

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

Meeting Minutes - February 15, 2017
At Town Hall

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

Recorder: Stephen Legge

Visitors: Judy Anderson, Anna Eliot (BOS)

Call to Order: Chairman Manugian called the meeting to order at 7:01 PM.

Approval of Meeting Minutes:

The draft meeting minutes of February 1st, 2017 were considered.

Mr. Manugian moved to amend the wording on Page 2 regarding Mr. Haddad's statement about the Cable Advisory Committee and the enterprise fund's accounting of operations.

Ms. Allen seconded. The Committee voted to accept the amended wording 5 – 0 with Misters Collins and Schulman abstaining due to absence from the meeting.

Ms. Allen moved to accept the minutes of February 1st, 2017 as amended. Mr. Robertson seconded. The motion was approved 5 – 0 with Misters Collins and Schulman abstaining due to absence from the meeting.

The minutes of February 8th, 2017 were considered. A request was made to make minor modification to the language attributed to Ms. Collette on Page 2. The Committee accepted the change by consensus.

Ms. Allen moved to accept the minutes of February 8th, 2017, as amended. Mr. Schulman seconded. The motion was approved 5 – 0 with Misters Collins and McCoy abstaining due to absence from the meeting.

Continued Discussion of Submission # 202 Regarding the Prohibition of Town Employees from Election to the BOS:

Mr. Schulman had talked to Attorney Lauren Goldberg about this matter and the likelihood of its acceptance by the state legislature. Ms. Goldberg's opinion was expressed in an email to Mr. Haddad on February 10, 2017, that a change of this nature could be approved by Charter change and the associated special legislation. She also commented that if the restriction were only put on employees it would not extend to family members and spouses.

Mr. Schulman said he is opposed to this change to the Charter - he feels the voters should make decisions about who should be on the BOS.

Mr. Collins said he was not sure that this issue rises to the Charter level. State statutes restrict individuals in conflict of interest (COI) situations.

Mr. Manugian was concerned that COIs can be obvious in nature and they can also be subtle in nature at other times.

Ms. Allen felt that these situations were important and merited attention in the Charter.

Mr. Robertson said any situation with a Town employee sitting on the BOS can create huge conflicts, and they may occur often. A significant number of situations requiring recusal will result in a Selectman being ineffective in carrying out his/her responsibility to the public who elected him/her.

Mr. McCoy said restricting employees from running for office on the BOS creates more problems than it solves.

Mr. Robertson said the percentage of issues on which one might not be able to vote is a very big issue.

Mr. Collins said the thing missing in our discussion is that the ethics statutes are very clear on this. Most likely in situations where an employee wishes to run for office, the employee is required to file with the Ethics Commission before running, and the Commission is likely to tell the employee to give up his/her employment with the Town or decline to run.

Mr. Robertson requested to see proof of the Ethics commission's position on this as stated by Mr. Collins.

Action Item #1: Mr. Collins offered to bring in a copy of the statute regarding the Ethics Commission and the state's oversight of conflicts of interest for Town employees running for office next week.

Mr. Manugian said he does not want to wait another week to take action on this. Can the Committee decide tonight whether or not to undertake this possible change to the Charter?

Mr. Manugian then read to the committee some excerpts from Mr. Pease's Submission # 202. The Massachusetts Law does not prohibit Town employees being elected to the BOS and also permits holding multiple elected positions, even when these are compensated elected positions. The "Selectman's Exemption", according to Mr. Pease, permits a person already holding an appointed and paid municipal position to run for and hold the additional position of Selectman. Several restrictions are then imposed on such a person in the role as Selectman:

- You may receive only one municipal salary, but you may choose which one to receive;
- You may not vote or act on any matter within the purview of the municipal agency by which you are employed or over which you have official responsibility; and

- You may not be appointed to any municipal position other than the one you currently hold, including a job promotion, while serving as a Selectman and for six months thereafter.

Mr. Collins agreed there would likely be a number of things an employee also serving as Selectman would be unable to vote on.

Mr. McCoy provided the reference in the Law which confirmed the above cited information as Statute 268A, Section 20, titled Multiple Contracts and Holding additional Offices.

Mr. Schulman moved to dismiss Submission # 202 and make no further changes to the Charter. Mr. Collins seconded.

Visitor Ms. Eliot said an employee serving on the BOS could vote on an overall budget but should not vote on individual line items affecting their department.

Mr. Manugian commented there can be a difference of opinion on what constitutes a conflict of interest, referring to Ms. Eliot's statement.

Mr. Robertson said a Selectman/employee voting on an entire budget can also be in conflict.

Mr. Collins said he agreed with Mr. Schulman that the voters can make their own judgment on the appropriateness of electing a given employee in a given situation.

