

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

**Meeting Minutes - July 27, 2016**  
At Town Hall

**All present:** Jane Allen, Robert Collins, John Giger (Secretary), Michael Manugian (Chair), Michael McCoy, Bud Robertson (Vice-Chair), Stuart Schulman

**Recorder:** Stephen Legge

**Visitors:** Russell Harris, Barry Pease (BOS)

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

**Approval of Meeting Minutes:**

The draft meeting minutes of July 20, 2016 as amended by Mr. Giger were considered. Mr. McCoy is concerned with making clear the decision taken on **Submission # 180**, last week, mentioned on Page 4 in the minutes. Submission # 180 is in reference to the convening of meetings or boards during a Town Meeting.

**Mr. McCoy moved to change Charter Section 2-7(b) as follows: add the words, "... except as part of a Town Meeting." at the end of the sentence.** Mr. Schulman seconded. The motion was approved unanimously.

Mr. Manugian noted that the wording change does not need to be reviewed by Town Counsel at this time since all changes will be reviewed later at one time.

**Ms. Allen moved the minutes of July 20, 2016, as amended by Mr. Giger, be accepted.** Mr. McCoy seconded. The minutes were approved 6 – 0 with Mr. Manugian abstaining due to absence from the meeting.

**Administrative Issues:**

Mr. Manugian provided an updated status of all submissions made to date, included at the top of the agenda for tonight's meeting. The update is as follows:

- Remaining to present - 3 (five have been added since July 20, 2016);
- 7 submissions have been presented but not yet completed and are still being discussed by the Committee; 197 have been completed; there are a total of 207 submissions;

Of the 197 completed,

- 54 submissions have been accepted by the Committee;
- 129 submissions have been previously addressed or dismissed with no (further) changes to the Charter recommended;

- 14 submissions have been referred to other town governing boards with no changes to the Charter recommended.

## **Presentation and Discussion of Submissions #181 and 182:**

**Submission # 181**, by Patricia Woods, proposes requiring that the Town Manager, Town Clerk and Superintendent of Schools reside in Groton. Mr. Manugian read the submission since Ms. Woods was not present. Mr. Manugian invited the Committee to discuss the submission.

Mr. Schulman said the Town Clerk must live in Groton since the position is an elected one.

Mr. Robertson said it is not practical to require the Town Manager and Superintendent of schools to live in town. It would limit the level of talent possible to obtain. Mr. Collins agreed with this position.

Mr. Giger commented what if the Town of Dunstable also made the same requirement on the school superintendent. Also, and more importantly, the authority to decide and hire the school Superintendent is governed under the regional school agreement and is not under the purview of the Charter.

Ms. Allen observed the Library Director was hired from out of town and she has much better experience than other candidates who were residents.

**Mr. McCoy moved to dismiss Submission # 181 with no change to the Charter.** Mr. Robertson seconded.

Visitor Mr. Pease noted the Town Manager is required in his agreement with the Town to live within a certain radius.

A vote was taken and the motion was approved unanimously.

**Submission # 182.1** (the submission was divided into two distinct parts for clarity and consistency of discussion), by Patricia Woods, proposed that the Town Clerk should continue to be elected. This submission is a response to the Town Manager's proposal, made at a recent Board of Selectmen's meeting, that his office be given the authority to appoint the Town Clerk.

Visitor Mr. Pease asked to make a presentation to the Committee on research he has done to examine the experience of other towns in the Commonwealth with regard to whether town clerks are appointed or elected. He was granted permission by the Chair.

Mr. Pease took his information from news articles of other towns deciding this issue. He handed out copies of his report to Committee members (10 pages). He has presented this information to the BOS at the meeting on July 12, 2016. Mr. Pease concluded the decision was generally speaking a very political one. Of 354 municipalities, 114 have appointed town clerks and 240 have elected ones. This is also a hot topic in other states as well, according to Mr. Pease.

Mr. McCoy asked if the BOS took a position on this matter. Mr. Pease answered, no.

Mr. Collins asked how this originally came up with the BOS. Mr. Pease answered the Town Manager felt the topic should be brought up in Groton. The Mass Department of Revenue was interested because a great deal of training and certification is required for town clerks and they know it is not an easy job. Full responsibility for elections (municipal, state and federal) rests on the town clerk in each town. They consider it a high bar for elected people.

Mr. Collins asked Ms. Allen if this had come up in the original Charter deliberations, 8-10 years ago. Ms. Allen answered there was a lot of discussion on the subject at that time. There was some concern that a less responsible person in the office could do some harm. She added that we have been very fortunate in this town to have a succession of very good people in the office.

Mr. McCoy expressed concern about succession planning in the office. Are assistants required to be residents? Apparently assistants are not required to be residents and non-residents therefore could not succeed to the office of clerk.

