

## **MINUTES – CHARTER REVIEW COMMITTEE**

**Tuesday, October 24, 2017**

**Marshfield Senior Center, 230 Webster Street**

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

Excused: Robert Marzelli, Alyssa McNamara Reed (alternate)

Mr. Bowers opened the meeting at 3:30 p.m. and announced that the meeting is being recorded by MCTV.

Barbara Farnsworth moved, seconded by Don Gibson, to approve the minutes of October 12, 2017 as written. The vote was unanimous.

Bill Bowers outlined the charge and guiding principles of the committee and the work that they have done over the past 22 months. Mr. Bowers noted that the committee did not consider strengths, weaknesses or personalities of individual employees, but focused on the positions and the structure of town government.

Bill Bowers said that the purpose of this meeting is to gather feedback which the committee can further deliberate on before bringing a final draft to the Board of Selectmen. Mr. Bowers reviewed the process and some of the work the committee has done, including reviewing charters of AAA rated communities, meeting with department heads and board/committee members, as well as with representatives from other towns and municipal organizations. Mr. Bowers said that the committee also reviewed many documents as part of their research, including the Collins Report commissioned by the Board of Public Works, the 2012 DOR Financial Management Review of the Town of Marshfield and the Dukakis Center Report on their 2013 Assessment of the Town of Marshfield.

Bruce Spitler described the current organizational chart and noted that it is very flat with no clear chain of command. Mr. Spitler showed the new chart and said that they will discuss it in more detail later in the presentation.

Don Gibson said that the committee did not have any pre-existing ideas, but did use some reports from the State as guidance. Mr. Gibson read some language from the 2012 DOR Financial Management Review, and noted that the full report can be found on the Charter Review Committee website.

**Article 1: Incorporation, Form of Government, Powers.** There were no substantive changes to this article. There was no public comment on this article.

### **Article 2: Town Meeting.**

- The Town Meeting form of government was preserved.
- Added requirement that the warrant and notice of the opening and closing of the warrant be published on the Town's website.
- Harmonized the date by which the warrant is closed with the date that the budget must be submitted to the Advisory Board.

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Joe Centorino, Marshview Drive, asked for clarification regarding harmonizing of language. Don Gibson explained that the current charter states that the warrant is open from the first Monday in January through the fourth Monday in January while the bylaws state that the budget is presented on the last Monday in January, which could be the fifth Monday. The committee is recommending changing the language in the Charter to say that the warrant would close on the last Monday in January so that it coincides the date referenced in the bylaw.

**Article 3: Elected Officials.**

- Board of Selectmen, Planning Board, Trustees of Veterans Memorial, School Committee, Town Moderator, Housing Authority and Board of Health will be elected. Don Gibson noted that he recused himself from any discussion or vote on the Town Moderator position.
- Town Clerk and Board of Assessors will be appointed.
- Eliminates the Board of Public Works, but the Department of Public Works will remain intact.
- Board of Selectmen will go from 3 members to 5 members. Added language around the Board of Selectmen duties, responsibilities and authority, including appointment authority.
- Board of Selectmen will appoint a Town Manager and exercise general supervision over that position.
- Board of Selectmen may reject appointments and removals by the Town Manager. Don Gibson noted that the Town Manager will appoint the Town Planner and the Health Agent in consultation with the Planning Board and the Board of Health.
- Board of Selectmen has the authority and the obligation to enforce the charter.

Don Gibson listed several towns with five member Boards of Selectmen and gave some of the reasons that the committee felt that increasing to a five member board was important, including eliminating problems associated with open meeting laws, and better representation of the entire town.

Eric Kelley, Peterson Path, asked if the five member Board of Selectmen was tied to the elimination of the Board of Public Works. Don Gibson said that the committee anticipates that there will be an amendment to this article on Town Meeting floor, but they have not discussed what would happen if town meeting votes to keep the Board of Public Works. Mr. Kelley said that there is no guarantee that disenfranchised voters will be better represented by a five member Board of Selectmen. Dan Burke said that this change goes along with the philosophy of having a vertical government and enhances checks and balances. Don Gibson noted that the Town of Marshfield is in the minority with an elected Board of Public Works. Dan Burke said that the goal was to have professional staff report to professional management as opposed to reporting to volunteer boards.

John Valianti, Tilden Road, said that he feels that the five members Board of Selectmen should represent each of the precincts in town as that is the only way to really represent all voters and hear different voices. Don Gibson said that the committee considered that, but decided that it was better to have five at-large members on the Board of Selectmen.

