

MINUTES – CHARTER REVIEW COMMITTEE
Thursday, October 26, 2017
St. Ann's Parish Hall, 591 Ocean Street

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

Excused: Robert Marzelli

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

Bruce Spitler moved, seconded by Scott Borstel, to approve the minutes of October 24, 2017. The vote was unanimous.

Bill Bowers said that the focus of this session is to review the recommendations of the charter review committee and to receive feedback from the general public. Dan Burke explained the process for the meeting and noted that questions will be taken after the presentation of each article. Mr. Burke reminded people to give their name and address for the record before making any public comments.

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 said that the committee met with department heads, looked at charters and organization charts from similar AAA rated communities, met with representatives from other towns as well as representatives from the MMA, and reviewed many reports 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 said that the committee put this chart together to graphically represent what the current charter says. Mr. Spitler reviewed the chart and added that once the charter is established it is somewhat difficult to change, so the committee felt that it was better not to include each board and committee in the charter and leave some to be defined in the town's bylaws. Mr. Spitler noted that in the current organization chart there is not a lot of managerial responsibility for the Town Administrator.

Bill Bowers said that the committee felt that this is a very horizontal and linear form of government without a proper chain of command. Mr. Bowers displayed the new organizational chart which is much more vertical.

Don Gibson said that there were several studies that were prepared prior to the inception of the charter review committee which the committee studied as part of their process. 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. Mr. Gibson said that the committee was not dictated to by the state, but it was reassuring that they came to many of the same conclusions.

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

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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.

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.

Pam Keith, Smoke Hill Ridge, said that having warrants available only two weeks prior to town meeting is not long enough, especially when considering that for annual town meeting the warrant closes at the end of January. Ms. Keith said that the Town should be able to get the warrant ready much sooner and added that this shows a lack of transparency and is a very short amount of time for voters to prepare. Ms. Keith asked if they could include a requirement to make a draft warrant available to the public. Bill Bowers said that is a good point and something that they will relook at their next deliberative session.

John Cusick, Waterman Avenue, said that the 2012 DOR Report only mentions the DPW on two pages and was not critical of the DPW at all. Mr. Cusick read some language from the DOR report and noted that the DOR congratulated the DPW on being proactive. Mr. Cusick said that nothing in that report intimated that the Board of Public works should be eliminated.

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.

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Bud Duksta, Shawmut Avenue, asked why the committee is not advocating for a 7-member Board of Selectmen with one representative from each of the seven precincts. Mr. Duksta also asked why the Town Manager is not elected. Don Gibson said that it was the feeling of the committee that the Board of Selectmen should be expanded to five at large members because there are members of the community that feel that they are not represented by a 3-member board of selectmen, but the committee felt that a seven member board would be unwieldy and that five members was a good compromise.

Bud Duksta said that Marshfield is a town of neighborhoods and it is difficult for a Selectman from Marshfield Hills to adequately represent the residents of Brant Rock. Mr. Duksta said that even if we have five members there should be a requirement that they will be from different areas of town. Don Gibson thanked Mr. Duksta for the comment and said that in answer to his previous question, the Town Manager is the chief administrative officer of the town and therefore should be selected by the Board of Selectmen since they have authority over the individual. Mr. Gibson added that if voters have an issue with the Town Manager, they can go to the Board of Selectmen, so there is accountability.

Eric Kelley, Peterson Path, said that he thinks there should be more elected positions not less. Mr. Kelley also said that there should be a requirement in the charter that if a member of the Board of Selectmen knows an applicant for the Town Manager position, he should abstain from voting. Dan Burke said that the charter does state that everyone has to meet the requirements of State open meeting laws and ethics laws.

John Cusick asked a question about recall of elected officials. Dan Burke said that will be covered in Article 8.

John Cusick said that he would amend the recommendations to keep the elected board of public works and re-insert Article 3.2.3. Mr. Cusick asked if this amendment could be done at town meeting. Bob Galvin said that it could and added that reinserting Article 3.2.3 would be within the scope of the article. Don Gibson noted that he will step down as town moderator and nominate a substitute town moderator to handle the meeting where the charter is voted.

John Cusick said that the committee relied a lot on the DOR report and the Collins report and wanted to make sure that everyone knows that the DOR report was not critical of the DPW and the people from the Collins Center did not meet with the Board of Public Works.

John Valianti, Tilden Road, said that most people would agree that going to five selectmen is a good idea and will provide more representation of disenfranchised people, but if the Town really wants to have representation for all communities then a seven member board of selectmen would be the way to go. Mr. Valianti asked that the committee keep the wording in article 3 the way it is right now, and said that eliminating the board of public works is not the way to go. Mr. Valianti also asked why the committee wants to go to an appointed town clerk, and said that he feels that it should stay elected. Mr. Valianti said that it is important to keep as many elected positions as possible.

