

Official

Town of Hooksett Best Boards Win Seminar Hooksett Public Library Saturday, September 17, 2011

CALL TO ORDER: Chair Sirak called the meeting to order at 9:00 am.

PRESENT: Nancy Comai, Vincent Lembo, James Levesque, Todd Lizotte, Susan Lovas Orr, James Sullivan, Nancy VanScoy, Dean E. Shankle, Jr. (Town Administrator) and Chairman William Sirak.

ALSO PRESENT: Steve Buckley (Hooksett Legal Counsel/Bow Planning Board), William Herman (Auburn Town Administrator), James Headd (Auburn Board of Selectmen Vice Chair), Jay Hodes (Hooksett Legal Counsel) and Paul Loisel (former Hooksett Town Council Chair).

PLEDGE OF ALLEGIANCE

Chair Sirak gave an opening remark and introduced the new Hooksett Town Administrator, Dr. Dean E. Shankle, Jr..

Dr. Shankle stated Local Government is the key to people's quality of life. It is important to realize that the Town departments are not the local government, it is the different Town Boards and volunteers that sit on the boards and share their knowledge, wisdom and understanding on a variety of issues. Dr. Shankle added he is excited to be in Hooksett and looking forward to working with the Town for many years to come.

Chair Sirak stated the Town is very pleased to have Dr. Shankle on board and hoping for a long successful tenure. He thanked everyone for coming. He introduced the members of the panel.

Basic Roles and Responsibilities as Stated in Town Charter and State Law

Jay Hodes, introduced himself and stated his firm has only been providing legal advice to the Town for about 2 years and they are still learning.

The Town of Hooksett has a minimum of 16 separate boards and committees. That does not include the School Board, Central Water Commission and Village Water Commission. It also has sub-committees and 12 separate departments. Each committee has its own rules and procedure and are all subject to State RSA's, the State Laws. On top of that, you have the State agencies and they have their own rules and regulations and the Federal government have their own rules and regulations and there is the Right-To-Know Law. Finally, we have the Supreme Court, once in a while they will say, "*Towns, you'll have to do it this way*". The Town operates in a Town Charter form of government. The Town Charter defines the functions of the Town Council, Town Administrator, Budget Committee and the Town Meeting. Very few towns operate in a Town Charter. Municipal Law can only take actions delegated by the State Law. The State Law, through the Town Charter allowed the Town to operate on a home rule, the Town Council form of government with a budgetary Town Meeting.

Town Charter Sec. 1.2. Town Form of Government

The administration of the fiscal, prudential, municipal and other affairs of the Town, with the governance thereof, shall be vested in an executive branch to consist of a Town Administrator and the various departments of the Town as established by this Charter and from time to time by the Town Council. Legislative powers, not otherwise vested in another body as provided by this Charter, shall be vested in the Town Council and the Budgetary Town Meeting. Except as

expressly authorized by this Charter, no Councilor shall participate in the conduct of the administrative affairs of the Town.

The Town Charter divides authority into two sections, the Executive branch and the legislative powers. The Executive branch consists of the Town Administrator and the various departments of the Town. The Legislative powers is vested in the Town Council and the Budgetary Town Meeting. It also states that no Councilor shall participate in the conduct of the administrative affairs of the Town.

The Town Council has the powers of a Town Meeting except for budgetary issues.

Chair Sirak asked about the Safety Center Renovations. Can the Town Council authorize the renovation?

The Town Council can authorize an expense as long as a line item is on the Town budget. The Town Council is not authorized to issue bonds.

Every board can adopt their own rules & procedures. It is recommended for boards to have their own rules and procedure.

The Town Council has legislative and governing authority. They can make policy decisions and actions except funding issues. If the Town has the funds in their budget to do something, no need for a Town vote.

The Town Council acts like the Board of Directors of a corporation. The Town Administrator is obligated to carry out those policies. The Town Council cannot be involved in the day to day operations of the Town.

Town Charter Section 4.5 Powers and Duties of Administrator

The Administrator shall be the chief administrative officer of the Town and supervise and be responsible for the administrative and financial affairs of the Town and shall carry out the policies enacted by the council. He/She shall be charged with the preservation of the health, safety and welfare of persons and property and shall see to the enforcement of the ordinances of the Town, this Charter and the laws of the State of New Hampshire. He/She shall supervise and direct the administration of all of the Town departments and personnel therein. He/She shall be responsible for:

