

Charter Review Committee

2/9/2022 - Minutes

1. Call To Order And Pledge Of Allegiance

The meeting was called to order at 7:05 pm. The pledge of allegiance was said.

Attendance (Charter Review Committee Members attended via remote connection): Matt Jussaume (Chair), Caroline Ahdab (Vice Chair), Ramona Reed (Clerk), John Ladik, Rob Rand, Harvey Serreze, and Marilyn Tremblay

Notes: John Ladik joined the meeting at 8:00 pm. Harvey Serreze left the meeting at 8:30 pm.

2. Acceptance Of Minutes

Marilyn Tremblay made a motion, seconded by Harvey Serreze, to accept the meeting minutes from the CRC meeting on 2/2/2022, with a correction to remove an extraneous work note that was left as part of the documentation of a motion.

A vote was taken and the motion to accept these meeting minutes with the correction carried unanimously. Ramona Reed will remove the extra work note.

3. Public Comments On The Agenda

None

4. Public Feedback Received

None

5. Review Next Steps To Complete The Revised Charter Draft & Share Information

Matt Jussaume opened the discussion to review the steps needed to have the Charter revisions approved. He asked the Town Administrator, Mr. Andrew MacLean, who was in attendance, to provide a summary of conversations they had after Matt recently emailed him with questions about the Committee's next steps for the Charter.

Mr. MacLean emailed the Town counsel to ask questions on behalf of the CRC but the attorney's initial responses raised more questions, so he is waiting for further clarification before providing advice to us. There are a couple of Mass. General Laws that discuss how to handle Charter amendments but some of the language is confusing.

Some questions are:

1. Are both a town meeting vote and a ballot vote required to approve the Charter revisions?
2. If both are required, can we use a special Town meeting to vote for the revisions, or does the State law require that the Charter revisions be voted on at an annual Town meeting?

Mr. MacLean commented that if the Charter revisions could be approved at a special Town meeting, then we could get the Charter to one later this year, then followed by a ballot vote by November 2022. However, if an annual Town meeting were required to approve the revisions, then the Charter completion could not be possible until Spring of 2023, and then possibly even a year later, until Spring 2024, if the ballot vote for approval must be done at a local election vs. a state/primary election. Mr. MacLean further commented that the biggest issue is that the CRC would like to bring the Charter revisions to this Spring's Annual Town meeting in May 2022, but based on what still needs to be done, this is doubtful.

Caroline asked Mr. MacLean what is required to be done in order to make this Spring Town meeting. Mr. MacLean advised that while he's still waiting for clarification from the Town attorney on the questions mentioned, the CRC's next step should be to submit the Charter to the attorney. It would not be practical to bring the Charter revisions to Town meeting without first having the legal review.

Matt Jussaume commented that he read in the MGL that once the CRC is done with the revisions and submits the final report to the Select Board, there needs to be sixty days between this handoff and the vote at Town meeting. If this is the case, then the CRC's date to submit the Charter to the Select Board is moved up to 3/2/2022.

Mr. MacLean reported that the upcoming Town Meeting date will likely be moved because it will need to be a two-night meeting this year based on some of the other warrants, and especially if a Charter warrant were included. The school where it is held cannot accommodate two nights during the first week in May when it's currently scheduled so he must bring this issue to a Select Board meeting to see if the current meeting date can be moved to the following week in May. This could allow an additional week for the Charter review process, but it's still a tight timeline for the CRC.

Caroline asked Mr. MacLean if he had an idea how long the Town counsel might take to review. Mr. MacLean commented that this is a busy time of year for the Town counsel and the revisions should be more carefully reviewed than on the original version as there were some mistakes and inconsistencies missed.

Mr. MacLean further commented that each warrant article for the Charter must be an "up or down" vote; it cannot be amended on the floor at Town Meeting. However, the entire Charter does not need to be presented as one warrant article. For example, one warrant could be made to approve revisions for typographical changes (e.g. terminology changes like "Board of Selectmen" to "Select Board") and additional warrants could then be presented for other types of revisions. This approach might help expedite the Town counsel review because the counsel wouldn't necessarily need to review the typographical changes, and expedite the process by reviewing the important content changes.

Caroline Ahdab commented that she remembered that the Attorney General needed to review the original Charter, and it may have taken a while for this. Mr. MacLean said we could ask the Town counsel about this too because it may be that only the initial Charter submission needs the Attorney General review, and not Charter revisions.

Matt Jussaume asked Mr. MacLean if we were required to have official public hearings to discuss the Charter revisions or would other type of public engagement be sufficient. Mr. MacLean explained that he'd need confirmation from the attorney about this too. It might be that only the initial Charter required the official public hearing.

