



TOWN COUNCIL

Charter Review Committee

Selectmen's Conference Room

Thursday February 11, 2015
MEETING MINUTES

Vice President Ann Canedy
Councillor Jennifer Cullum **Chair**
Councillor Will Crocker Jr.
Councillor Frederick Chirigotis **Vice Chair**
Councillor Paul Hebert

I. BUSINESS

A. Roll Call:

Members present: Chair of Committee Councillor Jennifer Cullum; Councillor Paul Hebert; Councillor Will Crocker; Councillor James Tinsley; Donald Lynde, member at large **Also present:** Cynthia Lovell, Administrator to the Town Council; **ABSENT:** Peter Hanson, member at large; Councillor Fred Chirigotis

Chair of Committee Councillor Jennifer Cullum thanked Donald Lynde for joining the Committee as a member at large. The Chair of the committee wanted to have at large members on this committee because the Chair and other members felt that this committee ultimately was writing their own rules, and this committee did not feel comfortable doing this without the input of the at large members. Councillor Cullum wants this committee as transparent as possible and anything that is suggested by this committee and its members has input from the community. Mr. Lynde was given a packet that was presented to the Town Council at one of their meetings on the recommendations so far by the committee members.

Councillor Will Crocker mentioned that the committee was struggling with the language with the Charter Objection, it is a very nebulous rule and the way it is used in the past is up for interpretation, and decide if we do want it or we do not want it and if we want it when an to use it. The Chair of the Committee explained that the opposing side feels completely upended and it is a dirty parliamentary trick to derail an item, and potentially could cost the town thousands if there was a time sensitive issue. Councillor Tinsley is a firm believer in the Charter Objection. He believes it is very important to keep it, however if there was a way to craft language that dealt with the time sensitive matters he would not have a problem with, but to eliminate it completely he would not support that. Mr. Lynde asked if the golf course issue a while back and the town lost money was due to a charter objection, Chair of Committee answered yes, yes it was, and that cost us a lot of money, that is why we are trying to look at the current language and have our legal staff look at the language as it is today and try and put language in there that deals with time sensitive matters, Town Attorney Ruth Weil is currently on vacation, and I know she was working on it before she left and we will touch base with her when she gets back.

Chair of Committee asked Mr. Lynde how familiar he is with the Charter, and if he has had an opportunity to look at it, and if not we could supply him with a copy. Mr. Lynde replied he has seen it on line, and has read it, has not memorized it, but has read it. The position of tax collector is an elected position right now in the town, but it is becoming more of a trend to have this position as an appointed one by the Town Manager, or elected officials in the town, the Chair believes because this is a cost savings move for most municipalities because you do not have to have an election for it. There are so many checks and balances on a state level that it is almost silly to have an election for this position. Councillor Crocker mentioned also that the trend throughout most communities is to have this position appointed and not elected because there is so much professionalism that goes into this position now, so much training and knowledge is needed for this profession, that a popularity vote does not always put the best person in, and you need to get the best person with qualifications that best suit the needs. Chair of the Committee expressed the position of the Town manager is to appoint the positions of The Director of

the Department of Public Works, his own Assistant Town manager, and any Department Head of anyone of the departments, and there is a certain level of professionalism that goes along with being appointed or hired for a position of that caliber, and I believe we have that in each of our Department Heads now, and then the final decision is made by the Council. Mr. Lynde asked if the Council gets a list of candidates that may have been looking at or qualified, Chair of the Committee said no we receive the final candidate that is brought before the Council and we vote on that final candidate based on the recommendations of the Town Manager.

Paul Hebert said there are checks and balances in place before it gets to the Council level. There are certain interviews and background checks done, and we then we receive the final candidate and vote on that. Mr. Lynde asked if there was ever a time that someone was recommended and not appointed. Chair of the Committee answered she was not aware, nor had any of the other members aware if this ever happened. The way the Charter is written right now is the our executive branch under the Town Manager is Department heads, so we hold him accountable for his appointments and decisions of his personnel, we do not tell him who to hire, we the Town Council hire the Manager. But this position also has a lot of state standards, and feels very secure that it should be an appointed position based on skills and knowledge. Councilor Tinsley mentioned that he could potentially fill the Tax Collector position as it is written right now, and that would be the scariest thing, I am qualified to do it, but could not, so that is why this committee is looking at this as an appointed position by the Town Manager.

