Judy Anderson

Handouts: Agenda

March 2, 2016 draft minutes

March 10, 2016 letter from Attorney Robert Collins [Exhibit A]

March 9, 2016 email from Becky Pine [Exhibit B]

Michael Manugian convened the meeting at 7:01 pm. Michael Manugian asked Committee members to review the draft minutes from March 2, 2016.

Stuart Schulman moved to approve the draft minutes from March 2, 2016 as presented. Bud Robertson seconded and the motion carried 6:0 (Robert Collins absent).

Michael Manugian reviewed the progress of the Committee in reviewing submissions:

61 not presented

49 presented not completed

88 completed

198 in total

Presentations

Number 24 Jeffrey Wallens

This submission by Jeffrey Wallens concerns the composition of appointed committees. He recommends only one Town Hall employee or person with a close connection to Town Hall employees (i.e., spouse or close family member) be appointed to each committee. Jane Allen asked whether the submitter was aiming for this provision to apply specifically for building committees or for other committees as well. Stuart Schulman asked whether his Selectmen stipend means that he would be considered a Town Hall employee. John Giger mentioned that a number of committee members are designated as special municipal employees. Stuart Schulman noted that the Public Safety committee's composition is comprised of both the Fire Chief and the Police Chief and that it seems appropriate to have input from each of those

departments in a committee tasked with public safety. Michael McCoy wondered that if the requested changes were made and an employee is allowed on a committee would that mean there would not be an officer appearing in uniform at a Committee. The group wondered if this change would exclude a relative working for the town in any capacity.

John Giger noted that this Committee needs to address the definition of employee.

3-1 F.2 Charter Issue per Michael McCoy about appointment process for filling a vacancy using the word "shall". Michael McCoy noted that we should not take it at face value that the present process is adequate or optimal.

Bud Robertson moved to table the issue of the charter wording for the appointment process. Stuart Schulman seconded and the motion carried 5:1 (Michael McCoy against and Robert Collins absent).

Number 25 Park Commission

Fran Stanley reviewed the background on this submission to reduce Park Commission membership from 5 to 3 commissioners. After submitting, the Park Commission learned that composition of the Park Commission is addressed in the Town Bylaws and not the Charter.

Group discussed whether to defer matter until after the election or proceed with one of the usual choices of either refer or dismiss.

Jane Allen recommends dismissal of submission number 25 without action because it does not rise to the level of the Charter. Bud Robertson seconded and the motion carried 6:0 (Robert Collins absent).

Number 39 Planning Board

This submission recommended that the current number of members of the Planning Board be retained.

John Giger moved to dismiss this item number 39 from the Planning Board. Jane Allen seconded and the motion carried 6:0 (Robert Collins absent).

Number 45 Michael Manugian

Michael Manugian presented his own submission for there to be a procedure noted for filling vacancies on appointed committees. The appointment mechanism should be specified upon the origination of the Committee by the appointing authority.

Number 46 Michael Manugian

Michael Manugian presented his own submission for there to be a list of eight requirements for most Town Committees – in particular, the Committees that are required to follow the open meeting law.

Michael McCoy asked if this practice belongs in the Charter with his point being that one might accomplish the same aims with a bylaw or policies and procedures promulgated by the Board of Selectmen. Michael Manugian deemed the proposal charter worthy because committees originate from a variety of sources and such a change would formalize the process.

Number 92 John Giger

John Giger presented his own submission for Charter section 3-2 (d) to create two appointing authority categories – one for the Board of Selectmen and one for the Town Manager. His rationale for the change is that present confusion in the wording and well as public understanding has led to consternation in the public. Some members of the public believe certain appointed committees are not wholly independent and this may be a misapprehension. To clear up any misunderstanding of who is responsible for selecting members of a committee, the list of committees for a Selectmen appointment versus a Town Manager appointment should be delineated.