Mr. Robertson believes the common wisdom in town is that elected people are more independent. He personally feels this is not an issue because so much of the job is dictated and bounded by Commonwealth statutes and the clerk would have to follow the laws (and be less subject to political pressures). He also personally feels an appointed clerk would be better for the earlier discussed reason that more talent and experience would be available by going outside of town boundaries.

Mr. Schulman thinks this is a tough question. He leans toward appointed over elected. He notes the town accountant is appointed as well as the treasurer and the building inspector. Mr. Schulman added there is a tendency today to gravitate to appointed rather than elected officials because government jobs are becoming increasingly complicated to perform.

Mr. McCoy agrees it is a close question (whether to appoint or elect the Town Clerk), but he comes down in favor of elected. The argument is not especially compelling on one side or the other, but he notices that the elected position has served the Town of Groton very well. He thinks the Town Clerk and the Town Moderator are very independent positions as elected offices.

Mr. Giger asked the question, who appoints town clerks in other towns - the BOS? He is in favor of elected. It works well now and there is no great argument favoring change. It is noted that our incumbent Clerk, Mr. Bouchard, was originally appointed to fill an unexpected vacancy and then subsequently elected. If there was to be a change to appointing the position, Mr. Giger feels it should be done by the BOS, not the Town Manager.

Mr. Collins commented there is a clear political tone in town to not consolidate power in more appointed positions.

Ms. Allen agreed: don't change the status quo on this.

Mr. McCoy observed Mr. Bouchard has not himself come out in favor of changing his position to an appointed one, and in fact, has not submitted any change proposals to the Charter in this regard even though he has submitted a number of other changes.

Mr. Pease ventured the opinion Mr. Bouchard has wished to remain neutral on the subject.

Mr. Manugian commented the Town Clerk is really the “face of the Town”. It is appropriate for him/her to be elected. It is also in tune with what people want right now.

**Ms. Allen moved to accept the substance of what Submission # 182.1 says, which is to make no change to the Charter’s present requirement for the Town Clerk to be an elected position (Section 3-1(a)).** Mr. Collins seconded.

Mr. Robertson said people in town don’t want this to change.

Mr. Schulman observed the Town Manager has made it his custom to appoint the Town Clerk to act in his place when he is away from town. They seem to get along with each other quite well.

Mr. Collins said recent town clerks have given honest and neutral answers to questions by voters and officials, even in controversial times.

Visitor Mr. Harris said Mr. Bouchard has taken the required courses to be a town clerk and he also has a strong “moral center”. The state can train elected officials to do a good job for the Town.

A vote was taken and the motion to leave the Town Clerk as an elected position was approved unanimously.

**Submission # 182.2**, by Patricia Woods, proposed to continue to require the BOS, not the Town Manager, to sign expense and payroll warrants.

Mr. Robertson explained the present system for the generation and approval of expense and payroll warrants. The Town Accountant generates the warrants for the BOS to sign, indicating their approval. At least three Selectmen must sign the warrants to constitute approval. The Town Treasurer then generates the payments from the approved warrants. Mr. Robertson believes the Town Manager would more likely be aware of the appropriateness of expense and payroll details, and therefore might be more knowledgeable about whether the warrant is correct or incorrect. Even if the Town were to move the approval authority to the Town Manager, he thinks the Town is well protected because the Town Accountant and the Town Treasurer would be standing in front of and behind his/her approval.

There is the issue of the time it takes to gather the signatures of at least three Selectmen.

Mr. Schulman said when he signed these warrants he mostly looked at the big ticket items. He related how some other Selectmen have reviewed the details of every item.

Mr. Schulman asked what process is described in the Charter now. Ms. Allen answered the BOS can choose to delegate the review power to the Town Manager. Mr. Schulman added the Selectmen visited this idea a while ago and decided 3-2 to not delegate.

Mr. Giger said he is not comfortable with the idea of delegating payables to the Town Manager because he/she is the chief procurement officer for the Town. He is, on the other hand, comfortable with delegating authority for the payroll warrants. Mr. Schulman said a large number of town managers in other towns do have the authority to sign payables and payroll warrants.

Mr. Manugian asked what the benefits are of giving this power to the Town Manager. Mr. Schulman answered the main benefit is quickness of response, since it can take time to gather three Selectmen signatures, especially at certain times of the year. He did add, however, that in his nine years as a Selectman, there was never an issue with timely review and approval.

Mr. McCoy said the BOS has the power to approve warrants for payment and has the discretion to delegate this authority if it chooses. Also any delegated power can be taken back at its discretion. He sees no reason to change these provisions in the Charter.

