

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

Meeting Minutes - May 18, 2016
At Town Hall

Present: Jane Allen, Robert Collins, John Giger (Finance Comm), Michael Manugian (Chair), Stuart Schulman

Not Present: Michael McCoy, Bud Robertson (Vice-Chair [for CRC], Finance Comm)

Recorder: Stephen Legge

Visitors: none

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

Approval of Meeting Minutes:

Mr. Manugian called for a vote to approve the minutes of May 4, 2016, as amended by Mr. Manugian. The minutes were approved unanimously.

Administrative:

Mr. Manugian said a current status of all submissions made was included at the top of the agenda for tonight's meeting. The update is as follows:

- 21 submissions have not yet been presented by the public;
- 17 submissions have been presented but not yet completed and are still being discussed by the Committee; 162 have been completed; there are a total of 200 submissions, of which one was added on April 27th;

Of the 162 completed,

- 49 submissions have been accepted by the Committee;
- 100 submissions have been dismissed with no changes to the Charter recommended;
- 13 submissions have been referred to other town governing boards with no changes to the Charter recommended.

Presentations by (or from) the Public (Submissions # 32.4, 44, 52, 72.2 and 81):

Submission # 32.4, by Deborah Johnson, proposes adding a Code of Conduct for those serving in town government to the Charter. Mr. Manugian read the Submission's fourth paragraph.

Submission # 44, by Michael Manugian, proposes to add a table of contents to the Charter. Ms. Allen asked how detailed such a table should be. Mr. Manugian answered just article names and main sections under articles as it is in the one page table of contents created for the Charter Review process.

Submission # 52, by Michael Manugian, proposes to survey the Charter for correct and consistent spelling and capitalization of the names of elected officers in Section 3-1(a) and the names of committees.

Submission # 72.2, by William Knuff, proposes to educate public officials to behave properly and refrain from pettiness and making a mockery of town government.

Mr. Schulman noted the words “consequences of failure to follow policy”, and asked what is meant by that since there is no such policy he is aware of. Mr. Manugian said we can fill in the blanks and suggest changes which we think will address the heart of his concern.

Submission # 81, by John Giger, proposes to remove reference to the town manager from Section 1-4, Division of Powers, referring to the executive branch of town government. Mr. Giger feels the Town Manager, as chief administrator for the Town is not to be considered “executive branch”.

Some on the Committee questioned this and Mr. Giger said the real question is should the Town Manager be considered part of the executive branch with the BOS.

Presentations by (or from) the Public (Submissions # 86, 110, 113.3, 113.1, 115 and 171):

Submission # 86, by John Giger, proposes to add to the Charter in Section 1-9, Definitions, a definition of who is qualified to vote in town affairs. He is mindful of those who pay property taxes but may not have a vote.

Submission # 110, by John Giger, proposes to remove Article 8, Transitional Provisions, in its entirety, because the transitions were completed years ago after the Charter was enacted.

Mr. Manugian clarified this provision was put in place to explain how the pre-Charter form of government would transition into a new form of government. The transition is finished now.

Mr. Schulman said we may need to put in new transitional provisions which may be required for any changes adopted in this Charter review process.

Submission # 113.3, by Connie Sartini, proposes to add to the Charter delineation of what constitutes a violation of the Charter and what the consequences should be for such violation(s).

Submission # 113.1, by Connie Sartini, proposes to employ the use of “best business practices” to increase the likelihood that the operation of the town is viewed with respect and trust, and that elected and appointed officials will better understand their responsibilities.

Mr. Schulman commented the submission is short on specifics and posed the question, what is being asked for.

Submission # 115, by Connie Sartini, proposes to add “moral standards” to the “ethical standards” already put forth in Charter Section 1-8.

Submission # 171, by John Ellenberger, recommends the members of the Charter Review Committee read the background articles published in the Groton Herald newspaper from the time when the original charter committee underwent its deliberations in development of the present charter. He provided a convenient internet link to a compendium of the articles he collected.

Discussions of Submissions # 32.4 and 115, Presented this Evening:

Submission # 32.4 and 115, a code of conduct and/or and moral standards to be included in the Charter:

Mr. Collins suggested joining consideration of Submission # 115 (moral standards) to the discussion of # 32.4 (code of conduct). The Committee consented to this.

Mr. Collins: morality is a constantly moving target. Don't put this in the Charter.

Mr. Schulman agreed. Ethical standards are good. Moral standards are more personal in nature, and could even bring religion into the consideration.

Mr. Giger also agrees. Difficult to define morality, but a code of conduct may be possible

Discussion ensued on a code of conduct:

Ms. Allen: How to enforce any code?

Mr. Schulman: a code of conduct is a policy – it should not be in the Charter.

Mr. Giger suggested creating in the Charter (BOS section) the responsibility to develop a code of conduct policy, without actually defining what the policy should be.

