

**Town of Norwell
Government Study Committee
March 9, 2011**

In attendance: Paula White, Betsy Gordon, Don Shute, Dan Collins, Eric Russo

- 1) The meeting was called to order at 7:00pm.
- 2) The committee approved minutes of the January 28, 2010
- 3) The committee reviewed each of the suggestions that were posed at the March 7, 2011 meeting with town committees and departments.
 - a) Library Trustees and the Library Director want express language exempting the Library in all instances where the Town Administrator (TA) exercises power to appoint, remove, supervise, organize, or manage persons or property under his direction. They are concerned that general reference to the General Laws is insufficient and that the TA could control Library personnel and property, including trust funds. *Article 5, Sections 5-2(b)3,4,5 and (c)2&7 of Charter Revision.*

The committee agreed to add “unless otherwise provided by Mass General Law” could be added to sections 5-2(b) 4 and 5-2(c)2. Dan Collins spoke with the State contact-She ensure that the library and its property is protected by MGL.

- b) 2. Capital Budget Committee (Robert Bordewieck) proposed developing separate “charters” for each of the Town boards, committees and commissions.

Writing separate charters for each town board is not within the jurisdiction of this committee. The suggestions to create separate charters can be suggested to the town in general.

- c) Various board members want elected and appointed boards to have the power to approve or reject the appointment or removal of an assistant department head or other subordinate. The draft revision only requires the department head to consult with elected and appointed boards. *Article 5, Section 5-2(b)(4) of Charter Revision.*

The committee feels that as the department head is accountable for the operations of their department and therefore should select those reporting to them on a daily basis. Requiring approval from the Town Administrator provides an important check and balance. Furthermore, the Town Administrator has overall responsibility for the management of town operations and thus should have final say on municipal hires. It is good management practice to make the lines of authority for daily operations clear. Assistants should not be put in a position where board members can intervene in duties assigned to them by a department head. Board members should be working directly with the department head. The committee has decided to keep the word “Consult” and not change it to “approve”.

- d) Conservation Commission wants the power to approve not just consult the TA's selection of a department head (i.e. Conservation Agent). The draft only requires that the TA consult with the appointed board and the Board of Selectmen has the power to reject within 20 days. *Article 5, Section 5-2(b)(2) & (4) of Charter Revision.*

The committee added the word "approve" to section 5-2(b). This change will require the TA to obtain approval of the appointed town committee when appointing department heads. The Board of selectmen will still retain the right refuse the appointment within a 20 day period.

- e) Fire Chief Andy Reardon wants the TA to appoint the Fire Chief, not the Board of Selectmen under the current process. Chief Reardon argued for a professional administrator who understands public safety standards, has training in municipal law and administration, and hiring practices. Chief Reardon indicated that Police Chief Ross also wished to be appointed by the TA for the same reasons but stopped short of formally advocating on his behalf. The draft makes no change to the Board of Selectmen's appointment of the Fire and Police Chiefs. *Article 5, Section 5-2(b)(1) of Charter Revision.*

The committee understands the concerns of Norwell's current Fire Chief but has not researched the issue enough at this point to make a recommendation for change.

- f) Planning Board questioned the necessity of providing a comprehensive listing of TA powers, duties and rights in the Charter. Argued instead for a job description. The draft lists all of the powers, duties and rights of the TA. *Article 5 of Charter Revision.*

The committee decided to outline the powers and duties of the Town Administrator in order to prevent future changes by an elected board of selectmen. In the current model, the job description of the TA is at the whim of the BOS and can be changed at any time. By defining those powers and duties in the charter, and the powers and duties of the Board of Selectmen, the committee is in essence defining how government will work. The proposed model makes the TA accountable to all the citizens of the town not just the BOS.

- g) Planning Board (Sally Turner) questioned the necessity of transitioning to a 5-member Board of Selectmen when the current Charter provides for either 3 or 5 members. The by-laws provide for 3 members and would require a two-thirds vote by the Town to amend. The draft only provides for a 5-member Board of Selectmen, which would override the by-law via its "Continuation of existing laws, bylaws" section. *Article 3, Section 3-1 of Charter Revision; Article 6, Section 6-2(a) of Charter Revision. She was also concerned with the TA appointing Department heads under Article 5-2b(3)*

The committee decided that a 5 member board of selectmen was the right choice for the town of Norwell for many reasons, and did not want to leave the choice of 3 or 5 to remain an option that could be changed through a by-law amendment. Furthermore, according to Marilyn Contreas (a state authority on charters), this should not be part of a charter.

- h) David Turner questioned the entire Charter Revision and argued for a very spare Charter generally with emphasis on by-laws.

The committee designed the charter to outline specific areas of operations and policy making to the TA and BOS respectively. Although a very general charter is flexible, it also leaves the meaning and design open to interpretation, and to the whim of the sitting board of selectmen.

- i) Planning Board (Peggy Etzel) questioned the Town's legal vulnerability for human resources violations or other administrative errors and asserted that the Town has not been sued in a 20-year period. Also argued that elected and appointed boards needed the right to consent on all appointments and removals that affect their boards (presumably, this includes appointments and removals of employees by department heads). *Article 5 of Charter Revision (generally); Article 5, Section 5-2(b) of Charter Revision.*

The charter revision has been written to put in safeguards against politicizing the hiring process. Contracts of 3 year terms give the boards the right to refuse a renewal if they are unhappy with performance, but the discipline action and removal process must be handled by professionals who understand employment laws and regulations. The boards may request a removal through the TA and may then report to the BOS if they are unhappy with the employment practices of the TA.

- j) Board of Water Commissioners (Steven Ivas) wants to include specific reference to the Master Plan as part of Board of Selectmen's duties. The draft makes general reference to "the development and promulgation of policy directives and guidelines" and "long-term plans and programs." Members of the Planning Board disagreed, noting the practical benefit of keeping the document flexible and capable of conforming to changes in law and policy. *Article 3, Section 3-2 of Charter Revision.*

The committee agreed to put the word "plan" in section 3-2 of the charter so that any Board of Selectmen when designing long-range plans and goals must consider all existing plans of the town board.

- k) Marie Molla questioned inclusion of an Advisory Board member on the 3-member Nominating Committee. She also expressed concern over the effect of the "Continuation of existing laws, bylaws" section of the Revision with respect to the Advisory Board. The draft includes an Advisory Board member on the Nominating Committee, with some limiting language, and provides for the continuation of existing Charter provisions and by-laws if they do not conflict with the Charter Revision. *Article 4 of Charter Revision (generally); Article 6, Section 6-2(a) of Charter Revision.*

The committee agreed to review this area, but will not change the make-up of the nominating committee for the Advisory board as it is common practice in the state of Massachusetts and in the opinion of the committee, offers many advantages.

- l) Zoning Board of Appeals (Lois Barbour) asked that the Committee to merge the Charter Revision with the Charter in a redline/markup format so that the public can see the how the proposed changes, including repeals, affect the existing Charter. Others proposed supplemental materials that would give voters the ability to compare the Charter to changes proposed by the Charter Revision.

A merged format of the current and proposed charter cannot legally be placed in the warrant. However the committee will prepare a document that will outline clearly what current charter article, each proposed article, will replace and the effect of each change.

- 4) The committee agreed to review all these requests and make amendments to the revision if they conform with the general design and integrity of the revised charter.
- 5) Next Meeting – Monday, March, 14th if necessary or Wednesday, March, 16th
- 6) Meeting Adjourned