

Minutes - Charter Review Committee  
Wednesday, April 12, 2017 at 7:00 P.M.  
Seth Ventress Hall – 76 South River Street

Present: Don Gibson, Bruce Spitler, Bill Bowers, Jonathan Gabrowski (alternate); Barbara Farnsworth, Scott Borstel, Robert Marzelli, Dan Burke and Town Counsel Robert Galvin

Excused: Lisa McNamara Reed (alternate)

Mr. Bowers opened the meeting at 7:05 p.m. and announced that the meeting was being recorded by MCTV.

Acceptance of Minutes - Mr. Bowers mentioned that they were going to skip down to #6 on the agenda regarding the acceptance of minutes and noted that on the Minutes of April 6, 2017 there needed to be a correction on page 4 with regard to the vote. Mr. Bowers noted that the motion failed by a vote of 6 -1 instead of passed by a vote of 6-1. All the committee members agreed. Mr. Bowers moved, seconded by Mr. Gibson to accept the minutes of April 6, 2017 as amended. The vote was unanimous.

The Board then discussed whether or not they should note who voted against, if a vote is not unanimous. Mr. Marzeilli suggested that the amended votes should include his dissention on the Board of Assessors vote as well as his dissention on the Board of Health vote and Mr. Gibson agreed that he wanted his name on the dissention on the vote regarding the Board of Health.

Mr. Bowers moved, seconded by Mr. Gibson to amend the minutes of April 6, 2017 to reflect the changes discussed. The vote was unanimous.

Mr. Gibson noted that the minutes of March 9, 2017 did not reflect that Mr. Marzelli was absent. Mr. Gibson moved, seconded by Mr. Bowers to accept the minutes of March 9, 2017 as amended. The vote was unanimous. Mr. Marzelli abstained.

Public Comment – Jerry Maher, Mark MacDonald and Tyler Nims of the Board of Health appeared before the Committee. Mr. Maher stated that they wanted to comment on the recent opinion of the Charter Committee regarding their Board and other boards changing to appointed from elected. Mr. Maher expressed his displeasure with the current Town Administrator and thought it would be a disservice to the Town of Marshfield to have the Town Administrator oversee the Planning Board, Board of Health, Board of Assessors and the Town Clerk. Mr. Maher then went on to say that the Treasurer/Collector's office ran great under the former Treasurer/Collector Nancy Holt until 2013. Mr. Maher continued on to say that he felt the Town Administrator should not oversee the Treasurer/Collector's office and that it was the Town Administrator's fault that Nancy Holt had left after 13 years. Mr. Maher stated that the person hired after Ms. Holt left by the Town Administrator was a disaster. Mr. Maher mentioned other personnel problems in the Treasurer's office which he claimed were all the Town Administrator's fault. Mr. Maher stated that he met with the current Treasurer/Collector, Patrick Dello Russo today and that he seems competent. Mr. Maher complained that the current

finances of the Town are an abomination and he blamed the Town Administrator because he wasted a lot of money on people.

Mr. Bowers explained the they do not want to talk about individuals and that any recommended changes are not directed at individuals because players involved now may not be there down the road. Mr. Maher explained that it is the job of the Board of Health to protect public health and then described an incident where the Town Administrator tried to get involved in their decision not to hold a haunted house at the Marshfield Fairgrounds due to Triple E. Mr. Maher also mentioned that employees found out about changes in the Town Hall hours from WATD and he felt this was a disgrace. Mr. Maher pointed out that both Mr. Marzelli and Mr. Gibson had voted to keep the Board of Health elected and to have these boards be appointed would be a travesty. Mr. Maher also mentioned a problem he had with the previous Finance Director regarding betterments. Mr. Maher noted that he thought other good employees such as the former Town Planner, Paul Halkiotis; Conservation Agent, Jay Wennemer and Carolyn O'Neill from the Treasurer's office have left because of the Town Administrator. Mr. Maher also mentioned that Mr. Harrington was not reappointed to the ZBA and not given the courtesy to speak and he thought that was a disgrace. Mr. Maher also complained about the heating system at the Town Hall and that they found out that the thermostat was set backwards and complained about the cost of the system for the Town. Mr. McDonald of the Board of Health also stated that he was disappointed with the decisions this group was bringing forward. Mr. McDonald mentioned other surrounding towns and out of 19, only 4 towns had appointed Boards of Health. Mr. McDonald indicated that he did not feel that the Board of Health should be appointed and fall under the direction of a Town Administrator or a Town Manager. Mr. McDonald wanted to know if this committee would reconsider their vote to not change from an elected Board of Health to an appointed Board of Health. Mr. McDonald said he didn't think that final decisions should be in the hands of a Town Administrator and mentioned the Haunted House issue and the problems it caused between the Town Administrator and the Board of Health office. Mr. McDonald indicated that he feared decisions would be made financially by a Town Administrator or Town Manager. Mr. Tyler Sims introduced himself as a member of the Board of Health and as a professional engineer. Mr. Sims noted that he felt the Board of Health recommendations were legitimate and asked that the Committee reconsider their vote.

