

Charter Review Committee Meeting Minutes

2/23/2022 - Minutes

1. Call To Order And Pledge Of Allegiance

The meeting was called to order at 7:06 pm. The pledge of allegiance was said.

2. Acceptance Of Minutes

A discussion was had as to whether Harvey Senzue and John LaSki should abstain because they were not in attendance for the entire meeting. The vote was taken and the motion passed with a majority vote. Yes: Caroline Ahab, Marilyn Tremblay, Ramona Reed, Rob Rand, Matt Jusasume. Abstained: Harvey Senzue, John LaSki

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 Jusasume began the discussion to review the process to complete the Charter. He advised he received an email dated 2/11/2022 from the Town Administrator, Mr. Andrew MacLean, with some responses to questions the committee had discussed at our last meeting on 2/9/2022. In this email, Mr. MacLean provided the following information based on a conversation he had with the Town Counsel, Attorney David Donaski. The following comments were taken verbatim from the email:
1. There is a distinction between a Charter Commission and Committee. Peppercorn currently has a Committee. The establishment is different, but also the authority. For example, form of government cannot be changed by a committee so the current CRC cannot change the makeup of the Select Board from 3 to 5. There are other distinctions and Donaski offered to provide a brief on them - he believes KP has an existing summary - so we can avoid making recommendations that are out of the committee's purview.
2. Revisions and amendments are the same and can be made by the committee. Formally, they are made as warrant articles brought forward by the Select Board to any Town Meeting (Annual or Special). There is no need to form a committee to make changes via this process. However, it is recommended. Minor edits will perhaps be an exception where a committee can't really be needed.
3. Once voted at a Town Meeting articles cannot be amended; they are sent to the Attorney General (AG) for review.
4. Once approval is received from the AG's office they must be placed on a regular local ballot where town officials are elected. For Peppercorn, this is the election we hold in April. The fall general will not qualify, nor will specials or primaries called to elect officials as they are not "regular." Their purpose here is to ensure the townspeople are aware of what is on the ballot and statewide elections can detract from this focus and specials may not get the same level of attention from the public.

The CRC discussed each item. Matt Jusasume commented that when our committee was formed, we were not given much guidance on the scope of the revisions that should be made, so some of this new information. Caroline noted that we've only made minor changes so it feels like we may be ok with the revisions we've made so far. Caroline also advised that Town Meeting has been moved to Monday May 9, 2022, with a continuation night on May 10, 2022, if needed. Marilyn Tremblay commented that she also didn't think we made any government-related changes. Also, based on some information that Matt Jusasume noted in one of the Mass General Laws regarding charter revisions, Caroline commented that she understood we may only need to provide a report of recommended changes vs. a revised charter. Matt agreed, but commented that he personally feels that either the committee or at least, he, would need to follow the recommendations through to completion in the Charter. Completion of the Charter would ensure that the revised Charter document would need to be voted on at the Town meeting, followed by a local ballot vote.

The committee reviewed the remaining points from Mr. MacLean's email and discussed what we need to do to finish the Charter revisions in order to bring the Charter to Town meeting and a ballot vote. Mr. MacLean also commented in his email that he thought it may be too late to bring the Charter to the May 9 Town meeting, but that when we're ready to move forward with our recommendations, they should send to Town Counsel. Once returned, the revisions need to be presented to the Select Board to be placed on the next Town Meeting warrant (e.g. in the Fall). The CRC agreed we need to complete our revisions as soon as possible to hand off to Town Counsel. It was discussed by some that we consider pushing to have it returned in time to submit a warrant for March 18, 2022, so that we can try to make the Annual Town Meeting this May.

Finally, Mr. MacLean reported in his email that Attorney Donaski also provided clarity on the Peppercorn Administrative Code versus Peppercorn General By-Laws, since this is a topic the committee has discussed and questioned through our review process. It was clarified that Administrative Codes of town may contain policies and regulations that are NOT by-laws. Mr. MacLean further mentioned that the Town management is still trying to sort out the history and content of Peppercorn's documents, but further research is needed. The CRC discussed this topic and decided that it is not within the scope of what needs to be done to complete the Charter, so we will not continue to discuss this now.

5.1. Review Feedback From Select Board

As the committee began to review the feedback from the Select Board, the discussion turned to the specific topic of the Town's new HR Role. It was discussed whether the current Charter revisions should be changed according to feedback presented by the Select Board, as well as to address any personal conflicts with the Town's new Personnel Policy.