- (a) maintaining accounting control over the finances of the Town;***
- (b) making financial reports and performing such other related duties as may be required by the Administrative Code;***
- (c) assuring the audit and approval of authorized claims against the Town before paying the same;***
- (d) keeping the Council informed of the condition of the needs of the Town and making such reports and recommendations as he/she may deem advisable or may be requiring of him/her;***
- (e) the rental and use of all Town facilities under his/her control;***
- (f) the maintenance and repair of all Town property under his/her control;***
- (g) a full and complete inventory of all property of the Town, both real and personal;***
- (h) the collection, accounting, deposit and periodic reporting of all town revenues and expenditures in a secure and business-like manner in accordance with generally accepted accounting practices;***
- (i) to appoint upon merit and fitness alone, and to remove, all subordinate officers and employees under his/her control, and to fix all subordinate officers and employees compensation other than department heads.***

He/she shall perform such other duties as may be prescribed by this Charter or required of him/her by ordinance or resolution of the Council, not inconsistent with this Charter. He/She shall have and perform such other powers and duties not inconsistent with the provisions of this

Charter as now are or hereafter may be conferred by municipal ordinance or conferred upon mayors of cities and selectmen of towns by general laws. He/She shall have the right to take part in the discussion of all matters coming before the Council, but not the right to vote.

Chair Sirak: If a constituent approaches a Councilor about an issue, how does that get handled? The Town Council should always go to the Town Administrator and the Town Administrator will bring the issue to the department head.

The Town Council should be making policies and important decisions and not deal with specific issues, i.e., plowing, trash pick-up and other administrative functions.

N. VanScoy asked for clarification on the Town Council adopting a policy as opposed to Town Administrator administering the policy.

J. Hodes explained policies on general directions should be debated at the Town Council level. Policy making is with the Town Council and administering is with the Town Administrator.

N. Comai asked if it is appropriate for a Councilor to personally seek legal advice on an issue.

It is not appropriate for one Councilor to seek seek/get legal advice. It should go to the Town Council as a body. Legal advice should be gathered by the town administrator and all interpretation should be shared with Town Council as a whole body.

V. Lembo asked for clarification on the Town Administrator's authority in terms of hiring and firing of Town employees.

The Town Administrator has the power to remove a department head with the advice and consent of the Council. Consent constitutes a vote.

Steve Buckley added if a department head is fired by the Town Administrator, the employee has the right to appeal with the Town Council. This procedure is covered under the Town's Personnel Plan. He referred to Section 4.7 (Non-Interference with Town Administrator) of the Town Charter and advised the Town Council not to interfere with the Town Administrator's decision as much as possible.

Section 4.7 Non-Interference with Town Administrator

Except as expressly provided elsewhere in this Charter, no councilor shall direct or request the appointment of any person to office or employment; removal; suspension; discipline; or adjustment in pay, benefits, or working condition; by the Administrator of any of the town department heads. However, nothing in this Charter shall be construed to prohibit the Council, as a body, from exercising any powers granted to it by statute or charter. Furthermore the Council may, by majority vote, overrule any action or lack of action normally under the control of the Administrator. Councilors may act as liaison with the Administrator on behalf of their constituents.

No Councilor shall give orders to or interfere with the performance of the duties of any of the administrative officers or employees, either publicly or privately except that the council chairman may direct any employee who is charged with assisting in the conduct of council business. Nothing contained in this section shall prohibit the Council from meeting with the Administrator to discuss the operation or conduct of any department head or employee and to recommend an investigation and report by the Administrator of any complaint nor shall anything in this section be deemed to prohibit any councilor and/or any employee from discussing the operations of the town government. Any violation of the provisions of this section by a Councilor shall constitute grounds for forfeiture of office under the provisions of Sec. 3.2.

The Town government is divided into 3 parts, the Town Council, Town Administrator and Budgetary Meeting.

Sec. 5.2. Budget Procedure

At such time as may be requested by the Administrator or specified by the Administrative Code, each department head shall submit an itemized estimate of the expenditures for the next fiscal year for the departments or activities under his/her control to the Administrator. The Administrator shall, based on these estimates and other data, prepare a recommended budget, which he/she shall, together with these department estimates, submit, to the Council. The Police Commission and Library Trustees shall submit their budgets directly to the Town Council. The Council shall then present their budget to the Budget Committee and subsequent actions shall follow the Municipal Budget Act, RSA Chapter 32.

Sec. 5.3. Budget Hearings

The Budget Committee shall hold hearings as specified in RSA Chapter 32, but no later than 25 days before the first session of the annual or special town meeting.

The Budget Committee will make the budget recommendation to be added as a warrant article. This includes Sewer. The two water districts are separate. They have their own meetings.

The Town was given legislative authority to have a Police Commission, which created a separate entity similar to how the Library Trustees are treated.

V. Lembo asked for clarification on recording recommendations on the ballot.

The Town Council can change their recommendation on the budget after the Budget Committee makes changes to the budget.

