

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

Meeting Minutes - February 1, 2017
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 (9): Judy Anderson, Peter Cunningham (BOS), Anna Eliot (BOS), James Gmeiner (Water Commissioner), Mark Haddad (Town Manager), Russell Harris, Kevin Lindemer (Electric Commissioner), John Petropoulos (BOS), David Woods

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

Approval of Meeting Minutes:

The draft public hearing minutes of January 25th, 2017 at 10 AM were considered. Mr. Robertson asked for a correction to his motion changing the wording in Section 4.2.3, on Page 6 of the minutes. **Ms. Allen moved to accept the minutes of January 25th at 10:00 AM, as amended.** Mr. Robertson seconded. The minutes were approved 4 – 0 with Mr. McCoy abstaining due to absence from the meeting.

The minutes of January 25th, at 7 PM were considered. Ms. Allen made a clarification of a motion made on Section 5.5, on Page 2 of the minutes, noting that the matter had been discussed and decided at the January 25th morning meeting. **Ms. Allen moved to accept the minutes of January 25th at 7:00 PM, as amended.** Mr. Robertson seconded. The minutes were approved unanimously.

Administrative Issues:

Mr. Manugian announced that the January 30th deadline for accepting proposed additional changes to the Charter from the public had passed. No further submissions will be accepted by the Committee for consideration. Four submissions were received and are yet to be decided. Two will be discussed this evening and two will be scheduled for next week.

The Chair announced for submissions to be presented next, a maximum of three minute presentations would be allowed and only sufficient time for discussion to the extent of fully understanding what was being submitted. Full discussion would take place after both submissions had been presented and heard.

Presentation of Submissions

Submission #200 (Town employees may not serve as enterprise fund commissioners), by John Petropoulos, proposes that no Town employee or Regional School District employee be simultaneously permitted to serve as a commissioner of the Groton Electric Light Department, the Water Department or Sewer Department. He argues that enterprise fund commissioners serve rate payers and this is likely to present situations where conflicts of interest exist between rate payers and tax payers served by Town employees.

Mr. Giger noted after the presentation that the BOS are now prohibited from holding other elected offices under the proposed revised Charter, so there would be no need to be concerned about them in regard to conflicts of interest between rate payers and tax payers.

Submission # 201 (Assessors who are Town employees should be hired and supervised by the Board of Assessors), by David Woods, proposes to have the Town's Assessors, who are Town employees, hired and supervised by the elected Board of Assessors. Mr. Woods points out that this language is what is presently on the Town website. He realizes the current practice is different from what is on the website, i.e., the Town Manager appoints the Principal Assessor and the Assistant Assessor(s), and the Town Manager supervises them.

Mr. Giger pointed out that Sections 3.10 and 5.3.7 in the proposed revised Charter address some of the issues presented, although they do not provide directly what Mr. Woods is asking for.

Mr. Manugian asked Mr. Woods why he wanted the change.

Mr. Woods responded, all the its Town employees and the Board of Assessors should be on the same team and the employees should be supervised by the Board in a manner consistent with the Board's responsibilities.

Mr. Robertson said only two actions have been taken to date to revise the Charter in this area: a definition of the Board of Assessors and its powers and duties have been incorporated (Section 3.10) and the Principal Assessor's title has been changed to Principal Assistant Assessor (Section 5.3.7). The Assistant Assessors are still hired and supervised by the Town Manager.

Mr. Woods left the meeting at the end of his presentation (7:35 PM).

Discussion of Submission # 200 by the Committee:

Mr. Robertson agreed that avoiding a likely conflict of interest (COI) situation was a good idea.

Ms. Allen asked why the Cable committee was not included as a targeted enterprise fund.

Visitor Mr. Haddad clarified the status of the organizations involved with the Groton Cable Channel. Mr. Haddad said the Cable Advisory Committee is appointed by the Town Manager. The operations of the various Groton cable access stations are overseen by the Cable Advisory Committee.

Mr. Petropoulos said while he had not contemplated the cable channel operations as having any clearly identifiable conflicts, he agreed that it made sense to include all enterprise funds in his proposal.

Visitor Mr. Lindemer answered there are at least three places in the state law where it is mentioned town employees may enter into conflicts of interest.

Visitor Mr. Gmeiner said the Groton Sewer Commission had voted 2-0 to oppose the change envisioned in Submission # 200. They feel it was unnecessary and too restrictive to prohibit Town employees from seeking Sewer Commissioner elected positions.

