

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

**Meeting Minutes - October 19, 2016**  
At Town Hall

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

**Not present:** Michael McCoy

**Recorder:** Stephen Legge

**Visitor:** Judy Anderson

**Call to Order:** Chairman Manugian called the meeting to order at 7:03 PM.

**Approval of Meeting Minutes:**

The draft meeting minutes of October 5, 2016 were considered. There was one minor edit. **Ms. Allen moved to accept the amended minutes of October 5th.** Mr. Robertson seconded. The amended minutes were approved unanimously.

**Administrative Issues:**

Mr. Manugian said the Selectmen's conference room will not be available for the meetings of October 26th and November 2<sup>nd</sup>. Both meetings will be scheduled in the Town Hall Second Floor conference room.

Mr. Manugian asked if there were any further (new) reconsiderations requested by the Committee. None were requested, and none are currently under reconsideration.

**Discussion of Limitations on Financial Articles at Fall Town Meetings:**

**Mr. Manugian moved to reconsider putting a limitation on spending articles brought forward for Fall Town Meetings.** Ms. Allen seconded.

Mr. Schulman announced he is opposed to limiting spending warrants at Fall Town Meeting (FTM). He feels the people have the right to consider what is brought forward and make their own decision about it.

Mr. Collins is concerned about unintended consequences because we as a Committee cannot always foresee all the ramifications of making certain decisions.

Mr. Manugian defended his motion by pointing out that at this latest FTM approximately \$900,000 in financial articles were on the warrant. He said this is a very large number, out of cycle, considering that most of the financial decisions are to be made at Spring Town Meeting (STM). One reason cited for pushing some financial decisions into the fall is the availability of free cash being better known by FTM, and after STM. However, there was no reason that free cash could not be kept in the account until the following fall.

Visitor Ms. Anderson commented that in general it is wise to handle town spending in the STM, but notes that the BOS can decide whether or not out of cycle articles belong on the FTM warrant.

Ms. Allen: The first Charter Committee considered this issue. It was concluded that all financial articles should be decided in STM.

Mr. Robertson: Of the \$900,000 considered in the FTM, \$400,000 was for capital spending, which must be deferred to STM 2017. Another \$400,000 was proposed for returning to taxpayers by reducing the tax rate.

Mr. Schulman commented there are state guidelines on capital stabilization considerations when it comes to deciding whether or not to distribute free cash or to keep it in the town treasury. Some of the other financial issues arising at the FTM were replacement of a police cruiser and a \$45,000 study on the town's financial efficiency.

Mr. Collins offered his opinion that it might not be bad to reconsider and discuss the issue of a limitation on financial articles at FTM even though he leans toward not imposing a ban.

Mr. Robertson expressed the view that the Committee should not impose a limitation on spending articles at FTM. He asked that consideration be given to the idea that the police Chief's contract expired right after STM and was renegotiated with a raise. Should the Chief then wait almost a year to get his raise? It doesn't make sense – it is not right for the employee. Certain articles should be considered in the fall. He believes there should be no limitation on financial articles at FTM.

Mr. Giger offered another consideration mitigating against delaying the payment of contractual increases: it would create problems with the Town's cash flow.

**Ms. Allen commented the Committee is actually discussing the issue instead of voting to reconsider. She moved the question.** Mr. Manugian seconded. The vote was unanimous to end debate.

Mr. Manugian then asked for a vote on reconsidering the issue of imposing a limitation on FTM financial articles. The motion to reconsider was tied by a vote of 3 – 3 with Misters Giger, Robertson and Schulman voting no.

Mr. Manugian announced that in concert with the Committee's past decision about tie votes, this motion to reconsider will be re-voted at the next meeting when the full Committee is available to vote.

Mr. Manugian asked that the Committee consider rescinding its tie vote rule and follow Robert's rules which consider a tie vote a failure of the motion. The Committee did not wish to reconsider its rule unless all members were present.