Rob Rand advised that he began reading a draft of the Town's new Personnel Policy and learned that the HR role will have some significant changes, including being responsible for handling job openings and other hiring tasks. Rob noted that this draft included a note that the policy for the HR role will also depend on what the Charter states. Given this, Rob indicated we should pay attention to the Personnel Policy because the employees contributed to it. He further commented that this is a big issue so we need to look at the policy and consider what should be put in the Charter so that the employee's concerns will be addressed and supported, even if a Town Administrator or Select Board were not in agreement.

Caroline Ahab reminded that the CRC's Charter statements on the HR role are currently minimal, and that we should keep in mind that the Select Board's comments are only recommendations. Caroline further commented she thinks we should go with what we've stated, being representatives of the people of Peppercorn. Although we've been presented some ideas to consider from the Select Board and Town Administrator, she advised that she was in agreement with Rob on the point that we should continue based on what we've heard from the residents and support other areas of the Town's jobs, roles, and responsibilities.

Rob's additional comment was that he agrees that we could put off making changes to the Charter HR statements for now because it's a big issue and we have other things to get done first. His main concern is that we'll need to be careful to ensure the Personnel Policy can pass, so further Charter changes may be needed, especially if we haven't said enough on HR, or said the wrong things. It's important that when we send the Charter to Town Meeting, it helps the Personnel Policy to also be accepted. He is also concerned that being so thoroughly addressed.

Ms. Ramona Reder, Town Administrator, questioned for herself, requested to comment. Ms. Bolger is on a committee of employees reviewing the new draft personnel policy and reported that their work is complete, so they are reviewing it with the Town Administrator. She said this review is going well and now that committee is trying to decide whether to bring this to Spring or Fall Town Meeting. She advised that timing will depend on what the revised Charter indicates for personnel issues. They feel they cannot go forward with bringing the policy forward until after the Charter is approved, to ensure that the personnel policy falls in line with it. She mentioned that the Personnel By-Law was also reviewed for revisions by their committee to ensure alignment with the personnel policy. Their committee wants to ensure the policy will be approved as they drafted it, and not have to temporarily remove parts of it, or order to wait for other Town documents to be updated. They want to submit the document with everything they included so they don't have to go back and have other things added and approved later.

Matt Jusasume advised Ms. Bolger that understanding this concern. He commented that it would be good to bring the personnel policy to Spring Town meeting, but he could see the problem if the Charter wasn't approved yet.

Ms. Bolger also mentioned that she understands that the CRC is concerned with the HR person reporting to the Town Administrator, vs. the Select Board. However, she said the committee reviewing the draft personnel policy discussed this with the HR person and agreed that the HR person doesn't need to report to the Select Board for supervisory or day to day activities but they do expect that HR person will report to the Select Board for grievances with Town Administrator. They are concerned that employees have an option for reporting grievances above the Town Administrator.

Matt provided the background that the CRC was concerned with the issue of grievances when the HR person has an issue with the TA, or down "I agree with the TA on an decision made by another employees' grievance. We wanted the Charter to state a provision that would prevent negative repercussions for the HR person in case of such disagreements.

Matt reviewed Charter section 5 -3b in the Charter which indicates that the HR function reports to the Select Board.

The CRC discussed this further and worked on new text for Charter section 5 -3b to try to align with the needs of the employees and the Select Board.

Motion: Marilyn Tremblay, made a motion seconded by John LaSki, to accept the following changes to section 5-3b as written:

"Individuals performing the human resources function for the town shall be appointed by and report to the Town Administrator except in cases of employee grievances involving the Town Administrator when the human resources function shall report to the Select Board."

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Caroline Ahab commented that the sentence needs changes because the first part mentions "appointed by and report to the Town Administrator," but the sentence continues with the second part only mentioning an exception to the reporting part in case of grievances. A change was made to divide the sentence into two separate sentences. Rob Rand advised that he still has a concern with the TA being the sole role that appoints this position. Caroline agreed and mentioned that if the more controversial of the HR role were a joint appointment with the TA and Select Board.

Ms. Bolger said the committee reviewing the personnel policy also added a hiring process in the draft policy for many of the positions in supervisory positions. It would require that there be a committee of people who would be put together for the hiring, with the HR person coordinating this. There needs to be one person to whom all the candidate information goes so that something isn't missed.

Amended Motion: Marilyn made a motion seconded by Ramona Reed, to accept the following changes to section 5-3b as written:

"Individuals performing the human resources function for the town shall be appointed by and report to the Town Administrator. In cases of employee grievances involving the Town Administrator, the human resources function shall report to the Select Board."

The motion with the new text was briefly discussed. Harvey suggested another revision for clarity. The text would be:

1 -3b: "Individuals performing the human resources function for the town shall be appointed by and report to the Town Administrator. In cases of employee grievances involving the Town Administrator, individuals performing the human resources function shall report to the Select Board."