A vote was taken on the motion to dismiss Submission # 202 and it failed 3 – 4 with Ms. Allen and Misters Manugian, McCoy and Robertson voting no.

Mr. Manugian moved to approve in substance the idea that any Town employee making more than \$1 may not be serve on the BOS. Ms. Allen seconded.

Mr. Collins commented that Selectmen are allowed to be appointed to other committees.

Mr. Manugian said we cannot eliminate all situations which might result in conflicts. We can, however, try to limit the most egregious circumstances.

Ms. Eliot stated she felt this was very undemocratic. She also noted that there were no further opportunities to have Town employees comment in a public hearing on these latest and rather significant proposed revisions to the Charter. She asked that another public hearing be scheduled to consider any revisions approved after the most recent public hearings in January.

Mr. Giger commented that all residents of the Town have an obligation to come to any of the Committee's scheduled meetings. They are free to comment at regular meetings, such as the one this evening.

Visitor Ms. Anderson felt the motion was too broad in scope, restricting people who might be in less consequential or very lowly paid positions from serving on the BOS. She cited an example as election officials.

Mr. Manugian commented that even these situations can represent conflicts.

Mr. Schulman did not like the \$1 cutoff.
Mr. Collins was also uncomfortable with the \$1 cutoff.

Mr. Schulman said the Committee is trying to fix something that is not broken.

A vote was taken on the motion to prohibit employees making more than \$1 from serving on the BOS and it passed 4 – 3 with Misters Collins, Giger and Schulman voting no.

Action Item # 2: Mr. Collins will draft language for Charter Section 3.2.1 to implement the decision to prohibit employees making more than \$1 serving on the BOS.

Discussion of Town Counsel’s Comment Concerning Limitations on the Powers of the BOS:

Counsel had made a comment in their overall review of the draft revised Charter in December about the Committee possibly limiting the powers of the BOS. The Committee wished to explore further this remark with Counsel.

In response to his question from Mr. Manugian on December 29th in an email, Town Counsel Mr. David Doneski responded in an email on January 17, 2017 as follows:

“Following up on your question: I was thinking of areas which may not be within the direct, or first line, statutory authority of the Board, but for which the Board might still be expected to, or wish to, take a policy position by virtue of its status as chief executive of the Town. That status is stated in Subsection 3.2.2 and in the General Laws (G.L. c.4, Para. 7, Clause Fifth B). For example, it generally would not be expected for the Board of Selectmen to make policies for the Planning Board, but it could be expected that the Board might make a policy statement on a matter that touches on planning concerns, either directly or indirectly, such as use of streets or land development patterns or goals.”

Mr. Collins said he felt the language currently in the draft revised Charter is fine as it is. The BOS can make recommendations to any other board, but should not set policies for such boards.

The Committee agreed by consensus.

Discussion of Other Points Regarding Language Outstanding on Previously Discussed Submissions:

Item # 3 on the Agenda regarding Section 1.9.1: Mr. Bouchard had in an earlier meeting proposed to add “vote of Town Meeting,” after “this Charter”.

Mr. McCoy moved to accept this change in Section 1.9.1. Mr. Collins seconded. A vote was taken and the motion was approved unanimously. The approved language read as follows:

“1.9.1 ‘Appointed Official’ – An individual serving in appointed office who exercises the powers or duties of that office with authority derived from the General Laws, this Charter, vote of Town Meeting, or the Town’s by-laws.”

Item # 4 on the Agenda regarding Section 7.10, Fee Waivers: Mr. Collins submitted new language for this section in his letter to the Committee dated February 15, 2017 (one page). The Committee discussed and accepted minor amendments to the language by consensus.

Mr. Collins moved to accept the new amended language for Section 7.10. Ms. Allen seconded. A vote was taken and the motion was approved unanimously. The approved language reads as follows:

“Administrative fees, fines, and penalties that may be charged by any Town department shall not be waived unless such waiver is authorized by a vote of that Town department or board at a posted public meeting; such vote to authorize the waiver of a fee, fine or penalty may be made on an individual basis or as part of a policy decision of uniform applicability.”

Review of the Committee’s Schedule and Possibility of a New Public Hearing:

Mr. Manugian proposed that two additional public hearings be scheduled on Wednesday, March 8th at 10:00 AM in the morning and at 7:00 PM in the evening. The purpose of these hearings would be to offer the public an opportunity to comment on new changes made by the Committee since the last public hearings in January.

Mr. Giger asked that all changes to the Revised Charter be completed and posted one week earlier, by March 1st. He would need to have these changes in hand before March 1st in order to accomplish that.