### **Discussion of the Definition of "Town Officer" and "Department Head":**

Mr. Collins offered a letter to the Committee (one page), dated October 19, 2016, which proposed to add three new definitions to the Charter in Section 1-9 as follows: "Elected Officer", "Appointed Official" and "Department Head". These terms are intended to replace the more general term "Town Officer" in the current (2010) Charter. The first and third terms had been previously defined by the Committee. Mr. Collins's proposal would replace the previous definitions as well as add the third.

Mr. Collins had submitted an earlier letter on this subject (two pages) two weeks ago, dated October 5, which had discussed the treatment of the term "Officer" in the Mass General Laws. He claimed that eliminating the definition and use of "Town Officer" in the Charter, as the Committee had voted to do, might inadvertently remove powers and responsibilities associated with "Officers" in the MGLs.

In the current Charter "Town Officer" is defined as a person having charge of an office or department of the town who exercises some portion of the sovereign power of the town. Mr. Collins has chosen to use the different terms "Town Officer" and "Elected Official" to designate a certain degree of difference in duties and responsibilities between elected and appointed positions. He found the "Department Head" position more difficult to define because he felt it should include the administrative authority to manage a department, but should exclude the authority to make the kinds of material decisions reserved for Elected Officers. His offered definition is as follows:

"Department Head: An individual having administrative authority over a town department or departments for the purpose of enhancing the efficiency of such department(s); such authority being limited to that individual's appointment and to ministerial rather than discretionary functions."

Misters Robertson and Schulman preferred the replacement of "enhancing efficiency" with "managing the department". Mr. Collins returned with his preference for "managing the activities of the department".

Mr. Giger commented that department heads do make discretionary decisions, an example being performance appraisals for employees.

Mr. Collins cited Black's Law Dictionary for a definition for a government minister: such a person is defined to serve a higher authority.

Mr. Giger: It is not clear who is actually a department head in our town. For example, he is not necessarily in agreement that the Conservation Commission administrator is a department head.

Mr. Manugian felt that a department head is whoever the Town Manager designates as a department head. He also requested that the Committee stick to the discussion of the definition of

Department Head and that the discussion of how department heads were appointed was outside of the current issue.

Mr. Collins added he had inquired of Dawn Dunbar, Groton's Executive Assistant to the Town Manager, who were Groton's department heads. She answered with a list including the Conservation Commission Administrator and a number of other people.

**Mr. Schulman moved to define "Department Head" as follows:**

**"An individual having administrative authority over a town department for the purpose of managing the activities of such department."** Mr. Roberson seconded.

Ms. Anderson is concerned whether all references to "department head" in the Charter will work with this definition.

Mr. Manugian answered, all will have to be examined.

Ms. Anderson also commented she is concerned that if Mr. Tada (Conservation Commission Administrator) can be called a department head, he can also be called on to administratively run the town when the Town Manager so designates him temporary replacement in the Town Manager's absence.

A vote was taken and the motion to define "Department Head" was approved unanimously.

Mr. Schulman commented that some offices could be considered an elected officer and a department head, such as the Town Clerk.

**Mr. Manugian initiated the discussion of how to define "Elected Officer" and "Appointed Official".**

Mr. Manugian questioned Mr. Collins use of the possible plural form for the term "Department(s)" for elected officer, and the same question for appointed official. There was a consensus of the Committee to remove the plural forms.

**Mr. Robertson moved to accept Mr. Collins' definitions of "Elected Officer" and "Appointed Official" except as to the removal of the plural forms. Those definitions are as follows:**

**"Elected Officer: An individual serving in elected office who, in the exercise of the powers or duties of that position, exercises some portion of the sovereign power of the town."**

**"Appointed Official: An individual serving in appointed office who exercises the powers or duties of that position with authority derived from the General Laws or this Charter."**

Mr. Schulman seconded.

A vote was taken and the motion to define "Elected Officer" and "Appointed Official" was approved unanimously.

Mr. Manugian said now it is necessary to go back through the original Charter to check each use of the word "town official" to make sure the new definitions work.

