

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

**Meeting Minutes - September 7, 2016**  
At Town Hall

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

**Not present:** Jane Allen

**Recorder:** Stephen Legge

**Visitors:** Anna Eliot (BOS)

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

**Approval of Meeting Minutes:**

The draft meeting minutes of August 31, 2016 were considered. Mr. Manugian had three minor edits on Pages 2 and 4. **Mr. Schulman moved to accept the minutes of August 31st as amended.** Mr. Robertson seconded. The minutes were approved unanimously.

**Administrative Issues:**

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

- Remaining to present - 0;
- 2 submissions have been presented but not yet completed and are still being discussed by the Committee; 214 have been completed; there are a total of 216 submissions;

Of the 214 completed,

- 63 submissions have been accepted by the Committee;
- 137 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.

Mr. Manugian asked if there were any further (new) reconsiderations requested by the Committee. None were requested.

A minor grammatical change was found for the revised Charter draft, reviewed by the Committee at the last two meetings. On Line 613, Section 4-2(g): move the word "law" in front of the words ""the approved budget".

**Action Item #1:** Mr. Manugian will pull together a complete list of all the submissions recommended for referral to other municipal entities (there are 14).

## **Review of Disposition of Action Items, Jan 1st – August 31st, 2016:**

Mr. Giger gave Committee members his “Update Notes Journal, as of July 20, 2016” (ten pages). This is a chronological listing of action items and some Committee votes from January 1, 2016 to July 20<sup>th</sup>. Chairman Manugian led a review of this document in order to pick up any missed details in converting Committee votes to revised Charter changes and specific language.

On the above list, **six action items considered still open** were found on Lines 141, 212, 248, 317, 321 and 324.

Mr. Giger gave Committee members his memo to the Committee dated September 6, 2016 (two pages) which listed action items extracted from the minutes of July 27 – August 31, 2016. These items were reviewed similarly for any missed details in Charter change language.

### **Four items were found still open:**

August 10<sup>th</sup>, Mr. Schulman drafting language for Submission #184;

August 17<sup>th</sup>, Mr. Giger expunging the term “division” from the revised draft Charter;

August 31<sup>st</sup>, Mr. Schulman reviewing “appoint/nominate” language recently incorporated in revised Charter Section 4-2(c).

August 31<sup>st</sup>, Mr. Collins rewriting language for a revised draft Charter Article 8, Transitional Provisions.

## **Discussion of Additional Changes to the Revised Draft Charter:**

There was a consensus of the Committee to apply all **style guide changes** at one time in the next revised version of the draft Charter.

It was also decided to postpone **renumbering of sections** and paragraphs until the very end of the process. Mr. McCoy suggested making a cross reference sheet linking old and new section numbers.

**Action Item #2:** Mr. Giger will update the draft revised Charter and issue the revision by Wednesday, September 21<sup>st</sup>. Mr. McCoy will help Mr. Giger with the style changes.

Mr. Manugian stated that the Committee had previously approved the addition of a **table of contents**. The table will list sections down to the second level only. All second level sections will have titles.

**Action Item #3:** Mr. Giger will incorporate the table of contents into the current revision he is working on.

Mr. Collins asked if the final revised Charter should have **line numbers**. He has found these very helpful in the review process the Committee has conducted. This question was left open, but opinion seemed to favor not incorporating line numbers in the final document (after Town Meeting).

## **Discussion of Submission # 184 and New Language Proposals for the Charter:**

Submission # 184, by Mr. McCoy, proposes to develop language in Charter Section 4-2(c) for the appointment by the BOS of department heads, officers and other employees nominated by the Town Manager. New language was adopted in Section 4-2(c) for the Town Manager to “nominate” candidates for such positions in an earlier meeting.

Mr. Schulman reported on the question of the appropriateness of wording changes in Charter Section 4-2(c) where “nomination” of candidates for various positions in town government by the Town Manager was adopted and “appointment” was expressly reserved for the Selectmen. Mr. Schulman submitted this language and several specific questions for review to Mr. David Doneski, Groton’s Town Counsel, in a letter dated September 1, 2016 (two pages). Mr. Doneski subsequently responded in a letter dated September 7, 2016 (two pages). He believes the changes adopted by the Charter Review Committee are material changes affecting the powers of the Town Manager. Mr. Doneski also felt that if this change were to be made to the Charter, it would be necessary to review all union contracts to determine if contract language would need to be altered to make it consistent with the Charter change.