Mr. Manugian offered the opinion that the Selectmen *should* sign the warrants because it forces the BOS to know what is going on. They should *not* have the power to delegate this authority away.

Mr. McCoy responded this latter point should actually be a new subject and a separate discussion, since giving the Town Manager authority to sign warrants in the Charter implies taking it away from the Selectmen. He went on to summarize the situation as follows; there are three different outcomes, 1) leave the Charter as it is, with the BOS having the power and the discretion to delegate, 2) force the BOS to have the power and take away discretion to delegate and 3) give the power to the Town Manager.

**Mr. Robertson moved to dismiss Submission # 182.2 and make no change to the Charter.** Mr. Collins seconded.

Mr. Harris offered the opinion that Selectmen Mr. Degen and Ms. Eliot felt it was important for the Selectmen to have intimate involvement with the expense and payroll warrants (and therefore, presumably, should sign them).

Mr. Pease said he believes the current process works well.

A vote was called and the motion to dismiss was approved 6 – 1 with Mr. Manugian voting no.

**Submission # 183**, while related to earlier discussion, must be scheduled for next week since it is not on the agenda for this evening.

### **Reconsiderations:**

Mr. Manugian invited reconsiderations from the Committee, but none were offered.

### **Discussion of Previously Presented Submissions (# 42, 82, 96 and 100):**

**Submission # 42**, by Michael Manugian, proposed the creation of a Personnel Policy Negotiation Team which would include one member of the Finance Committee, one member of the BOS, one member of the Personnel Board and the Town HR Director. After submitting this Mr. Manugian had admitted to forgetting to add the Town Manager also. The Team would prepare and approve any Town policy or procedure involving Town employees, whether elected,

appointed or hired. The Team would also be involved in any union or other employee contract negotiation.

At the January 20<sup>th</sup>, 2016 meeting the Committee made the decision to create the team. Mr. Collins is still working on the language to implement this and is somewhat uncertain as to where the change should be made in the Charter. He is thinking possibly Article 5.

Mr. Robertson said the team would advise on two issues: the creation of Town personnel policies and on union bargaining negotiations.

**Mr. Schulman asked to formally reconsider the Committee's January 20<sup>th</sup> vote to implement the Team. There was a consensus on the part of the Committee to reconsider.**

Mr. Robertson asked why involve the Finance Committee in personnel policy issues. Such issues seldom had a financial impact on the Town. The Finance Committee had enough to do as it was.

Mr. Collins remembers this decision coming in part because of a concern to prevent the Town Manager from having unhindered power to push through policies not in the best interest of the Town.

Mr. Manugian offered some willingness to have the Committee reverse the decision as it relates to the preparation and approval of Town policies. But he felt it still might have a legitimate role in bargaining negotiations.

Mr. Schulman said there had already been changes made to the Charter which put a financial team in place to be involved with bargaining negotiations. Why add another team?

Mr. Manugian felt it best to wait for Mr. Giger's complete revised draft Charter, then look for the specific changes we are discussing instead of fishing through the minutes to find them.

Mr. Robertson said the new Charter Section 6-8 addresses these issues.

**The committee agreed to postpone further discussion of the reconsideration of Submission # 42.**

**Submissions # 82, 96 and 100**, by John Giger, proposed clarifying the definition of "officers" and "Town Officer", the latter definition in Charter Section 1-9(l). Ms. Allen researched this subject again for the Committee presenting the Charter's use of the term "Town Officer" for its references to elected officials, employees and possibly appointed officials, section by section, throughout the Charter. She passed out a 1-page spreadsheet summarizing results to members. Mr. Manugian said we would discuss this in the next meeting.

## **Other Administrative Issues:**

Mr. Giger shared a dilemma he encountered while attempting to convert the minutes of all previous meetings to a revised draft charter reflecting all of the committee's decisions. The problem occurred in the June 15<sup>th</sup>, 2016 meeting in which a decision was made to amend the

language decided in the March 23<sup>rd</sup> meeting changing Charter Section 4-2(c). The amendment on second inspection appears to make no sense with the previously supplied wording. Mr. Giger passed out a 1-page write-up summarizing the issue and all previous actions.

Mr. McCoy explained what had happened according to his understanding. The original wording in the 2010 Charter was modified by the board. Subsequently, and without knowledge that the board had already make a change to Section 4-2(c), Mr. Schulman made a motion which the committee approved, to make an additional change to the original 2010 Charter language. Mr. Schulman reviewed the first change to the original 2010 Charter language and determined that his most recent proposed change was not necessary.

Mr. Manugian moved to stick with Mr. Giger's original language described in the decision of the Committee on March 23<sup>rd</sup>. Mr. Giger seconded. The motion was approved unanimously.

Mr. Schulman said he will not be able to attend next week's meeting.

