

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

**Public Hearing Minutes - January 18, 2017,
7:00 PM at Town Hall**

Present (5): Jane Allen, John Giger (Secretary), Michael Manugian (Chair), Michael McCoy, Bud Robertson (Vice-Chair)

Not Present: Robert Collins, Stuart Schulman

Recorder: Stephen Legge

Visitors (6) : Anna Eliot, BOS; Richard Hewitt; Russell Harris; Carolyn Perkins, Earth Removal and Storm Water Advisory Committee; Ed Perkins, Earth Removal and Storm Water Advisory Committee; John Petropoulos, BOS

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

Administrative Issues:

Mr. Manugian announced this was the second of four public hearings the Committee was conducting, over an eight day period. Their purpose is to provide opportunity to Town officers, department heads and other employees, and the public to comment on the draft revised Charter which is the product of the Committee's work to date. The other meetings were held this morning at 10 AM and will be held at 10:00 AM on Wednesday January 25th, again in the second floor conference room, and at 7:00 PM in the first floor conference room.

The chair will first hear from elected and appointed members of Town government at this evening's meeting. Once all who wish to speak have been heard the public and Town employees will have the opportunity to speak. At the third and fourth meetings, next Wednesday, the public will be heard first. All wishing to speak must limit their comments to three minutes each, as long as there are others waiting to be heard. A projector is available for anyone's use, if desired. Mr. Manugian said it would be helpful if those making comments would reference relevant sections of the Charter, or line numbers in the draft revised Charter, or both. The draft revised Charter is available for all to see on the Town's website, both as a clean copy and one marked with all significant changes to the existing version, approved in 2010.

Mr. Manugian said this is the second year of work for the Charter Review Committee (it has met weekly for most weeks), and work is drawing to a close. Over 200 comments and proposed revisions have been submitted and considered. The final draft will be submitted for approval at the Spring Town Meeting this year. If it is approved, a ballot vote will take place shortly afterward, then the draft approved by the Town will be submitted to the state legislature for approval. Once the state approves the draft, it will become Groton's new revised Charter.

Initial Audience Requests:

Ms. Perkins began by saying she expected that the Committee would present a summary of changes proposed for the Charter at this meeting and that this would be the most valuable use of the time for her.

Mr. Manugian stated that the published agenda implied that but the Committee had hoped to hear from the members of Town government and the public their reactions to and suggestions for the Charter changes being proposed.

Each of the remaining visitors to the meeting echoed Ms. Perkins request for a summary presentation of changes.

Summary Presentation of Charter Changes by Chairman Manugian:

In response to the public request the Chair agreed to do an ad hoc summary presentation of changes to the Charter recommended by the Committee, even though he had not prepared one in advance. The Committee has been working on the “Recommended Charter Changes - Full Report” for the last several months. This report is intended for voters attending the upcoming Spring Town Meeting and considering whether to accept the Charter Changes for the Town.

The Committee was also preparing a summary report of Charter status and proposed changes. Mr. Manugian used this summary document (version dated January 5, 2017, six pages) as his outline for presenting the changes tonight. The document is attached and the presentation was as follows:

The major changes proposed for Groton’s Charter fall into three categories: 1. Finance and the Finance Committee, 2. The powers of and relationship between the Board of Selectmen and the Town Manager and 3. Other changes.

Section 5 of this report lists the proposed changes in the Selectmen’s powers to manage the town affairs, summarized in ten bullet points.

Mr. Petropoulos indicated his concern as a Selectman with the possible need to deny a re-appointment ratification and, in so doing, inadvertently publicly embarrass an individual. There was a lively discussion among Misters Petropoulos, Manugian and McCoy about the difficulties and responsibilities of granting a meaningful ratification.

Mr. McCoy asked how the BOS would do things differently.

Mr. Petropoulos said the timing and venue of meetings to consider such matters might affect the appropriateness of how things are done. It was suggested that a formal reappointment process might allow for denial of a reappointment while, possibly limiting embarrassment to an individual. However, this was outside the scope of the Charter.