Mr. Bowers noted that because the agenda is the same as last week, they can reconsider as no decisions were final and apparently there are some misconceptions such as the Board of Health being appointed by the Town Administrator. Mr. Bowers indicated that the Board of Health would be appointed by the Board of Selectmen and that professional staff in the Board of Health would report to the Town Manager or Town Administrator. Mr. Burke commented that the Committee is still working on how staff would report to management and that they have not made a final determination yet on the Planning Board being elected or appointed. Mr. Burke indicated that they are still going to take their recommendations and look at comparable towns.

Mr. Gibson questioned the word reports and what it means such as supervision, discipline, hiring and firing, budget and salary. Mr. Gibson also discussed instances such as the granting of variances for sewage disposal, handler's permits and problems with power outages and how it affects food refrigeration. Mr. Gibson wanted to know who would make the decisions. Mr. McDonald then gave an example of a fire in a restaurant and questioned who would go to the scene. Mr. McDonald explained that it could potentially impede the process if they have to call someone else when a decision needs to be made immediately. Mr. McDonald also noted that the Board of Health knows all the food handler's.

Mr. Bowers said that they would take their comments under advisement and the Board of Health left the meeting at 7:37 p.m.

Mr. Burked indicated that he didn't think that this would be the last Board to be heard from.

Continued Discussion of Organizational Chart – Mr. Bowers mentioned that they had looked at the first tier in the organization chart and whether or not boards should be elected or appointed and that his concern was that the individuals from the professional groups might have confusion regarding having to report to an elected board as well as a Town Administrator. Mr. Bowers said his chief concern would be how to structure the paid professionals. Ms. Farnsworth asked Attorney Galvin if there was anything in the bylaws regarding hiring and firing employees. Attorney Galvin responded that the Planning Board hires the Planner, The Library Board of Trustees hires the Library Director, the Board of Health hires the Health agent and the Board of Assessors hires the Assessor. In the last couple of years, the Boards have been relying on the Town Administrator to fill the positions. Attorney Galvin explained that the HR Director is involved in the hiring process now. Mr. Burke asked if the Boards are choosing to defer to the Town Administrator and Attorney Galvin said yes, and stated that most recently the Town Administrator was involved in the hiring of the Conservation Agent and the Treasurer/Collector.

Mr. Spitler mentioned that there is nothing formalizing that process. Mr. Gibson asked if there was any legal requirement that the Board of Assessors be elected. Attorney Galvin said no, just the School Committee and Board of Selectmen must be elected and the Housing Authority has been recently changed by the state with new regulations coming out. Mr. Burke asked if there are any towns where the professional staff report to the Town Manager and Attorney Galvin said that they report to the Town Manager in Plymouth. Attorney Galvin also mentioned that the Town Manager in Norwell can appoint the Finance Director in Norwell and Board of Selectmen has 20 days to say no. Mr. Marzelli questioned the charts that show a number of towns where the Town Manager can appoint and wanted to know what would happen if elected Boards say no to the appointments. The Committee continued to discuss the organizational chart. Attorney Galvin noted the many attributes of the current Town Planner and how he works easily with all boards and committees as well as with the Town Administrator. Attorney Galvin also noted that the H.R. Director will help with the hiring. Mr. Marzelli mentioned that in other towns the Town Manager appoints positions subject to the agreement of the elected Board of Selectmen but

wanted to know what happens if they don't agree. Mr. Borstel indicated that in the School Department, the Superintendent makes a recommendation to the School Committee and keeps making recommendations to the School Committee until they agree. Mr. Bowers said that they should keep in mind that they can still reconsider anything. Mr. Spitler passed out another chart based on what they had voted on last week. Mr. Bowers indicated that the Board of Selectmen will appoint the Town Manager. Mr. Marzelli explained that an Administrator position refers to someone carrying out tasks while a Town Manager is a stronger word for someone one who takes charge, someone who is actually managing. Mr. Bowers mentioned that they could use the term CEO. Mr. Gibson said he thought that Town Manager seems to be the direction that they are going. There was more discussion regarding the financial departments reporting to the Town Manager. Mr. Burke mentioned that they should create the position of a strong Town Manager. Mr. Bowers moved, seconded by Mr. Marzelli to create the position of Town Manager that would be appointed by the Board of Selectmen. The vote was unanimous.