**The meeting was adjourned with unanimous consent at 9:00 PM.  
(Please note, there were no action items for this meeting.)**

**\*\* The next meeting is scheduled for Wednesday, August 3rd, at 7:00 PM. \*\***

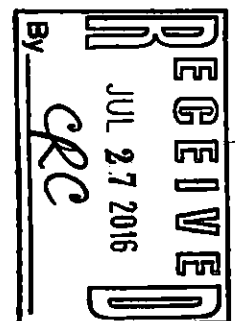
**Exhibits:**

- A. Town Clerk Position Analysis and associated documents proved by Barry Pease to the Charter Review Committee on July 27, 2016
- B. Officer/Officers research results provided by Jane Allen to the Charter Review committee on July 27, 2016

**Exhibit A to Charter Review Committee  
07-27-16 Meeting Minutes**

TOWN CLERK POSITION ANALYSIS			
	<u>Elected Position</u>		<u>Appointed Position</u>
<b>Office</b>	Perception: "Openness" of government		Perception: Closed system
<b>Candidates</b>	Qualifications assessed by electorate through campaigning		Qualifications assessed (education, experience, aptitude) through interviewing
	Elections process may deter some, may attract others		Candidates go through public interview process
	Must be a Groton resident		No residency requirement
<b>Responsibilities</b>	Established by statute and overseen by the Secretary of the Commonwealth		Established by statute and overseen by the Secretary of the Commonwealth, as well as a local job description
	Department Head responsibilities; Local responsibilities and tasks as agreed		Department Head responsibilities; Local responsibilities and tasks as assigned
	Town Clerk may set priorities in order to perform statutory responsibilities		Town Clerk priorities to perform statutory responsibilities; may be in conflict with locally assigned priorities
	Additional responsibilities include liaison to several state agencies, paralegal opinions, Department Head functions, customer service, communications to boards and committees, communication management, cash management. Must be bondable.		
<b>Elections/ Open Meeting/ Ethics</b>	Perceived Independence; abide by state law; budgetary dependency		Perception to be Influenced? Abide by State Law; budgetary dependency
<b>Personnel</b>	Eligible for health insurance (local bylaw); no specified vacation / sick time; not eligible for unemployment		Employee benefits
	Performance review: Elections (every 3 years)		Performance review: Supervisor (annual)
	Salary via Town Meeting		Salary via Wage and classification schedule, contract or union agreement
	Certifications: optional		Certifications: could be required
<b>Accountability</b>	Town Clerk may be voted out of office for any reason. A recall is also possible.		Participate in some form of the Town's evaluation process. The Town Clerk could be removed for cause, or not reappointed for any reason.
<b>Commentary</b>	Assessment by election and town meeting do not consider line responsibilities and additional contributions		Appointed position would encourage professional operation and development
<b>Public Perception</b>	Public expectation is of a "neutral" official		Decisions of the Town Clerk, especially with regards to elections, open meeting law and public records requests, may be viewed by the public as having been influenced by the appointing authority.
<b>Massachusetts</b>	Leans towards appointed clerks to facilitate succession planning, recognizing additional responsibilities mandated by state government and increased position complexity		

SOURCE:  
BARRY PEASE





## Top 10 Reasons Why Town Clerks Should Be Elected...

...and be responsible to the *citizens* for their office.

The small town tradition of having an elected Town Clerk is one that we want to retain. It is a tradition that has stood the test of time because it works! Besides maintaining the small town heritage, the elected Town Clerk has some pragmatic advantages over an appointed Town Clerk.

—Although elected clerks are department heads, they are independent in their actions, and are able to appoint a deputy of choice to assure the independence and integrity of both the office and the work involved. The Town Clerk knows what the staffing needs are and is best qualified to make such appointments. Assistant Town Clerks may be called upon, in the absence of the Town Clerk, to act as the Town Clerk would. In the role of Registrar of Voters it is vital that the sanctity of the ballot be maintained. MGL Ch. 41, Sec. 19 tacitly recognizes the necessity of Town Clerks to choose their staff in that ATCs in small towns are exempt from the Civil Service requirements of MGL Chapter 31.

—Electing a Town Clerk avoids the cronyism, or "politics", of having an appointment made by the Selectmen. Furthermore, they have a sensitive role in the administration of elections and town meetings that would be ill-served by being beholden to those who are seeking re-election. It was just such a concern that led to the creation of the Civil Service in the first place.

—The Office of the Town Clerk is a hybrid of Town and State responsibilities, and functions less efficiently if run directly by either entity.

—An elected clerk is directly accountable to the people of the community and thus serves at the will of the people, not at the discretion of a five-person board of Selectmen or Town Manager. This is especially important during town elections, when the independence of the Clerk's office is vital. An appointed clerk comes with an inherent conflict of interest in this area.