4-2 C Michael McCoy asked about the process when the Town Manager appoints. The Town Manager appoints with later ratification by Selectmen. If the Board of Selectmen does not ratify the Town Manager's appointment, then there is no appointment.

Presently, all appointments are either made directly by the Board of Selectmen or made by the Town Manager and ratified by the Board of Selectmen. Michael McCoy asked whether it would address John Giger's concerns if the Charter Review Committee changed wording to a Town Manager nomination with Board of Selectmen ratification. The appointing process by the Town Manager according to Michael McCoy is misunderstood.

Number 109 John Giger

John Giger presented his own submission regarding 7-7 (a) & (b), Removals. In particular, he noted the absence of protection for an appointed person not covered by a collective bargaining agreement. He felt that the Charter specified removal from office without due process. He notes that there is no protection for a volunteer who might be removed for adhering to a minority view within the Committee, for example.

Stuart Schulman observed that there are two ways to effect changes in a committee: by direct removal or a failure to re-appoint at the end of a term. This language concerns appointments for both definite and indefinite terms.

Bud Robertson questioned whether this section deals with both paid employees or appointed volunteers. John Giger said that it appears that both categories are addressed within this same section. Michael McCoy questioned why there should be due process if the appointing authority has lost confidence in the appointed person.

Jane Allen said that we should discuss this. Michael McCoy suggested that the appointing authority could remove for cause.

Number 136 Jane Allen

Jane Allen presented her own submission that asks why the housing authority board has five (5) year terms. Michael McCoy researched this question and found that the answer lies in Mass General Law Chapter 121B, Section 5 which specifies that the housing authority shall have 5 members with one appointed or elected each year and that the terms, once established, are all five (5) year terms.

Number 164 Bob and Becky Pine

Michael Manugian read an email dated March 9, 2016 authored by Becky Pine with further thoughts on her original Number 164 submission. Michael Manugian noted that we have heard all of the submissions (numbers 24, 46 and 92) that Becky Pine referenced referred in this email.

Submission Discussions

Michael Manugian invited the group to discuss the evening's submissions.

For Jeffrey Wallens's submission (number 24), Bud Robertson raised the issue of the new Sustainability committee and how composition of the committee and the number of Town Hall employees was discussed at length in a recent meeting of the Board of Selectmen. Stuart Schulman noted that conflicts of interest or at least material interest exists on many committees, such as committees whose work has implications for the increase or decrease of property taxes. The group discussed the rationale and Stuart Schulman observed that even one member on the Committee who is a Town Hall employee may trigger the issue. John Giger does not recommend regulation of appearance by prohibiting the wearing of uniforms. Michael McCoy does not like the anti-Town Hall bias that is a part of the recommendation. Michael Manugian said that we can consider or not consider the intimidation issue, but we should consider the conflict of interest issue raised by this submission. Bud Robertson said that if there is a conflict of interest, then the individual should not be on the Committee. John Giger pointed out that the State Ethics Commission addresses conflicts of interest and recommends curtailed involvement, disclosure of the potential conflict or other measures.

Michael Manugian asked separately whether an individual should be on the committee if he or she has an actual or a perceived conflict of interest. Michael McCoy pointed out that the financial profit is the concern that underlies a conflict of interest. John Giger noted that on the fire department building committee the firefighter would be offering professional expertise that would be beneficial to the work of such committees. The group discussed whether that type of expertise should be provided by an advisor or an associate member rather than a full voting member of a building committee.

Michael Manugian suggested that this Committee further research the State Ethics law and the variety of situations addressed by the Commonwealth's current conflict of interest laws. Michael McCoy questioned whether number 24 should be dismissed. Michael Manugian suggested tabling this issue for now until the ethics law is investigated as an action item for the Committee.

Jane Allen moved to table number 24 for now and put it back on the agenda for next week. John Giger seconded and the motion carried 6:0 (Robert Collins absent).