Visitor Ms. Eliot said there are different perspectives on what potential conflicts of interest might be.

Mr. Petropoulos indicated that conflict of interest laws did not apply only to instances of personal gain. He felt they would also apply to instances of rate payer vs. tax payer tradeoffs. Mr. Petropoulos cited examples offered by Mr. Kelly of the Electric Light Department where selectmen in other towns and on other municipal light department boards have passed on increases to rate payers that may have been more appropriately borne by taxpayers.

Mr. Lindemer agreed with Mr. Petropoulos there is a definite conflict between rate payers and tax payers when commissioners are town employees.

Visitor Mr. Cunningham said conflict of interest laws supersede anything in the Charter. There is a process already in place (in state law) for dealing with conflict of interest violations.

Mr. Lindemer said there is a difference between public boards in the public view and management of enterprise funds. In the latter case dealings and decision making are likely to be invisible to the public, most of the time.

Mr. Robertson favored adding language to the Charter to prevent conflicts. He supported the proposal advanced by Mr. Petropoulos in Submission # 200.

Mr. Giger stated the Committee is responsible for trying to avoid situations which we can foresee with reasonable plausibility. He also supported Mr. Petropoulos' proposal.

Ms. Allen was not so certain. The other side of the argument is that we are limiting some people's rights to run for elective office, and we are limiting the voters' choices.

Mr. Giger pointed out we saw fit to limit the Selectmen's rights to run for other elective office, but we are not feeling compelled to do the same for other Town employees? There is some level of inconsistency in this.

Mr. McCoy commented regarding Ms. Allen's statement, there is no "right" for people to run for elective office if they are a Town employee. He does not see a problem with such a prohibition. He favors Mr. Petropoulos' proposal.

Mr. Giger suggested the prohibition, if incorporated into the Charter, may also logically apply to appointed positions as well as elected ones.

Ms. Eliot said there are protections against conflicts of interest in elected positions on enterprise boards.

Mr. Cunningham asked if all major changes will be vetted by Town Counsel before the voters see them in Spring Town Meeting. He also asked if this change is limited only to enterprise fund elective positions.

Mr. Gmeiner asked why limit this proposal to enterprise fund boards. Consider the case of a DPW employee running for the BOS.

Mr. Manugian asked the Committee to make a motion one way or the other.

Mr. Giger moved to incorporate the following language into the Charter: “No employee of the Town of Groton or the Groton Dunstable Regional School District may serve on the governance body of an enterprise fund.” Ms. Allen seconded.

A vote was taken and the motion was approved unanimously.

Mr. Gmeiner liked the idea of specifying appointed as well as elected positions.

Ms. Eliot commented that Charter legal expert, Lauren Goldberg had offered to review our revised Charter language before going to Town meeting and eventually state legislature review. She asked how this issue will be enforced (i.e., how will a Town employee be prevented from running for elective office on an enterprise fund board).

Mr. Manugian commented that enforcement was outside the scope of the Charter.

Action Item #1: Mr. Manugian will consider the possibility of having Attorney Lauren Goldberg review all the proposed Charter changes before Spring Town meeting.

Action Item #2: Mr. Giger will develop new language to implement the Committee’s decision to incorporate the concept of Submission #200.

Discussion of Submission # 201 by the Committee:

Mr. Woods has proposed the Board of Assessors appoint and supervise the Principal and Assistant Assessors who are employees of the Town. The original Charter granted these powers and duties, among others, to the new Town Manager position. The Committee has made some revisions to the Charter and has changed the title of the Principal Assessor to Principal Assistant Assessor, but has not taken away from the Town Manager the power to appoint and supervise these positions. He pointed out this issue has been discussed in previous meetings to a significant extent and he sees no reason to change the Committee’s position now.

Action Item #3: Mr. Robertson will draft a recommendation from the Committee that the Board of Selectmen create a policy which formalizes the role of elected board members in the hiring and annual review process of employees who directly support that board.

Mr. Robertson moved to dismiss Submission # 201 with no further change to the Charter. Mr. McCoy seconded. A vote was taken and the motion was approved unanimously.

Discussion of Findings on Enterprise Funds (Presentation Made at January 25th Meeting by Mr. Giger):

Mr. Manugian asked if Mr. Giger proposed any changes to the Charter regarding the governance of enterprise funds.