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Pam Keith said that the Hanover charter has a section 7 regarding DPW and kept the Board of Public Works as an advisory board. Ms. Keith read language from the Hanover charter regarding the DPW. Ms. Keith asked who would set the water, sewer and trash rates if there is no Board of Public Works, and noted that there is no language in the charter as to who would appoint the DPW superintendent. Ms. Keith asked if language regarding these subjects would be added, and if there will be further public meetings. Bill Bowers said that there will be additional public meetings but he is not sure if there will be any more public forums.

Pam Keith asked if Town Counsel has gone over the history of the formation of the Board of Public Works and asked if there is a law in effect that needs to be rescinded. Bob Galvin said that he does not know the entire history of the Board of Public Works but the process that Hanover rescinded had to do with duties that were absorbed by another board. He does not think that there are any laws that need to be rescinded in Marshfield. Mr. Galvin said that the Secretary of State's office is recommending some language regarding the transition process that will need to be added to the charter.

Joe McDonald, Waterman Avenue, said that he feels that the Board of Public Works is working fine as it is and it should continue as an elected board.

Russ Ellis, Outlook Road, said that boards have a mission statement and provide guidance to departments they are overseeing. Mr. Ellis said that these boards are often made up of experts in their particular subject matter and asked where the subject matter competence would reside in the new structure. Mr. Ellis noted that the School Committee has a lot of similar moving parts as the Board of Public Works, but that is staying elected. Bill Bowers said that State law requires that the school committee be an elected board. Mr. Bowers added that the professional component will remain with the DPW Superintendent as it is now, and noted that if the recommendations are approved the Town will be losing one elected position but elevating two elected positions in going from a 3-member board of public works and a 3-member board of selectmen, to a 5-member board of selectmen.

Russ Ellis said that he feels that the elected officials should have the skill set. Bill Bowers said that with this model the professional expertise lies with the appointed official rather than with elected volunteers, and noted that you cannot guarantee that elected officials will have any specific skill set.

Bud Duksta said that he views the Fire Department, Police Department and DPW as equals and added that the Board of Selectmen already has enough on their plate and it is not realistic for them to oversee the DPW in addition to what they are already doing.

John Valianti said that he still doesn't understand why they are eliminating the Board of Public Works. Mr. Valianti said that the board of public works does a great job, and asked if it is because there are disagreements between the Town Administrator and the Board of Public Works. Don Gibson said that the committee felt that this is a better government structure, in eliminating the Board of Public Works and having the superintendent report directly to the Town Manager. Dan Burke said that they are setting up a system of accountability with professional staff reporting to professional management.

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John Cusick asked Bill Bowers to explain his statement that there is no real accountability in town hall. Bill Bowers said that the current structure is broken up into silos, and instead of accountability there is a lot of finger pointing. Mr. Bowers noted that there was at least one incident that he knows of where the Town Administrator asked a department head who reports to the Board of Assessors to attend a meeting and she refused, stating that she did not report to him. Mr. Bowers said that the goal is to have all Departments, Boards and Commissions working toward a singular mission as opposed to operating separately.

John Cusick asked if the committee looked at the Gale report commissioned by the Board of Public Works. Mr. Cusick read from the report which determined that it would take \$800,000 to maintain the fields, and said that the Board of Selectmen refused to fund it through CPC funds. Mr. Cusick said that the past few years have been musical chairs in the finance department and that has nothing to do with the Board of Public Works.

John Cusick asked if there is a minority report from any of the members of the Charter Review Committee. Bill Bowers said that votes are reflected in the minutes, and noted that the committee usually came to a consensus and most of the votes were unanimous.

Barry Cornwall, Cornwell Hill, said that he feels strongly that from an administrative point of view there has to be one person in charge. Giving the town manager appointing authority for department heads will solve a lot of problems that currently exist.

Bill Bowers said that the committee wrestled with determining whether a number of boards should be elected and it came down to appointing authority and "how do you serve two masters". Mr. Bowers said that the committee felt it would be best to have paid professionals providing supervision. Don Gibson said that having a Town Manager will eliminate boards and committees working against each other and provide central authority, eliminate bureaucratic infighting, and allow better coordination of the budgetary process. Mr. Gibson added that the goal is to have the most professional people in positions of authority.

Bob Galvin said that there have been some long standing problems over the past several years; some departments view themselves as so independent of each other that they won't go to each other's meetings. Mr. Galvin said that having one person with discretion over the entire budget and the ability to see the big picture will be much more efficient. Mr. Galvin noted that a lot of time and money was spent developing an indirect policy that in most towns is a one page document, and added that anyone who says that the system is not broken is missing something. Mr. Galvin said that this is not about any particular individuals; it is about what is best for the entire town.

