

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

**Public Hearing Minutes - January 25, 2017,
10:00 AM at Town Hall**

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

Not Present: Michael McCoy, Stuart Schulman

Recorder: Stephen Legge

Visitors: Judy Anderson, Mark Haddad (Town Manager)

Call to Order: Chairman Manugian called the meeting to order at 10:00 AM.

Administrative Issues:

Mr. Manugian announced the Committee was conducting four public hearings, including the present meeting, over an eight day period. Their purpose is to provide opportunity to the public, and Town officers, department heads and other employees to comment on the draft revised Charter which is the product of the Committee's work to date. The other hearings were held last Wednesday (2) and the last one will be held this evening at 7:00 in the first floor conference room.

The Committee will continue to receive written proposals from the public until January 30, 2017. At that time preparation must be made for a final version of the revised Charter to be submitted to Spring Town Meeting for approval by voters. There will be one more final public hearing held before the Spring Town Meeting. 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, and 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.

The minutes of the last three previous meetings and public hearings will be considered this evening.

Presentation of Comments from the Public:

The public present were invited to submit comments, but none were offered at this time.

Discussion of Comments Presented by the Department Heads on January 18th, 2017:

Last week at the morning meeting, Mr. Bouchard, Town Clerk, summarized comments from the Groton Town department heads on the revised draft Charter (flagged version dated December 30, 2016) in a five-page written summary. The Committee began its discussion of the points raised in this summary (note line numbers will refer to the pdf flagged version of the revised Charter, version 0.8-10).

Section 4.2.4, Town Manager's Powers and Duties: The point was made that various by-laws specify that the Town Manager appoints certain town volunteers and the BOS ratifies such appointments. There seems to be confusion around the use of the new language, "nominate and confirm" in this section and a possible conflict with the language used in the by-laws for other appointments.

Mr. Collins responded the Committee felt the nominate/confirm language was a more accurate description of what was actually happening since the BOS holds the power to appoint by confirming or refusing to confirm what was earlier called an appointment. He said this was not a substantive change in the Charter, but rather a re-characterization of the language to better reflect the realities of the Town Manager's and Selectmen's powers. It was felt this change improved the perception of what was really happening.

There was a consensus of the Committee to make no change to the language proposed for the section.

Also, in the section mentioned above, the removal of volunteer employees is included in the Selectmen's powers to confirm or not confirm and the department heads had felt this should be reconsidered.

Misters Collins, and Robertson and Ms. Allen all felt this was an appropriate change to the Charter and should not be reconsidered. The Committee took no further action on this point.

Section 4.2.9, Town Manager's Powers and Duties: The department heads took issue with the removal of the phrase "at his request" in this section, which in their minds had the effect of allowing the BOS to not invite the Town Manager to any meeting of their choice and thereby denying the Town Manager due process in Selectmen's proceedings. The Committee agreed with this point.

Mr. Collins moved to add the phrase "at his request" back into Section 4.2.9. Mr. Robertson seconded. The Committee approved the motion unanimously.

Section 4.3, Removal and Suspension (of the Town Manager): The original Charter specified a 4-1 vote for removal was required. The Committee, after much deliberation, had changed this to a simple majority vote (3-2). The department heads felt this was a very significant change and argued for a higher standard. They claimed under some circumstances a simple majority vote could undermine public confidence in Town government and be deleterious to morale and subordination amongst Town employees.

Mr. Collins cited his earlier stand and vote against the simple majority vote change. He had also heard arguments that this change could cost the Town more money because candidates for Town Manager will want more compensation for the added risk of taking the job and the Town's bond rating may be affected adversely. Mr. Collins liked the department heads' suggestion to keep the

simple majority vote for “preliminary resolution of removal” in Section 4.3.1.1, but going back to the 4-1 requirement for the “final resolution of removal” in Section 4.3.1.3.

