

Charter Review Committee Meeting - Remote Meeting

9/16/2020 - Minutes

1. Call To Order And Pledge Of Allegiance

The meeting was called to order at 7:02 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, Harvey Serreze, Marilyn Tremblay Absent: Bob Newton

2. Acceptance Of Minutes

Marilyn Tremblay made a motion, seconded by Harvey Serreze, to accept the meeting minutes from September 2, 2020.

These were unanimously accepted by the CRC members who attended that meeting - Caroline Ahdab, Matt Jussaume, John Ladik, Ramona Reed, Harvey Serreze, and Marilyn Tremblay.

3. Public Comments On The Agenda

None.

4. Public Feedback Received

Harvey Serreze reported he recently received a phone call from Pepperell resident, Sherrill Rosoff, who asked about replacing the current Agricultural Board with a board that has stronger powers. Harvey asked her to send an email to this committee outlining the details of her request.

5. Discussion / Action Items

5.1. Discuss How To Handle HR Issues In The Charter (Continued Discussion)

Matt Jussaume began the discussion referencing an email communication he had with Town Administrator, Andrew MacLean. This was also summarized in an email from Mr. MacLean dated 9/16/2020, received by the CRC on the same date. Mr. MacLean's comments are summarized here:

1. The Charter and By-laws are too inflexible for personnel management details. If the Charter reflects the high-level need for personnel management in various places like the TA duties and the staffing profile, that seems appropriate and consistent with comparable parts of the Charter.

2. Detailed policies and regulations, should be formulated and approved by staff committees, union membership, the BOS, and perhaps at Town Meeting. By necessity, though, as federal and state laws change as well as local needs demand, these should be things which can be modified relatively quickly (e.g. over the course of a year).

3. He recommends that the Charter clearly state that the By-law is out of date and should be rescinded. In its place the BOS should adopt modern policies which are reviewed on some frequency (e.g. annually). He mentioned the BOS is currently on this path.

4. He is in favor of a dedicated position for human resources management, title and duties to be determined, that is NOT the Town Administrator. Until that position is in place, the TA should have the authority to manage the day to day human resources needs of the Town. He added this leaves just a process for managing personnel issues of the TA, which is properly left with the TA's supervisors, the BOS, and can be incorporated in the policies being developed.

After completing the review of Mr. MacLean's feedback, the CRC next discussed whether the Board of Selectmen is the ultimate escalation point for Personnel grievances. Matt Jussaume mentioned that the

Town Administrator's draft Personnel Policy currently outlines a grievance process that leads to the BOS. John Ladik commented that the By-law looked better to him than the new draft Personnel policy for handling grievances because the final step goes to a 5 person Personnel Board that has 1 BOS member, 2 Independents, 1 Finance Board member and 1 other person.

Matt mentioned he'd like to determine the minimum we need to define in the Charter for HR issues so that the details could be later defined by other appropriate Town entities. For example, the Charter could do the following:

1. Require that there be personnel policies be maintained by the TA and approved by the BOS
2. Require that a grievance process be included, and the Charter could "loosely" provide details in either of the following ways:
 - a. A grievance process must be added, but the TA and BOS would define and implement the grievance process

or

- b. A grievance process must included, and a Personnel Board must be part of it.

The discussion continued on the premise that the Personnel By-law is outdated.

Ramona Reed commented we'd have to assume there would be a re-instatement of the Personnel Board that doesn't exist anymore. Her concern would be that a Personnel Board made up of volunteers or appointees might not be filled quickly enough so it might be better to consider adding a requirement for a practical solution that doesn't rely on this.

Harvey Serreze pointed out the Personnel By-law spells out grievances and references a Personnel Board. He commented the purpose of Charter should be to require that the committees defined in the Charter be filled but not define how they should be filled.