There was some discussion of these points. It was felt by several members the changes made in the process of appointing of department heads, officers, subordinates, employees and other appointed members of town government did not materially change the Town Manager’s powers. However, it was conceded that the change in removal powers was a definite material change and was intended so in order to match the balance of powers between the Town Manager and BOS in the appointing process.

Visitor Ms. Eliot commented she agreed with Town Counsel’s opinion that the changes made were material. She suggested members check the dictionary for the word “nominate”. Mr. McCoy said when one is nominated for an open position it is far short of a binding offer. Getting the offer letter is what really matters. In the original Charter language the BOS had the power to approve candidates “appointed”. In the revised language they still have the power to appoint.

Chairman Manugian asked the Committee to first consider the issue of appointment only (not removal) and reconsider whether the Town Manager should be appointing or nominating. The original Charter employs the language, in reference to the Town Manager’s powers, “appoint”, but it is clear that action is subject to ratification of the appointment by the BOS, and failure to ratify constitutes rejection. Mr. Manugian asked for a motion on the substance of the ideas being considered.

Mr. Schulman said it is difficult to look at the appointment issue alone. He felt we should be looking at all the powers to appoint/nominate or remove, together.

Mr. McCoy said there is a simple solution to our problem. In Charter Section 4-2(c) it is necessary to separate the language for appointed volunteers from that for paid employees of the town. The public who are concerned about this issue are more interested in the appointed boards and volunteers being accountable to the Selectmen than to the Town Manager. For department

heads and employees of the town, the original Charter language seems more appropriate (Town Manager appoints, BOS confirms).

Mr. Robertson followed up on this line of thought saying a new section should be added to the original Charter language in Section 4-2(c) using the “nominate” language solely for other appointed positions (primarily volunteers).

**Mr. Collins moved to leave the existing Charter language (2010), Section 4-2(c) as is for town employees (not for appointed volunteer positions).** Mr. McCoy seconded.

A vote was taken and the motion was approved unanimously.

**Mr. Collins moved to leave the existing Charter language (2010), Section 4-2(c) as is for the removal of town employees.** Mr. McCoy seconded.

Mr. Schulman reread Mr. Doneski’s opinion on this particular part of the issue, which said the earlier revised Charter language was clearly a material change. This was because the Town Manager had the sole power to remove in the 2010 language, but it was given to the BOS in the revised language. Everyone agreed this was the case.

Mr. Giger observed union employees covered under agreements would not be affected by this language. The language applies only to other employees for whom no other method of appointment or removal is provided in the Charter or by-laws.

Mr. Collins said termination is a very different situation from appointment, and there is a rationale for treating the two separately. Appointments can be, and generally are, political decisions, and this is expected and permissible. Terminations, however, should not be politicized. When a multi-member board gets involved in a termination it could be politicized.

Mr. Giger said he was concerned for those few employees who are not covered by a contract (union or non-union) and how they might be treated in a termination.

Mr. Robertson answered that the Personnel By-law protects employees not in unions and a procedure is defined which provides due process.

Mr. Schulman observed no one has ever been terminated in Groton under the Town Manager form of government. However, there have certainly been cases where people have been asked to resign and then they do. Mr. Schulman was of the opinion that by adopting a town manager form of government, it was the obligation of the town to honor the principle that the town manager should have reasonable authority over his own hired staff.

Mr. Manugian felt that coerced resignation was essentially equivalent to removal or firing.

A vote was called on Mr. Collins’ motion and it was approved unanimously.

Next the subject of handling appointed volunteers was discussed.

**Mr. Schulman moved that with regard to the nomination, appointment and removal of appointed volunteers, the earlier revised language in Charter Revision 0.4, Section 4-2(c), Lines 583-89 should apply. This language allows the Town Manager to nominate appointees and nominate for removals, the BOS then confirms the nominations or removals.** Mr. McCoy seconded.

