

Charter Review Committee (CRC)

Town of Groton, Groton, MA 01450 978-448-1111

Public Hearing Minutes - March 8, 2017, 7:00 PM at Town Hall

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

Recorder: Stephen Legge

Visitors: Judy Anderson, Gary Green (Finance Comm), Art Prest (Finance Comm)

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

Administrative:

Mr. Manugian announced he would make a brief slide presentation of changes made to the draft revised Charter since the public hearings of January 25th. He said the first priority at this evening's meeting would be to hear from the public attending their comments on these changes. The second priority would be to hear the public's comments on any other topic having to do with the draft revised Charter, to the extent time allowed. Discussion of comments heard from the public may take place at this session, but also may take place at a later session.

Mr. Manugian mentioned early in his presentation there were a total of 227 submissions made from the public over a one year and nine-month period. Of these 227 submissions, 67 resulted in Charter change. One hundred and forty-five submissions were dismissed, or, represented duplications of other submissions accepted. Fifteen submissions were referred to other Town bodies for consideration as policy matters.

Mr. Manugian completed his presentation of 28 slides by 7:17 PM and invited comment from the public.

Comments from the Public on Charter Changes since January 25, 2017:

Visitor Mr. Green asked if it was common for other towns not to compensate their boards of selectmen. He also asked if it was common in other towns to have BOS members not be employees of the town.

Mr. Manugian said spouses and retirees are interpreted not to be precluded from holding positions on the BOS in the Town's draft revised Charter.

Mr. Green, Chairman of the Finance Committee, raised the issues described in his letter to the Charter Review Committee read at this morning's public hearing. Mr. Green wrote of his personal objection to the decision taken by the Committee to change the voting requirement in

revised Charter Section 4.3.1 for the suspension or removal of the Town Manager to a simple majority from a super-majority requirement of 4 – 1. Mr. Green believed the lower bar would promote political division in the Town and create legal/financial risk for the Town.

Mr. Green also personally objected to the decision to institute alternate members to the processes of the Finance Committee for purposes of solving quorum problems in the future. He pointed out there are not now, and have not been any problems with obtaining quorums at meetings. At the least he proposes any such system of alternates should be at the judgment of the Committee and not commanded by the Charter.

Mr. Manugian asked if the Finance Committee had agreed to the changes being discussed in his letter. Mr. Green responded there had been no real discussion. Mr. Green reiterated he felt that getting quorums on the Finance Committee were not a problem. He suggested if alternates were to be used, use only one, not two.

Mr. McCoy asked if the Finance Committee did not vote on these points being raised, did that mean the email represents his own personal view only. Mr. Green said, yes, the opinions expressed were his alone at this time.

Ms. Allen explained that her reason to support the alternates plan had been based on the problems described getting quorums back in January of last year.

Mr. Robertson said there were a few problems convening meetings two years ago during the unusually large February snowstorms period, but he felt this was to be expected for any committee trying to meet at that time.

Mr. Green said his way of working with the FinCom is to find dates that work for everybody, so there won't be problems with attendance.

Mr. Collins said he does not understand why this way of working with alternates would not be a good idea for the FinCom, i.e., why would the idea not be welcomed. Mr. Green responded to this by saying he felt designated alternates may displace a better qualified candidate downstream by virtue of their "seniority" in the process.

Mr. Schulman said a process of using alternates worked well for the Zoning Board of Appeals, in his experience.

Mr. Giger felt it a good idea to retain the alternates as an option for the FinCom. Just change "shall" in the language to "may", and let the FinCom work this out among themselves.

Mr. Manugian expressed the opinion that alternates can have a big impact (presumably good) on a committee.

Mr. Robertson said it was hard for him personally to justify being an alternate because it was so much work and there was no guarantee of having a voting position. He now is beginning to agree with Mr. Green that it can be difficult to get the right people to be alternates. An easy fix to this issue is to change "shall" to "may", as Mr. Giger suggested.