Mr. Giger pointed out there is no due process provision delineated in the Charter for appointed volunteers who are terminated without cause.

Ms. Eliot questioned the need for the BOS to approve a waiver of fees in a public meeting. Some boards have existing rights to waive fees, such as the Planning Board, and they generally waive them in public meetings. There was a discussion of the Committee's intent to ensure fairness to all and to either approve cases individually in a public meeting or institute a policy for certain types of waivers, approving that in a public meeting.

Action Item #1: The Committee needs to consider a change in wording in revised Charter Section 7.10 for its waiver of fees provision which would allow for boards other than the BOS to make policies and approve them publicly.

Mr. Manugian presented three bullet points from Section 6 of the executive summary which addressed the role of the Town Manager.

Next, Mr. Manugian presented 12 bullet points in Section 7 having to do with the Finance Committee's responsibilities in the Town's budget process. The net effect of these changes is to significantly increase the advisory and policy-setting role of the committee in the process of creating, proposing and tracking the Town's annual budget.

Mr. Robertson expanded on the new approach the Finance Committee has taken over the last one to two years to develop budget strategy and set financial goals at the beginning of the process. New provisions proposed for the Charter have grown out of the changes in recent practice.

Ms. Allen explained the original Charter Committee's challenge to balance the powers of the Finance Committee with those of the Town Manager (Ms. Allen was an active member of the original Committee which eventually helped establish the Charter form of government in Groton).

The Charter Committee also has pushed for changes in the Finance Committee's role to have more active involvement in union negotiations planning.

It was noted out that the Charter proposed that among others, the Finance Department participate in the development of union negotiation strategy. The Principal Assessor is a member of the Finance Department and is a union position. This would put a union member on the Town side of union negotiations which would be a direct conflict of interest.

Action Item #2: It was noted in the Full Report Summary an error was made on Page 5, under additional changes for the Finance Committee. In the first bullet in the third line, "Town Manager" should read "Town Moderator". This bullet is referring to a proposed new appointment process for the Finance Committee.

Mr. Robertson explained the new role the Finance Committee is proposed to have in the development of 5-year financial planning for the Town. It is expected the Finance Committee will work closely with the Department of Finance to accomplish this.

Mr. Robertson explained the Finance Committee's need to have input on the form of the annual budget, so that it can ultimately present a budget to the Town that meets their needs and easier to explain to the public at Town Meeting.

Ms. Perkins inquired about the last bullet on Page 5 which requires that under the direction of the Town Manager all departments are to prepare a summary of all changes to funds under their control on an annual basis. She noted that the Planning Board does have control of some funds which are actually escrow accounts of developers' money. The funds were established to pay for Planning Board review expenses, with unspent balances later returned to the developer. Ms. Perkins asked if it was intended that these types of funds also be subject to the new reporting disclosure requirements. Mr. Manugian responded that the intent was to include these types of funds.

Ms. Eliot brought up the issue of the appointment process involving three different Town bodies (BOS, chair of the Finance Committee and Town Moderator). She asked that the language be modified to make it clear the process of appointment would take place in a public meeting. Ms. Eliot also proposed that the Town Moderator be specifically invited to review these new provisions which will change his responsibilities.

Section 8 of the Summary refers to other significant changes to the Charter. Mr. Manugian briefly summarized these four points:

1. The definitions of "officer", "Elected Official" and "Department Head". The Committee examined the definitions and usage of these terms. It felt that the term officer actually referred to different groups of individuals depending on where it was used. The Committee replaced this general usage with more specific terms such as Elected Official and Department Head, depending on the context.
2. The Committee defined and formalized the role of the Personnel Board as an advisory body to the BOS, Town Manager and HR Director. It formalizes the existence of the Board while limiting it to an advisory role.
3. In the interest of providing convenient access to all public records necessary for functioning of town government, the Committee recommended giving specific responsibility to the Town Manager for capturing and preserving records and to the Town Clerk the responsibility to provide access to the public.
4. The Committee recommended that the town's Principal Assessor or other assessors be prohibited from membership on the elected Board of Assessors to avoid direct conflicts of interest.