5.1. Review Feedback From Select Board

The committee reviewed a document with recommended revisions from the Select Board, which they discussed and voted on during public meetings on January 20, 2022 and January 24, 2022. Select Board Chair, Ms. Margaret Scarsdale, provided these in an email dated January 31, 2022. This document is attached in this meeting packet. Ms. Scarsdale and Select Board member, Mr. Tony Beattie, were in attendance at this meeting.

Select Board Feedback:

Section 3-7b/page 13 · **SB Recommendation:** Make this section clear about what happens if a vacancy occurs less than three months before an election.

Motion: Caroline Ahdab made a motion, seconded by Marilyn Tremblay, to leave this section as the CRC initially stated.

Discussion: Ramona asked that if the suggestion was that this was not clear, should we add a statement to make it more explicit. Mr. Andrew MacLean commented that he had suggested this change through the Select Board, and was seeking to have more clarity on this.

A vote was taken and the motion did not carry because there was no majority. Yes: Caroline Ahdab, Marilyn Tremblay, Harvey Serreze, No: Ramona Reed, Rob Rand, Matt Jussaume

The section was further revised to clarify what happens if a vacancy occurs less than three months before an election.

Motion: Marilyn Tremblay made a motion, seconded by Ramona Reed, to accept a revision to clarify the section 3-7b. The motion carried unanimously.

Section 3-8/page 14 · Recall of Elected Officials · **SB Recommendation:** Simplify process without making it easier to remove a Select Board member.

Motion: Caroline made motion, seconded by Marilyn Tremblay, to keep the current Charter revision as we carved it out.

Discussion: Caroline felt the recall is already a difficult process to do so she doesn't think further restrictions such as requiring 300 signatures, is needed.

A vote was taken after a short discussion and the motion carried unanimously. No further Charter changes were made.

Section 4.1/page 16 · there were 2 recommendations for this section.

Item 1 · "The Select Board shall appoint the Town Administrator to serve for a renewable term of not more than five years ..." **SB Recommendation:** Keep original language of three years.

Motion: Ramona made a motion, seconded by Marilyn Tremblay, to accept the Select Board's recommendation to return to the original language of "not less than 3 years" for the TA's contract.

The CRC discussed the motion. A point made in favor of keeping the text at "not less than five years" was that it still allows the contract to be reviewed/renewed at three years, but also provides flexibility to retain a good TA for this longer period. However, a counter point was that if the contract is required to be renewed at three years, and the TA is problematic, the SB does not have to break a 5 year binding contract.

After more discussion, Harvey Serreze requested to move to the vote. Rob Rand seconded this.

A vote was taken and the motion to accept the Select Board suggestion to renew a TA contract at three years instead of five, carried unanimously. The change was made to the Charter draft.

Item 2 · **SB Recommendation:** Replace "a screening Committee" with "a screening process." - as it pertains to hiring the TA.

Motion: Caroline made motion, seconded by Marilyn Tremblay, to leave the Charter revision with the screening committee (for a TA), as we carved out in our prior review sessions.

After a short discussion, a vote was taken and the motion carried unanimously.

Section 4-2b/Page 17 · "Copies of the notice of all such proposed appointments shall be posted on the Town bulletin board and website when submitted to the Select Board." **SB recommendation:** Strike last sentence or remove reference to specific tools.

The CRC had already made changes to specify how notices (e.g. for meetings, warrants, vacancies and appointments) are required to be posted and the term "bulletin board" was removed. No further revisions were made.

Section 4-2c/Page 17 · "In appropriate circumstances to remove, subject to certain specific provisions, all department heads, officers, agents, members of boards and commissions, and employees for whom no other method of selection is provided by ..."

SB recommendation: Change the word 'selection' to 'removal'

Motion: Ramona made a motion, seconded by Rob Rand, to accept the Select Board's recommendation because the issue is a typo correction.

During the discussion it was agreed that it was an oversight to not previously change the word to "removal". A vote was taken and the motion carried unanimously. All six CRC members present from the start of the meeting voted Yes: Rob Rand, Ramona Reed, Harvey Serreze, Caroline Ahdab, Marilyn Tremblay, Matt Jussuame. Abstained: John Ladik (John joined the meeting at 8 pm, EST, so he did not vote on any motions before and including, this one).

4-2e/Page 17 - "To attend all regular and special meetings of the Select Board unless unavoidable for reasonable cause, and shall have a voice, but no vote, in all of its proceedings." **SB recommendation:** The TA will attend all regular and special meetings of the Select Board with the exception of meetings regarding the performance of a Select Board member, unless invited by the Select Board.

Motion: Caroline made a motion, seconded by Marilyn Tremblay, to accept the Select Board's recommendation

Discussion: The committee was in agreement that this suggestion should be accepted. Ramona Reed asked for confirmation that this would comply with the Open Meeting/Executive Session law. Select Board Chair, Ms. Scarsdale, confirmed that it would.