Mr. Schulman posed the question, could the BOS remove an appointed volunteer for reasons of non-attendance without going through the Town Manager. The Committee agreed that giving the power to terminate to the Town Manager did not remove that power from the Board of Selectmen.

Mr. Collins said there are instances he remembers where a valued member of a board missed up to six months of meetings (illness), but the board did not want to lose that individual. Therefore care should be taken in instances of removal consideration for reasons of non-attendance. It was agreed that grounds for termination were specific to each Committee and, in some cases, to individuals and it was not appropriate for the Charter to contain such criteria other than the general one for non-attendance.

A vote was taken on this motion and it was approved unanimously.

A side discussion took place concerning the potential removal of Charter Review Committee members. It was agreed that because different boards are involved in naming potential appointed members, each board would have the authority to remove its own appointees.

**Action Item #4:** Mr. McCoy offered to develop new language for the last three motions approved by the Committee concerning the Town Manager's role in the nomination, appointment and removal process of various town personnel classifications, in current Charter Section 4-2(c). He expects the present section 4-2(c) to be replaced by two new sections.

### **Other Administrative Issues:**

Mr. Collins said he had asked Town Counsel David Doneski to comment on the need to change the **language in Article 8, Transition Provisions**, to reflect the new changes in the revised Charter. He reported that Mr. Doneski is of the opinion the existing language (2010 Charter) is still good for the revised Charter. Mr. Collins agrees with this assessment. This subject will be discussed at the next meeting.

Mr. Collins said he may be unable to attend next week's meeting.

**The meeting was adjourned with unanimous consent at 9:08 PM.**

**\*\* The next meeting is scheduled for Wednesday, September 14th, at 7:00 PM. \*\***

**Exhibits:**

- A. Email message from Stuart Schulman to David Doneski, Town Counsel, et al, subject: Charter Change, Nominations vs. Appointments, dated 09-01-2016.
- B. Email message from David Doneski, Town Council, to Stuart Schulman, et al, subject: RE: Charter Review Question, dated 09-07-2016.
- C. Draft Charter Review Committee Recommendations and Final Report, dated 09-02-16, submitted by Michael Manugian.

**Exhibit A to Charter Review Committee**  
**09-07-16 Meeting Minutes**

To David Doneski, Town Counsel, Town of Groton  
Cc Mark Haddad, Mike Manugian  
From Stuart Schulman, member, Charter Review Committee  
Date 9/1/2016  
Subj Charter Change, Nominations vs. Appointments

David, hello, I hope this letter finds you well.

The Charter Review Committee has provisionally adopted new language as indicated on the following page regarding the powers of the Town Manager. It was our general understanding that this was merely a clarification, a change in language only, not a change in the powers of the Town Manager or BOS. However the question persists as to whether or not this is the case. We would appreciate your view on the subject. In particular:

- a. Does the new language materially change the employee hiring process?
- b. Does the new language materially change the employee termination process?
- c. Does the new language change how employee contracts are interpreted?
- d. How does the phrase "for whom no other method of appointment or removal is provided in this charter or by-law" figure into the question?

Thanks in advance for your help on this subject.

Regards,

Stuart

The paragraph in question appears under "Powers of the Town Manager" (section 4-2 of the Groton Charter)

New language

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 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.

Old language

To appoint and remove 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 in this charter or by law.~~ Appointments 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 an appointment within 15 days shall constitute rejection of the appointment.

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**From:** David Doneski [DDoneski@k-plaw.com]  
**Sent:** Wednesday, September 07, 2016 2:53 PM  
**To:** 'Stuart Schulman'  
**Cc:** Mark Haddad; Michael Manugian  
**Subject:** RE: Charter Review Question

**Exhibit B to Charter Review Committee**  
**09-07-16 Meeting Minutes**

Stuart,

I have reviewed the proposed language change to section 4-2(c) of the Charter and your questions regarding the consequences of adopting that change. I offer the following brief response to the questions for the Charter Review Committee's consideration. Please note that, as identified in the response, if the Committee wishes to pursue the proposed change to section 4-2(c), additional review of both the Charter and the Town's bylaws would be necessary in order to identify all other Charter and bylaw provisions that would require revision as a result of the change to section 4-2(c).