Mr. Giger explained the Committee's style guide, developed to provide uniformity and appropriateness to capitalization, punctuation and numbering conventions for the Charter document itself. Voters will be provided draft versions of the Charter that are both clean and flagged to show changes. It has been decided for readability purposes to not flag numbering and style changes in the flagged version.

Mr. Manugian invited any last comments from those present. None were forthcoming.

The meeting was adjourned with unanimous consent at 8:36 PM.

**** The next meeting is scheduled for Wednesday, January 25th, at 10:00 AM. ****

Exhibit:

- A. Memo from Board of Water Commissioners to Charter Review Committee, dated January 18, 2017, subject: Town Charter.
- B. Email to Michael Manugian, et. al., from Michael Bouchard, dated January 18, 2017, subject: Charter Review committee Jan 2017 (Department Heads)



TOWN OF GROTON
Water Department
173 Main Street, Town Hall
Groton, Massachusetts 01450

Office: 978-448-1122
Fax: 978-448-1123

Superintendent:
Thomas D. Orcutt

Business Manager:
April R. Iannacone

Commissioners:
John J. McCaffrey Jr.
James L. Gmeiner
Greg R. Fishbone

Exhibit A to Charter Review Committee
01-18-17, 7 PM, Meeting Minutes

MEMORANDUM

To: Charter Review Committee

From: Board of Water Commissioners

Subject: Town Charter

Date: January 18, 2017

On Tuesday, January 17, 2017, the Board of Water Commissioners met to review the Town Charter and voted unanimously the following recommendation to the Charter Review Committee for consideration.

I. Section 7.10: Waiver of Administrative Fees – add the following language to line 896 after “municipal department” - “with the exception of the Water Enterprise Fund.”

John Giger

From: Michael Bouchard <mbouchard@townofgroton.org>
Sent: Wednesday, January 18, 2017 15:00
To: Michael Manugian; John Giger; Steve Legge
Cc: April Iannacone; Bob Colman; Dawn Dunbar; Donald Palma; Edward Cataldo; Kathy Newell; Kathy Shelp; Kevin Kelly; Laurie Bonavita; Mark Haddad; Melisa Doig; Michael Chiasson; Michael Hartnett; Patricia DuFresne; Rena Swezey; Steele McCurdy; Takashi Tada; Tom Delaney; Tom Orcutt; Vanessa Abraham
Subject: Charter Review Comments Jan 2017 (Department Head)
Attachments: Charter Review Comments Jan 2017 (Department Head).docx

To Members of the Charter Review Committee

Thank you for the Committee's time and the opportunity to express Department Head comments related to proposed charter revisions.

As discussed, attached are our written comments. They incorporate discussions held during the public hearing.

If Committee Members have further questions or requests for clarification, we will respond to those requests. We recommend email to Tom Delaney (Tdelaney@townofgroton.org) and Mike Bouchard (mbouchard@townofgroton.org). As Tom spends much of his life in a pick-up truck, it may be me that responds most often.

Thank you for undertaking this effort.

Sincerely,
Mike

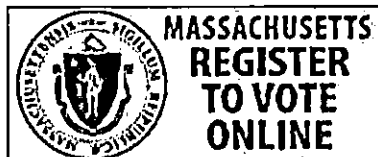


Michael Bouchard
Town Clerk
173 Main Street
Groton, MA 01450
Office: 978-448-1100
FAX: 978-448-2030
www.townofgroton.org

Town Clerk Office Hours – Effective September 10, 2012

Monday	8:00 AM to 7:00 PM
Tuesday	8:00 AM to 4:00 PM
Wednesday	8:00 AM to 4:00 PM
Thursday	8:00 AM to 4:00 PM
Friday	8:00 AM to 1:00 PM

Please note that the Massachusetts Attorney General has determined that emails are a public record. Privacy should not be expected.



