

MINUTES – CHARTER REVIEW COMMITTEE

Thursday, June 1, 2017

Seth Ventress Hall, 76 South River Street

Present: Barbara Farnsworth, Bruce Spitler, William Bowers, Donald Gibson, Scott Borstel, Robert Marzelli, Jonathan Grabowski (alternate), Alyssa McNamara Reed (alternate), Town Counsel Robert Galvin

Excused: Dan Burke

Mr. Bowers opened the meeting at 7:00 p.m. and announced that the meeting is being recorded by MCTV.

Public Comment:

Greg Caille, Canal Street, said that he wanted to make sure that there are checks and balances and accountability between the executive and legislative branches spelled out in the charter. For example, if the annual report or audits are not completed on schedule, what recourse would the legislative body have? Bill Bowers said that the Charter Review Committee will take these comments under advisement.

New Business:

Bill Bowers noted that at the last meeting there were some changes to the Town Manager's job description. Don Gibson said that he has incorporated those changes into the job description and distributed copies to the committee members. Mr. Gibson suggested going through the job description line by line to see if there are any additional changes that need to be made.

Section A: eliminated the language "After the establishment of a five member Board of Selectmen".

Section F: changed the word "act" to "article". Added "and K" in the last sentence.

Section G: changed the word "act" to "article" (twice). Added the line "under his/her direction and control or that of his/her designee". Changed the 20 day period to 14 day period. There was some discussion about whether an elected board would have the authority to reject the appointment or removal of a department head in their department. Bob Marzelli suggested putting this to a vote. Bob Marzelli moved, seconded by Scott Borstel, to modify the language to provide that elected boards would have the right to object to a proposed appointment or removal of their department head. Scott Borstel said he thought they had discussed doing this for all elected boards, including the School Committee. Don Gibson said that giving elected boards veto power weakens the single chain of command. The motion failed 3:4 with Scott Borstel, Bruce Spitler and Bob Marzelli voting in favor and Jonathan Grabowski, Bill Bowers, Don Gibson and Barbara Farnsworth opposed.

Section H2: revised language to say "responsible for the efficient administration of all town departments, including department heads, under the direction and supervision of Town Manager". Changed "act" to "article".

Section H3: added the words "or abolish", changed Advisory Committee to Advisory Board; added the language "except as prohibited by the general laws of the Commonwealth". Bob Marzelli questioned the need for the line about general laws. Bob Galvin agreed that this might be redundant. Don Gibson said that he will strike that line.

H5: change Advisory Committee to Advisory Board

MINUTES – CHARTER REVIEW COMMITTEE

Page 2 of 5

Thursday, June 1, 2017

Section H6: added “fixing amounts and elements of compensation” after “rates of pay”.

Section H10: removed the language stating the warrants need to be signed by the Board of Selectmen.

Section J(b): removed “it’s employees and the School Committee” at the end as redundant.

Section K(a): eliminated the language regarding MGL 30B

Section L: changed the word “feasible” to “possible”

Section M2: changed the word “by” to “of”

Section M3: changed the word “of” to “or”

Section N: added language “In accordance with Article-2 of this charter” at the beginning; and “In the event that the removal, termination or suspension provisions of this section shall conflict with those found in Article 8-2, the provisions of this section shall govern the removal, termination or suspension of the Town Manager or Acting Town Manager” at the end.

Bob Marzelli said that he thinks this section is flawed. Scott Borstel said that parallel language should be used with Article 8-2 of the charter or Section N of the job description should be eliminated altogether since it is covered in the charter. Bob Marzelli said that government employment needs to follow the Federal due process clause. Don Gibson said that he took this language from the Hanover job description but he is fine with simply saying “Removal and Suspension: In accordance with Article 8-2 of the Town Charter”. Bob Galvin said that some communities have a separate section where the Town Manager can be removed other than by good cause with the inclusion of severance pay. After further discussion, Scott Borstel moved, seconded by Bob Marzelli, to amend Section N to include only the first sentence: “In accordance with Article 8-2 of the charter, the Board of Selectmen, by a vote of the majority of its full membership, may terminate and remove or temporarily suspend the Town Manager or Acting Town Manger.” The vote was unanimous.

Public Comment (continued):

Bill Bowers noted that another member of the public had joined the meeting and invited him to comment. Jim Banda, Ocean Street, said that he served on the appointed Planning Board in the Town of Wilmington where they had a strong Town Manager. Mr. Banda said that he is happy to see that the Charter Review Committee seems to be moving in that direction. Mr. Banda suggested that there be an Assistant Town Manager to take care of day to day operations and allow the Town Manager to focus his energy on the bigger picture. Mr. Banda added that in Wilmington the Planning Board, Zoning Board of Appeals and Conservation Commission are all appointed by the Town Manager. The Committee thanked Mr. Banda for his input.

New Business (continued):

Bill Bowers said that the Committee has completed their review of Articles 3, 4, and 5 and suggested that they move on to Article 2 regarding Town Meeting, and also decide which communities should be invited to future meetings and set dates for those meetings as well as the meeting with representatives from the MMA. Don Gibson asked if he could participate in the discussion regarding Town Meeting. Attorney Galvin said that he could.

