

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

Meeting Minutes - March 23, 2016
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, Anna Eliot (BOS), Barry Pease (Finance Comm), John Petropoulos (BOS)

Call to Order: Chairman Manugian called the meeting to order at 7:02 PM.

Approval of Meeting Minutes:

The minutes of March 9th were reviewed. **Mr. Robertson moved the minutes of March 9, 2016 be accepted as amended by Mr. Manugian.** Mr. Schulman seconded. The minutes were approved unanimously.

Administrative:

Mr. Manugian presented a general status of all submissions made:

- 52 submissions have not yet been presented by the public.
- 54 submissions have been presented but not yet completed and are still being discussed by the Committee.
- 92 submissions have been presented, discussed and are completed by the Committee.

Mr. Manugian and Mr. Giger presented the results of their substantial efforts since the last meeting to develop a table showing submission status in detail for all submissions, organized by number and by status. Tables are attached to the minutes in Exhibit A.

Mr. Schulman asked that the status be presented to the upcoming Spring Town Meeting. **Action Item #1:** Mr. Manugian offered to draft a STM presentation for the Committee's consideration and the Committee consented.

Mr. Giger explained a new enhancement he and Mr. Manugian devised for the lengthier and more complex submissions in which specific section numbers have been assigned. This will

make much clearer in discussions and decisions by the Committee which particular language is under consideration. As an example the second paragraph in submission # 32 would be referred to as # 32.2.

Discussions of Submissions Presented in Earlier Meetings Relating to “Committees” (# 24, 92 and 97):

Submission # 24, by Jeffrey Wallens proposing that no committee with official status shall have more than one member that is a Town of Groton employee or close family member who is an employee. Mr. Wallens feels there is too much potential for conflict of interest when employees are involved in town committees.

Mr. Giger questioned the BOS members present on their practice of appointments to committees in this regard. Mr. Schulman said there is no specific policy. Mr. Petropoulos said elected committee positions are limited to residents of the town. But non-elected positions can be filled by anyone in or out of town.

Mr. Manugian asked the committee to consider the question, should anyone be excluded from a committee position for any reason?

Mr. Schulman commented there are many committee positions which are not filled due to lack of interested candidates, so be very careful about restricting who can fill them.

Mr. Giger said one way or the other he wishes to see a clear annunciation of policy in the Charter on this subject.

Mr. Schulman said there are many different committees with widely varying goals which result in a wide variation in proper criteria for membership qualification. Because of this it is quite difficult to make general rules and possibly non-productive to try setting policy on qualification criteria. Each appointing authority in town confronts a relatively unique situation when considering who should best represent the townspeople on a given committee.

Ms. Allen moved to leave the appointment of committee members to the discretion of the appointing bodies as regards residency. Mr. Collins seconded.

Mr. Manugian offered his opinion this issue was not a Charter issue (in other words favoring the motion). A vote was taken and the motion was approved 5 – 2 with Misters McCoy and Giger voting no.

Mr. Collins said he is against the idea of excluding town employees arbitrarily. He feels the Town has been well served over the years by many earnest and hardworking employees who have volunteered their time on committees.

Mr. Robertson stated that the only relevant issue is conflict of interest and that this must be considered by the appointing authorities.

Ms. Allen observed that the only committee she can recall recently with town employees that may have stepped over the line is the Fire Station Building Committee which had firemen on it. She felt this was a mistake, but added that we should not over-react because of this example.

Mr. Collins moved to dismiss Submission # 24, without change to the Charter. Mr. Robertson seconded. The committee voted to approve this motion unanimously.

Submission # 92, by John Giger, proposing in Charter Section 3-2(d) two appointing authorities be created, one titled BOS and the other titled Town Manager. In each category it is intended the names of individuals, committees and boards that should be appointed would be listed. Mr. Giger cites confusion amongst townspeople over who is the appointing authority. Mr. Giger further questioned why the Charter lists some positions for appointment by either BOS (in Article 3) or Town Manager (in Article 4), and then omits any mention of other committees and boards.

Mr. Manugian summarized the issue as a need to specify which committees are appointed by the BOS and which by the Town Manager.

Mr. Schulman said every committee in town government has a charge and it is also made clear who the appointing authority is.

Mr. Collins said when one reads the Charter it is sometimes unclear why some things are left out. Mr. Manugian suggested it might be better for the Committee to decide what committees should be included in the Charter, but not be compelled to mention every single committee.