Primaries was another one this committee discussed, this committee discussed the cost associated with primaries, and it is a huge cost to the taxpayers, and that is what we need to always be conscious of is the tax payer dime. This Committee would like to see everyone on the same ballot and let the chips fall where they fall. Councilor Hebert said there is an election every two years, and it is a big one with the Representatives running as well, so to run several primaries in between that is very costly and exhausting. Councilor Will Crocker reminded the Committee that there are certain primaries they have to have and the one that he mentioned was the March 1, primary, that is one we have to by law have. There was some concern about micromanaging our own position; Chair of the Committee said that there was an argument that Councilor Chirigotis made and that was there are groups of people that are known to us and are elected officials that work together to derail candidates, so if six of those people who shall remain nameless, flood the ballot and disperse the vote so the one qualified candidate who they do not like and is targeted and do not make it to the end, so there is a way to split the vote to make sure that does not happen. Councilor Hebert asked could that be eliminated in a primary, Chair of Committee answered; ultimately you can't stop that type of occurrence, but she has seen it happen since she was a councilor with negative media and campaigning. Mr. Lynde said unfortunately it is the world we live in today.

The next topic of discussion was the recall procedure. The committee felt the language for this was pretty tight, and the reasons for it are good, so they do not want to remove or add any language to this are. You have to work really hard to remove someone from office. Mr. Lynde asked if we need to make it less hard to recall someone. Councilor Tinsley said we could make it harder, however the language that is in there now is pretty solid, and we were okay with the way it is written now,

The next item was term limits. The Committee also was comfortable with the language with the exception of Councilor Chirigotis; he would like to see the language not limited to twelve years. This is controlled by census and when that changes the limit changes, some Councilors have to leave after 10 years, and others are able to do 12 years, it is census driven.

Mr. Lynde said that clarification is key in documents like this so the language can't be interpreted any different then what it was intended for. Councilor Paul Hebert said most of the discussion in our last meeting was Charter Objection, and what he pointed out was when he reads the language it is not clear, and the reason he says this is because if there was a way to ask the leadership of the Council if a Charter Objection could be made at this point. The language that the committee talked at length about in the last meeting Councilor Hebert mentioned was the following:

Before taking a vote on any measure the town council president or councilor acting as the presiding officer shall ask if there is a charter objection to the measure. A charter objection shall have privilege over all motions but must be at the call for a vote by the presiding officer and all debate shall cease. Where the presiding officer rules that a postponement as a result of a charter objection would defeat the measure, the charter objection shall be deemed out of order. [Changed by legislative action dated August 3, 1995]

This may help us with time sensitive documents; we need to know if this is going to cost the town money if this does not go through. Councilor Tinsley would not like to see this Committee disrupt the language we currently have, because in the end the Charter objection does not kill an Item, it just derails it until the next meeting. Mr. Lynde said it's the arrow in the quiver. Councilor Will Crocker would like to see something put in regarding time sensitive matters so it does not cost us money. Councilor Hebert said he used it once in his career as a Councilor, he knew it was not going to cost anything to the town, and the main reason he did it was to generate more discussion and that is why he did it. If it is going to have financial repercussions on the Town then we need to be conscious of that. Chair of Committee Councilor Jen Cullum said she would like to see proper planning and submission to us as a Council before making decisions on huge money projects. There have been a lot of plans before of that have been planned and thought out, and then there are others that we need to decide on because we have 12-24 hours to make the decision because there is a deadline to meet. Planning is key and then presentation.

If we could figure out a way to put language in there for time sensitivity reasons; we have not really gotten this language in here yet from legal, Councilor Tinsley said that things need to be brought to us in a timely manner, we often look at documents prior to them being on the Agenda and they are f-dated a year out, so if other knew about this Item a year ago, why does the Council now only have 12-14 hours to make a decision, it should be no, shame on them, you got it to us too late, therefore it is now delayed we need more information and discussion. Chair of the Committee said we also need to look ahead of this curve on some items, for example the Land Trust Habitat for Humanity programs that are timely, and it seems we need to vote on these right away, the planning for these projects start way back, or the Barnstable Land Trust items that are crammed into a vote now scenario. This should not happen this way because ultimately there are changes to the original because the planning is not thought out. Mr. Lynde suggested maybe language to say that the Town Council President has the right to ask for a motion to postpone or something along those lines for drop dead dates, Chair of Committee said the Town Council President has too much power now, Mr. Lynde does not want to see anyone with more power whether it be the Town Manager or the Town Council President. Chair of the Committee said there also could be a special meeting called by the Town Council President as well the next day after the objection is called. Councilor Hebert said we need to make decisions that are in the best interest of the Town and its residents, and if we need more time to look at these we should be afforded this time to do this. So we need to have some language crafted in time sensitive matters. Mr. Lynde said it is not any easy section to clarify.

We will ask Ruth to clarify the financial language if it can be put in with regards to a time sensitive matter relating to a Charter Objection.

Councilor Hebert asked about future topics for the next meeting: (1) How the Council votes on the selection of the Town Manager, (2) How we do we set up a Charter Commission

A motion was made by Councilor Paul Hebert, seconded by Councilor Tinsley; the Committee voted in favor of accepting the meeting minutes of January 7, 2016 as written

NEXT MEETING: March 3, 2016 5:30pm

ADJOURNED: 6:55pm