M. Miville asked for clarification on the voters amending the warrants during deliberative session.

Voters cannot eliminate a warrant from the ballot but can zero it out.

S. Buckley clarified no means no. The legislation was designed to prevent any money from being spent for this purpose.

J. Hodes gave a recap of the budget process:

1. Town departments submit their budgets to the Town Administrator.
2. The Town Administrator presents the budget to the Town Council.
3. The Town Council amends the budget and submits it to the Budget Committee.
4. The Budget Committee holds a public hearing. They make recommendations to be presented at the deliberative session.
5. Deliberative session – voters can amend the warrants.
6. Second session – voters vote on the budget.

S. Buckley added the department heads, Town Administrator and the Town Council should act like a team. Department heads should not go back to the Budget Committee to add back what the Town Administrator or the Town Council took out of their budget.

J. Hodes stated the Budget Committee has a legal responsibility to recommend a responsible budget.

Joanne McHugh, Police Commission Chair: Are you saying it's problematic to argue the budget with the Budget Committee after the Town Council approves it.

S. Buckley explained the Police Commission and Library Trustees are the exception to the rule, they are a separate entity.

N. VanScoy asked if it is appropriate for Budget Committee member to try and obtain specific information.

J. Hodes explained the Budget Committee as a body should post a series of questions to be addressed.

S. Buckley added it's better to do it at a public meeting with minutes. He thinks a Budget Committee member has to be careful when requesting any type of information. Anyone looking at the request knows that it is not a regular citizen but a Budget Committee member making the request. It may not be the best practice as it could be misconstrued. The Budget Committee should be making the request as a body.

David Hess, member of the original Town Charter Committee: Our objective was to keep the Council out of the day to day operations. To create a document that would be subject to an interpretation and as things come up, the Charter has the flexibility to adapt. This resulted in ambiguity.

J. Hodes advised anyone serving on Town Council or any Town boards to take a look at the Charter and review the provision that covers their boards. The Charter is the Town's constitution.

Chair Sirak thanked J. Hodes and S. Buckley and reminded everyone that they are doing this as pro bono

Best Practice Panel Presentation and Discussion

Biggest Accomplishments

P. Loiselle - Policies on seniors, i.e., senior tax credit.

J. Headd – Taking a very polluted piece of property back into the Town's tax base, cleaning it up and turning that into the Auburn Business Center with thriving businesses.

B. Herman – Auburn used to have 3 different personnel policies for the library, police and Town employees. They came up with a single personnel policy for everyone. The Board of Selectmen have just updated it for the first time in five years.

S. Buckley - Bringing back a project after it's been approved to see how it's doing. This serves as a reflection on what the board did well and what it did wrong.

Challenges

S. Buckley – can't expect everyone to agree with him.

B. Herman – as a board member, you are serving on an advisory capacity. A lot of times your advice is not heard.

J. Headd – There was no Town Administrator when he first joined the board. There was no continuity in Town. The only met once a week on Monday nights.

P. Loiselle - Trying to understanding the legal system with regards to issues and frivolous legal actions brought against the Town. The biggest frustration was knowing that there's nothing you can do but cut a check.

D. Shankle – has no patience. Over the years he's learned it takes time to do things and learn the system. Learning that some things you can get done quickly and some things take time. It varies with the Town. Everybody has different priorities.

Discussion

B. Herrmann: Communication is the key. Board members have to have trust in the Town Administrator and vice versa, having an open dialogue. Both will not always be in agreement. It should be understood it's not personal.

P. Loiselle: If you have an active Administrator who is good at responding to questions, your halfway there. Any communications with the Town Council should go through the Chair.

B. Herman: I disagree totally with Paul but then again, I only have 3 individuals I answer to not nine. I think all Councilors should have access to the Town Administrator.

S. Buckley: In a relationship between the boards and the Town Council, it's critical for the Town Council representative to share and take back to the Council what is going on with the boards.

Chair Sirak: How do you develop meeting agenda? We have what we call the "Executive Committee" made up of myself, the Vice Chair and the Town Council Secretary. We have a meeting with the Town Administrator to finalize the agenda.

B. Herman: The Administrative Assistant keeps all the appointments and we prepare the agenda. If we have no agenda items, the meeting is cancelled.

Chair Sirak: How did you stay away from the administrative functions.

J. Headd: It's easier for us having only 3 Selectmen. Each of us go to the different Town board meetings and bring back what was discussed to the Board of Selectmen. We eliminate a lot of administrative functions by being open. Communications is the key.