—The decision of electing a Town Clerk involves an electorate of several thousand people as opposed to an appointment made by only five individuals or a Town Manager.

—Elected Town Clerks are more service-oriented. They often have flexible office hours and are more accommodating to the people who have elected them. Many Town Clerks have traditionally provided some services (hunting licenses, etc.) out of their home and during weekends, or accommodating a panicked citizen who needs a copy of their birth or marriage certificate on a Holiday weekend.

—Having an elected Town Clerk frees up time for the Selectmen or Town Manager that would have been spent supervising an appointed person.

—Appointed employees, after six months on the job, should only be removed "with cause", requiring proper personnel management skills on the part of Selectmen. An elected clerk can be removed from office by the People at election for any reason.

—Elected Town Clerks have employment longevity that affords them on-the-job training. When combined with the information gained from Clerk's Conferences, this is a formidable amount of knowledge regarding what is required by law. It would be untenable for the Selectman to manage a department with insufficient knowledge of what the job entails.

—An additional layer of management has never resulted in increased efficiency. Ever.

Elected Town Clerks have served the towns of the Commonwealth admirably for many years. There is no valid reason to take this responsibility and right away from the People. The people's power should never, *ever* have been taken out of the hands of "the Many" and placed in the hands of "a Few."

# **TOWN CLERK POSITION ANALYSIS**

	<b>Elected Position</b>	<b>Appointed Position</b>
<b>Office</b>	Perception: "Openess" of government	Perception: Closed system
<b>Candidates</b>	Candidates for election are committed; qualifications unknown; Elections process may deter some, may attract others Groton residents	Candidates go through interview process; Qualifications assessed  no residency requirement
<b>Responsibilities</b>	State law Responsibilities include paralegal opinions, Department Head functions, customer service, communications to boards and committees, communication management, cash management. Must be bondable.	Job description, including state law
<b>Elections/ Open Meeting/ Ethics</b>	Perceived Independence; abide by state law; budgetary dependency	Perception to be Influenced? Abide by State Law; budgetary dependency
<b>Accountability</b>	via Election or Recall	via Management
<b>Personnel</b>	Eligible for health insurance; no specified vacation / sick; no workers compensation nor unemployment Salary via Town Meeting (political process) Certifications: optional	Wage and classification schedule or contract  Salary via Wage and classification schedule (Administrative process) Certifications: could be required
<b>Incentive</b>	"No controversy"	"Contribute"
<b>Massachusetts</b>	leans towards appointed clerks to facilitate succession planning, recognizing the recent increases in position complexity	
<b>Commentary</b>	Election and town meeting do not consider line responsibilities and additional contributions	Appointed position would encourage professional operation and development

## ELECTED vs. APPOINTED: Pros & Cons from Clerks

### **Appointed**

A very good friend of mine lost her election last year to her Assistant Town Clerk. The whole time it was a nasty campaign. The Town Clerk had been in the hospital with a life threatening illness, almost lost her life, and the assistant used that to her advantage. Stating she would be present in the office unlike her predecessor. I could go on and on. The worst part was the Town Clerk kept in touch with her office daily, while she was in and out of the hospital.

I know there are clerks who feel elected is best, but it sometimes turns out to be a popularity contest, whether you know the job or not.

I was appointed.

#### Pros:

- Selection was based on ability and experience, not popularity. I don't think I could have gotten elected at the time because I was pretty unknown in town.
- My assistant clerk does not live here in town; I am training her to become clerk when I retire in a few years. If the position was elected, she would not be able to run.
- I don't have to take time off to run for office every three years.

#### Cons:

- Some would say reporting to the TA/BOS limits the clerk's independence; I actually don't have that problem here but understand that it could exist.

I'm appointed, and so far things have worked well.

#### PROS

- For me the upside of being appointed is that I don't have to run for election. That's just me though.
- Don't know if you get benefits or not as it seems some elected clerks don't. I do get benefits and have a defined work week in terms of hours.
- Appointed by the Selectboard. If I'm doing a good job I get re-appointed. Doesn't become a popularity contest if someone wants to run against me.

#### CONS

- Appointed by the Selectboard - could limit your independence. I've never had a problem as our Selectboard members and Town Administrator have always been very cooperative, but there is risk as members change.

All I know is appointed so I'm sure there are other considerations from an elected point of view.

### **Elected**

In our community they tried to make it an appointed position but did not win. In my opinion it should remain elected. The position in my community would report to the Town Administrator and the priorities would become those priorities. Elected keeps the position somewhat out of the fray of office politics, as it is possible to say No. In addition, this is the Chief Elections officer for the community and should be elected by the people who you represent in that position.