Mr. Schulman added it is also necessary to ensure that the term “appointed official” is used somewhere in the revised Charter; otherwise, there is no need for this definition

Ms. Allen proposed to insert the term “appointed official” in Section 1-8, Ethical Standards. There was general agreement this was a good place for the term.

Ms. Anderson is concerned about the use of the term “officer” in the present Charter (2010). She wonders if it should be included in the just voted definitions. Mr. Manugian explained that all such usages would be reviewed in light of the three newly approved definitions.

**Mr. Collins moved to add the term “or ‘Officer’” to the earlier approved definition of “Elected Officer”.** Ms. Allen seconded. The motion was voted and approved 5 – 1 with Mr. Giger voting no.

### **Discussion of the Draft Revised Charter, Version 0.8-3:**

This updated version of the Charter has a new numbering system for articles, sections, subsections and paragraphs. It also is a clean version of the revised Charter, i.e., it has no flagging of changes.

Mr. Manugian explained the convention he used is the one proposed previously by Mr. Giger as amended by the Committee. This covers font size, bolding, capitalization and underlining. The title page will look just like the current Charter’s title page.

**Action Item #1:** Mr. Manugian will talk to the Town Clerk about whether the Town’s digital publisher, eCode, will be able to publish the Committee’s format for the Charter or whether the format of the Charter will be modified by the publisher.

Mr. Manugian explained the only things left for the Charter Committee to do now are a check on the usage of the old and new definitions worked on this evening, and a final review of all the Charter changes.

Three versions of the Charter will be used and presented to the public and Town Meeting: a clean copy of the current Charter, a clean copy of the new revised Charter and a revised copy of the Charter with all changes flagged.

**Action Item #2:** Ms. Allen agreed to search for the usage of “Town Official” in the current Charter make recommendations for any changes necessary in light of the newly approved definitions of elected officer, appointed official and department head.

### **Other Administrative Issues:**

The next version of the Charter will be 0.8-4, which will include tonight’s changes.

Mr. Giger reported that the “Registrars of Voters” are included in the Town Annual Report on Page 10 (for 2015). There had been a concern that all Committees were mentioned except this one.

The future schedule of the Committee’s work will be discussed at the next meeting.

**The meeting was adjourned with unanimous consent at 8:25 PM.**

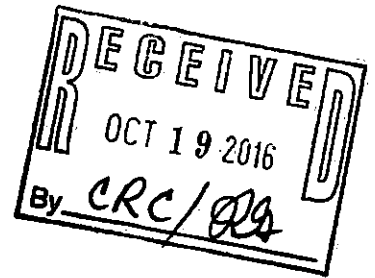
**\*\* The next meeting is scheduled for Wednesday, October 26th, at 7:00 PM. \*\***

**Exhibit:** Letter from Robert Collins Esq. to Charter Review Committee dated October 19, 2016, regarding definition of Elected Officer, Appointed Official and Department Head.

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19 October 2016



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The Groton Charter Review Committee  
Michael Manugian, Chairman  
Town Hall  
173 Main Street  
Groton, MA 01450

Dear Committee Members:

I have discussed the concerns expressed in my letter of the 5<sup>th</sup> with Attorney Doneski; he agreed with me that failing to define the non- elected municipal officials could prove to be problematic in the future, falling into the realm of unintended consequences.

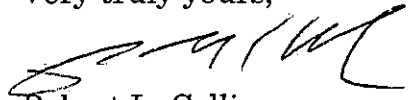
May I thus offer the following suggested definitions:

**Elected Officer:** An individual serving in elected office(s) who, in the exercise of the powers or duties of that position, exercises some portion of the sovereign power of the town.

**Appointed Official:** An individual serving in appointed office(s) who exercises the powers or duties of that position with authority derived from the General Laws or this Charter.

**Department Head:** An individual having administrative authority over a town department or departments for the purpose of enhancing the efficiency of such department(s); such authority being limited that individual's appointment and to ministerial rather than discretionary functions.

Very truly yours,

  
Robert L. Collins