Groton Department Head Comments
Proposed Charter Revision (Version: December 30, 2016)

Charter Review Comments

Groton Department Heads

The Department Heads for the Town of Groton wish to thank you for the opportunity to comment on the proposed revisions to the Groton Charter. We appreciate the extensive work of the Committee.

The Department Head comments were made to the December 30, 2016 (flagged) version of the proposed Charter.

Comments have been categorized into three areas: Procedural, Administrative and Syntactical. Procedural refers to the process of town government, Administrative to operational details of town government, and Syntactical to suggested syntax, wording or other grammatical suggestions.

Procedural Comments

4.2.4 Line 505 Powers and Duties (Town Manager): Various by-laws specify that the Town Manager appoint members, for example, Chapters 153 Historic Districts Commission and 196 Signs. The Charter Review Committee should include a recommendation for the Town to review its bylaws for such conflicts. Given that, in our opinion, there appears to be no substantial or procedural difference between the current “appoint and ratify” and the proposed “nominate and confirm” procedures, the Department Heads ask the purpose for this proposed change. What problem is being solved?

Line 504: Powers and Duties (Town Manager – Removal phrase) The Town has many volunteers serving on appointed committees, dedicating much time and energy. If removal from office is to be a function of the Board of Selectmen, then removal will need to be done in a public meeting. Public “removal” of members will likely be embarrassing to the appointee and perhaps dissuade other volunteers from coming forward. As an action of removal should be “for cause”, including, but not limited to, the cause defined in Section 7.8, further embarrassment potential exists. We recommend that an action of removal “not for cause” should be allowed to be appealed to the Board of Selectmen for discussion at a public meeting, with the burden on town administration to show reason for removal. We recommend against this clause as proposed. What problem is being solved?

4.2.9 Line 524 Town Manger: The proposed rewrite removes the clause “at his request”. A strict reading of the re-written sentence allows the Board of Selectmen to excuse the Town Manager from attending Selectmen’s meetings at its initiative, and have the potential effect of removing the town manager from Selectmen proceedings, without due process. We object to enabling this perhaps unintended consequence. What problem is being solved?

4.3 Line 544 Removal and Suspension (Town Manager): Acknowledging that some towns employ a 3-2 simple majority for the removal of a town manager, we feel this threshold falls short in some key areas. The decision to remove a Town Manager is significant and is a statement about the continuation

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of government. Should, over time, various combinations of personalities and circumstance give rise to multiple occurrences of removal, the confidence in town government by townspeople and investors may be impacted. Additionally, there may be an impact on morale and subordination if the presence of a lower bar could be exploited.

Some have cited that Zoning Amendments and for the Town to take on debt require 2/3rds vote at town meeting. Recall of elected officials requires a three step process, with one of the steps requiring 20% of registered voters to actually call for the recall. This charter proposal for town manager removal could result in actions with perhaps more significant impacts to the Town. We feel the threshold should be high.

Certainly removal for cause needs to be allowed. We might recommend that a preliminary resolution of removal (Section 4.3.1.1) be enabled by a 3-2 simple majority, but a final resolution of removal (Section 4.3.1.3) require a 4-1 super majority. This approach would allow concerns of a majority of the Board to be explored in a deliberative process, but require an overwhelming sense of the Board to effect a termination.

Administrative Comments

1.9.1 Line 43 Definition of Appointed Official: Suggest inserting "vote of the Town Meeting" to read "...General Laws, this Charter, vote of the Town Meeting, or the Town's by-laws."

1.9.13 Line 66 Definition of Town Bulletin Board: Was it intended that "office notices" be "official notices"?

Line 67: recommend that the Board of Selectmen or the Town Clerk be the one to designate the town bulletin board. Since the Town Clerk posts notices and has identified the official posting methods with the Attorney General for public meeting notices, perhaps the Clerk should assume this role.

3.10 Line 451 Board of Assessors As job titles and descriptions can change over time, would it be more comprehensive to state that "no full time employee in the Assessors' Office may simultaneously hold an elected position as a member of the Board of Assessors..."

