

**SAUGUS CHARTER COMMISSION**  
**DRAFT MEETING MINUTES**  
**OF**  
**OCTOBER 30, 2008**

The forty first meeting of the Saugus Charter Commission was held on Thursday, October 30, 2008. The meeting was held in the School Committee Room. The meeting was called to order by the Chairman, Peter Manoogian, at 7:30 P.M.

***Completion of STEP 4: SELECT THE BEST POSSIBLE SOLUTION(S)***

**ROLL CALL OF MEMBERS**

All nine members of the nine member committee were present at roll call: Cam Cicolini, Karen Cote, Eugene Decareau, Karla J. de Steuben, Albert W. Diotte, Jr., Joan Fowler, Peter Manoogian, Sr., Debra Panetta and Thomas Stewart.

**READING OF MINUTES OF LAST MEETING (October 23, 2008)**

Minutes were distributed to all Commission Members for review before the next meeting, including updates on consensus areas.

**ACCEPTANCE OF PREVIOUS MINUTES (October 16, 2008)**

Mr. Decareau made a motion to accept the Minutes of October 16, 2008.

The Chairman seconded the motion.

The motion passed **9-0**

**PUBLIC COMMENT**

None at this time.

**CHAIRMAN'S REPORT**

• **Press Conference**

The Chairman announced that, at 4:00pm on Wednesday (October 29), he and Vice Chairman, Ms. Panetta, held a press conference in the Town Hall Conference Room. Mr. Manoogian had informed Members that this was taking place. The list of "Areas of Apparent Consensus" was used as the talking points. The Lynn Item, Saugus Advertiser and Saugonian newspapers were present. The Chairman noted that he had reminded the press that these were consensus areas, not voted areas as of yet. He also let the press know that the public will still have access points to the Commission's work, with two Public Forums at every meeting, and scheduled Public Hearings in addition to those that are required. Mr. Manoogian also told the press that the Members were pleased with the Consultant's role, as he is assisting the Members with their work, interfaces with their ideas. The Charter Commission will be directing the process and development, taking into consideration the expertise that the Consultant offers. Mr. Curran will be the principal drafter of the language. The Chairman went on to say that the press conference provided an opportunity to update the press on the progress that the Commission has made, and also provided the opportunity for dialogue and exchange.

Ms. Panetta also commented on the previous day's press conference, stating that Mr. Manoogian had done an excellent job on his summary of the consensus points, as well as answering all of their questions. Ms. Panetta had given a summary at the end about the process that the Members went through reviewing other charters, the outreach subcommittees, and also noted that accessibility, transparency, and accountability have been a constant theme throughout the process.

The Chairman continued his report, stating that he has been reviewing the Commission's work in relation to the "Problems and Needs" narrative, and the time spent last week on the legislative body. He noted that pages 5 and 6 of that report (prepared in April of 2008) spoke about Town Meeting, and many of the things that had been pointed out as deficiencies or limitations, have been addressed by the Commission. He suggested that the Members refer back to those documents from time to time, as a reference point to where they are, issues that have been addressed, and those that are still pending.

### **TREASURER'S REPORT**

Mr. Decareau made a motion to accept the current balance in the account, \$24,490.08, with all invoices paid.

The Chairman seconded the motion.

The motion passed **9-0**

The Chairman asked if the purchase order request from Joan Regan, for the Consultant, had been taken care of yet. Mr. Decareau stated, not to the best of his knowledge. Ms. Panetta will look into the matter during Mr. Decareau's absence.

### **COMMITTEE REPORT**

Mr. Stewart reported that the tentative date for a Public Hearing is January 15, 2009, and that the required Public Hearing is scheduled for March 2009.

### **CORRESPONDENCE**

The Chairman referred to an email that he had asked the Clerk to include in the Members' folders. The last Meeting concluded with a discussion on the 6 at-large positions, and the best way to put those people in office. Mr. Manoogian contacted Curtis Wood, co-author of "The Adapted City," whom the Members had interviewed in July, and presented three options to him:

- 1.) nominate from any district and elect from all ten districts. (downside - one area or district can "stack the deck" and will there be citizens willing to run townwide for a seat on the legislature when in fact the same process could yield a seat on the executive branch?)
- 2.) nominate three or more candidates from five districts and three or more candidates from the other five districts and then elect from all ten districts so as to insure that each half of the town has balanced at large representation. (downside - a candidate who comes in 4th in one of the "5 district" districts could lose yet have more votes than a candidate that has less votes in the other "5 district" district.)

3.) nominate from five districts and only elect them in those five districts (downside - is this truly "at large"???)

The Chairman read the following reply:

“Peter,

It is very good to hear from you. It sounds like you have made much progress. Thanks for keeping me in the loop. I like the proposed changes you have agreed to by consensus. I will offer my thoughts to your question that you were not able to achieve consensus on yet.