With regard to number 45, the committee felt that the filling of vacancies was already covered in the Charter for all committees and no Charter change was necessary. *John Giger moved to dismiss number 45. Jane Allen seconded and motion carried 6:0 (Robert Collins absent).*

Stuart Schulman moved to alter 7-9 notice of vacancies by removing the words "bulletin board" and them with the words "Town web site". Bud Robertson seconded and the motion carried 6:0 (Robert Collins absent).

Section 1-9 (j) of the Charter defines the term bulletin board per Michael McCoy. He suggested that bulletin board could be defined to include electronic postings rather than removing its entire mention.

Stuart Schulman moved to rescind the last motion. Bud Robertson seconded and the motion carried 6-0 (Robert Collins absent).

Stuart Schulman clarified that his earlier motion on bulletin boards was rescinded.

Stuart Schulman moved to add the words 'and the Town website' to be inserted after the phrase bulletin board in section 7-9. John Giger seconded.

Action Item: Michael Manugian will bring in a written proposal to the Committee which will look at definition of bulletin board and propose wording that will generalize the definition to include the Town Web Site.

Regarding number 46, John Giger said that town Committee characteristics are not consistently and completely specified for all Town committees. Michael Manugian suggested that these characteristics should be required by the Charter versus the public records policy so that every committee subject to the public records law would be covered, regardless of how it originated.

Bud Robertson moved to recommend that the public records policy committee include this information for Town boards and committees. Michael McCoy seconded and the motion carried 6:0 (Robert Collins absent).

Regarding number 92, John Giger provided the example of an appointment where it was unclear whether the Planning Board was the appointing authority or the Town Manager was the appointing authority.

Michael McCoy recommended the use of language indicating that the Town Manager was recommending and the Board of Selectmen's was actually appointing. Stuart Schulman felt that the wording as it exists now in the Charter was satisfactory. Jane Allen referenced the Town of Groton annual report which already distinguishes between Town Manager appointments and Board of Selectmen appointments. All of the Town Manager appointments are ratified by the Board of Selectmen.

John Giger said that as we think about stepping up a level and determine what general rule or guideline is used to determine whether a particular appointment should be a Town Manager or Board of Selectmen appointment. Generally, said Stuart Schulman, the committees that the

Town Manager appointments are much more routine. And, the routine nature of those appointments indicate a form of delegation by the Board of Selectmen.

Michael Manugian moved to have the appointing authority indicated in the list of committee criteria going to public records committee in Submission 45. Jane Allen seconded and motion carried 6:0 (Robert Collins absent).

Judy Anderson commented that the people were nominated by the Town Manager and approved by the Board of Selectmen. She explained that there has to be a distinction between actions that are only acted on by the Board of Selectmen versus nominated by the Town Manager and approved by the Board of Selectmen.

The outstanding "open" issues are submissions 24, 92, 109 and 164.

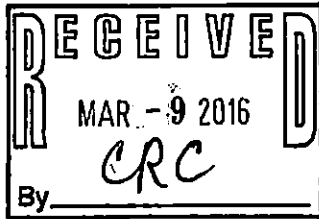
Next meeting: March 16, 2016 at 7 pm

Bud Robertson moved to adjourn the meeting at 9:21 pm. Jane Allen seconded and the motion carried 6:0 (Robert Collins absent).

Notes by Fran Stanley

Exhibits:

- A. Letter from Robert Collins to Charter Review Committee dated March 10, 2016, subject: Section 4-5, Section 3-1C, Section 3-2(b), and Section 4-3(2.)
- B. E-mail from Becky Pine to Charter Review Committee dated March 9, 2016, subject: Important re March 9 meeting.



Robert L. Collins
Attorney At Law
P. O. Box 2081
Westford, Massachusetts 01886

Telephone (978) 448-3511
Facsimile (978) 448-8511

Groton Office:
204 Gay Road
Groton, Massachusetts 01450

10 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 4-5:

This suggested language deals with Submission 53, which seeks to limit the composition of the screening committee to not more than one member each from the Board of Selectmen and Finance Committee.