Mr. McCoy is uncomfortable with using the word “may” in the language. He asks whose discretion would it be ultimately to use or not use alternates. A better solution is to pull the option out all together.

Mr. Collins moved to leave the alternates language in revised Charter Section 6.2.1, Paragraph 2 as is with no further change to the Charter. Ms. Allen seconded.

Mr. Collins said he thought the alternates idea was innocuous and not harmful.

Mr. McCoy researched the Town of Harvard charter (this idea was said to originally come from Harvard) and found no provision for alternates in their charter.

Mr. Green said he was concerned about having to find good and qualified alternates for the FinCom. He was comfortable with removing this provision from the Charter language.

A vote was taken and the motion to leave the alternates language as is, was approved 4 – 3 with Misters Giger, Robertson and Schulman voting no.

The Chair determined no further questions were forthcoming on Charter changes since the January 25th hearings. So, he opened the floor to any questions relating to the current draft revised Charter.

No comments were forthcoming from the public at this time on other Charter changes.

Discussion of Issues Raised in the Morning Public Hearing and in Letters:

Regarding the issue of the **BOS may not hold any other compensated position of the Town, Charter Section 3.2.1:**

Mr. Collins proposed new language be considered by the Committee reflecting comments made by a number of people uncomfortable with the revised Charter’s requirement. He proposed the following modification:

“No member of the BOS may hold another compensated position of the Town which is benefits-eligible.”

Mr. Collins declared this removed all those who held positions greater than or equal to 20 hours per week, a major concession to those who felt the current provision was unfair to all town employees, yet addressing the more egregious possible instances of conflicts of interest (COIs), such as those who worked for the Town Manager on a full-time basis.

Mr. Manugian suggested modifying the language to read “which is compensated and benefits-eligible.”

Mr. Giger commented “benefits-eligible” should be “healthcare benefits –eligible” because this was the most significant benefit granted by the Town.

Mr. Collins stated this was micro-managing. He pointed out the level of hours per week at which health benefits could be granted could change in the future.

Mr. Manugian said no compensated position should be allowed the Selectmen because at any level there could be the appearance of a COI, even when there was no actual COI. He said it is the perception by the public that matters.

Mr. Robertson said Patricia DuFresne, Town Accountant, had told him that participants in the Senior Work Program were not considered Town employees by the state, even though an argument could be made they were compensated by the Town. He mentioned this because on several earlier occasions this program had been brought into this particular discussion.

Mr. Collins moved to insert the phrase “and benefits-eligible” after the word “compensated” in the last sentence of revised Charter Section 3.2.1. Mr. McCoy seconded.

Mr. Collins felt this issue of circumscribing the right of Town employees to hold elected office as Selectmen was hitting a raw nerve with a number of people. There was a need to compromise.

Mr. Schulman felt specifying the number of hours an employee could be working for the Town and holding office on the BOS was too much detail for the Charter.

Mr. McCoy said he agreed with Mr. Collins that using the term “healthcare” to modify the term “benefits-eligible” was a distraction. It would be easier and more straightforward to just cap hours on paid employees who would be eligible to hold an elected position of the BOS, at 10 or perhaps 15 hours.

Mr. Collins said “benefits-eligible full time position” would solve most problems.

Mr. Collins asked to replace his earlier motion with a new motion: to change revised Charter Section 3.2.1, the second sentence, to read as follows:

“No Selectman shall hold another position of the Town that is compensated and benefits-eligible during their term of office.” Mr. McCoy seconded.

Mr. Manugian felt that the cutoff on this was still too high.

A vote was taken on the motion and it was approved 5 – 2 with Ms. Allen and Mr. Manugian voting no.

Mr. Robertson noted that in this morning’s meeting, in Sections 3.1.2 and 3.1.4 there was concern with the language “elective Town officers” and “elected officers”, respectively. **He proposed that the usage was correct and Sections 3.1.2 and 3.1.4 should be left as is. The Committee agreed by consensus.**

Mr. Robertson pointed out Mistery Michael Bouchard and Giger and Ms. Becky Pine had commented in the morning meeting in Sections 2.1 (Line 82 and 88), 2.6.2, 2.6.3 and, 3.1.2, there were inconsistencies and errors in the use of the language “by law” and “by-law”. **He**

stated in Section 2.1, both lines “by law” should be replaced with “by by-law”. The remaining sections were correct as is. The Committee agreed by consensus.