3.2.2.3 Line 329 Board of Selectmen (Policy making): Consider adding Department Heads to the list of members to be consulted when developing policy.

3.2.4 Line 356 Appointing Authority: According to the Housing Coordinator, "The Housing Partnership: In Groton, the role once played by the Housing Partnership is now shared by the Town of Groton Affordable Housing Trust, the Groton Housing Authority's board and the continued involvement of the Planning Board. A number of towns have stopped appointing housing partnerships once those towns formed affordable housing trusts (see Town of Stow http://www.stow-ma.gov/pages/StowMA_BComm/StowMA_HousingPartner/index?textPage=1) as the housing trusts can serve the education and advocacy functions once done by local housing partnerships.

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If mention of the Housing Partnership is retained in the Charter, then it may be advisable to change the appointing language from "shall" to "may" so that the Board of Selectmen is not required to take action if a future need does not exist."

Even though the Personnel Board is mentioned in Section 5.6, it would be appropriate to mention the Personnel Board as an appointment of the Selectmen.

3.2.6 Line 367 Day to day Business: We would ask that inquiries and consultations be initiated with Department Heads. Department Heads are in a position to explain policy decisions and department operations with a broad view. They are responsible for these decisions. Hourly work personnel, whose work is service delivery, could be disrupted with ill-timed or frequent ad hoc consultations. The Department Head should be aware of, and agree to, any service disruption.

3.9 Line 445 Town Clerk The Town Clerk is the default Records Access Officer under MGL Chapter 66 (Public Records Law). It is not realistic that the Clerk be the custodian of all town public records. This concept is well defined in the Massachusetts Public records Law which became effective January 1, 2017.

950 CMR 32.05 (2): "In a municipality, the municipal clerk, or the clerk's designees, or any designee of a municipality that the chief executive officer of the municipality may appoint, shall serve as records access officers.

One responsibility of a Records Access Officer is to "(c) assist the custodian in preserving public records in accordance with all applicable laws, rules, regulations and retention schedules as issued by the Supervisor."

Line 446 Reword to "...in accordance with the provisions of MGL Chapter 66." Delete remainder of sentence as Chapter 66 Section 7 refers to historic records known as Proprietor Records.

4.2.3 Line 498 Powers and Duties (Town Manager): As Department Heads are also employees, suggest wording to read "To appoint and remove department heads, other employees and paid members of town government for whom..."

4.3.1.2 Line 556 Removal and Suspension (Town Manager): This sentence is the reverse of the Open Meeting Law. The Open Meeting Law requires that a meeting "(Purpose 1) to discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual" be held in Executive Session, unless a public session is requested by the officer. It is not an option to enter executive session without meeting this or one of the other 9 authorized purposes. Section 4.3.1.4, as proposed by the Committee, appears to reflect the Committee's agreement with these sentiments. We recommend that Groton's Charter not conflict with the Open Meeting Law.

4.4.2 Line 586 Vacancy in the Office of Town Manager: Does limiting choice to a department head or elected officer preclude capable persons (e.g. member of Finance Committee)?

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5.3.5 Line 664 Town Accountant: Under Section 4.2.3, any appointment by the Town Manager needs to be ratified by the Board of Selectmen. This appears to be a redundant requirement to Section 4.2.3.

5.3.6 Line 668 Treasurer/ Collector: The wording of this section should contain similar language to 5.3.5 Town Accountant, for consistency within the document.

5.3.7 Line 671 Principal Assistant Assessor The wording of this section should contain similar language to 5.3.5 Town Accountant, for consistency within the document. Please be aware that changes in job title could necessitate reopening union contracts, change in the Wage and Classification Schedule, creation of a job description and acceptance of that job description by the union.

5.5 Line 703 Information Technology: The scope and definition of a Department of Information Technology is broad, and allows for much interpretation. The definition should reflect that this is a support function to deliver town services under the direction of the Town Manager. The scope should remove or refine the phrase 'and make accessible' as this is generally implied but as it stands currently does not differentiate what or to whom an item is being made accessible.