Caroline Ahdab referenced the Charter Section 3.2 - Board of Selectmen, to suggest that some text could be added near the end of item b. to allow for the Board of Selectmen to become involved in "day-to-day administration" only where an escalation of employee grievances or other issues were concerned, in lieu of the Personnel By-law if it were not yet updated. Also, Charter statements about the Charter superseding the Personnel By-law would need to be removed. These changes could help cover the employees until the Personnel By-law was updated. With this in place, we could also consider adding to the Charter Section 8-3 Time of Taking Effect, that the Board of Selectmen would be responsible for adding an HR resource (e.g. ensure that a Personnel Board exists that might have power to find an HR resource or create a Search Committee to find one, etc.). If the By-law is later updated, the grievance policy can be handled in that.

Maureen Bolger, Pepperell resident/Town Assessor, speaking for herself, added that most important would be to ensure that the Charter is specific to say whether the Town Administrator has ultimate authority over personnel issues, or if there is a Personnel By-law that should. If there is a Personnel By-law, it should be updated and she did not consider the Charter Committee responsible to do this. If there was not a Personnel By-law, the Charter should state the grievance process the TA must follow.

John Ladik suggested to make it the BOS's responsibility to hire a firm to provide independent employee grievance mediation services, as needed. He commented that this was in consideration of all the prior points made about handling HR issues, given the Town doesn't have an independent resource.

Ms. Bolger further commented that if the Charter gives the TA the personnel authority, the TA might be able to deny moving the grievance forward. She suggested the Charter should mention there will be an entity that ensures the mediation service is called for an employee. Marilyn Tremblay commented this should be the BOS, and that she agrees that an employee should have a neutral body to report to.

Caroline mentioned that some businesses have an independent HR resource that employees can contact anonymously.

After this discussion, Matt Jussaume updated Charter Section 4.2 c Power and Duties (of TA) to reflect some of the ideas. There was a further discussion about whether the TA should have all authority over employment management and HR issues or if the HR duties should be limited or split off. The discussion returned to how best to handle if the HR duties are split off.

Ms. Bolger commented that a concern she has with the Section 4.2 c text is that the Town Administrator is "entrusted with the administration of the Town personnel system...".

Caroline asked Matt if this section should be provided for review to the Town employees who previously gave feedback on the HR issues. The CRC agreed that we would ask for their comments on Section 4.2 c.

Matt asked for a motion to identify the choices the CRC wants to include for the personnel management and grievance process. Marilyn Tremblay suggested language for a motion such as: "the Personnel By-law shall include a grievance process with a neutral 3rd party for all Town employees."

The CRC further discussed whether the "neutral 3rd party" should be selected from "outside" of the Town resources, and if it should be a resource hired by and paid for by the Town. It was agreed that the employee shouldn't be able to select their own resource to be paid for by the town. Also, it was discussed whether the Charter should state that this resource should be accessed on an "as needed" basis.

Motion:

After this discussion completed, Harvey Serreze made a motion, seconded by John Ladik:

The Personnel By-law shall include a grievance process for all town employees that includes an independent 3rd party mediator, if needed.

The motion did not carry, with the following votes: Harvey Serreze voted yes. Caroline Ahdab, John Ladik, Marilyn Tremblay, Ramona Reed voted no. Matt Jussaume abstained.

The following *draft text* for Section 4.2 c will be shared with Town employees, Maureen Bolger, Martin Cadek and Debbie Nutter, though Matt also stated that anyone from the public is welcome to email the CRC with comments for this.

Charter Section 4.2 c Draft:

To implement and maintain personnel policies and procedures, rules, and regulations, including provisions for an annual employee performance review, and collective bargaining agreements entered into by the Town in accordance with the Personnel By-law. [(this sentence not agreed to yet, will be discussed at next meeting) The Personnel By-law shall include a grievance process for all town employees that includes an independent third party mediator if needed.] The Town Administrator shall also prepare and maintain a current plan establishing the personnel staffing requirements for each town agency, except the library and school department.

After the HR discussions, Matt reminded the CRC that he created a list of "sticky" issues in the Charter for the Committee to review and think about how to resolve for future discussions.

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

None.

7. Adjournment

Harvey Serreze motioned to adjourn the meeting, which was seconded by Caroline Ahdab. By unanimous vote, the meeting adjourned at 9:18 pm. The next Charter Review Committee Meeting will be scheduled for Weds., Sep 30, 2020, at 7 pm.

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