Mr. Collins suggested holding this issue until later. He wants more clarity, but it is very hard to decide which committees should be included. What are the criteria for inclusion?

Mr. Giger moved to remove committee descriptions from the charter which are not specifically required under state law. There was no second for this motion and therefore it did not move forward.

There was a discussion about the appropriateness of having out-of-town members on appointed committees. An idea was floated to go to the chair of each committee and ask whether out-of-

town people can be on the committee. Mr. Schulman said the Town Clerk would be able to answer this question for all.

Mr. Manugian asked members to stay on the topic of Submission # 92, i.e., listing all committees in the Charter by appointing authority.

It was agreed to postpone further discussion on this issue until later in this meeting.

Submission # 97, by Michael McCoy. Section 4-2(c) of the Charter states the Town Manager appoints, the BOS confirms appointments by the Town Manager. If the BOS fails to confirm, the appointment is rejected. Mr. McCoy proposed the language in the Charter be changed to the Town Manager “nominates” for approval or removal and the BOS “confirms” the approval or removal. This change would make it clearer that the Town Manager really does not control appointments with BOS approval.

Mr. McCoy moved that a language change be made to the Charter as follows:

“(c) To *nominate for appointment or removal* department heads, officers and subordinates and employees and other appointed members of town government for whom no other method of appointment or removal is provided. *Nominations for appointment or removal made by the town manager shall be confirmed by the board of selectmen within 15 days of the date the town manager files notice of the action with the board of selectmen. Failure by the board of selectmen to confirm a nomination within 15 days shall constitute rejection of the nomination.* [Amended by Ch. 50, Acts of 2010] Ms. Allen seconded.

Note: The above wording reflects the removal of the words “in this charter or by law” at the end of the first sentence of Mr. McCoy’s original submission, because the Committee felt the removed language was superfluous.

Mr. Schulman: Removal discussions would normally take place in executive discussion to protect the subject’s privacy, but decisions would be made in an open session.

Visitor Mr. Petropoulos thinks damage to individuals is another issue.

Visitor Ms. Eliot said removals are always discussed in executive session to avoid damage to individuals.

Mr. McCoy emphasized the original Charter language allows the Town Manager alone to decide to remove individuals. The new language requires approval for this from the Selectmen, as is the case for appointments.

In reference to the latter point Ms. Eliot said what is not fair to people is deciding removals in public session. Mr. Manugian replied that the submission did not specify how the removal discussions were to be conducted. They could be handled in whatever manner was most

appropriate and least damaging to the person whose removal was being discussed.. Mr. Giger commented there are specific rules covering executive session.

Ms. Eliot commented there are (and should be) different due processes covering appointment and removal.

A vote was called and the motion to change the language was approved unanimously.

Discussion returned to submission # 92. Mr. Giger offered to research the issue of committee appointments and appointing authorities for all committees.

Mr. McCoy moved to table Submission # 92 until the committee received the results of Mr. Giger's research. Mr. Schulman seconded.

Mr. Schulman commented there is confusion around who appoints membership of the various committees.

Mr. Manugian stated he wishes to continue discussion of the issue instead of tabling it.

Mr. Robertson said the list of committees in Charter Section 3-2(d) should be eliminated.

Mr. Collins supported more research and tabling now.

A vote was taken on tabling # 92 and the motion was approved 5 – 2 with Ms. Allen and Mr. McCoy voting no.

Discussions of Submissions Presented in Earlier Meetings Relating to “Committees” (# 164 and 169):

Submission # 164, by Bob and Becky Pine, regards their perception of the Town Manager's unduly large influence in appointing ad hoc committees, as recently evidenced in the fire station site selection process. They propose to remove all appointing authority from the Town Manager.

Mr. Collins questioned the wisdom of excluding the Town Manager's participation in the process of making ad hoc committee appointments.

Mr. Collins moved to dismiss Submission # 164 with no change to the Charter. Mr. Robertson seconded. A vote was taken and the motion was approved unanimously.

Submission # 169, by Robert Collins pertains to clarifications of statutory authority in Charter sections which will make clearer that certain town entities such as the BOS have less authority than is thought by the townspeople. There are four paragraphs addressing points in Charter Sections 3-1, 3-2 and elsewhere.

Mr. Collins moved to dismiss Paragraphs 169.1, 169.2 and 169.4 of his own submission because these points have already been discussed and decided. Paragraph 169.3 is to remain. Ms. Allen seconded. A vote was taken and the motion was approved unanimously.