The motion passed with a majority vote. Vote Count: Yes: Ramona Reed, Marilyn Tremblay, John LaSki, Caroline Ahab, Harvey Senzue, Rob Rand, Abstained: Matt Jusasume

Rob Rand explained that he does not support that the HR role be appointed by the Town Administrator.

Caroline Ahab asked the guests at the meeting, Ms. Maureen Bolger and Ms. Paula Ternan (Town Conservation Administrator), for their opinion on whether the HR role appointment should be a joint appointment between the Town Administrator and the Select Board. Both Ms. Bolger and Ms. Ternan, speaking for themselves, said yes. Rob Rand said he would also be in agreement with this.

This idea was further discussed. Harvey Senzue asked how would the cases be handled if two Select Board members voted for a candidate, and one Select Board member and the TA voted for another?

This concern was discussed in depth with varying opinions on how to handle this kind of tie for the appointment. A point was made that the candidate would first be voted by the administrator, and then by the Town Administrator and Select Board, so most differences or conflicts over the selection would likely be resolved through this process before the TA and Select Board vote.

A suggestion was that the Select Board would need to have a majority, with the Town Administrator vote carrying more weight.

Motion: Caroline Ahab made a motion, seconded by Rob Rand to update 5b for a joint appointment of the HR function by the Town Administrator and Select Board.

Discussion: Ramona Reed commented she still believes an additional statement needs to be made about how to handle a tie vote for the appointment. It was suggested that in this case, a majority Select Board vote would break the tie.

Marilyn Tremblay was concerned that this could prevent the TA from having a final say over the appointment of the HR person. This is important due to how closely the roles work together, and it wouldn't be fair for the HR person to have to report to a TA who was not in favor of their appointment. It was also discussed as to whether the Select Board would be willing to solely appoint the HR person. It was confirmed that the Select Board did suggest this in their comments instead of having the position report to them. Marilyn then pointed out that the Select Board would also need to be involved in interviewing, which could be out of the scope of their responsibilities. Marilyn offered the suggestion that the HR candidate would be appointed by the TA, with the approval of the Select Board. This would also avoid the issue of their being a tie for the appointment.

Rob Rand questioned why the TA needs to be involved in the decision. Similar to what's done for other important appointments, the HR appointment should be a "rubber stamp" by the Select Board, after a committee of employees vets the candidates.

The following revised text was suggested:

1 -3b: "Individuals performing the human resources function for the town shall be jointly appointed by a majority vote of the Town Administrator and Select Board. In the event of a tie vote, the majority of the Select Board shall break the tie vote. Individuals performing the human resources function shall report to the Town Administrator. In cases of employee grievances involving the Town Administrator, individuals performing the human resources function shall report to the Select Board."

Further discussion: Harvey Senzue noted that with this version of the text, the vote ultimately turns out to be an appointment made solely by the Select Board, discounting the opinion of the Town Administrator. He believes we should simply the text and have the Select Board do only the appointing body.

Matt Jusasume pointed out that the Town Administrator's input would already be considered in the earlier parts of the hiring process.

A vote on the motion was taken, but did not carry. Yes: Caroline Ahab, Rob Rand, No: Harvey Senzue, John LaSki, Marilyn Tremblay, Ramona Reed, Abstained: Matt Jusasume

Harvey Senzue suggested that we consider a further modification, since the above text was not accepted.

Motion: Harvey made a motion, seconded by Rob Rand, to modify the latest text to remove "jointly appointed" and leave it as a "majority vote of the Select Board"

1 -3b "Individuals performing the human resources function for the town shall be appointed by a majority vote of the Select Board. Individuals performing the human resources function shall report to the Town Administrator. In cases of employee grievances involving the Town Administrator, individuals performing the human resources function shall report to the Select Board."

The motion carried by a majority vote. Yes: Harvey Senzue, Ramona Reed, Rob Rand, Caroline Ahab, No: John LaSki, Marilyn Tremblay, Abstained: Matt Jusasume

5.2. Review Timeline To Complete Charter Review By Town And State

The timeline will be discussed after some other questions are answered.

Matt Jusasume will bring some additional question to the Town Administrator:

- 1. Confirm timeline for attorney review and warrant
2. More clarification on "Commission" vs "Committee" responsibilities.
3. More information about the Administrative Code.
4. For the next meeting, will discuss the membership of the Select Board committees
5. Steps after that will be to do the proofreading and submit the Charter to the TA to send to Town Counsel. We can then work on the presentation. After the Town Counsel review, we'll go to the Select Board, and then a Town Meeting.

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 Town HR role. 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 LaSki. By unanimous vote, the meeting adjourned at 9:20 pm.

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