D. Shankle: I don't mind individual board members contacting me. If it relates to agenda, I would prefer for that to come from the whole board rather than individual members. I'd like to be kept up on what's going on. I've been trying to come up with a way to get complaints. To be honest, I'm here to talk to anyone from Town. I would hope board members would be comfortable to come and talk to me. I'd like to be involved. When it comes to agenda and gathering general information, I'd rather get that from the whole board, if possible. I hope board members would come to me to bring up any issues that comes up. I'm planning on writing an article on the Hooksett Banner on a weekly basis as a way to inform residents of what's going on.

Chair Sirak: How does the Town Council deal with issues where they don't have jurisdiction, but still have to address for the taxpayers.

S. Buckley: Other than you appointing the board members, the Town Council does not have any power over these boards.

J. Hodes: Each board has its own agendas but ultimately, they all work towards the same goal, for the betterment of the Town. The Town Council representatives bringing back information to the Town Council is very important. The boards can give a report to the Council.

M. Farwell: On the Charter Section 11.1.E, it says boards should report to the Town Council at least once a year.

J. McHugh: I have presented a report to the Town Council twice. There is no back and forth conversation and there are some contention on authority. I don't think either side felt satisfied. I hope in the future, there's a better way of communicating.

Frank Kotowski, Planning Board: Communication over time, builds trust. We have to trust the people that are doing the job. We have to learn not to micromanage one another.

Richard Marshall, Planning Board: The Council is aware of what's going on because we know the Town Council representatives communicate to the Council. We inherit all the problems that goes with development long after the developers are gone.

B. Herman: The Town of Durham holds Town Boards meeting twice a year. It's a great communications tool.

F. Kotowski: I believe we should be meeting and look at the Master Plan annually.

M. Farwell: Who is governed by the Master Plan and who makes sure that it's being followed?

J. McHugh: People who work on the Master Plan, they work very hard to come up with the document, it goes to CIP, and gets voted down. There is no support from the Town because it could bring up the tax rate. It's very disappointing for the board members.

N. VanScoy: If we don't continually review the Master Plan and refer to it regularly, it loses its value. All of us should start referring back to the Master Plan.

D. Marshall: The Master Plan is a living document. The Planning Board always refers to the Master Plan. The frustrating part is trying to comply with the Master Plan and being voted down. For example, the Master Plan requires for sidewalks but it was voted down because the Town does not want to maintain them.

Joanne Duffy, Town Planner: The Master Plan is about 7 years old. Roughly 75% of the Master Plan have been met. The Planning Board constantly refers to the Master Plan.

M. Farwell: We need to educate the public on the ramifications if they consistently vote down what is recommended on the Master Plan.

D. Shankle: In my opinion, that's my job to make people understand. There's only so much we can do. The staff should be marketing what they are asking for on a warrant article.

Chair Sirak asked what the Council can do to encourage more people to volunteer as board members.

P. Loiselle: Just ask, keep asking people you know who are qualified.

S. Buckley: We had to recruit. Towns cannot rely on advertising. Go to where they are and actively recruit.

Wynette DeGroot, LGC: Advertise what you are doing well. Generate some good publicity and focus on what is good. Show what you have accomplished.

Rules of Procedures

P. Loiselle: It's all common sense. On the Council meeting, the intent of public input is not to have a back and forth discussion. If an issue becomes redundant, it's time to move the question. Do not hesitate to table issues. Don't try to complete the agenda. Councilors should do their homework. There's nothing more frustrating than to see a Councilor come to a meeting with their packet still unopened.

S. Buckley: Do not rotate the chairs. Give the chair of the committee to someone who has the skills to chair. All reports and meeting materials have to be submitted to give time for all members to review the materials.

B. Herman: How you act publicly sets the tone. Treat everyone in a civil way.

J. Hodes: Everyone won't be able to agree. Being respectful and civil is very important.

J. Levesque: The respect should go both ways, the public also has to respect the Councilors. Sometimes, the public are not respectful to the Council.

B. Herman: The Chair should be able to control these types of situation.

J. Levesque: A lot of people do not care to know what's going on with the Town. On public input, some people don't ask questions, they demand answers. Be polite.

T. Lizotte: I always look what information we obligated to make easy access to. A lot of people don't know how to navigate the Town Hall to get these information. When we go into non-public, how do citizens get that information? What's public information and when does it become public?

J. Hodes: In terms of litigation, any filed document, that can be disclosed. Specific terms about litigations cannot be public. Threatened lawsuits cannot be public.

S. Buckley: Human Rights issues are confidential. If it was a case pending on an appeal.

P. Loiselle: Is there any value to changing to another form of government.

J. Hodes: I can't answer that question.

Chair Sirak thanked both Legal Counselors for donating their time. He also thanked everyone for coming.

The meeting adjourned.

Respectfully submitted by:

Evelyn F. Horn
Administrative Assistant

Nancy Comai
Town Council Secretary