Mr. Collins: the best thing would be for the Committee to refer this action to the BOS. Since morality and proper conduct is a moving target it should not be put in the Charter.

Mr. Giger cited several passages in the BOS section of the Charter (3-2).

Ms. Allen: Is “cause” required for the dismissal of the Town Manager in Article 4? It was believed cause was not required and that was linked to the current Charter wording for a robust 4 – 1 minimum voting requirement to dismiss (in an earlier meeting it was decided by the Committee to change the voting requirement to a simple majority, or 3 – 2).

Mr. Collins said Charter Section 1-8, Ethical Standards, already addressed what was necessary.

Mr. Schulman moved to dismiss the idea of a code of conduct without change to the Charter because Charter Section 1-8 already addressed this. Mr. Collins seconded.

Mr. Giger: Don't mix ethical standards with a code of conduct because the current Charter does not cover the latter in Section 1-8.

Mr. Collins disagreed and thought the first sentence did cover it.

Mr. Giger thinks being uncivil is not covered.

Mr. Schulman cited bad behavior by both government officials and the public back in February of 2015 when the snow was getting very deep. However, he noted that as time went by, people recognized what had happened and became more civil, of their own accord. Things are better now.

Ms. Allen proposed adding “and Conduct” to the title of Section 1-8, and making some minor improvements to the first sentence of the section.

A vote was taken and the motion to dismiss was approved 4 – 1 with Mr. Giger voting no.

Ms. Allen moved to change the title of Charter Section 1-8 to “Ethical Standards and Conduct”. Mr. Collins seconded. The motion was approved unanimously.

Mr. Collins moved to dismiss Submissions # 32.4 and 115 with no further changes to the Charter. Mr. Schulman seconded. The motion was approved unanimously.

Discussions of Submissions # 44, 52, 72.2, 81, 86 and 110, Presented this Evening:

Submission # 44, a table of contents to be added to the Charter.

Mr. Schulman moved to add a table of contents to the Charter. Ms. Allen seconded. A vote was taken and the motion was approved unanimously.

Submission # 52, the names of elected officers in Section 3-1(a) and the names of committees to be corrected for spelling and consistent capitalization throughout the Charter.

Mr. Collins moved to accept Submission # 52, to correct the names of elected officers in Section 3-1(a) and the names of committees throughout the Charter for spelling and consistent capitalization. Mr. Schulman seconded. The motion was approved unanimously.

Action Item #1: Mr. Collins agreed to examine the Charter and correct spelling and capitalization for town officers and committees.

Submission # 72.2, proposes to educate public officials to behave properly and refrain from pettiness and making a mockery of town government.

Mr. Manugian reminded Committee members that Attorney Lauren Goldberg had suggested to us last year it was usually not the best idea to put penalties into the Charter.

Mr. Schulman said that this submission refers to training being given to Town employees, but does not specify what the training is.

Mr. Collins moved to dismiss Submission # 72.2 with no changes to the Charter. Ms. Allen seconded. A vote was taken and the motion was approved unanimously.

Submission # 81, proposes to remove reference to the town manager from Section 1-4, Division of Powers, referring to the executive branch of town government.

Mr. Collins is concerned about this – where else is the Town Manager to be mentioned if not in this section. Removal may confuse people. Yes, the Town Manager is the chief administrator of the Town and is an agent of the BOS, but he is still a part of the executive branch.

Mr. Schulman: In the state and federal governments departments are part of the executive branch, even when not mentioned in the constitution. An example would be the president's cabinet officers. They are not mentioned in the U.S. Constitution but are clearly a part of the executive branch of government.

Ms. Allen referred to the wording in the current Charter Section 3-2(b). There was a big discussion about the purpose of the Town Manager in the Charter and interpretations of what was meant by the executive branch.

Mr. Schulman moved to dismiss Submission # 81 with no change to the Charter. Mr. Collins seconded.

Mr. Collins said Section 1-4 does not confer any powers, it is just descriptive in nature. Conferring of powers comes in later Charter sections.

A vote was taken and the motion to dismiss was approved 4 – 1 with Mr. Giger voting no.

Submission # 86, adding to the Charter in Section 1-9, Definitions, a definition of who is qualified to vote in town affairs.

Mr. Schulman: We get a card indicating we are a registered town voter at town meetings.

Ms. Allen: People who are not citizens of the U.S. cannot vote.

Mr. Manugian: You need to be a registered voter. What other cases would Mr. Giger like covered?

Mr. Giger: How about committee memberships and the idea that people who are not registered voters are taxed without representation.

Mr. Manugian: Should we consider allowing non-registered voters to be on committees, vote in town meetings and vote on ballots at elections? Should there be/are there distinctions as to whether committee members can be voting or non-voting? Should residency in town be a requirement for being on committees? People with green cards (non-U.S. citizens) cannot vote in state or federal elections, but do pay taxes.