Mr. Giger mentioned that the Town Manager may have requested a six month severance provision in his recent contract re-negotiation in anticipation of the voting requirement change. Mr. Giger added that elected officials are subject to the voters’ majority vote every three years. Why should the Town Manager have more protection than elected officials? He is inclined to stay with the change to a majority vote.

Mr. Robertson said he feels the majority vote is still appropriate. He thinks a six month severance is actually ok and a reasonable cost to the Town to retain its right to change management on a majority vote.

Ms. Allen commented the Police Chief, Fire Chief and Regional School Superintendent are all subject to less than an 80% vote for removal, although the Superintendent requires a 2/3 majority of the Regional School Board. She feels the majority provision should be retained.

Mr. Manugian asked if the current town Manager has been subject to such a removal vote. No one in attendance was aware of any attempt to use this provision of the Charter to consider removal of the Town Manager.

Mr. Collins said the Committee should have compelling reasons to make this Charter change when explaining it to Spring Town Meeting voters. The department heads felt strongly about this.

Mr. Giger moved to leave the majority vote change as is in revised Charter Section 4.3. Mr. Robertson seconded. A vote was taken and the motion was approved 4 – 1 with Mr. Collins voting no.

Section 1.9.1, Line 43, Definition of Appointed Official: The department heads wished to add the phrase “vote of the Town Meeting,” between “... General Laws, this Charter,” and “or the Town’s by-laws.

Ms. Allen moved to accept this recommendation. Mr. Collins seconded. The vote approved the motion to amend the phrase unanimously.

Action Item #1: Mr. Collins will research and develop the new language approved by the Committee for Section 1.9.1.

Section 1.9.13, Definition of the Town Bulletin Board: The department heads asked if “office notices” should be “official notices” in Line 66. They also suggested the Town Clerk should have the role of determining the proper posting location(s).

Mr. Collins moved to replace “office notices” with “official notices” in Section 1.9.13. Ms. Allen seconded. The motion was approved unanimously.

Mr. Giger related a conversation he had had with the Town Clerk. The Town website is the official notice site for the Town. However, the Town Clerk must also post paper copies of notices on the physical bulletin board in Town Hall so that they are visible when Town Hall is open. He gave the following example of proper protocol: a meeting is considered posted when it

goes up on the Town website, say Friday night. As soon as Town Hall is opened on regular business hours Monday morning, the notice must be posted on the physical bulletin board in Town Hall. The Town is responsible for following the proper protocol by contacting the Attorney General's Office. Groton's Town Clerk has done that.

Mr. Collins moved to make a substantive change to give the Town Clerk the responsibility to specify the location of the Town Bulletin Board in Section 1.9.13 on Line 66. Mr. Robertson seconded. A vote was taken and the motion was approved unanimously.

Action Item #2: Mr. Collins will develop language to implement the Town Bulletin Board changes in Section 1.9.13.

Visitor Ms. Anderson noted that the Town Clerk can now post official notices from his home on the Town web site.

Section 3.10, Board of Assessors: The department heads suggested modified language for the new section in the revised draft Charter concerned with the Board of Assessors.

Mr. Collins likes the language, but questions the qualifier "full-time" as regards employees. He felt the provision should apply to all employees, not just full-time.

Mr. Collins moved to replace the second sentence of Section 3.10.1 with "No employee in the Assessors' Office may simultaneously hold an elected position as a member of the Board of Assessors." Ms. Allen seconded.

A discussion ensued on whether volunteers are considered to be town employees. Mr. Collins explained that they were considered "special employees" in state law.

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

Section 3.2.2.3, Powers and Duties of the Selectmen: The department heads asked that they be added to the list in this section of those to be consulted by the BOS when developing policy.

The Committee discussed the appropriateness of this request. The department heads report to the Town Manager, who reports to the Board of Selectmen. It was felt that the Board would, of course, consider input from their own department heads and it was superfluous to require the Board to consider the wishes of their own organization.

Mr. Robertson said to keep the Charter as is in this regard.

Mr. Collins said the request was rather nebulous and thought not to change the Charter.