Scott Borstel said that he is not sure that the Committee has finished with articles 3, 4, and 5 since they have not covered all of the bullet points raised at their meeting of February 23, 2017,

MINUTES – CHARTER REVIEW COMMITTEE

Page 3 of 5

Thursday, June 1, 2017

such as the role of the Facilities Manager and formation of a Permanent Building Committee in Article 4. Bill Bowers said that his recollection is that the committee decided that the Facilities Manager should not be included in the charter. Bob Marzelli agreed that this does not need to be in the charter if there is a strong Town Manager. Scott Borstel said he is not ready to move on from Articles 3, 4 and 5 until the Committee take a vote on what to do with the Facilities Manager and Permanent Building Committee language. After some discussion, Don Gibson moved, seconded by Bob Marzelli to remove the language related to the Facilities Manager from the Charter. Scott Borstel said his fear is that if it is removed from the charter the position will be eliminated. Bob Marzelli said that the current Facilities Manager is not working under the language in the charter anyway. Bruce Spitler suggested creating a bylaw to cover this position so that the expectations are documented, since it would be easier to modify a bylaw. Bill Bowers asked Town Counsel if the Charter Review Committee has the authority to recommend a bylaw change. Bob Galvin said that they do. Scott Borstel said that he is afraid that removing this from the charter would eliminate the School Department's authority over the Facilities Manager, and noted that the position is currently split 50/50 between the Town and Schools. Bill Bowers said that the exact same language could be put into the bylaw. Bruce Spitler moved, seconded by Bob Marzelli, to recommend removing this language from the charter and adding it to the bylaws. The vote was 6:1 with Scott Borstel opposed.

Bill Bowers said that the charter currently allows the Board of Selectmen to create a Permanent Building Committee. Don Gibson said that having a Permanent Building Committee makes sense, but he is not sure if it should be included in the charter. Scott Borstel discussed the difference between a School Building Committee and a Permanent Building Committee, and said that a Permanent Building Committee sets guidelines across the whole Town for buildings and a School Building Committee could be a subcommittee of the Permanent Building Committee. Bruce Spitler noted that there are many committees listed on the organizational chart that are not mentioned in the charter or bylaws.

Bill Bowers suggested going through Article 3 line by line.

3-1 General Provisions

(A): Elective Offices – remove Board of Assessors, Board of Public Works, Board of Health, and Town Clerk.

(B): Eligibility – add “with the exception of the Town Manager” and remove the last sentence regarding tenure.

(C): Election – no changes

3-2-1 Selectmen

The Board discussed language regarding staggering five 3-year terms. Don Gibson suggested that there is going to be some major revisions to this entire section and suggested tabling this discussion until the next meeting to give the committee time to incorporate language from the Town of Hanover's charter.

3-2-2 Board of Assessors: move to Article 4

3-2-3 Board of Public Works: remove from charter

MINUTES – CHARTER REVIEW COMMITTEE

Page 4 of 5

Thursday, June 1, 2017

3-2-4 Planning Board

(A): Composition, Term of Office – no change

(B): Compensation – no change

(C): Powers and Duties – Don Gibson asked if the Master Plan has been updated every 10 years. Bob Marzelli said that it is not always done on schedule. Don Gibson suggested changing it to “periodically”. Bob Galvin said that the goal should be to update it every 10 years as that is often a requirement of grant funding. The Committee decided to change the last sentence to read “In carrying out its tasks the planning board may utilize Town departments or employ outside consulting firms when special skills are required.”

(C)1): Bill Bowers said this should be changed since it takes authority away from the Town Manager. After some discussion the Committee decided to eliminate this subsection, and renumber.

(D): no change

3-2-5 Board of Health: move to Article 4. Scott Borstel said that the language in the Powers and Duties subsection of all articles should be parallel. The committee agreed that this language should be consistent.

3-2-6 Trustees of Veterans Memorials – no change

3-2-7 School Committee – no change

3-2-8 Moderator – Don Gibson recused himself from this discussion and left the room.

(A) Term of Office – no change

(B) Compensation – no change

(C) Duties – Bob Galvin asked if the committee wanted to include language that gives the moderator authority to appoint the Advisory Board. Bob Marzelli recused himself from this discussion and vote since his family member currently serves on the Advisory Board. Scott Borstel said that he likes the idea of the Advisory Board being appointed by the Town Moderator as it eliminates the appearance of the Board of Selectmen controlling the Advisory Board and gives it a sense of neutrality. Bob Galvin said that Norwell currently has a 9 member Advisory Board that is appointed by a Nominating Committee consisting of the Town Moderator, one member of the Board of Selectmen, and one member of the Advisory Board. After further discussion, Bob Galvin said that he will research and come to the next meeting with 3 or 4 different examples of how Advisory Boards are appointed in comparable towns so that the committee can compare and deliberate.

Don Gibson returned to the meeting.

3-2-9 Town Clerk – move to Article 4

3-2-10 Housing Authority – no change

MINUTES – CHARTER REVIEW COMMITTEE

Page 5 of 5

Thursday, June 1, 2017

3-3 Vacancies – eliminate Town Clerk from this section. Scott Borstel asked why the School Committee is not mentioned in this section. Bob Galvin said that he will research the appropriate MGL associated with vacancies in the School Committee so that this can be added.

Bill Bowers suggested ending here and continuing with Article 4 and 5 at the next meeting. After some discussion, the next meeting was scheduled for June 22, 2017 followed by meetings on July 13 and July 27.

There was some discussion regarding timing and how the process of bringing recommendations to Town Meeting would work. Scott Borstel suggested hosting a series of forums to solicit feedback from the public. Bill Bowers said they could invite representatives from MMA to a July meeting and potentially hold the public forums in late September or early October.

Acceptance of Minutes:

Bob Marzelli moved, seconded by Barbara Farnsworth, to accept the minutes of May 18, 2017. The vote was unanimous.

At 9:25 p.m. Don Gibson moved, seconded by Bob Marzelli, to adjourn the meeting. The vote was unanimous.

Respectfully submitted,

Catherine Burke