Amend the section by adding the following clause (after a semi colon) to the last sentence of the first paragraph reading:

"provided; however, that not more than one member of the Board of Selectmen and one member of the Finance Committee shall serve on the screening committee."

Section 3-1 (c):

This suggested language deals with the first paragraph of Submission 35, which seeks to preclude members of the Board of Selectmen from holding other elective office(s).

Amend Section 3-1 (c) by replacing the language with:

“Eligibility – Any voter shall be eligible to hold any elective town office, unless prohibited by law; provided, however, that members of the Board of Selectmen shall not simultaneously hold any other elected position except for the completion of the term of such other elected position.”

This language would prevent simultaneous elective positions (except for the completion of the terms of other positions newly- elected Board members held when elected to the Board of Selectmen), but would allow members of the Board to hold other appointed positions, which I believe would be consistent with our discussion of the subject last week.

Section 3-2(b.) (potential new subsection 5):

This language deals with Submission 152, which involves the powers of the Board of Selectmen, and seeks to codify the delicate balance between keeping abreast of municipal affairs and intrusion on the day to day operation of municipal government.

I would suggest adding the following language after Section 3-2 (b)4:

“Members of the Board of Selectmen may confer with municipal employees during regular business hours for the purpose of discussing municipal policies and assessing and understanding the functioning of municipal government; while this right to confer is to be construed liberally in order to effectuate its purpose, it shall not allow members of the Board of Selectmen to utilize their elected position to unduly influence municipal employees in the performance of their duties. Except in the case of an emergency, nothing in this section shall be construed to authorize any member of the Board of Selectmen, nor a majority of its members, to become involved in the day to day administration of any town Board, department or agency.”

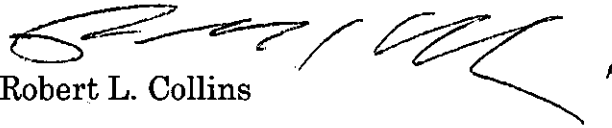
Section 4-3(2.)

This suggested language deals with Submission 139, which involves hearing requirements for the removal or suspension of a town manager. I had provided language for this last week which required additional work after we discussed the matter; may I thus suggest the following:

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

"The hearing envisioned by this section 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, and such hearing shall be deemed to meet the hearing requirements of this section."

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert L. Collins", written in a cursive style.

Robert L. Collins

Exhibit B to Charter Review Committee
03-09-16 Meeting Minutes

John Giger

From: Becky Pine <grotonpines@gmail.com>
Sent: Wednesday, March 9, 2016 16:47
To: Michael Manugian; John Giger; john.crc@cybergiger.com; Jane Allen;
TownCharterReviewCommittee@townofgroton.org
Subject: Important re March 9 meeting

To Charter Review Committee:

Bob and I cannot attend tonight's meeting, but wish to have the following comments read aloud and considered. Since my earlier appearance with the committee to discuss submission #164, I have given the matter further thought and would suggest the following specific revisions to the charter.

I suggest revising Section 4-2 C to state that the Town Manager shall appoint any/all PAID employees of the Town for whom no other appointing authority is specified, so Section 4-2 c would now read as follows (additions in caps):

To appoint and remove department heads, officers and subordinates and employees and other PAID appointed members of town government for whom no other method of appointment or removal is provided in this charter or by-law.

I also suggest adding the following sentences to Section 3-2d as follows: The Board of Selectmen shall appoint the members of any committees or task forces the Board votes to create, and shall appoint the members of any committees for whom no other method of appointment is provided in this charter.

I agree with submissions #24 and #46 which suggest excellent revisions in the area of committees, and am generally supportive of the ideas expressed in #92 about the need to clarify who is in charge of making appointments to committees.

Thank you for your continued efforts on this committee.

Becky Pine