Mr. Giger answered his first suggestion was to address enterprise funds as a general category in the Charter, not as specific funds. This was because the enterprise funds tended to change over time.

Mr. McCoy moved to create a new Section 5.7 in the Charter for enterprise funds. Mr. Robertson seconded. A vote was taken and the motion was approved unanimously.

Mr. Robertson proposed that a brief write-up describing the enterprise funds be developed.

Action Item #4: Misters Giger and Robertson will develop language for a new Section 5.7 in the Charter on enterprise funds, and will include the provision the Committee voted for prohibiting an employee of the Town or the Regional School District from taking an elective office on an enterprise fund governing board.

Discussion of Revised Schedule for Committee Milestones and Open Issues:

Mr. Manugian had earlier sent the Committee members a new revised schedule titled “Groton Town Charter Review Committee Schedule, revised January 27, 2017 (two pages).

He also passed out a list titled “Open Issues”, dated February 1, 2017 (one page).

Mr. Collins is drafting the warrant article which is intended to put the revised draft Charter in front of voters at Spring Town Meeting. The warrant closes on February 24th. The revised Charter itself does not need to be finalized until about one month later.

Mr. Manugian said there is still a lot of work left to do. All the open issues (about 23) need to be closed in the next two meetings of the Committee.

Action Item # 5: Mr. Robertson offered to research Open Item #22, “Elimination of the Finance Department” prior to its discussion in the next Committee meeting.

Mr. McCoy asked who will check the final revised Charter draft and review it for printing, and when.

Mr. Manugian asked what printed copy was sent out to Town voters for the original draft Charter. There was discussion of how to handle this for the new revised draft Charter.

Decisions were made by the Committee as follows:

1. Put the “Recommended Charter Changes – Full Report” online. Also, three copies of the Charter will be posted online, the original (2010) version, a clean copy of the draft revised Charter and a draft with the marked changes shown.
2. Mail out a clean copy of the draft revised Charter to all voters either separately or as part of the Town Meeting warrant.
3. Print and make available at the Spring Town Meeting a copy of the first part of the Full Report and a clean copy of the Charter.
4. Six binders containing the Full Report and all three copies of the draft revised Charter (original, clean revised and marked revised) will be made available at both the Groton Public Library and the Town Clerk’s office.

Action Item #6: Mr. McCoy will talk to Dawn Dunbar about production and deadlines for documents to be printed and mailed prior to Spring Town Meeting.

Action Item # 7: Mr. Giger will obtain and assemble binders for documents to be made available to the public at the library and Town Hall prior to Spring Town Meeting.

Mr. Manugian said we need to get through all the Charter changes on our list in the upcoming two meetings on February 8th and 15th.

Discussion Of Collective Bargaining Strategy Planning, Section 6.2.2.4:

The Committee felt that it was inappropriate to include the Department of Finance as a participant in the development of a union negotiation strategy since at least one Finance Department member was also a union member.

Mr. Manugian moved to remove the phrase “, and the Department of Finance” and add the word “and” between “Selectmen and Town Manager” in revised Charter Section 6.2.2.4.

Mr. McCoy seconded. A vote was taken and the motion was approved unanimously.

Action Item #8: Mr. Manugian will meet with the Town Manager so that the Town Manager may explain the union negotiation process. Mr. Manugian will also present the revised wording of 6.2.2.4 for the Town Manager’s feedback.

Other Administrative Issues:

Discussion on an earlier Committee question with Town Counsel about one its comments on the limitation of the BOS powers in Section 3.2.2.1 was deferred to the next meeting.

Action Item #9: Mr. McCoy will talk with Town Counsel about their comment on the policy setting limitation imposed on the BOS by the Committee’s revised Charter language in Section 3.2.2.1, to get clarification for the Committee.

Action Item #10: Ms. Allen will do a preliminary review of Open Issue #24 regarding Mr. Pease’s Submission # 202.

Action Item #11: Mr. Manugian will do a preliminary review of Submission #205, regarding waiver of fees.

Action Item #12: Mr. Manugian will ask Mr. Collins if he can have some or all his action item results distributed to the Committee prior to the next meeting.

Chair Mr. Manugian expressed his strong concern that the Committee take seriously the need to get all tasks completed in a timely fashion - it is very important the Committee not miss a critical deadline prior to Spring Town Meeting 2017.

The meeting was adjourned with unanimous consent at 9:24 PM.

**** The next meeting is scheduled for Wednesday, February 8th, at 7:00 PM. ****