Of the three options I would prefer # 1. Almost all cities who use at-large council elections allow their members to live anywhere in the city. Kansas City is one of the few cities that has residency requirements for their at-large council; albeit they are very pleased with that system and they can't understand why more cities aren't using their model.

I do not believe the downside you mentioned for Option # 1 that one district or area can stack the deck will materialize. I am not aware that has been a problem in any city I have studied, and in the four Kansas cities I worked in, where all council were elected at-large, "stacking the deck" never became an issue. The empirical research and my experience demonstrate that at-large council tend to take an areal (whole city) approach to governing. However, if there ever were a situation that a disproportionate share of the at-large members lived in the same district and voted in a block on an issue that benefitted their neighborhood, couldn't the 18 other council from the 9 other districts trump their voting power?

When council are elected at-large, they sometimes tend to use their council position as a platform or stepping stone to run for mayor; therefore, there seldom will be a dearth of at-large candidates for an at-large position. However, on the downside, a certain amount of competition or even conflict can usually be expected to occur between ambitious at-large council and the mayor, that can have an adverse impact on governance, especially during election time. Perhaps competition and conflict can be partially avoided if the terms of the at-large council are not the same length as the President's term, and if the terms of the at-large council are staggered. You indicated the term of the at-large council would be 3 years. What about the President's term; would that be 4 years? I would also recommend the terms for the 20 district council members be staggered. Staggering council district and at-large terms will mean elections every year, but doing so would mean more continuity in governance and the retention of governance institutional memory.

Peter, I hope my answer brings some clarity to this issue. If you want to discuss in more depth feel free to call.”

The Chairman noted that he had written back to Mr. Wood, but he didn't receive a response in time to include it in the Members' folders.

Mr. Manoogian wrote to Mr. Wood, “I'm not sure that there is an appetite to create a four year term but, based on these separations, do you still feel relentless political ambition would be pronounced by the at-large legislative members?”

Mr. Wood responded, “If you look on pages 154-155 and 156-157 of the “Adapted City” book, you will see that almost all of the conciliated cities that were examined, the term for mayor and council were the same. Only in Cincinnati, Ohio, was the term of the mayor longer than the council term. In one conciliated city, Arlington, Texas, the term of the mayor was shorter than the council. So, Saugus would be following the typical pattern by having the same length for president as the council. There is little empirical evidence that relentless

political ambition would be pronounced when council members are elected at-large, or when at-large council terms are the same as that of the mayor. However, further systemic empirical research needs to be done, as to the different governing relationship created between the mayor and the council when their terms are the same or different, and when the council is elected at-large or by district.”

The Chairman noted that when Mr. Wood makes reference to the “mayor,” he is referring to the executive branch, so it should be part of the discussion, as to how that will interface with the legislative at-large members. Mr. Manoogian noted that this was just another piece of information, and that the Commission had also asked the Consultant to do some research on the “at-large” question. He went on to state that it does appear that the concept of at-large representation should, according to Mr. Wood’s recommendation, be elected town wide, and live anywhere in town, and not use the “five precinct district.”

The Chairman noted that he had forwarded the email to the Consultant, and asked if he had any thoughts on the matter.

Mr. Curran stated that Mr. Wood had covered all the points, and that he and the Members had had similar discussions with the same conclusions.

The Chairman asked the Members if they would like to leave that issue on the table for now and proceed to the executive branch, and the Members agreed.

#### **NEW BUSINESS (order to be determined by members)**

- **Executive Branch – size, format, duties, term of office, etc.**

The Chairman noted that he had asked the Clerk to reproduce the “Forms of Municipal Government,” that the MMA has on their website, and include in the Members’ folders. The document shows the communities with selectmen (including how many), mayors, etc, and was provided for comparison purposes.

The Chairman asked Mr. Curran his thoughts on how the Commission should proceed with their discussion of the executive branch.

- **Input from Mr. Curran**

Mr. Curran stated his position, at the end of the last meeting, as to suggesting that the Members consider having three selectmen with 3 year staggered terms, electing one each year. He noted that he was giving Members something to think about, as far as competitive elections, but was not advocating for this, again stating that all decisions are in the hands of the Commission.

He went on to say that he had also provided an example, from Scituate, of five selectmen with three year staggered terms, for this meeting. Mr. Curran explained that in that situation, in the years when two positions are to be filled, they are designated as “position one” and “position two,” and the candidates run for a specific position, but not as candidates for both.

- **Executive Branch –duties**

Members agreed to an open discussion on the duties of the elected executive branch.

Mr. Diotte stated that the selectmen, or whatever executive branch chosen, should be responsible for policy, consult with the manager on appointments to boards, commissions, etc. He went on to say that candidates for those positions could be

nominated by either the manager or members of the executive branch, but the executive branch would have the final say. He also feels that the executive branch should confirm the manager's nomination of department heads.