I will await further word from the Committee on this issue.

QUESTIONS

a. Does the new language materially change the employee hiring process?

In my opinion, this change would materially change the employee hiring process. At present, section 4-2(c) makes the Town Manager the appointing authority for the great majority of all regular employee positions in Town government. The new language would make the Board of Selectmen the appointing authority; the Town Manager would only be presenting individuals for the Board's consideration. The act of "appointing" would become a function of the Board of Selectmen. (The change would convert the appointment process for these employees to a process similar to that provided for in section 4-2(d) of the Charter in the event of a vacancy in the office of police chief or fire chief: presentation of candidates to the Board for appointment.) Therefore, in addition to changing the language of section 4-2(c) it would be necessary, in my view, to change section 3-2(d), appointing authority of the Board of Selectmen, as well as the provisions of section 5-3 and 5-4: appointments for the Department of Finance and Department of Public Works. Further, a change to section 4-2(g), which authorizes the Town Manager to fix the compensation of employees appointed by him, would be required.

b. Does the new language materially change the employee termination process?

In my opinion, this change would materially change the employee termination process. Under the current situation, the Town Manager is authorized to "remove" most employees serving in Town government by virtue of the grant of authority "[t]o appoint and remove" in section 4-2(c). Under the proposed language, the Town Manager would recommend removal to the Board of Selectmen, which would then make the personnel decision in question.

c. Does the new language change how employee contracts are interpreted?

In my opinion, employee contracts would still be between the particular employee, or union, and the Town. However, there may be provisions in existing contracts and collective bargaining agreements that would require modification as a result of a change in the section 4-2(c) appointment and removal process. Those contracts would need to be reviewed to identify the provisions requiring revision.

d. How does the phrase "for whom no other method of appointment or removal is provided in this charter or by-law" figure into the question?

In my view, this language currently serves to confirm that the Town Manager has authority to appoint and remove those employees whose appointment and removal is not subject to another provision of the Charter or the Town's bylaws. Specifically, it would apply to those positions not identified in section 3-2(d) of the Charter, which lists the positions and boards appointed by the Board of Selectmen, and positions not included within appointment authority set forth in a by-law, for example, members of the Finance Committee who are appointed by the Board of Selectmen. (Groton Code, chapter 13)

***Kopelman and Paige is now KP | LAW***

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**From:** Stuart Schulman [<mailto:stuartschulman@hotmail.com>]

**Sent:** Thursday, September 01, 2016 1:51 PM

**To:** David Doneski

**Cc:** Mark Haddad; Michael Manugian

**Subject:** Charter Review Question

Please see attached document.

Thank you, Stuart Schulman

**DRAFT**

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**Exhibit C to Charter Review Committee**  
**09-07-16 Meeting Minutes**

**Town of Groton  
Charter Review Committee  
WORKING DRAFT - Recommended Charter Changes – Full  
Report**

**September 2, 2016**

**DRAFT**

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# **Introduction**

## **Status**

### **September 2, 2016 Version**

This version is the first incomplete working draft.

## **Summary**

This document is the report of the Town of Groton Charter Review Committee (CRC). In order for any individual to understand the impact of the Town Charter (Charter) and the proposed changes, it is necessary to read and digest this document.

Among other things the appendices contain three versions of the Town Charter: the current version, the current version with proposed changes flagged, and the proposed version. The hope is that this will make it possible for anyone to clearly identify each change while providing readable versions of the current and proposed Charters.

The body of this document describes the process followed by the Committee to arrive at its proposed version of the Charter, an overview of the way some aspects of Town government function, and an explanation of the changes being proposed.

## **Acknowledgments (incomplete)**

The Committee would like to thank the following individuals and organizations: the Town Clerk and his office for answering our questions about the way Town Hall operates and handling our many meeting postings, the Town Manager for answering our questions about Town Government and the role of the Town Manager in particular, the Groton Channel and the many volunteers who recorded and broadcast our meetings, all of the individuals who sent us their recommendations and comments and many others who helped us and made this entire process possible.

