

MINUTES – CHARTER REVIEW COMMITTEE

Thursday, July 27, 2017

Seth Ventress Hall, 76 South River Street

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

Excused: Alyssa McNamara Reed (alternate)

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

Public Comment:

Barry Cornwall, Cornwell Hill, said that it is very important that what is included in the charter be thought about carefully and be kept to a minimum since charters are so difficult to change and noted that the bylaws allow more flexibility to adjust to changing circumstances. Mr. Cornwall said that given the description of the role of the Town Administrator in the current charter, responsibility for all of the things that have gone wrong since Nancy Holt was “forced out” fall with the Board of Selectmen since everything that the Town Administrator does is with the approval of the Board of Selectmen. Mr. Cornwall noted that the Hanover charter gives an excellent description of the roles of the Board of Selectmen and the Town Manager.

Old Business:

Bill Bowers said that he hopes to wrap up articles 3, 4 and 5 this evening. Don Gibson thanked Alyssa Reed for the work she has done to compile the changes that have been made so far into a workable document.

Article 3 Elected Officials.

Section 3.1B: Mr. Gibson noted that under Eligibility, it states “any registered voter in town” and said that he wants to make sure that everyone is in agreement that the Town Manager does not have to be a resident of Marshfield. The committee agreed.

Section 3.2.1C(2): Change “shall have” to “shall be responsible for” in the first sentence, and eliminate the last sentence as it is redundant.

Section 3.2.1C(4): Don Gibson wanted to make sure that the committee was in agreement that the Town Manager would select the auditor. Dan Burke said that this falls with the veto power as with the other positions discussed at the last meeting. The last sentence reads “The Board of Selectmen also shall have the power to veto any appointment by the Town Manager of the Police Chief, the Chief of the Fire Department, the Town Accountant, and the Town Clerk.” Don Gibson asked about the Town Planner, Assessor, DPW Superintendent, and Finance Director. Bob Marzelli suggested changing the language to say “The Board of Selectmen has the power to reject any appointment made by the Town Manager as set forth in Section 4.1.1G.” Mr. Marzelli noted that the word “reject” should be used instead of “veto”.

Section 3.2.1.D: Dan Burke suggested consolidating this so that it is all in one section.

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Don Gibson suggested the formation a drafting sub-committee which would include Bob Marzelli, Alyssa Reed and himself. The committee agreed that this is a good idea. Bill Bowers asked if anyone else would be interested in serving on this sub-committee, and noted that the sub-committee would need to post meetings and minutes and follow the open meeting laws.

Don Gibson noted that Mike Bradley said at the last meeting that the Board of Selectmen would like the authority to appoint the Police Chief, Fire Chief, Finance Director and Town Clerk. Bill Bowers said that he has spoken with Jim Fitzgerald and Joe Kelleher about coming to speak to the committee about these points, but noted that regardless of what the selectmen want, as individuals or as a whole, it is the responsibility of the Charter Review Committee to do what they think the voters want.

Bill Bowers said that the Town Manager should have the hiring and firing authority and the Board of Selectmen should have the ability to approve or disapprove. Bob Marzelli reminded the committee what Mr. Cristello said at the last meeting about staff questioning the authority of the Town Manager if he is not the one who appointed them, and agreed with Mr. Bowers that the committee needs to make their recommendations based on what they think the voters want. If the Board of Selectmen disagrees with any of the recommendations they can make a motion to amend at town meeting.

Don Gibson said that there were no changes to Sections 3.2.4 Trustees of Veterans Memorial; Section 3.2.5 School Committee; and Section 3.2.6 Moderator.

Article 4 Appointed Town Officials, Board, Commissions and Committees

Section 4.1.1F: Don Gibson said that the first sentence states that “The town manager shall be the chief executive officer of the town” and notes that this conflicts with Section 3 which says that the Board of Selectmen is the CEO of the town. Bob Galvin suggested changing the language under Town Manager to “chief administrative officer”.

Section 4.1.1G: Don Gibson asked if the committee wanted to include language regarding suspension of employees. Bob Galvin said that the power of suspension is implied in the power of appointment. Bob Marzelli said that it would not hurt to put it in. Scott Borstel said that the suspension authority is implied since it is part of discipline. Bob Galvin said that this language should go under section 4.1.1H(6).