Mr. Robertson moved to leave Section 3.2.2.3 as is with no change to the Charter. Ms. Allen seconded. A vote was taken and the motion to make no change passed unanimously.

Section 3.2.4, Powers and Duties of the Selectmen, Housing Partnership: The department heads recommended the words "shall appoint" should be changed to "may appoint" regarding the appointment of the Housing Partnership, since it may not continue as a entity in Groton.

Ms. Allen believes this makes sense. The Groton Housing Authority is a state-approved entity and has elected and appointed (by the Governor) members.

Mr. Collins suggested taking out the Hosing Partnership if it is a dormant entity. It could always be reconstituted by the BOS if needed, without its being mentioned specifically in the Charter. However, he stated, there is some risk that the Town's action to remove the entity may trigger accusations by third parties that the Town is being unfair to certain parties, and so it may make sense to leave it in and use the "may" language.

Ms. Anderson suggested inviting the Housing Partnership in to testify about these issues.

Mr. Manugian said the Committee is getting short of time to do this and to find the time for testifying in future meetings, which also has to be posted in advance.

Mr. Collins moved to leave Section 3.2.4 as is with no change to the Charter. Mr. Robertson seconded. A vote was taken and the motion passed unanimously.

Section 3.2.4: Further in connection with this section on appointing authority the department heads proposed to include the **Personnel Board appointments**, even though it is specifically discussed in Section 5.6.

Ms. Allen moved to add language to Section 3.2.4 including Personnel Board appointments. Mr. Robertson seconded. A vote was taken and the motion was approved unanimously.

Mr. Haddad entered the meeting at 11:05 AM.

Section 3.2.6, Day to Day Business, Line 367: The department heads asked that any inquiries or consultations entered into with Town employees in the performance of their duties, be initiated with the department heads instead. They felt that discussions with other employees could lead to possible service disruptions.

Mr. Collins believed the Committee's language is ok (he wrote it). It already accounts for the possibility of service disruptions when undue influence is exerted.

Ms. Allen thought the department heads had a point.

Mr. Robertson said he agreed with Mr. Collins. The Committee's revised language already prohibits undue influence.

Mr. Collins moved to make no further change in Section 3.2.6. Ms. Allen seconded. A vote was taken and the motion was approved unanimously.

Mr. Haddad left the meeting at 11:13 AM.

Section 3.9, Town Clerk, Line 445: A series of comments were made by the department heads with a general theme that it is unrealistic to expect the Town Clerk to be the custodian of all Town public records. There was some confusion as to the meaning of the department heads' comments. The Committee's language may contradict the Massachusetts General Laws. The question was raised whether we could actually choose to have the Town Clerk be the custodian of all records.

Action Item #3: Mr. Collins offered to discuss the comments from the department heads regarding Section 3.9 further with the Town Clerk and bring back a clearer explanation of their concerns to the Committee.

Section 4.2.3, appointment and removal powers of the Town Manager, Line 497: The department heads offered a minor edit improving accuracy of this section.

Mr. Robertson moved to add the word “other” in front of the words “employees, and paid members ..”. Ms. Allen seconded. A vote was taken and the motion was approved unanimously.

Section 4.3.1.2, Removal and Suspension of the Town Manager, Line 556: The department heads felt the wording of this revised section was contrary to the provisions of the Open Meeting Law.

Mr. Manugian said he agreed there was a problem. An executive session cannot be had because the Town Manager requests it. The law determines when executive sessions must occur.

Ms. Allen moved to add the word “public” in Line 548 back in (earlier removed) before the word “hearing” and to remove the last sentence of the section in its entirety. Mr. Robertson seconded. A vote was taken and the motion was approved unanimously.

Section 4.4.2, Temporary Absence or Disability of the Town Manager, Lines 583-4: the department heads asked if the Committee intended to limit the choice of a temporary appointment to department heads or elected officers only, precluding other capable people.

Mr. Collins said our true intent is to allow anyone capable to do this.