Action Item #2: Mr. Manugian asked if a Committee member would be willing to consult with the Town Clerk to find out exactly what the rules are concerning who can be registered for town meeting votes, town elections, be voting members of committees and be non-voting members of committees. Mr. Schulman volunteered.

It was decided by consensus to postpone further consideration of this matter until answers were forthcoming from the Town Clerk.

Submission # 110, removing from the Charter Article 8, Transitional Provisions, in its entirety, because the transitions were completed years ago.

Mr. Collins suggested at first to hold this item until it is clear whether another transitional article will be needed to phase in any new changes proposed to Town Meeting.

Mr. Collins then moved to remove or replace Charter Article 8. Ms. Allen seconded.

Mr. Manugian suggested saving the prior language for historical purposes and easy referencing. State law already has a records retention policy, but we are not fully informed on whether it would include Charter language which is later removed.

Mr. Schulman moved to amend the main motion by adding that we recommend previous versions of sections and articles (removed or changed) be preserved as part of the town's records retention policy. Ms. Allen seconded. A vote was taken and the amendment was approved unanimously.

A vote was taken on the main motion to remove or replace Article 8 and the motion was approved unanimously.

Discussions of Submissions # 113.3, 113.1 and 171, Presented this Evening:

Submission # 113.3, adding to the Charter delineation of what constitutes a violation of the Charter and what the consequences should be for such violation(s).

Mr. Collins moved to dismiss Submission # 113.3 with no change to the Charter. Mr. Schulman seconded.

A vote was taken and the motion to dismiss was approved unanimously.

Mr. Schulman: In the Charter sections dealing with termination of the Town Manager there is no mention that cause must be found, therefore, he may be terminated for any reason or for no reason other than the BOS vote to terminate.

Mr. Collins moved to add "For cause" to Charter Section 4-3(a). (No second.) Mr. Collins thinks this is a good idea because the voting requirement to terminate the town manager was reduced from 4 – 1 to 3 – 2 in a previous meeting.

Mr. Schulman agreed with Mr. Collins - he believes firmly the present Charter voting requirement of 4 – 1 is sufficient insurance for a decision to terminate with no cause. But having eased the voting requirement to 3 – 2 requires that cause should be found for the termination decision, in his mind.

Mr. Collins decided to withdraw his motion to add "For Cause".

Mr. Schulman moved to reconsider Submission # 60's decision to reduce the voting requirement for termination of the town manager in Section 4-3(a). Mr. Collins seconded.

Mr. Manugian is not in favor of the proposal to reconsider Submission # 60.

Mr. Collins feels three Selectmen in favor is not enough; there is wisdom behind the decision to require a 4 – 1 vote.

Mr. Schulman said he is not taking a position on the matter yet, but he thinks the decision was sufficiently important that it deserves reconsideration.

Mr. Manugian said he would consider voting for reconsideration simply because it reconsideration was requested by two members of the Committee.

Mr. Giger expressed concern at the thought that so many decisions could be reconsidered and revisited. He asked, when will we be done?

Mr. Collins said the Committee will be done when the last member passes away.

Mr. Manugian added that changes to the Charter may be considered or reconsidered up to the point at which the committee makes its final recommendation prior to Town Meeting vote.

Among other things the Committee has promised a review by members of Town government as well as a response to a public hearing later in the review process.

Mr. Manugian asked for a vote and the motion to reconsider was approved unanimously. It will be discussed at a future scheduled meeting.

Submission # 113.1, employing the use of “best business practices” to increase the likelihood that the operation of the town is viewed with respect and trust, and that elected and appointed officials will better understand their responsibilities.

Mr. Collins doesn't like “best business practices” language when it is applied to municipal government. Business and municipal government are two quite different things.

Mr. Schulman moved to dismiss Submission # 113.1 with no change to the Charter. Mr. Collins seconded. The motion to dismiss was voted and passed unanimously.

Submission # 171, recommending the members of the Charter Review Committee read the background articles published in the Groton Herald newspaper from the time when the original charter committee underwent its deliberations in development of the present charter.

Mr. Schulman: The Herald articles may have been biased. Were there minutes for the original charter committee which might be made available now?

Action Item #3: Ms. Allen (a former member of the original charter committee) said there may be information available from the original committee which was presented to Town Meeting for approval. She will research this for the Committee.

Mr. Collins moved to accept Submission # 171 without taking action on the Charter. Mr. Schulman seconded. The motion to accept # 171 was voted and approved unanimously.

This ended the discussions of all of tonight's presentations at 8:50 PM.

