

MINUTES – CHARTER REVIEW COMMITTEE
Thursday, August 24, 2017
Town Hall, Selectmen's Hearing Room

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

Mr. Bowers opened the meeting at 8:00 p.m. and announced that the meeting is being recorded by MCTV.

Appointments:

Ellen Allen, former Chair and present member of the Norwell Board of Selectmen, appeared before the committee. Ms. Allen described her experiences as part of both a 3 member Board of Selectmen and a 5 member Board of Selectmen. Ms. Allen explained the process of going from three to five members and said that on balance she likes five members better as it represents the Town better, but the risk is not getting enough good candidates to fill five seats. Ms. Allen added that one of the benefits is that two members can work on something outside of a posted meeting without violating the Open Meeting Law; this is especially helpful for new members without a lot of experience in Town government.

Scott Borstel said that he does not understand the argument of not being able to find five qualified candidates since the Town has had a very effective five member School Committee for many years.

Bob Marzelli asked about the mechanics of going from three to five members. Ms. Allen said that at the next election following the change, the seat that is up for re-election would be up for a three year term, as well as one vacancy for a two year term and one vacancy for a one year term, this way each subsequent year either one or two members will be up for re-election.

Bill Bowers asked about the Advisory Board appointment process in Norwell. Ms. Allen said that the change to an Advisory Board Selection Committee works well, and added that it is a more unbiased process. The Board of Selectmen and Advisory Board select their representative during their annual Board reorganization process.

Bob Marzelli asked about turnover on the Advisory Board. Ms. Allen said there is a fairly regular turnover on the Advisory Board, historically members cannot serve more than two consecutive terms, this is stated in a bylaw, not in the Charter. Ms. Allen added that this is the only committee with a term limit.

Dan Burke asked Ms. Allen to explain the duties of a strong Town Administrator. Ms. Allen said that the revised charter gives the Town Administrator more appointing/hiring authority, with the Board of Selectmen having the power to reject the choice of the Town Administrator. The new charter also allows the Board of Selectmen to delegate things like signing the warrant to the Town Administrator. Ms. Allen added that if anything she would want it to be stronger rather than weaker, as a stronger Town Administrator is more efficient.

Dan Burke said that Marshfield's current Town Administrator is weak by definition and one of the things that the Charter Review Committee is recommending is that he is given more authority

MINUTES – CHARTER REVIEW COMMITTEE

Page 2 of 6

Thursday, August 24, 2017

in hiring staff. Ms. Allen said that it is difficult for the Town Administrator to discipline a Department Head who is appointed by an elected board. Ms. Allen said that in Norwell the Board of Selectmen appoints the volunteer committees.

Scott Borstel asked about the Permanent Building Committee. Ms. Allen said that they are appointed by the Board of Selectmen but are not active all the time, only when there is a project they are working on. Ms. Allen added that the Capital Budget Committee handles regular maintenance projects.

Bob Marzelli asked about elected boards appointing Department Heads and the tension that arises around disciplinary issues. Ms. Allen said that is a problem since the authority is not clear and noted that volunteer boards and committees do not usually want to get involved in disciplinary issues.

Jon Grabowski asked why Norwell went with a strong Town Administrator as opposed to a Town Manager, and how has the role of the Board of Selectmen changed with a strong Town Administrator. Ms. Allen said that the charter is very clear that the Board of Selectmen sets policy and does not get involved in day to day operation. Ms. Allen said that the reason Norwell went with a strong Town Administrator is that the Charter Review Committee felt that the voters would not approve too drastic of a change.

Scott Borstel asked what made the committee want to change the role of the Town Administrator. Ms. Allen said that they felt they had a very talented Town Administrator who was unable to exercise his talents under the previous charter. Ms. Allen added that they used the School Superintendent as a model and made the role of Town Administrator closer to that of the School Superintendent.

Bob Marzelli asked if the Board of Selectmen ever disagrees with the Town Administrator over what constitutes “policy” and what is “day to day operation”. Ms. Allen said that they have not had any issues with that.

Scott Borstel asked for Ms. Allen’s opinion as a member of the Board of Selectmen on giving the Town Manager the authority to appoint the Fire Chief, Police Chief, DPW Superintendent etc. Ms. Allen said that different positions rise to a different level, she feels that the Board of Selectmen should be involved in the appointment of public safety officials, but the Town Manager could appoint the DPW Superintendent. Ms. Allen noted that in Norwell the Water Commissioners, Board of Health and Planning Board are elected.

Jon Grabowski asked about the Finance Director position. Ms. Allen said that the role of the Finance Director would depend on who is serving in that role. Ms. Allen added that in Norwell the Town Accountant serves as the Finance Director and is more detail oriented and less strategic.