A vote was taken and the motion carried unanimously. The suggested change was made to the Charter draft.

Section 4-2f / Page 17 - "... a full report of all town administrative operations during the period reports on, which report shall be made available to the public." **SB Recommendation:** The Charter Review Committee define "report" more fully.

Discussion: The committee discussed that this text is the original Charter text with no revision. It was decided that the first part of the paragraph could be left as is to cover the typical operational reports that are already posted on the Town website. A minor change was made to the second part of the section to specify the "Annual Town Report" is the report that is required "...not less than once a year..."

Motion: Ramona Reed made a motion, seconded by Marilyn Tremblay, to accept the revisions made to section 4.2f.

There was no further discussion. A vote was taken and the motion carried unanimously.

Section 4-2r/Page 19 - "To reorganize, consolidate, or abolish, in the manner provided in Article 5, town agencies under the supervision of the TA, in whole or in part, ..." **SB Recommendation:** Add 'approve' to first phrase of first sentence.

Motion: Caroline made a motion, seconded by Marilyn Tremblay, to keep the current changes made in the Charter.

Discussion: The committee discussed that it was a deliberate choice not to include the word "approve" because these types of reorganizations should be approved by a Town Meeting vote.

After the discussion, a vote was taken and the motion carried unanimously (members in attendance at this time of the meeting were Matt Jussuame, Caroline Ahdab, Ramona Reed, John Ladik, Rob Rand and Marilyn Tremblay).

Note: Harvey Serreze left the meeting at 8:30 pm, EST. He did not vote on the above motion, nor any after this.

Section 4-2u / Page 19 - Simplify this section (regarding emergency management in Town). **SB Recommendation:** End this section with the instruction to keep the SB informed of emergency situations and planning activities.

Discussion: The committee discussed whether the revised text we added should be removed. To align with the SB recommendation, Ramona Reed suggested that the part after the first sentence of the revised text which discusses the Emergency Management Director's role, could possibly be moved to the Administrative Code document. Matt Jussuame commented that we had included the explanation of the role to clearly specify the continuity of government in the case of an emergency.

Motion: Ramona Reed made a motion, seconded by Caroline Ahdab, to leave the text under 4-2u as originally devised.

There was no further discussion and a vote was taken. The motion carried unanimously.

Section 4-5: Selecting a Town Administrator / Page 20 - **SB Recommendation:** Simplify this section. The Charter should be less specific about the process of selecting the next TA.

Discussion: Caroline Ahdab reminded the committee that earlier in the evening we had a motion and vote to keep text about requiring a screening committee for hiring the Town Administrator. Since this section follows through with the TA hiring process, we should also keep this text as is.

Motion: Caroline Ahdab made a motion, seconded by Marilyn Tremblay, to keep the Charter as we had previously discussed and written.

Further Discussion: The committee agreed that much time and thought was put into this section's revisions. The procedures were defined to ensure public engagement with the process but also with enough flexibility to work with the Select Board and request help from third party consultations, if needed. The Select Board would still make the final selection.

After the discussion, a vote was taken and the motion carried unanimously.

Section 5-1: Administrative Organization / Page 21 - **SB Recommendation:** Simplify this section. Perhaps replace all of 5-1 with something like the following, while making sure no overarching point from the proposed language is being overlooked. Sample language suggested: "The Town Administrator, with the endorsement of the Select Board, may from time to time establish an organizational structure appropriate to meet the needs of the Town. Subject to funding appropriation, positions may be added, modified, or eliminated as the needs of the Town government require."

Motion: Ramona Reed made a motion seconded by Marilyn Tremblay, to keep the text as originally written.

Discussion: Section 5-1 describes the Town By-laws and the process of how they're implemented, as well as a definition of the Administrative Code. The committee spent a lot of time to define this part of the town governance to help clarify these items for the public and to ensure that the important processes historically approved at Town Meeting would be retained (e.g., especially the by-laws). Matt Jussuame asked if the point of the Select Board's recommendation was to change this so that these were not approved at Town Meeting? Ms. Scarsdale commented that this was not the SB's intent and reiterated that it was more to simplify the section, with the sample text provided simply being a starting point on which the CRC could expand, ensuring that no key overarching points (such as what Matt asked about) were missing from the section.

After the discussion, a vote was taken and the motion carried unanimously.

Section 5.3 b / Page 23 - **SB Recommendation:** Modify this section (regarding the reporting path of the human resources function) to be something like: "Individuals performing the human resources function for the town shall be appointed by the Select Board and report to the Town Administrator. The review process and compensation decisions for the human resources function shall be made by the Town Administrator. Please add language that indicates if an employee (sic) has an issue with the Town Administrator, they can go to the HR person. If that person is not able to resolve the issue, they can take it to the Select Board."