My biggest reason for wanting to stay elected is that you would not be appointed by an elected board of selectmen. You remain totally independent of what would be your appointing authority. You are running the election and I think it's a good checks and balance when certifying votes.

I guess the pros would be that you wouldn't have to run for your seat but you're still in an appointed position which could change with any board.

I think that being directly responsible to the voters is the biggest plus. I can avoid town politics and the only pressure I have is to do what is right.

Belmont is elected as is our Treasurer. I feel very strongly that this job should continue to be elected for lots of reasons, mostly about true and singular accountability. I'm not elected to serve along with others on a board, committee or commission. The people of the town like to know and vote for someone based upon initiatives and capabilities and their perception of my ability to do the job as well as represent OUR town to the outside world. With all the mistrust over elected officials and boards, committees and commissions, they need to know they can kick me out if they see someone better or disagree with my handling of my job and I fully agree. Both the Treasurer and I feel strongly that elected should continue; that says a lot because we would be the likely appointees and therefore keep our jobs for a long period of time. Instead, we're both committed and willing to risk being tossed out by the electorate or by recall.

When our Finance Committee decided a number of years ago that I ought to be appointed, the number one item that changed their mind was the fact that an appointed official did not need to be a town resident. They did not like that. I would rather put my job before a thousand plus voters once every 3 years, than to be at the discretion of 5 Selectmen that could or could not have a special agenda.

The most important reason to being elected is there is a checks and balance system. If there is an error or oversight by a Board you do not report to them which makes it easier to correct an error or point out an error. To some degree easier.

If the appointing board is the Selectmen what if they have a friend (with no knowledge of the job?) and that person gets appointed? You need well trained people in this position to handle the changes from the State concerning elections etc....

As an appointed Town Clerk you are but one more employee of the Board of Selectmen; as an elected Town Clerk, you are accountable neither to them nor the Town Administrator, but directly to the electorate. You do, of course, need to build and maintain a good working relationship with the Selects and the TA, but since the TA is almost always an "out of townner," he or she should have a good incentive to make you an ally because of your more intimate knowledge of the town and because, as an elected official, you have your own (no matter how unspoken) power base.

#### NOTES:

1. There is a MGL Ch 41, Sec 19B that allows for tenure of office for the Town Clerk the text of which follows: *Section 19B. Every city or town clerk under age seventy duly elected or appointed, except a temporary clerk, who has served therein continuously not less than five years, shall, notwithstanding any contrary provision of general or special laws, hold office during good behavior until he has attained age seventy in any city or town in which this section is accepted as hereinafter provided, but subject, however, to retirement under the provisions of any applicable general or special law relative to retirement systems.*
2. The State Ethics Commission has adopted an exemption (930 CMR 6.20) that permits town clerks to perform election-related functions that they are statutorily required to perform even though their name appears on the ballot.

1777

# Whitman's bylaw change

## Pro

**T**HE voters of the town of Whitman will be asked during the week of May 3 and again at the ballot box on May 15 to make decisions on how the town of Whitman is to be managed now and in the future.

Specifically, voters will be asked to vote on whether they wish to combine the positions of treasurer and collector into one appointed position. They will also be asked to decide whether the Board of Assessors should be appointed or elected; to authorize legislation to dissolve the Board of DPW Commissioners and place the Department of Public Works under the supervision of the Board of Selectmen and to establish a procedure where voters of the town of Whitman will be able to recall all elected officials, including the Board of Selectmen.

The Board of Selectmen has requested these issues be presented to the voters. If these requests are approved, the elected positions of treasurer/collector will become appointed in the year 2002, when the term of the present collector is completed. Likewise the Board of Assessors would be appointed once the last elected term is completed. The Board of DPW Commissioners would be dissolved once home rule legislation is passed and signed by the governor.

This request for change is prompted by the need to improve management and operating efficiency of the town and to enable consolidating positions where appropriate and practical. Currently, the Board of Selectmen serves as executive committee for the town and is charged with the responsibility to set policy and direction for the town.

In actuality this cannot be done under the present structure of government because each elected official directs his or her office and staff and may accept or ignore direction provided by the Board of Selectmen. It is the intent of the Board to appoint a town administrator to direct day-to-day operations, serving as chief operating officer. This is the standard of operation in the business world and would be similar to corporate structure where a board of directors appoints a president to run day to day operations.

In addition to streamlining management, this initiative would permit certain economies by consolidating positions and allow the town to cross-train and reassign personnel within offices as needed, a practice that is standard in the business world but not done in town government. This change has been implemented in many communities across the commonwealth and has produced positive results.