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John Valianti asked why the committee is recommending the elimination of the Board of Public Works if they know it will be amended at Town Meeting. Mr. Valianti said that Tom Reynolds is the best DPW Superintendent the town has ever had and he was appointed by the Board of Public Works. Bill Bowers reminded Mr. Valianti that they are not talking about individuals but about the structure of town government. Don Gibson said that eliminating the Board of Public Works is the best way to create accountability within town government.

John Feeney, Ferry Street, asked if the committee considered going to a seven member board of selectmen and having one member represent each of the seven precincts in town. Don Gibson said that there are some towns that have a board of selectmen larger than five members, but the committee felt that the best thing for Marshfield would be five at-large members.

Nancy Currie, Furnace Street, said that it is up to the voters to put someone with DPW experience and someone who they feel represents their interests on the Board of Selectmen.

John Cusick, Waterman Avenue, asked if the committee talked to representatives from the Town of Wellesley and the Mass Municipal Association. Dan Burke said that he spoke extensively with a representative from the Town of Wellesley about their decision to go from an Executive Secretary to a Town Administrator and from Representative Town Meeting to Open Town Meeting. Mr. Burke said that the committee also heard from Charlie Cristello of the Mass Municipal Association, who said that there are only about a half dozen cities and towns in the commonwealth that have an elected board of public works.

John Cusick said that Pembroke, Hanover, Abington, and Wellesley all have elected boards of public works and added that he does not believe that there are only six in the state. Don Gibson said that the information the committee was given was that elected boards of public works are in the minority and the trend is to move away from that. Don Gibson suggested that Mr. Cusick submit a list of towns with elected boards to the committee for review.

Don Gibson read from the Collins Report as follows: “The presence of elected Boards of Public Works in the Commonwealth is becoming increasingly rare. To the extent that these Boards exist, they tend to be advisory to the Board of Selectmen in policy matters.” John Cusick said that the UMass researchers did not meet with the Board of Public Works.

Joe Pecevich, Wilson Road, said that it is very off-putting that this committee is giving the people a bull rush. Mr. Pecevich said that he doesn’t care about trends and asked the committee to talk about specifics and details. Mr. Pecevich added that he feels the committee is being deceptive with the organizational charts. Bruce Spitler said that the organization chart is based on the charter and he does not see how that can be construed as deceptive. Mr. Spitler added that the current charter mentions all of the committees on the organizational chart by name; the Charter Review Committee is recommending taking all of those references out of the charter in order to make it more flexible as the needs of the Town change. Bill Bowers said that Marshfield’s government is fractured making it difficult to know who is in charge and where to go for answers for employees as well as residents.

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Judy Crowley, Buttonwood Road, asked what will happen to the people who are currently serving in an elected role that is changed to appointed. Dan Burke said that he is working with Michelle Tassinari of the Secretary of State's office to come up with a plan for transition. Mr. Burke said that the committee will have a recommendation for the transition process before they present the final draft to the board of selectmen.

Kathy Glynn, Ferry Street, said that she disagrees with appointed boards and said that she doesn't understand why they want to change to an appointed town clerk. Dan Burke said that the current acting town clerk told the committee that there are certain qualifications that an election cannot guarantee.

Nancy Currie said that there would most likely be a team of people interviewing candidates to make sure that the most qualified person is hired.

Eric Kelley said that it is his understanding that you cannot get the necessary certification until you are a Town Clerk. Don Gibson said that is true for certain certifications but this would give the ability to hire someone with experience as a Town Clerk in another town.

Eric Kelley said that if the Town wants to solve the problem of fractured government they need more clarity on the website telling people where to go for different issues.

Joe Pecevich suggested that an elected Town Clerk could be mandated to get the necessary training and certification. Dan Burke said that you cannot mandate an elected official to do anything.

Mr. Pecevich asked why the committee is recommending leaving the Planning Board and Board of Health as elected. Don Gibson said that the committee felt that the Board of Health should be elected since it serves in a policy setting role and they felt that the elected Planning Board provides a system of checks and balances with the appointed Zoning Board of Appeals.

**Article 4: Appointed Town Officials, Boards, Commissions and Committees.**

Don Gibson noted that he did not participate in any discussions or votes regarding how the Advisory Board is appointed since he is currently serving as Town Moderator.

- Created a new position of Town Manager:
  - Town Manager term, duties, qualifications and authority are set forth in this article.
  - Town Manager shall not have served in an elected office in Marshfield in the last 12 months, does not need to be a resident of the town or state.
  - Town Manager appoints and removes department heads and employees after consultation with the appropriate elected or appointed board, and is responsible for the day-to-day operation and supervision of all town departments (excluding schools).
  - Town Manager may reorganize, consolidate, establish or abolish any department or position under his/her direction with BOS approval and is the chief procurement officer for the town.
- Changes Board of Assessors and Town Clerk from elected to appointed.
- Changes how the Advisory Board is nominated and chosen
- Created the position of Finance Director

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John Feeney asked if the current Town Administrator would be able to assume the position of Town Manager. Don Gibson said that the revised charter states that the town manager cannot have served in elected office during the previous 12 month period and the current Town Administrator served on the elected board of assessors until earlier this month.