Ms. Allen advised the committee to look closely at the details because once something is in the charter it is very difficult to change. The committee thanked Ms. Allen for her time and insight.

MINUTES – CHARTER REVIEW COMMITTEE

Page 3 of 6

Thursday, August 24, 2017

Michael Baird, Chairman of the Planning Board, appeared before the committee. Mr. Baird said that giving the Town Manager the authority to appoint the Town Planner will have a damaging effect on the ability of the Planning Board to do their work. Mr. Baird said that he is concerned about who would set the standards, set the goals, and evaluate staff if the Town Manager has the hiring and firing authority, Mr. Baird said that he feels the Planning Board has the technical expertise to set the standards.

Mr. Baird said that it is important to differentiate the types of departments in Town; there are departments that handle day to day operations vs. departments that implement and oversee legislation. Mr. Baird said that this change would create some grey area on where authority lies, the Planning Board should be the hiring and firing authority in consultation with the Town Manager, not the other way around, and the Town Planner should report to the Planning Board.

Mr. Baird requested that the Board reconsider their recommendation on Article 3.2.2 and Article 4G to add the Planning Board and the Board of Health to that section sine they deal with State legislation. Mr. Baird added that not having control of the department would inhibit the Planning Board's ability to do their work and would be problematic.

Don Gibson said that the Board of Health does not have a problem with the Town Manager having hiring and firing authority in consultation with the Board of Health, and asked why that is a problem for the Planning Board.

Mr. Baird said that he would want to have control of the standards by which the Town Planner is being evaluated and establish the goals for the position.

Bill Bowers said that in discussions with representatives from other towns the consensus is that giving the Town Manager hiring and firing authority is generally considered the best practice, and added that a centralized form of government would facilitate communication. Mike Baird said that the charter should require better communication between boards and committees.

Scott Borstel asked what makes the Planning Board different from other boards and committees. Mike Baird said that the Planning Board drafts and implements legislation and needs to adhere to State laws, their decisions have a long term impact as opposed to other boards who deal more with day to day operations.

Bruce Spitler said that the Town Manager would not have any authority over policy making and implementation of the law, he would have disciplinary authority over office staff; the Planning Board would still have a significant impact on the direction of the work of the Planning Department.

Dan Burke said that the committee is trying to get a more vertical organization chart and the five-member Board of Selectmen would have ultimate authority over the Town Manager. Mike Baird thanked the committee members for the difficult work that they are doing and said that he hopes they will consider his input.

MINUTES – CHARTER REVIEW COMMITTEE

Page 4 of 6

Thursday, August 24, 2017

Old Business:

Bill Bowers noted that they had a discussion at the last meeting about approving the deliberations that have been done to this point and asked if the comments of the two guest speakers had changed any opinions. After a brief discussion, Bob Marzelli moved, seconded by Barbara Farnsworth, to approve the recommendations made so far as noted in the V4 August 10 version of the charter under Articles 3, 4 and 5. The vote was unanimous.

Bill Bowers reviewed the responses from Town Counsel to the questions that the committee had at the last meeting, as follows:

- 1) Section 3.2.1.10: cumbersome language, is the language regarding intended use of land necessary. Bob Marzelli read Bob Galvin's opinion into the record (copy attached). After a brief discussion, Bob Marzelli moved, seconded by Bruce Spitler, to direct the drafting subcommittee to amend the language as recommended by Town Counsel. The vote was unanimous.
- 2) Section 3.2.1.11: Alyssa Reed read the current language into the record. Bill Bowers read Bob Galvin's opinion on this section (copy attached). After some discussion, Bob Marzelli moved, seconded by Barbara Farnsworth, to direct the drafting subcommittee to amend this language. Don Gibson noted that there is a bylaw that addresses suits against the Town. Scott Borstel said that the bylaw does not address funding, so there is no conflict. The vote was unanimous.
- 3) Section 4.1.1.H6: language regarding hiring and firing authority. Bill Bowers read Bob Galvin's opinion on this section (copy attached). Bob Marzelli moved, seconded by Bruce Spitler, to direct the drafting subcommittee to amend this language to reflect the advice of Town Counsel. The vote was unanimous.

Bob Galvin joined the meeting at 9:30 p.m.

New Business:

Don Gibson said that the recently published code for the Town of Marshfield contains a different version of the charter than the one that the committee has been working with. Mr. Gibson noted that the version in the code book, for example, has a section 2-4(C) which is not in the official charter, and there is a notation at the end of this section stating that it was added on 4/30/2011. There was some discussion about how something could be added to the charter without a legislative act. After further discussion, Bill Bowers moved, seconded by Don Gibson, to direct the drafting subcommittee to review the Charter printed in the codification book for discrepancies from the official Charter. The vote was unanimous.