## Con

**T**HE purpose of a Board of Selectmen is to serve as an executive committee and is charged with the responsibility to set certain policies, which the selectmen have been doing successfully under the present system for the past 125 years.

The statement that they can no longer do this under the present structure is not because elected officials ignore their requests or directions, but because sometimes their directions or ideas do not comply with the laws or standards that must be adhered to.

The selectmen have neither the time nor the expertise required to take on the responsibilities of offices that are so closely monitored by state laws. We don't believe there is one of them now serving that could tell you what our responsibilities are as a tax collector, treasurer, assessor, town clerk or Department of Public Works commissioner — nor should they be expected to. The people elected to these positions are trained professionals with full knowledge of their chosen profession.

A town administrator may be able to direct the day-to-day operations of the selectmen's office and those positions appointed by them, but he or she will not have the expertise required to conduct the affairs of every office in town government. To successfully accomplish this, a town administrator would have to have served as a tax collector, treasurer, assessor, town clerk or DPW commissioner.

To say that we would be operated more like a corporation is a misnomer. We are not a "for-profit" corporation where profits are the bottom line — we are a Massachusetts municipality, a "service organization," to serve the needs of our residents with whatever it takes, within the law. Government is the vehicle by which the rights of citizens are pre-

served and services delivered.

We feel very strongly about keeping the voice of the people intact. People's rights are being taken away from them in small pieces everyday. Throughout our history, lives have been lost trying to preserve this freedom and our right to vote. The ballot box is the only place left for citizens to make choices. This issue is about keeping democracy alive.

Polarization of power in any organization will eventually destroy it. There would be no checks and balances if only a majority of three people are allowed to control the destiny of the town. The Board of Selectmen feels that it is better qualified to appoint our department heads and boards than you, the voters of the town of Whitman. Perhaps they have forgotten who it was that put them in office.

Our system of government is broad-based, so that no single entity controls all of the power. At the federal and state levels, the executive branches must deal with the Senate and the House of Representatives, a form of checks and balances that preserves representation across the board and prevents any single entity from usurping the power of the people.

At the local level, in the town of Whitman, we have been electing our selectmen, tax collector, treasurer, assessors, town clerk; Board of Health, etc., since 1875 and the Commissioners of Public Works since 1948. The town has always been successfully managed, always run smoothly and continues to operate today with a high degree of efficiency. As they say "if it ain't broke — don't fix it!"

We have complete faith and trust in the election process and the selection of town officials via the ballot box. Please don't give your rights away, the future of democracy depends on it.

I think it suffices to say that most Appointed Clerks are happy being appointed, and most Elected Clerks are happy being elected, and never shall the two be swayed.

At the end of the day, we are all clerks, and damn good at what we do. We all take the same oaths, enforce the same regulations, have the same responsibilities and deliver the same great customer service to all. How we achieve that office is not important. I can think of two clerks within 15 miles of where I sit, who used to be elected, and are now appointed. They were good clerks then, and are good clerks now, so unless the State decides to step in and mandate how we are hired/elected, let us be content to agree to disagree.

We had it come up here in W. Tisbury a couple years ago. It was soundly defeated. Many people felt that it is one of the few jobs that folks get to vote on, (here, tax, treasurer and myself). I know that there has been great pros and cons bouncing back and forth, so I am sure you will get some good answers. Personally, though I am in a much smaller community, people here love their right to vote!!

Good luck,  
Tara

Carol - I have successfully fought against two charter changes. I pointed out that since I deal with all things political - it is best that I stay out of being under anyone's thumb of appointment. I am responsible to the citizens and I want the citizens to put me into office and if it comes to that point, take me out of office. I have heard from many appointed clerks over the years where a Town Manager or member of the Board of Selectmen has tried to make them do things that are not proper and attempt to hold the "appointment" over their heads. Most clerks have stood up to them because we try to do the right and lawful thing and many lost their jobs because of it.

The last time our charter was reviewed we had a person who was a city manager look at our community and made a couple of suggestions - one was the tax collector should be appointed - but the clerk should remain elected.

A clerk is only an island unto themselves if the Town administration chooses to place her there. I have always been included as a department head and go to all department head meetings. It matters not how you got there, but it matters that you are there.