Town Counsel position – Mr. Spitler suggested having the Board of Selectmen also appoint Town Counsel because that person is representing the Town. Mr. Spitler moved, seconded by Mr. Gibson to have the Town Counsel position appointed by the Board of Selectmen. There was then some discussion as to whether or not Labor Counsel should be appointed by the Board of Selectmen or the Town Manager or both. Mr. Marzelli said it should be a separate vote. The vote to have Town Counsel be appointed by the Board of Selectmen was unanimous.

Mr. Borstel moved, seconded by Mr. Gibson to have Labor Counsel appointed by the Board of Selectmen. After more discussion Mr. Marzelli suggested that it might be more logical to have the Town Manager appoint Labor Counsel and that he thought they should not rush into the vote right now. Mr. Borstel then withdrew his motion. Mr. Spitler said that he had another chart that he would like to pass around. Mr. Spitler then mentioned the Town of Concord's set-up. Mr. Gibson asked the MCTV recorder to show the charts that Mr. Spitler had created for the viewers. Mr. Spitler then sent the PDF's of the charts to the camera.

Mr. Bowers then explained the chart where the Planning Board appoints the Town Planner; the Board of Selectmen appoints Town Counsel and appoints the Town Manager and the Planning Board would have to report to the Town Manager. Attorney Galvin mentioned that the Town Planner would work for the Planning Board but would be managed by the Town Manager. Attorney Galvin also noted that the Town Planner also attends ZBA meetings. Mr. Borstel mentioned that the School Committee appoints a Director of Business and Finance and the Superintendent supervises and reviews the person without the School Committee. Attorney Galvin mentioned that the Town Planner works for the Planning Board but also supports other departments. The Committee discussed further whether or not the Board of Selectmen should appoint the Town Planner and Mr. Bowers commented that he didn't think the Planning Board should have jurisdiction over the Town Planner as they voted not to have him attend an

Economic Development Meeting and that they violated the Charter. Mr. Marzelli added that people have to read the Charter and do what it says.

Ms. Farnsworth wondered if these issues could be addressed in the job descriptions. Mr. Marzelli suggested that when people such as a Town Planner or Town Assessor are hired their contracts could say that they report through the Town Manager to their Board such as the Treasurer/Collector and Town Accountant report through the Town Manager. The Committee discussed further what exactly reporting to would mean and Mr. Bowers indicated that they are not supposed to be creating job descriptions. Attorney Galvin indicated that the Town needs a Town Manager with real authority rather than having Town officials tell the Town Manager that they don't work for him. Attorney Galvin then read off the role of the Town Manager from the Town of Hanover.

Mr. Borstel indicated that if they look at the top tier on the chart, what they have recurring is a need to create a clear chain of command over the organization. Mr. Borstel also noted that he thought the Board of Health thinks that there needs to be a check and balance in place so that there isn't a rogue employee. Mr. Gibson asked if they wanted to table discussion of the Town Planner and asked if the Town Manager should hire the Town Accountant. Mr. Burke suggested looking at other departments and then coming back. Mr. Spitler mentioned that the Town Planner could be appointed by the Town Manager, accountable to the Planning Board but the Town Manager would have the ability to terminate the Town Planner.

The Committee discussed further the role of the Town Manager and Mr. Bowers said he thought one would hope that the ZBA, Planning Board, Board of Health and Board of Public Works would report to the Town Manager. Ms. Farnsworth mentioned that a Town Manager expects the Department Heads to do their jobs. Mr. Marzelli asked about the appointments of the Police and Fire Chiefs and Mr. Burke said that the Board of Selectmen may want to reserve the right to hire safety officials. Mr. Spitler mentioned the Town of Hanover in that they have a 20 day rejection period. Mr. Gibson said that they need to hammer out definitions on how the Town Manager would work with elected Boards and Mr. Marzelli said that he could draft something and circulate it.

Mr. Gibson suggested that they all come back with their ideas of who would be working in the finance department and to whom would they report.

Mr. Spitler suggested that the Committee look at Concord's chart on the second page where there is a departmental chart.

Mr. Gibson commented that the Committee should look at professional duties vs. departmental duties and define the Finance Department. Mr. Gibson mentioned that the Committee had agreed to adopt the term of Town Manager and have the Town Manager and Town Counsel appointed by the Board of Selectmen.

Minutes – Charter Review Committee  
April 12, 2017  
Page Six

Mr. Burke mentioned that he wished the Board of Health had given them their input before tonight and that there was nothing in their rationale for elected vs. appointed.

Mr. Gibson moved, seconded by Mr. Marzelli to adjourn the meeting at 9:10 p.m. and that their next meeting will be May 4<sup>th</sup>. The vote was unanimous.

Respectfully submitted,

Beverly Wiedemann

Documents and exhibits presented at this meeting were the following: Minutes of March 6, 2017 and April 6, 2017. Organizational charts created by Mr. Spitler, Hingham's Town Meeting warrant distributed by Barbara Farnsworth.