Matt Jussuame explained that the recommendation from the SB that differs from the current Charter revision is to not have the HR position report to the Select Board.

Motion: Caroline Ahdab made a motion seconded by Marilyn Tremblay, to leave the HR position as we discussed and decided on in the Charter, which is to have the HR position report to the Select Board.

Discussion: Caroline Ahdab commented that the HR role will have many important functions. It had been previously discussed by the CRC that any personnel issues should go directly to the SB. The Select Board could then carve out the processes - for example, the HR person goes to the Select Board for personnel matters, and to the TA for the other administrative functions. Matt Jussuame commented that the HR function could report to the TA, but if a Town department head had an issue with the TA, and the HR person is at the same reporting hierarchy as the department head, there could be friction if the TA and HR person had differing opinions on handling the issue. The committee was trying to address a "leveling" problem. Marilyn Tremblay agreed, and commented that she was more concerned with having the HR Person reporting to the Select Board, than being appointed by them.

Ms. Scarsdale's comments were that this was the revision the Select Board discussed most to try and come to a solution. A concern they had is that because the Select Board is a volunteer board, although some current members have experience dealing with HR, if future members don't have experience or a good understanding of HR functions it could be dangerous. This is why they thought some control could be maintained by having the Select Board be the appointing authority, but have the TA, who is a professional, be the person to whom the HR person reports and has their compensation determined by. Her further comments were that the Select Board understands and takes seriously the issue that employees need a pathway to resolve a problem with the TA. Their intent was to try to resolve this with their recommendation but hadn't considered what would happen if the HR person had the issue with the TA. The Select Board was trying to build in some protection by having HR report to the TA because otherwise they questioned whether they would need to hold office hours or have bi-monthly meetings to discuss things like goals, etc. They felt this could be out of the realm of the Select Board to handle. The Select Board feels strongly that the HR person should report to and have the compensation determined by the TA, but agrees there needs to be a pathway to handle grievances for all employees, including department heads. They would leave it to the CRC to build in the best language to handle this grievance process, which would include a path up to the Select Board.

Caroline Ahdab reiterated her comment that she still feels that the Charter revisions should stay as is, simply stating that the HR role reports to the Select Board, and not get into stating the HR role and responsibilities. This would give the Select Board more flexibility to draft a procedure for the role to state the grievance path and give the day-to-day tasks to HR. She commented that given the current Select Board's experience, they could carve out a good procedure. If too many details are in the Charter, it could make it prone to needing more frequent revisions.

Ms. Scarsdale requested to further comment that the Select Board unanimously agreed that it seems problematic to put all of this in the Select Board's hands (e.g. responsibilities for appointing, determining compensation and having HR reporting to them). She wished to respectfully submit to the CRC that the fact that they were united on this should speak volumes on how strongly they feel about this. Ms. Scarsdale also mentioned that the Select Board did spend time correcting, strengthening, and amplifying the HR job description so that the grievance process is clearly defined in the Personnel Policy.

Matt Jussuame advised that he could see reasons to continue to work on this, though he's not sure when.

Mr. Tony Beattie, Select Board member, speaking for himself, commented that he agreed with Ms. Scarsdale that there are some problems with the HR person reporting to the Select Board. He advised that he voted to support the Select Board's position as long as there was in the Charter to bring complaints with the TA to the Select Board.

Caroline Ahdab commented we should further discuss this and that she would be willing to research other towns that have what's being suggested in the Charter. She believes a Select Board is capable of handling this, with separately defining the tasks needed to be done by the TA. The CRC further discussed how the revisions could be further modified. Rob Rand reported that he would like to do further research on how the HR role reports in other employment environments.

After this discussion, Caroline rescinded the motion and Marilyn Tremblay agreed. The CRC agreed to further research and discuss this issue at a future meeting.

5.2. Discuss Key Timeline Dates

Matt Jussuame advised that given that it's not clear whether we can make this Spring's Town meeting, we cannot move forward with additional timeline dates but we can continue to complete the final necessary edits to the Charter.

5.3. Decide How To Create Presentations/Presentation Assignments

This item was not discussed due to time constraints. It will be moved to the next meeting agenda.

5.4. Discuss Committee Member Assignments For Completing The Charter

This item was not discussed due to time constraints. It will be moved to the next meeting agenda.

6. Review Charter Sections As Needed To Complete Revisions

Any sections reviewed were done in conjunction with the review and discussion of the Select Board's feedback. See notes above.

7. Other Matters Which Could Not Be Reasonably Anticipated 48 Hours Prior To Meeting

None

8. Adjournment

Marilyn Tremblay motioned to adjourn the meeting, which was seconded by John Ladik. By unanimous vote, the meeting adjourned at 9:20 pm.

Minutes respectfully submitted by Ramona Reed, Clerk, Charter Review Committee