Section 4.1.1H(1): Barbara Farnsworth suggested replacing the word “operation” with “supervision”.

Section 4.1.1H(3): Bob Galvin said that the first sentence seems redundant and suggested taking out “at the Town Manager’s discretion”.

Section 4.1.1J(a): Don Gibson suggested changing to “by the majority of the full membership of the Board of Selectmen”. Bob Galvin said that this is not necessary and would prevent the Board from voting if all five members are not present, which could pose a problem since collective bargaining is time sensitive.

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Section 4.1.3: Change elected to appointed. Don Gibson asked if the Board of Selectmen have approval/disapproval authority over the appointment of the Health Agent by the Town Manager.

Scott Borstel, said that section 4.1.1G says that the Health Agent is appointed by the Town Manager with approval of the Board of Selectmen.

Bill Bowers asked if the committee wants to reconsider the vote on whether the Board of Health should be appointed or elected. Dan Burke said that he would be willing to reconsider this vote. Bruce Spitler said that he was in the minority on the previous vote and noted that the Committee needs to be smart about picking their battles. Mr. Spitler said that he would be in favor of reconsideration. After a brief discussion, Bruce Spitler moved, seconded by Barbara Farnsworth, to reconsider the vote taken on April 6, 2017 regarding the Board of Health. The vote was unanimous.

Scott Borstel asked what we know now that we did not know on April 6. Bruce Spitler said that as long as it is structured so that the Town Manager appoints the staff in the office it does not affect the top down hierarchy to have the Board of Health elected. Bill Bowers said that it would be similar to the Planning Board and he would support it contingent on paid staff being appointed by and reporting to the Town Manager.

There was some discussion regarding whether the Town Manager would consult with the Board of Health regarding the appointment of the Health Agent and/or whether the Board of Health would have the power to approve or disapprove of a particular candidate.

Bob Galvin said that he would not recommend giving the Board of Health any authority over this appointment as it diminishes the authority of the Town Manager. Barbara Farnsworth agreed that the appointment should be in consultation with the appropriate elected board, but they should not have the authority to reject or approve of a candidate.

Scott Borstel said that if the Board of Health is elected they should have the power to reject or approve, and questioned why else we would vote to keep them as an elected board. Bob Marzelli said that the same argument could be applied to the Planning Board.

Bill Bowers said that his understanding was that the Town Planner was appointed by the Town Manager with the approval of the Planning Board and said that the language should be consistent between all elected boards. Bob Marzelli moved that the committee direct the subcommittee to adjust the language to reflect this. Scott Borstel amended the motion to say that any elected board in town has the authority to approve or disapprove the appointment of the department head in their office.

Bob Galvin said he thinks this is a bad idea if the committee is trying to centralize authority, and said that this will perpetuate the problem of the lack of single chain of command.

Dan Burke noted that the elected board would not have any power to discipline or remove the employee, they would only be involved in the initial hiring. Bob Galvin said that Town Managers are typically employment specialists with a great deal of experience in hiring and

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managing employees. Barbara Farnsworth said that she agrees with Mr. Galvin. Bob Galvin added that it will be difficult to find a strong Town Manager who is willing work in a town without this authority.

Don Gibson said that he would like to see the Board of Health be elected because of the jurisdiction and authority they have, but as a former member of the Board of Health, he is not uncomfortable with the Town Manager appointing the health agent.

Bob Marzelli seconded the motion on the table giving elected boards the authority to reject or approve the appointment of the department head in their office. The motion failed by a vote of 2:5 with Scott Borstel and Bob Marzelli in the minority.

Don Gibson moved, seconded by Barbara Farnsworth, that the Board of Health be elected. The vote was unanimous.

Bruce Spitler said that he thinks there would still be some merit to putting some general language in the charter stating that staff is appointed by the Town Manager in consultation with the appropriate Board whether the board is elected or appointed. Bob Galvin said this language is already in the charter under section 4.1.1G.