Administrative:

Mr. Manugian moved for reconsideration of the Committee's proposed Charter language pertaining to the deadline date for the Town's budget submission by the Town Manager. The provision requires the Town Manager to present a balanced budget by December 31st in Section 6-2. The Groton Dunstable Regional School Committee has requested a change to February 15th. Ms. Alison Manugian, School Committee Representative, presented this proposal in a letter to the Committee dated May 12, 2016. This was requested because the school year doesn't really begin until September and the current December 31st deadline gave the school department very little time to accumulate budget actuals before it had to submit its budget request for the following fiscal year. Mr. Schulman seconded the motion.

A vote was taken and the motion to reconsider was approved unanimously.

Mr. Manugian announced two members, Misters Collins and Giger, would not be able to attend next week's meeting and asked the Committee to permit cancellation of the meeting (six or seven members present is preferable). The Committee consented and the meeting was cancelled.

Mr. Manugian announced that the Massachusetts Municipal Association had offered to assist the Committee with the Charter review process. The Committee agreed to pursue to this offer.
Action Item #4: Mr. Manugian will contact the representative of the Mass Municipal Association to determine what help might be provided to the Committee.

Mr. Manugian moved to reconsider the past decision of the Committee to require capital expenditures for the Town in excess of \$3 million be put to a ballot vote. Mr. Schulman seconded. A vote was taken and the motion to reconsider was approved 3 – 2 with Ms. Allen and Mr. Giger voting no.

Mr. Collins drew attention to a letter he gave to the Committee this evening, dated May 18, 2016, which proposes specific new Charter language for Section 7-6, Periodic Charter Review. This is in reference to Submissions # 47 and 48. The proposal will be considered at a future Committee meeting.

The meeting was adjourned with unanimous consent at 9:00 PM.

**** The next meeting is scheduled for Wednesday, June 1st, at 7:00 PM. ****

Exhibits:

- A. Request for re-hearing of submission concerning budget submission deadline for Town Manager from the Groton-Dunstable Regional School District dated May 12, 2016.
- B. Letter to the Charter Review Committee from Attorney Robert Collins, dated May 18, 2016, concerning Submission #47 and #48

Exhibit A to Charter Review Committee
05-18-16 Meeting Minutes

To: Municipal Charter Review Committee
From: Alison Manugian - School Committee Representative
Date: May 12, 2016
Re: Budget submission deadline

Below is the current 2016 Charter Review Committee updated draft language pertaining to preliminary budget submission by the Town Manager.

"The Board of Selectmen, the Town Manager, the Department of Finance 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 such meeting(s), shall submit to the Finance Committee and the Board of Selectmen a proposed balanced operating budget, with an accompanying budget message, summary and supporting documents, which follows the agreed upon budget goals not later than 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 web site contemporaneously with the submission to the Finance Committee. This publication shall indicate the times and places at which copies of the proposed budget with the accompanying documentation are available for examination by the public."

The School Committee is requesting that the Charter Review Committee reconsider this section to change the December 31st deadline to February 15th. Below are some of the reasons for this recommended change. I am more than happy to attend an upcoming meeting to discuss this recommendation and potential impacts. Mark Haddad, in conversation on 4/25, indicated that this change would have no negative impact on the Town Budget process. He shared many of my concerns and agreed that alignment would be beneficial.

Support for February 15 preliminary budget date (instead of December 31):

- Allows construction of the Municipal budget around an accurate estimate of the GDRSD assessment, rather than the current assumed placeholder value.
- Allows for meaningful collaboration around priorities and needs between municipal and school officials.
- Reduces community perception that the school budget is driving costs beyond revenue.

**Exhibit B to Charter Review Committee
05-18-16 Meeting Minutes**

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

18 May 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 language for the Committee's consideration:

Periodic Charter Review (Section 7-6)

Submission number 47 dealt with changing the first public hearing of the Charter Review Committee to 45 days subsequent to the first committee meeting. May I suggest that the final sentence of Section 7-6 be replaced with the following:

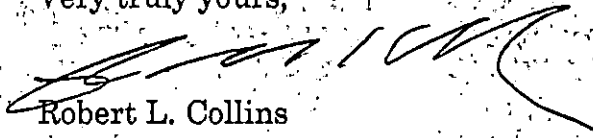
“The Committee shall hold a public hearing within 45 days after the first committee meeting to outline the review process for the public, and shall hold at least one additional public hearing prior to filing its final report.”

Submission number 48 dealt with the makeup of the Charter Review Committee. May I suggest the following as a new sentence for this section (to be added after the third sentence):

“The Charter Review Committee shall not contain more than one sitting member of the Board of Selectmen, the Finance Committee, or the Groton-Dunstable Regional School Committee.”

May I also suggest that the words "special committee" in the first sentence be changed to "Charter Review Committee". I also feel that the fourth sentence of this section, which now reads "The committee shall meet to organize forthwith after the final adjournment of the spring town meeting." should be changed to read "The committee shall meet to organize within ___ (perhaps 30?) days of its appointment."

Very truly yours,



Robert L. Collins