## Pros &amp; Cons – Elected vs. Appointed Clerk

ELECTED	APPOINTED
PRO	PRO
<ul style="list-style-type: none"> <li>• Accountable to voters—not influenced by the politics of the day</li> <li>• Independent and autonomous—not beholden to anyone but the taxpayers</li> <li>• Make your own schedule—as many or as few hours to do the job so that the office runs as smoothly as possible</li> <li>• Voters can find at home 24/7—feel indebted to voters</li> <li>• Provides a good sense of the pulse of the community because you live there and have conducted meet &amp; greet sessions with voters during campaign</li> <li>• Impartial and non-partisan</li> <li>• If not performing, then won't get re-elected</li> </ul>	<ul style="list-style-type: none"> <li>• Technically challenging position—applicants can be screened and selected based on qualifications</li> <li>• Position is part of management team in decision making—not autonomous—recognized as an integral part of senior management</li> <li>• Position subject to performance review process and town-wide goal setting</li> <li>• Position part of Town compensation system—professionally classified with qualifications and job specifications enumerated</li> <li>• Individual required to maintain professional qualifications and technical skills, which is facilitated by management</li> </ul>
CON	CON
<ul style="list-style-type: none"> <li>• On own fighting for salary, raises, benefits</li> <li>• Risk that someone will get elected based on personality or popularity, and could be under qualified or ill prepared for the position—voters subjective in their decision-making</li> <li>• Operates in isolation—not part of town's management team—considered autonomous</li> <li>• Only requirements are the individual be a resident and a registered voter—position too complex for such a low threshold</li> <li>• Voters are not in a position to effectively supervise &amp; evaluate performance</li> </ul>	<ul style="list-style-type: none"> <li>• Harder to get rid of low performer</li> <li>• The more positions that are removed from the electorate, the fewer voters will show up to vote for local elections</li> <li>• Potential of “being directed” by Town Manager/Administrator or Selectmen to do something that is not in the best interest of the community</li> </ul>



Daily, elected Clerks go above and beyond what is required by their job description. I completely agree with the Town Clerk of Kennebunk who said "I think that being elected means that you work a little harder, a little better, and a little closer with the residents of this Town. As an elected Clerk you are willing and able to do the 'little' things that really matter to the residents. There is a certain 'ownership' that comes over you because you are proud to be the Elected Town Clerk of your Town. It is not just 'a 9-5 job'" and it is not just a job, it is a profession.

Unlike appointed or hired employees, an elected Clerk can express their opinion when they think something is not quite right in local government. A Clerk's salary is paid for by their community, but a Clerk is a direct agent of the State conducting business under State law. If a Town Manager or a Selectman wants the Clerk to do something that stretches the law, the Clerk needs to have the ability to say no, without the fear of repercussions. An elected Clerk is a key element in maintaining checks and balances at the top level of local government, very comparable to the three branches of Federal Government.

**Exhibit B to Charter Review Committee**  
**07-27-16 Meeting Minutes**

Page	Paragraph	Reference			
C-2	1-8	Ethical Standards	No change		
C-3	1-9-6	Definations	See Below		
	2-1	Town meeting to Elect Town Officers	No change		
		Town meeting to include Election of Officers	No change		
C-4	2-6	Present warrant articles	No change		
C-5	2-7	Town Officials same meaning as town Officers	omit "Officials"		
		Mandate attendance at Town Meeting	See Below		
		Choose a deputy for attendance	See Below		
C-6	3.1	Refers to other elected Officers (no specifically named)	Omit "and other officers"		
C-7	3.1.b	Sets Election date (annual ballot of Town Officers)	omit "town" add "elected"		
	3.1.d	Sets Compensation at Spring Town Meeting.	omit "town" add "elected"		
	3.1.e	Mandates consultation with BOS on request	omit "town" add "elected"		
C-8	3.1.g	Recall information	No change		
	3.1.g2/3/4/6/7	Recall wording	No change		
C-10	3.2.b.3	BOS to bring Agencies and Town Officers into harmony	No change		
	3.2.b.4	BOS deligate authority for contracts and services	No change		
C-11	3.4.b	Town Manager is presiding officer	No change		
	3.4.d	Town Manager is presiding officer	No change		
C-12	3.9	Elected Officers have power and duties of their office	No change		
c-13	4.2.a	Town Manager manage and superise appointed Officers	Omit "appointed officers" replace with town		
c-14	4.2.c	Town Manager appoints and removes officers	omit "Officers" "and other appointed members of town government"		
	4.2g	Town Manage fixes compensation	no change		
	4.2.j	T Mgr enforcement of laws/by-laws TM regulations by him or officers or employees	add "town"		
C-16	4.4.b	During absence of T Mgr appointment of capable officer	no change		
C-17	5.2	Appointments and promotions of TOfficers by merit	no change		
	COMMENTS				
	1-9-6	Definitions			
		Officer:			
		Elected Officer: Any person who holds an elected office, either by election or appointment			
		Town Officer: Any employee who is responsible for a department			
	2.7	Availability at Town Meeting			
		p.1. omit "official" omit "and head of each department and division "			
		P.2 should read "In the event any chairperson of a multiple member body shall be absent from a town meeting they should designate another member to attend and address the meeting if needed.			

SOURCE:  
JANE ALLEN