4.1.1A: Bill Bowers suggested that this language limits the prospective pool by not allowing anyone who has served in elected office for 12 months to serve as Town Manager. After some discussion Bill Bowers moved, seconded by Dan Burke, to change the current language to state that the Town Manager shall not have served on the Board of Selectmen for at least 24 months. The motion failed by a vote of 2:5, with Bill Bowers and Dan Burke voting in the minority.

4.1.4 Town Clerk – needs to be changed from elected to appointed.

4.1.1G: Scott Borstel asked why there is a need to specify “non-elected department heads”, since there are no elected department heads in the revised charter. It was decided that “non-elected” would be removed from the first sentence.

Article 5 Finances and Fiscal Procedures

Bill Bowers distributed a draft job description for the Finance Director. Don Gibson asked if it is wise to put language relative to the finance director in the charter. Bill Bowers said that since this position is pivotal to the centralization of authority, it should be included in the charter. Bill Bowers reviewed some of the language in the two options presented. Don Gibson said that he prefers the language in option 1.

Dan Burke suggested adding “excluding the School Department” in the first sentence.

Bob Marzelli suggested striking “or more” from the third sentence since the same person cannot serve as both Treasurer/Collector and Town Accountant.

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Don Gibson suggested changing Community to Town in the first sentence of the second paragraph and removing the word “is” in the third sentence.

Scott Borstel said that the Town Manager and Advisory Board are not policy makers, and suggested that those words be stricken from the first sentence of the second paragraph.

Scott Borstel asked how the language in the second paragraph would affect the capital budget process. Dan Burke said that this language provides the foundation for much more effective capital planning. Bob Galvin said that the Finance Director would work with and provide guidance to the Capital Budge Committee.

There was some discussion regarding changes to clarify the role of the finance director in the budget process. Don Gibson asked if the committee wanted to recommend a bylaw stating that all department heads bring their budget to the finance director.

Barbara Farnsworth asked whether the job description should be included in the charter, and noted that if the Town Manager wanted to tweak the job description it would that require a charter change. Bruce Spitler suggested just using the first paragraph in the charter. Scott Borstel said that he does not think this is necessarily a job description but rather a tool that the town manager can use in developing a job description. Dan Burke said that the second and third paragraphs contain more specific responsibilities, whereas the first paragraph states that there must be a Finance Director.

Dan Burke said that he would draft language that is less specific in the role of the Finance Director and send it to the sub-committee. Mr. Burke suggested using the language in the first paragraph, with the first sentence revised to read: “The Town shall have a finance department headed by a finance director who is responsible for overseeing and coordinating all of the Town’s financial activities excluding the School Department.” Bruce Spitler asked if the committee wanted to recommend including the second two paragraphs in a bylaw. Scott Borstel asked if anyone is keeping a list of bylaw recommendations.

Barbara Farnsworth moved, seconded by Bruce Spitler to put the first paragraph as revised in the charter. The vote was unanimous.

Scott Borstel said that the final two bullets points for Article 5 are to look at the capital budget process and to explore the need to define and codify the budget process. Don Gibson suggested tabling these items to the next meeting.

Bill Bowers said that the next meeting will focus on articles 5 through 10.

The committee discussed having representatives from other municipalities come to a future meeting to discuss their experiences with charter changes. Dan Burke noted that there are not very many meetings left before we need to have a draft document available.

There was some discussion regarding the timeline and the process for getting the changes approved.

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Bob Galvin read from the State website regarding voter approval of the legislation. Mr. Galvin said that he will do some more research on the process and report back to the Board.

Bill Bowers noted that the next two meetings are scheduled for August 10, 2017 and August 24, 2017 and noted that the August 24 meeting will be at an alternate location due to the Marshfield Fair.

Acceptance of Minutes:

Bill Bowers noted that there is an error on the date of the July 13, 2017. Bob Marzelli moved, seconded by Don Gibson, to approve the minutes of July 13, 2017 as amended. The vote was unanimous.

At 9:45 p.m. Barbara Farnsworth moved, seconded by Don Gibson, to adjourn the meeting. The vote was unanimous.

Respectfully submitted,

Catherine Burke