Discussions of New Language developed for Earlier Presented Submissions (# 105, 31, 91, 139, 53 and 35):

Mr. Collins developed language for all six submissions based on Committee decisions.

Submission # 105, by John Giger, regards full annual rendition of all town funds. Mr. Collins submitted a letter to the Committee on February 17, 2016 with the complete language proposed. It would be added to Article 6 (Finance and Fiscal Procedures), probably in Section 6-7.

Mr. Collins moved to have this wording added to the Charter as follows:

“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.” Mr. Robertson seconded.

The motion was voted and approved unanimously.

Submission # 31, by Russell Harris, proposes clarification of the Selectmen’s role as the “chief policy-making agency of the Town”. Mr. Collins proposed new wording for Charter Section 3-2(b)1 , replacing the current language as follows:

“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;”

Mr. Schulman said this is a given. He did pose the question, what should the Board do in the event Town meeting directs the Board to do something considered outside of its statutory authority.

Ms. Allen moved to accept Mr. Collins new wording. Mr. McCoy seconded.

Mr. Schulman asked can others besides the BOS set goals too. He cites the word "principal". Should the word be removed?

Mr. McCoy believes the word principal is good; it implies the Town Manager setting policy is secondary to the BOS.

Mr. Petropoulos: Where is the line on "statutory authority"? It is hard to define. Mr. Manugian commented it is a moot point – No governmental body can act outside of its statutory authority.

A vote was taken on the motion to accept Mr. Collins wording and it was approved unanimously.

Action Item #2: Town Counsel will be asked to look at the meaning of statutory authority for the Selectmen. [by whom?]

Submission #91, by John Giger, proposes wording in Charter Section 3-2(b)4 to require documentation of the delegation of authority authorized in that section (for Selectmen). Mr. Collins proposed in his letter to the Committee dated March 2, 2016 wording to be added at the end of the sentence as follows: "by a vote of the Board at a posted meeting."

Mr. Collins moved to accept his own wording to address the concern of Submission # 91. Ms. Allen seconded. A vote was taken and the motion was approved unanimously.

Submission # 139, by Jane Allen, regarding Charter section 4-3(a)2 and the question, if the Town Manager does not request a public hearing for a proposed suspension or removal resolution is he entitled to an executive session hearing.

Mr. Collins moved to adopt the language he proposed in his letter to the Committee of March 2, 2016, inserting a new sentence after the second sentence of the subsection as follows:

"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." Ms. Allen seconded.

A vote was taken and the motion was approved 6 – 1 with Mr. Manugian voting no. Mr. Manugian explained he felt the change to the Charter was unnecessary since the Town Manager was already entitled to an executive session hearing.

Submission # 53, by Michael Manugian, proposes to limit membership on the Town Manager Screening Committee in Charter Section 4-5 to a maximum one member each from the BOS and

the Finance committee. Mr. Collins proposed a wording change to the Charter in his letter to the Committee dated March 10, 2016.

Mr. McCoy expressed concern with the wording in the last sentence of the first paragraph in the existing Charter Section 4-5.

Mr. Collins moved to delete the last sentence of the first paragraph in Charter Section 4-5 and insert the following after a semicolon at the end of the second sentence of the paragraph: “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.” Ms. Allen seconded.

A vote was taken and the motion was approved unanimously.

Submission # 35, by Barry Pease, proposes in part (35.1) that members of the Board of Selectmen not be permitted to hold other elected office(s). Mr. Collins proposed new language for Charter Section 3-1(c) in his letter to the Committee dated March 10, 2016 to address this particular issue.

Visitor Mr. Pease questioned a point made by the Committee in a previous discussion to the effect that an exception should be made to allow a newly elected selectman to finish an elected term on a predecessor board.

Visitor Ms. Anderson commented she feels no one should serve any longer than one year on a previous board in this situation.

Ms. Eliot said it was not impossible to serve both boards. Limiting duration of term on the first board by Charter amendment would thwart the will of the voters who wanted that person on the board.

Mr. Collins pointed out his proposed wording would permit serving the full term on a previous board as an exception to a newly elected member of the BOS.

Mr. Schulman asked if an incumbent selectman could run for another board. The answer was thought to be no. Mr. Schulman went on to suggest limiting duration on a previous board to 180 days.