Again, in the morning meeting, Mr. Bouchard noted in Section 3.2.6 that adding the phrase “at reasonable times” before the phrase “during regular business hours” was a reasonable compromise for the problem of how to balance Selectmen’s rights to confer with Town employees in the pursuit of their development of Town policies and assessing and understanding the functioning of Town government without impeding work flow or causing problems with work completion deadlines.

Mr. Collins moved the above language be used to modify Section 3.2.6. Mr. Schulman seconded. A vote was taken on the motion and it was approved 5 – 2 with Misters Giger and McCoy voting no.

Mr. Collins brought up the point mentioned by Mr. Bouchard in the morning meeting that **changes in state law may impact the accuracy of language in the revised Charter Section 3.5, titled “Groton Housing Authority”.** Mr. Bouchard provided a memo to the Committee, titled “Department Head Comments”, for this evening’s meeting with some elaboration of many of his points made in the morning (two pages). Mr. Bouchard’s memo says of the Groton Housing Authority the following:

“The (state) Department of Housing and Community Development Public Housing Notice 2017-04 informs of the passage of language codified in MGL Chapter 121B which changes the way housing authority membership is determined. This law was revised in November 2016. Groton will no longer have four members elected at large, but rather three, with the fourth member elected by tenants under forthcoming DHCD regulations. Note that the fifth ‘state-appointed’ member will remain on the authority as well.”

To eliminate conflict with the new state law, Mr. Collins moved to eliminate Section 3.5 from the Charter since there was precedent for not mentioning some elected boards in the Charter. Ms. Allen seconded.

After some discussion, Mr. Collins asked to rescind his motion (Ms. Allen agreed). In its place: **Mr. Collins moved to replace the current Section 3.5.1, Composition, Term of Office, with this language: “There shall be a Groton Housing Authority with membership and terms of office as prescribed in the General Laws.** Mr. Giger seconded.

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

In the morning meeting Mr. Bouchard had also asked that the Committee modify revised Charter Section 3.9, titled “Town Clerk”, to include a term of office of three years (this, a documented past decision of the Town).

Mr. Collins moved to accept in concept Mr. Bouchard’s language for Section 3.9. Ms. Allen seconded. A vote was taken on the motion and it was approved unanimously.

Action Item #1: Mr. Collins will develop language for Section 3.9 for the Committee’s review and approval at the next week’s meeting.

In the morning meeting the Department heads commented on Sections 4.2.4, referring to appointment and removal of department heads and other paid employees of town government by the Town Manager, and Section 4.3, referring to suspension and removal of the Town Manager. In the latter section of the revised Charter a change had been made to require a simple majority vote to suspend or remove; the original Charter required a super-majority vote of 4 – 1.

Mr. Collins moved to keep Sections 4.2.4 and 4.3 as they were written in the revised Charter with no further change to the Charter. Mr. Robertson seconded. A vote was taken on the motion and it was approved unanimously.

Other Administrative Business:

Mr. Manugian asked Mr. Legge when he could produce the morning set of public hearing notes for the Committee's review. Mr. Legge promised to complete them by Saturday March 11th. Mr. Manugian asked that the draft minutes be sent to Mr. Giger for distribution to the Committee since Mr. Manugian would be out of Town.

On its meeting on March 22nd the Committee will present the draft revised Charter to the Selectmen and the Finance Committee.

Action Item #2: Mr. Manugian asked Mr. Giger to invite the Finance Committee to the March 22nd meeting where the Committee will present its final draft revised Charter changes to the BOS.

The meeting was adjourned with unanimous consent at 9:08 PM.

**** The next Public Hearing is scheduled for Wednesday, March 15th at 7:00 PM ****