Joe Centorino asked who would choose the Chairman of the Advisory Board. Bill Bowers said that the Advisory Board would choose their own chair.

Barry Cornwall asked if the Charter Review Committee is going to recommend any changes to the bylaws. Bill Bowers said that it is somewhat beyond their scope, but they are working on a list of recommended changes that they are going to present to the Board of Selectmen. Bruce Spitler said that the facilities manager position is one example that the Charter Review Committee felt should be removed from the charter and added to the bylaws. Bill Bowers noted that they are adding the position of Finance Director to the charter, but not necessarily creating a new position since it can be filled by the Town Accountant or the Treasurer/Collector.

Judy Crowley asked who will appoint the Finance Director. Bill Bowers said that the Town Manager would make this appointment. Ms. Crowley asked how the Town Manager and Board of Selectmen will interface. Bill Bowers said that it is similar to a Board of Directors and a CEO in the private sector. Barry Cornwall said that a good analogy would be the way that the School Committee monitors the work of the School Superintendent and every other department head in the school department reports to the superintendent.

Pam Keith said that the committee said that they wanted checks and balances between the ZBA and Planning Board, but there are no checks and balances over the Town Manager. Ms. Keith said that she feels that having the Finance Director appointed by the Town Manager is not a good idea, since the Finance Director will not be able to speak up if he is under the thumb of the Town Manager. Ms. Keith added that it would not be good for the Town Clerk to report to the Town Manager, and said that she feels that position should report to the voters. Bill Bowers noted that the current Town Clerk was appointed by the Board of Selectmen and she is doing a terrific job.

**Article 5: Finances and Fiscal Procedures.**

- Changed the time period for consideration of emergency capital projects at Special Town Meeting.
- Town Manager is responsible for preparing the budget and capital improvement plan.

There were no comments on Article 5.

**Article 6: General Organization.** There were no substantive changes to this article. There were no comments on Article 6.

**Article 7: Procedures.**

- Changes made to language to comply with MGL relative to open meetings.

There were no comments on Article 7.

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**Article 8: Recall and Removal.** No substantive changes to this article.

Don Gibson noted that there was a great deal of discussion regarding a trigger to automatically recall an elected official who is unable to complete their term, but it was decided that no changes were warranted. There were no public comments on Article 8.

**Article 9: General Provisions.**

- Stipulates that the charter be reviewed at least once every ten years.

There were no comments on Article 9.

**Article 10: Transition Provision.** There were no substantive changes to this article.

Don Gibson said that based on feedback, this article will be re-addressed at a future meeting as to how to integrate new positions.

Pam Keith noted that at the last meeting Town Counsel agreed that there is no legal provision that mandates an election; either the state or the town needs to make that happen. Ms. Keith said that in reviewing charters from other towns, most of them included a provision requiring that it goes to an election and she thinks this should be done in Marshfield. Ms. Keith added that she was surprised that Mr. Galvin is leaving this up to the state when it is clear that many other towns have stipulated it for themselves. Don Gibson said that the Committee has been operating under the assumption that it would go to a ballot; this is definitely something that they will consider at their next deliberative meeting.

Joe Pecevich asked who at the state is going to speak for the people of the town. Don Gibson said that he does not know the details of the process at the state level yet.

John Valianti said that he thinks that the Town Administrator has enough power and influence and he does not understand why we would want to go to a Town Manager and give that person even more power, especially if we go to a five member Board of Selectmen. Bill Bowers said that a 100 million dollar budget should not be run by volunteers and added that it makes sense to bring in a professional to run the day-to-day operations. Dan Burke noted that the Town Administrator currently supervises only 42% of the employees in Town Hall and does not have the power and authority that Mr. Valianti is implying.

Joe Pecevich asked why they are having the town meeting in January when it will be difficult for people, especially senior citizens, to attend. Dan Burke said that they were looking at a January town meeting so that it could be on the ballot in May, but after receiving feedback they will revisit this at their next deliberative meeting in November. Mr. Burke added that the final decision on when the town meeting will be held will be up to the selectmen.

Barbara Farnsworth moved, seconded by Scott Borstel, to adjourn the meeting at 5:30 p.m. The vote was unanimous.

Respectfully submitted,

Catherine Burke