Mr. McCoy moved to adopt the wording discussed in the March 2nd meeting which provided for no exception to the rule that selectmen could not hold any other elected office. Mr. Giger seconded. A vote was taken and the motion was approved 5 – 2 with Misters Collins and Schulman voting no.

Mr. Manugian asked that the Committee reconsider this vote at the next scheduled meeting.

Final Administrative Matters:

Mr. Manugian said a lot of material has been presented by the public to this point, but the Committee had not yet fully discussed it. He suggested the next two meetings be dedicated to discussing already presented material. The Committee agreed.

Misters Collins and Schulman said they may not be able to attend next week's meeting.

The meeting was adjourned with unanimous consent at 9:23 PM.

**** The next meeting is scheduled for Wednesday, March 30th, at 7:00 PM. ****

Exhibits:

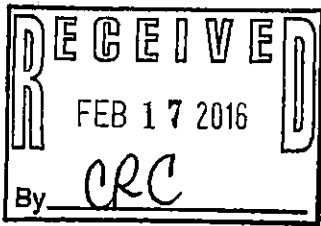
- A. Correspondence from Attorney Collins extracted from Charter Review Committee minutes on February 17, 2016, March 2, 2016 and March 9, 2016
- B. Charter Review Committee Submissions with Multiple Sub-Parts Numbering Clarified

CORRESPONDENCE FROM ATTORNEY ROBERT COLLINS
EXTRACTED FROM CHARTER REVIEW COMMITTEE MINUTES ON

February 17, 2016

March 2, 2016

March 9, 2016



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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:

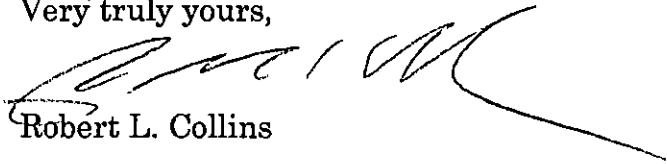
"At the end of each calendar year, every municipal department shall prepare a summary of all funds (which term shall include but not be limited to monies, bonds, notes, and promissory obligations of others) held by such departments, which shall be in a form approved by the Town Treasurer and prepared 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,

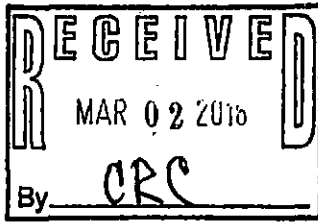

Robert L. Collins

CORRESPONDENCE FROM ATTORNEY ROBERT COLLINS
EXTRACTED FROM CHARTER REVIEW COMMITTEE MINUTES ON

February 17, 2016

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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.

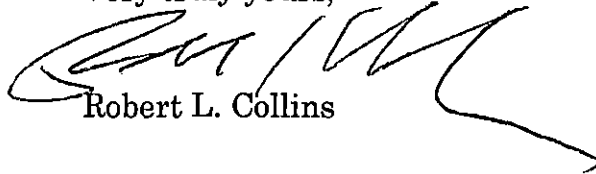
Section 4-3(2.)

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.

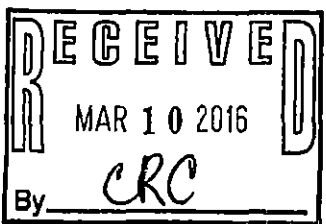
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CORRESPONDENCE FROM ATTORNEY ROBERT COLLINS
EXTRACTED FROM CHARTER REVIEW COMMITTEE MINUTES ON

February 17, 2016

March 2, 2016

March 9, 2016



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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.”

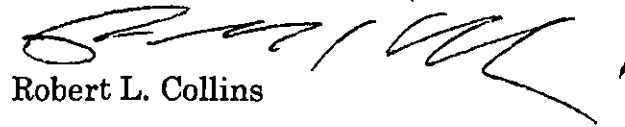
Section 4-3(2.)

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,



Robert L. Collins

CRC Submissions with Multiple Sub-Parts

<u>32</u> 32.1 32.2 32.3 32.4	<u>115</u> 115.1 115.2
<u>35</u> 35.1 35.2 35.3 35.4	<u>117</u> 117.1 117.2
<u>38</u> 38.1 38.2 38.3 38.4	<u>126</u> 126.1 126.2
<u>66</u> 66.1 66.2	<u>157</u> 157.1 157.2
<u>78</u> 78.1 78.2 78.3 78.4 78.5 78.6	<u>169</u> 169.1 169.2 169.3 169.4
<u>113</u> 113.1 113.2 113.3	