Eric Kelley asked what they mean by professional staff. Dan Burke said that the change in the charter calls for department heads to report to the town manager rather than to volunteer boards.

Eric Kelley said that it seems that the committee wants to take the power away from the people by eliminating elected positions. Don Gibson said that by eliminating elected positions the town manager can set criteria when hiring a person to fill a position.

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Dan Bowen, Ocean Street, said that Bob Galvin brought up a good point that there is back and forth among departments, but that is not necessarily a bad thing, as a resident and a town employee, he feels that the voters should have the right to choose who works for them and added that this provides a system of checks and balances.

John Cusick said that Bob Galvin said there was a problem between the Board of Public Works and the Board of Selectmen, Mr. Cusick said that the Board of Public Works never refused to meet with the Board of Selectmen, it was the other way around. Mr. Cusick brought up Town Counsel billing and was told that was beyond the scope of this discussion.

John Valianti said that he found four towns on the south shore that have an elected Board of Public Works and every town has a commission of some sort.

Steve Robbins, Planting Fields Road, said that we are here to discuss the recommendations that the Charter Review Committee is making, not to talk about indirect costs and town counsel billing.

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

Pam Keith asked who would set rates and fees for the water, sewer and trash pickup. Bill Bowers said this is a valid point that the Charter Review Committee has not discussed, and said they will talk about this at their next meeting.

Pam Keith said she feels the advisory board should be elected and added that she also feels that the charter should include a recommendation that the Chair of the advisory board be rotated.

Michael Pierce, Carpenter Lane, asked if the Town Manager position would eliminate the Town Administrator position. Bill Bowers said that it would. Michael Pierce asked if the current Town Administrator would automatically be elevated to town manager. Bill Bowers said that would be up to the Board of Selectmen.

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Michael Pierce asked why the committee is recommending the clause that states that the Town Manager cannot have served in an elected position for 12 months. Bill Bowers said that this is known as the anti-cronyism clause. Michael Pierce asked if the Town Manager or the Board of Selectmen will be the top authority. Bill Bowers said that would be the Board of Selectmen.

Barry Cornwall said that the language around the responsibilities of the advisory board is fuzzy and does not say what the advisory board is supposed to do. Mr. Cornwall asked the committee to make this clearer. Mr. Cornwall noted that the Town Manager would have the authority to hire and fire department heads, and said that having been on the council on aging and conservation commission he always developed a strong working relationship with the department heads and feels that it is important that the boards and committees be more than just consulted but have veto power over the hiring of a department head.

Barbara Farnsworth asked Mr. Cornwall to clarify if he was referring to appointed boards and committees as well as elected. Mr. Cornwall said that all boards and committees should be consulted, elected boards and committees should have veto power.

Eric Kelley said that in Article 4.1.1 it says that the Town Manager "shall" be appointed by the Board of Selectmen; Mr. Kelley said that he feels it should say "may" be appointed so that the Board of Selectmen's hands are not tied. Mr. Kelley also said that section F of Article 4.1.1 lists the powers and duties of the Town Manager and said that he feels that this should be left up to the Board of Selectmen to decide what the Town Manager or Town Administrator's role is.

John Valianti said that the last two town administrators have had significant power and influence and he still doesn't understand why we need to go to a town manager.

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 public comments on this article.

Article 7: Procedures.

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

There were no comments on Article 7.

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 was no public comment on Article 8. Dan Burke said that the committee received input from the State on this article which they will be discussing at their next meeting.

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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 the committee has to look more closely at this and develop a transition plan. There were no public comments on this article.

Bill Bowers gave some concluding remarks and said that the proposed charter defines a chain of command and eliminates the issue of boards working at cross purposes. Mr. Bowers said that the goal was to create accountability and efficiency with a more vertical form of government. Bill Bowers outlined next steps, and said that the committee will recommend that the Board of Selectmen convene a town meeting in March or April. There will be a single article presented much like the budget article with separate line items for each change. Following Town Meeting, they will petition the legislature to pass a special act, followed by an election possibly in the fall. Bill Bowers emphasized that there will be a ballot vote on this. Mr. Bowers said that this has been a very committed group that has worked diligently for the past 23 months and added that he appreciates their commitment to the process.

John Valianti asked the Charter Review Committee to bring this back for another look and add a couple more people to the committee in order to get this right.

Eric Kelley asked if the public comments are on the website. Bill Bowers said that they are included in the minutes. Mr. Kelley asked when the next meeting would take place. Bill Bowers said that it has not been scheduled yet.

Don Gibson moved, seconded by Scott Borstel, to adjourn the meeting at 9:30 p.m. The vote was unanimous.

Respectfully submitted,

Catherine Burke