## **Review Process**

### **Goals of the Charter Review Process**

### **What the Committee Did**

### **What the Committee Learned**

The primary areas of interest of all submitters was in areas of Finance and Budgeting, and the roles of the Board of Selectmen and Town Manager.

All participants in the process, including the members of the Committee had misconceptions about the way in which Town Government functions. The Town Government section of this document describes the operations of those functions in an attempt to remove these misconceptions. It's important to understand the rules of Town Government as established by the Massachusetts General Laws (MGLs) in order to understand the true impact of the proposed Charter changes.

The clearer the Committee made its process and proposals, the easier it was for others to criticize our work. The easier we made it for others to understand what we were doing and complain about it, the better was the feedback that we received and should continue to receive.

## **Town Government**

This section contains an overview of the way in which certain areas of Town government function. The emphasis is on those areas in which the Committee found that many individuals including Committee members themselves had misconceptions about the operation of Town government.

### **What is the Town Charter?**

#### **Committees**

The purpose of this question is to answer the following questions.

- What is the role and responsibility of a particular committee?
- Who does the committee report to?
- Who appoints the members of a committee?
- Who removes a member of a committee?

#### **Committees and the Open Meeting Law**

#### **Appointments**

#### **Terminations**

#### **The Budget Process**

#### **The Groton-Dunstable Regional School Committee**

## **Proposed Charter Changes**

### **Types of Changes**

This document categorizes all of the changes made to the charter. Although clarifications and stylistic consistency and readability changes are not intended to alter the rules under which town government functions, there is always the possibility that any change, no matter how small, may have unintended consequences. Readers are advised to consider all changes and determine for themselves whether any change is a significant change to the way Town government functions.

#### **Substantive Changes Defined**

This type of change is intended to alter the way town government functions. If something is flagged as a Substantive Change it means that the Committee is proposing to alter the rules under which town government functions.

#### **Clarifications Defined**

This type of change is intended to replace ambiguous terminology with more specific or clearer language that is not intended to alter the rules under which town government functions.

#### **Stylistic Consistency and Readability Changes Defined**

This type of change includes such things as making capitalization and names of town bodies more consistent or changing the numbering of sections. It is not intended to alter the rules under which town government functions.

#### **Finance and Budget Changes (Substantive)**

#### **Board of Selectmen and Town Manager (Substantive)**



## **Appendix A: Proposed Charter**

This appendix contains the proposed version of the Town of Groton Charter.

## **Appendix B: Current Charter with Proposed Changes Flagged**

This appendix contains the current version of the Town of Groton Charter with all proposed changes flagged. This allows the reader to identify each change in each section explicitly, word by word.

Note that section numbering and capitalization changes are not flagged to aid in readability.

## **Appendix C: Current Charter**

This section contains the current Town of Groton Charter.

## Appendix D: Correspondence of Old to New Numbering

The current charter uses a combination of numerals and letters. When sections which are lettered or below appear the initial number is missing. The proposed numbering scheme clearly identifies the article and section for every numbered section.

<i>Old</i>	<i>New</i>	<i>Notes</i>
1-1	1.1	
1-2	1.2	
1-9 (a)	1.9.1	
2-6	2.6	
2-6 (a)	2.6.1	
2-6 (b)		This section was deleted
2-6 (c)	2.6.2	
2-6 (d)	2.6.3	
3-1 (f) 1.	3.1.6.1	

## **Appendix E: Committee Schedule**

## Appendix F: Committee Members

<i>Name</i>	<i>Appointed By</i>	<i>Committee Position</i>
Jane Allen	Groton-Dunstable Regional School Committee	Member
Robert Collins	Board of Selectmen	Member
John Giger	Board of Selectmen	Clerk
Mike Manugian	Town Moderator	Chair
Michael McCoy	Finance Committee	Member
Bud Robertson	Finance Committee	Vice Chair
Stuart Schulman	Board of Selectmen	Member

## **Appendix G: Style Guide**

The Charter Style Guide was created by the Committee in order to provide consistency in the formatting, capitalization and terminology used in the Charter.