5.6 Line 706 Personnel Board: Chapter 48 of the Groton Code defines the Personnel Board to serve an advisory function to the Town. It is redundant to also articulate the Board in the Charter.

6.10 Line 836 Transparency of Financial Holdings: As discussed in the Public Hearing, we would recommend this wording:

"Within 90 days of the end of each fiscal year, the Town Accountant shall prepare a summary of all Town funds in accordance with customary financial reporting. This summary shall include a snapshot balance as of the first day of the fiscal year, a summary of additions and deletions during the preceding twelve months, and a final year-end balance. This information shall be provided to the Town Manager, who shall disseminate the information to the Finance Committee and the Board of Selectmen. It shall further be made available without cost to members of the public at request and on the Town's website."

7.8 Line 896 Loss of Office: Consider adding "or if the person does not take his or her oath of office at the beginning of the current appointment" An oath of office is required for each elected or appointed term by MGL Chapter 41 Section 107. The Town Clerk suggests that persistent non-compliance could be a reason for loss of office.

7.10 Line 906 Waiver of Administrative Fees: In the course of service delivery, occasional discretion to waive a fee is helpful to the public and to the image of the Town. We have no issues with public disclosure of any fee waivers, but ask for practical process to exercise discretion. Examples where discretion becomes plays a role are:

- Could apply to locally set (not state-mandated) fees only
- Inter-department fees

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- Library fees: Comments from the Library Director –
“We need the ability to waive fines, such as when fines accrued when someone was in the hospital, unable to get out in bad weather, had a family emergency, a school teacher who kept things out late for a class assignment, or many other completely reasonable legitimate reasons. It does not seem a good use of Selectmen's time to weigh in on every possible reduction or waiving of library fines. I also don't think the Library Trustees would be supportive of this.”
- Tax Collector authority under MGL 60 Section 15 allows fee waiver at discretion under \$15
- A new dog arrives in town after the February 28 registration deadline. Under Groton Code Charter 128, a late registration fee is to be assessed. Currently that late fee is waived by the Town Clerk.
- The Open Meeting Law encourages fees be waived during the disclosure of public information process, yet fees are authorized under the statute. This section of the Charter would appear to eliminate the Clerk’s discretion to waive public records fees.
- Occasionally, a “hard luck” story is brought by the Town Clerk regarding the issuance of a vital record, and a \$10 fee waived. For example, a homeless vet looking to establish residency, and requiring a birth certificate.

Without department discretion, these fees would not be able to be waived unless approved by the Board of Selectmen on a case basis.

We ask if this issue rises to the level of the charter? We support all efforts at transparency and would like to recommend that the Board of Selectmen develop a policy regarding fee waivers and solicit the input of Department Heads.

Syntactical Comments

2.1 Line 87 Town Meeting: “Annual Town Meeting” might be de-capitalized. This use is to describe the type of meeting for the Fall (i.e. as opposed to a special town meeting). In caps, it seems to take on another meaning.

2.6.1 Lines 126 and 129 Warrant Articles: the references to “town meeting” and “special town meeting” are general, and do not need to be capitalized. Similarly, spring or fall town meetings are general references. As with Line 87, capitalization makes it seem to take on another meaning.

3.1.1 Line 206: The library bylaws designate the Board of Trustees of the Groton Public Library as the official title.

3.8 Line 427 Title: Board of Trustees of the Groton Public Library (as with 3.1.1)

3.10.1 Line 449 Board of Assessors: Capitalize “board”

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4.1.1 Line 468 Appointment (of Town manager): Shouldn't this committee be referred to as the "Screening Committee as described in Section 4.5"?

4.3.1.2 Line 565 Removal and Suspension (Town Manager): Delete "public" as has been done elsewhere in these sections.

Lines 761 ("Not later than Dec 31") and Line 819 ("prior to Dec 31") are slightly different.

7.6 Line 872 Periodic Charter Review: De-capitalize Annual Town Meeting as the statement refers to a general annual town meeting.

Respectfully submitted

Michael Bouchard, on behalf of Department Heads