Dan Burke said that Michelle Tasanari has confirmed Bob Galvin's opinion that the Town Meeting vote would go to the State for a Special Act of the Legislature and a vote at the polls is not required but is customary. Don Gibson moved, seconded by Dan Burke, to share this opinion with the Board of Selectmen. The vote was unanimous.

Bill Bowers suggested moving on to Articles 6 through 10.

MINUTES – CHARTER REVIEW COMMITTEE

Page 5 of 6

Thursday, August 24, 2017

Article 6: no changes recommended.

Article 7: Scott Borstel reviewed the bullet points related to this article from the February 23rd meeting as follows:

- Look at consistency with Mass General Laws for entire charter
- Re-examine procedure of 25 signatures needed to call a meeting

Section 7-1: Bob Marzelli suggested striking section 7-1 as it does not follow current open meeting law and substitute with language stating that meetings “shall be posted in accordance with Mass General Law”. There was some discussion about “one third of the members” calling a meeting, it was decided that this should be changed to “a majority of the members”. There was some discussion regarding the language regarding petitions for calling a special meeting and the number of signatures that should be required. Bob Marzelli suggested limiting the number of times this can be utilized by the same petitioners. Scott Borstel said that this has only happened twice in the past five years so it has not been abused. After further discussion, Bob Marzelli moved, seconded by Scott Borstel, to strike the language in section 7-1 beginning with “All meetings of boards . . .” since it is covered under open meeting law. The vote was unanimous.

Section 7-2: Replace language with “Agendas shall be posted in accordance with Open Meeting Law”.

Sections 7-3 and 7-4: in accordance with Mass General Laws

Section 7-4: the language regarding roll call vote needs to be reworded.

Section 7-5: Bob Marzelli said that this section should come out since it is covered under Mass General Laws. Dan Burke said that eliminating sections may lead to problems.

Article 8: Bill Bowers asked if there should be a way to trigger a recall of an elected official who is incapacitated and cannot perform their duties. There was some discussion about the language and the process for a recall. Bob Galvin suggested leaving this language as is. The committee agreed that there would be no changes to Article 8.

Article 9: Bill Bowers suggested adding two sections from Harvard’s charter (copy attached) to Article 9. After some discussion it was decided that Section 9-5 would include language from Section 7-4 of Harvard’s charter regarding number and gender and Section 9-6 would include language from Section 7-8 of Harvard’s charter regarding periodic charter review. Bob Marzelli said that he does not feel that the charter needs to get into that level of specificity on the make up of the Charter Review Committee. Don Gibson agreed that the first paragraph of Section 7-8 of the Harvard charter is good, but the second paragraph is unnecessary. Bob Galvin said that they should use the first two sentences and leave it at that (end with “citizen petition at any time.”)

Article 10: Bill Bowers said that this language is very similar to Article 8 of Harvard’s charter. Bob Marzelli suggested eliminating Section 10-5. Bob Galvin said this is not necessary since the

MINUTES – CHARTER REVIEW COMMITTEE

Page 6 of 6

Thursday, August 24, 2017

statute says “may” (not “shall”) and therefore is not mandatory. After a brief discussion it was decided that no changes were necessary to Article 10.

Bill Bowers suggested tabling Articles 1 and 2 until the next meeting.

Bruce Spitler said that he recently met Pembroke Selectman Daniel Trabucco who said that Pembroke has a Government Review Committee that has been in existence for three years. Mr. Spitler suggested that it may be beneficial for both groups to have the Pembroke committee come to a future meeting.

Bill Bowers said that it makes sense, but his only concern is the time constraints that the committee is under, and noted that they need to get a draft document to Michelle Tassanari as soon as possible. There was some discussion regarding the timetable going forward. Bill Bowers said that the committee should be able to have a draft to the Secretary of State’s office and the Board of Selectmen by the end of September, and could possibly meet with the group from Pembroke in October. Dan Burke said that he will develop a framework of dates for the fall and distribute it within the next week.

Bob Marzelli noted that the Marshfield Mariner has been reporting that Elizabeth Zimmer is a member of the Charter Review Committee and asked the Chairman to advise them that she is not on this committee.

It was decided that the next two meetings would be on September 14 and September 21 at the Seth Ventress Hall.

Bob Marzelli moved, seconded by Barbara Farnsworth, to adjourn the meeting at 11:00 p.m. The vote was unanimous.

Respectfully submitted,

Catherine Burke