Mr. Collins moved to replace the earlier new language “elected officer or department head” with “capable person” before the words “to perform the duties ..”. Ms. Allen seconded. A vote was taken and the motion was approved unanimously.

Section 5.3.5, Department of Finance, Town Accountant: the department heads noted this appointment by the Town Manager was redundant with Section 4.2.3. They also noted the change in title to Principal Assistant Assessor in Section 5.3.7 may require a change in the job description and acceptance by the union.

Ms. Allen noted that three officers in the Department of Finance are appointed by the Town Manager: the Town Accountant, the Treasurer/Collector and Principal Assessor. Only the Town Accountant is subject to confirmation by the BOS, the other two officers are not.

Mr. Manugian felt that all three appointments should be confirmed by the BOS.

Mr. Collins moved to add the confirmation by the BOS language to Sections 5.3.6 and 5.3.7, referring to the Treasurer/Collector and Principal Assistant Assessor, respectively and to Article 8, Transitional Provisions. Ms. Allen seconded. A vote was taken and the motion was approved unanimously.

Action Item #4: Mr. Collins will develop new language for Sections 5.3.6 and 5.3.7 and Article 8 reflecting changes in the confirmation by the BOS of Finance Department officers. The Article 8 change will specify that any change in 5.3.6 or 5.3.7 which conflicts with a current contract shall be postponed until the next contract cycle.

Section 5.5, Information Technology: The department heads were concerned that the term “make accessible” in the description of the Information Technology department might be construed to require the IT department to make account names and passwords public.

Mr. Robertson moved to change the language in Section 5.5 adding the word “and” after “coordinate” and deleting the phrase “and make accessible”. Ms. Allen seconded. A vote was taken and the motion was approved unanimously.

The approved language will read as follows:

“Section 5.5: Information Technology

There shall be a Department of Information Technology, which shall plan, coordinate and maintain the Town’s information assets.”

Section 5.6, Personnel Board: the department heads said the Board is defined in the Groton code and therefore it is redundant to mention in the Charter.

Mr. Collins said that all attempts to remove the Personnel Board were defeated in Town Meeting. Defining the Personnel Board in the Charter provided additional protection beyond that afforded in Town by-laws.

Ms. Allen moved to leave the language in Section 5.6 as is in the revised Charter. Mr. Robertson seconded. A vote was taken and the motion was approved unanimously.

Section 6.10, Transparency of Financial Holdings: the department heads recommended changing the language to make the responsibility for providing financial reports that of the Town Accountant rather than the department heads. The justification was the fact that the Town Accountant already provides these reports to the DOR and could more readily make them accessible to the public.

Mr. Collins said the proposed wording was more practical and was consistent with the Committee’s original intent.

Mr. Manugian also agreed with the Town Clerk that any cost associated with fulfilling a records request was properly covered by the Public Records Law and the Committee should not attempt to specifically regulate cost in the Charter.

Mr. Collins moved to replace the current language with the proposed language, with one exception, that the words “without cost” be removed. Mr. Giger seconded.

Mr. Robertson agreed with the idea of using the Town Accountant’s language.

Ms. Allen also agreed, commenting it would have been unnecessary to include “593” funds, which are essentially escrows of developers’ funds, held, but not actually owned by the Town.

A vote was taken and the motion was approved unanimously.

The approved language will read as follows:

“Section 6.10: Transparency of Financial Holdings

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 to members of the public at request and on the Town’s website.”

Mr. Manugian proposed to end discussion on the department heads’ recommendations for this morning and continue in this evening’s meeting, if there was time.

Administrative Issues:

Mr. Manugian said the input from the department heads had been very valuable. The Committee is confident that the revised draft Charter that will ultimately be presented to the Spring Town Meeting will be substantially better for their careful review and suggestions. The Committee members all agreed with the Chair on this point.

The meeting was adjourned with unanimous consent at 12:05 PM.

**** The next meeting is scheduled for today, January 25th, at 7:00 PM. ****