Mr. Manugian followed up on Mr. Giger’s comment by saying the Committee must agree on all final word changes at next week’s meeting on February 22nd in order to have the next public hearing draft ready for review on Mar 1st.

Mr. Schulman suggested highlighting changes from draft revised Charter Version 0.8-10, used in the January public hearings. Mr. Manugian agreed to do so.

Action Item #3: Mr. Manugian requested all Committee members to review open issues and help insure that the Open Items list for next week’s meeting is complete.

Mr. Giger asked if the Committee needs to present the warrant article for Charter revisions to the BOS before the Selectmen’s and Finance Committee’s joint public hearing scheduled March 20th or before the BOS finalize the warrant on April 3rd.

Mr. Collins said he needs to file the final document with the Town Clerk by April 5th.

Action Item #4: Mr. Manugian will ask the BOS if they want a final presentation from the Charter Review Committee on March 27th.

Mr. Giger asked if when we submit the document to the BOS does it then become theirs.

Mr. Manugian answered no, we submit it to Town Meeting and are responsible for it. It would be helpful, however, if the BOS are in agreement with us on the revisions being proposed.

Mr. Manugian asked that Committee members try to come to the BOS meeting when we present to them.

Action Item #5: Mr. Manugian will attend the March 20th meeting to answer questions at the BOS public hearing.

Mr. McCoy reported on his discussions with the Town Manager, Mr. Haddad, concerning what documents need to be in his hands and by when. Mr. Haddad said he needs the “redline” version (referred to as the “flagged” version by the Committee) of the revised Charter by the end of March, in MS Word file format. He suggested having 400 copies printed for the Spring Town meeting in April.

Mr. Manugian asked Committee members if everyone agreed to provide the “flagged” version. No one objected.

Action Item # 6: The flagged version of the revised Charter will go to the printer no later than March 29th.

Action Item #7: Changes for the draft revised Charter reflecting all of the latest decisions (after the January public hearings) of the Committee will be ready for posting on March 3rd.

Action Item # 8: Final changes to the draft revised Charter resulting from the two March 8th public hearings will be completed at the March 15th meeting of the Committee.

Action Item #9: Mr. Manugian will get an updated schedule to the Committee in the next few days.

Mr. Collins asked when will we give the draft revised Charter to Attorney Lauren Goldberg. She wants the final version.

Mr. Manugian suggested sending her the flagged March 8th version.

Mr. Giger said why not send this on March 2nd or March 3rd after the public hearings, and give her a head start. The Committee agreed to send her the Mar 3rd version.

Action Item #10: Mr. Giger will line up the first-floor conference room for the Committee’s March 8th public hearings and April 5th final public hearings, the latter of which are intended only to educate the public ahead of the Spring Town Meeting.

Continuation of Discussion of Other Points Regarding Language Outstanding on Previously Discussed Submissions:

Item # 5 on the Agenda regarding Section 1.9.13: Mr. Collins submitted new language for this section in his letter to the Committee dated February 8, 2017 (two pages) as follows: “Change ‘office notices’ to ‘official notices’ and add the words ‘by the Town Clerk’ after the word ‘designated’”.

Visitor Ms. Anderson noted a period was missing at the end of the statement. This will be added.

Mr. Collins moved to accept the changes to Section 1.9.13 as written above. Ms. Allen seconded. A vote was taken and the motion was approved unanimously. The approved language reads as follows:

“1.9.13 Town Bulletin Board – bulletin boards in the Town Hall on which official notices are posted and those at other Town buildings or facilities that may be designated by the Town Clerk as town bulletin boards.”

Item # 6 on the Agenda regarding Section 3.9: This section contains changed language for the Town Clerk’s position as specifically elaborated in Mr. Collins’ letter of February 8th.

Mr. Collins moved to change the wording in this section to read as follows:

“The Town Clerk shall have all of the duties established by the General Laws and shall be the Records Access Officer pursuant to the provisions of Chapter 66 of the General Laws.”

Ms. Allen seconded. A vote was taken and the motion was approved 6 – 0 with Mr. Giger abstaining because he wished to wait for Mr. Collins’ reading of the Law (see AI #11).

Action Item # 11: Mr. Collins will review Chapter 66 of the General Laws to ensure the Committee’s decision on Item # 6 is consistent with the Law as regards the record keeping function of the Town Clerk.

Items # 7 and 8 on the Agenda were postponed until next week.

Item # 10 on the Agenda regarding Section 8.2, Continuation of Administrative Personnel:

Mr. Collins felt there was no need to change this section in the revised Charter because the Principal Assistant Assessor required no transitional provisions for a title name change.

Mr. Collins moved to dismiss Item # 10 with no further change to the Charter. Mr. Robertson seconded. A vote was taken and the motion was approved unanimously.

Other Administrative Issues:

Mr. Manugian will continue work on the Final Report to the public and agendas for the public hearings scheduled for March 8th and April 5th.

Action Item #12: Mr. Manugian will send a copy of the latest revision of the Final Report, when completed, to Committee members and to Judy Anderson.

Mr. McCoy said he would not be able to attend next week’s meeting.

The meeting was adjourned with unanimous consent at 9:00 PM.

**** The next meeting is scheduled for Wednesday, February 22nd, at 7:00 PM. ****

Exhibits:

- A. Letter from Attorney Robert Collins to Charter Review Committee, dated February 15, 2017, subject: Suggest Language for Section 7.10
- B. Extract of the Charter Review Committee's minutes from the January 5, 2017, meeting concerning final wording for section 6.2.1

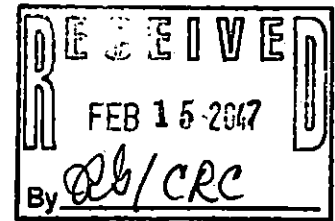
**Exhibit A to Charter Review Committee
02-15-17 Meeting Minutes**

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15 February 2017

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

Dear Committee Members:

May I respectfully suggest the following language regarding fee waivers (Section 7.10):

Revise the language in the current draft by replacing the words "Board of Selectmen" in the second line with "that municipal department or board" so that the section reads:

"Administrative fees, fines, and penalties which may be charged by any municipal department shall not be waived unless such waiver is authorized by a vote of that municipal department or board at a posted public meeting; such vote to authorize the waiver of a fee, fine, or penalty may be made on an individual basis or as part of a policy decision of uniform applicability."

Very truly yours,

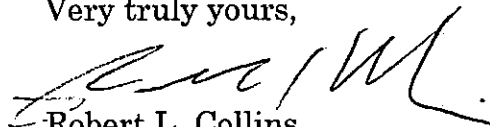

Robert L. Collins

Exhibit B to Charter Review Committee
02-15-17 Meeting Minutes

language removes the possibility of suspicion that the chair might select the alternate based on the positions expressed by the alternate.

Mr. Manugian called for the vote and the motion carried 5:0 (Mr. Schulman and Mr. Giger absent).

Mr. Collins moved to add the words "and participate in" in the third sentence and add the word "shall" further on in that sentence. Mr. McCoy seconded.

In the discussion, Mr. Collins amended his motion that is still on the floor to include further changes that were thought to improve clarity of the section. The word "comprised" will be changed to "consisting". The third sentence was shortened. The group clarified that when the Chairman is absent that the vice chair steps in and assumes the duties of the chair. Given that understanding, there is no need to insert vice chair language in every instance that the duties of the chair are addressed.

Mr. Manugian called for the vote and the motion carried 5:0 (Mr. Schulman and Mr. Giger absent).

Mr. Collins moved to accept the Submission 193 wording as amended. Mr. Manugian seconded and the motion carried 5:0 (Mr. Schulman and Mr. Giger absent).

Here is the text of the final wording to be added to section 6.2.1 as approved.

The three person appointing committee consisting of the Chairs of the Board of Selectmen and Finance Committee, and Moderator shall appoint two alternate members to the Finance Committee. The term of alternate members shall be one year. Alternate members shall attend and participate in the Committee meetings. In situations of the lack of a quorum, the Chairman of the Finance Committee shall appoint an alternate member or alternate members in order of seniority to fulfill the quorum requirement for that meeting. Alternates shall not add to the quorum requirement for the Committee but shall be available to satisfy the quorum requirement should sitting member(s) be unavailable, and shall not be voting members until they take the place of a sitting member of the Committee.

Submission 192

Mr. Manugian began with Ms. Judy Anderson's written comments that were submitted to the Committee by email on January 5, 2017. Principal Assessor versus Assistant Assessor language was the focus of the comments. Judy Anderson stated that the paid position should be principal assistant assessor or assistant assessor as that staffer is assisting the Board of Assessors. Mr. McCoy commented that use of the title assistant assessor is consistent with Commonwealth laws regarding municipal assessors.

Mr. Collins noted that there have been numbers of assessors over the years working in that office not just the current two staff person configuration with the inference that some of the job titles evolved to reflect staffing levels.

After more discussion, the group agreed that they could accept the "principal assistant assessor" language as stated. Mr. Collins floated the possibility of adding a prohibition against other employees serving on the Board of Assessors. This concept gathered some interest from Committee members, but a motion was not offered to make such a change.

Ms. Allen moved to have a provision added to the Charter that requires the Town Manager to support his employees in implementing the decisions of the board that employee serves with exact wording to be worked out at a later time. Mr. Manugian seconded.