Ms. Cicolini, as stated before, feels that the town manager has control over too many appointments, and feels that some of those appointments should be given to the board of selectmen.

The Chairman noted that, on the list of Areas of Apparent Consensus, the multi-member citizen boards that involve land use and policy, would be appointed by elected officials. Having the executive branch involved in the appointment of department heads is a new area of discussion for the Members.

Ms. Panetta asked Mr. Diotte, using the current structure of a manager and five selectmen as an example, if he was proposing that the manager would only be 1/6 of the total vote on department heads, and asked if the selectmen would also be involved in the interview process.

Mr. Diotte stated that he felt they should be, with any / all of them nominating for the positions, and then discussing as a group. That way, it would not be a single individual making the appointments, noting that Police and Fire are Civil Service, and have taken exams, and that he is referring to the other positions, such as Building Inspector.

Ms. de Steuben stated that she could envision that, by having department heads appointed by the executive board, it could become very political. She noted that the Members had discussed developers having undue influence over campaigns, and stated that one of the reasons for Civil Service is so that you don't have a "spoil" system. She stated that you could end up with the executive board putting their friends into administrative positions that shouldn't be political. They are bureaucratic positions, and not policy positions. Her concern is that the Town Hall would be very political.

Mr. Diotte responded that you would have five members putting one person in, as opposed to a manager being able to put all of his friends in by his own appointment.

Mr. Manoogian stated that at the height of the "Good Government Public Administration" movement, there was a suggestion that you would have a dispassionate professional manager that would look on the benefits meritocracy, but in reality, managers can be as Machiavellian as elected officials, and want to surround themselves with their own people. He went on to say that there may already be input for some appointments that managers make, although not transparent. He suggested looking at some type of hybrid, and asked if there were some positions, although not citizen boards, that do lend themselves to elected executive input, such as town counsel or something of that nature. You wouldn't want that type of political influence on a treasurer or an accountant position.

Ms. de Steuben stated that the motivation for a town manager is job performance, and to maintain his position as an employee, not to get voters to vote for him. A town manager has a great incentive to put people into those positions, who are going to do a good job, because it is going to reflect on the ability for him to do his job. There is an objective standard. She expressed her concern at turning department heads, that are not setting policy, into political positions. It's a step backward to before Civil Service.

The Chairman stated that, in an ideal world, with professional management, that's the way that it should be. He went on to say that he has seen tension in Town among appointed officials, whether it be in the School Department or Town Hall, there is always tension between loyalty and competence. Ideally, we want the most competent department heads, that will do the best thing for the Town, and have a sense of obligation that may even transcend loyalty at times, if there is a major issue in their department. Often times the nature of public administration, in recent times, has been to command loyalty among those department heads. If there is a way that the Members can craft language into the Charter, that engenders competence that will be yielded from a manager, as opposed to mitigating the downside of looking for loyalty, maybe the Consultant knows of language that is available.

Mr. Manoogian went on to say that they have a model in Education Reform, where School Committees are no longer involved in appointing principals, teachers, department heads, etc. All of those appointments, except for the school business manager and assistant superintendent, are appointed by the superintendent. In recent years, superintendents have brought finalists before the school committee to make the committee feel that they have some input in the process, as Mr. Diotte had suggested, without giving up his right to make the appointment.

Mr. Diotte stated, that way, the manager would sit down with the board of selectmen and give his reasons for, and get their input on, the appointment of department heads. The final decision could be his, but he has to bring it before the board of selectmen.

The Chairman asked Mr. Curran if there was anything he was familiar with, in the over 60 charters that he has prepared, that would leave the appointing authority for department heads with the manager, but have some consultation and recognition of the concerns of the elected executive / executives.

Mr. Curran stated that, no, he is not aware of anything that addresses that point. He went on to say that the assumption is that the professional administrator has more to lose by appointing an incompetent person than he has to gain. It is in his / her own best interest to appoint the best qualified people to positions, because he / she is judged on the kind of appointments they make, and the performance in office that he / she appoints. It goes against their own personal interest to appoint someone that is less than qualified. When political people make the appointments, political factors come into play. Even Civil Service isn't 100%, because you can pick from the three highest, allowing the opportunity for politics to come into play.

The Chairman asked if you could compel the appointed manager to inform his appointing authority as to what appointments he has made, and the reasons why.

Mr. Curran responded that, the assumption is that the town manager is in constant communication with his / her appointing authority, and you would not expect that the manager would be making decisions without having some sense of what the appointing authority thinks about the people that are being appointed.

He went on to say that he has worked on some charters where the selectmen have a role in some of the key appointments, such as police chief, fire chief, and department of public works director, and the manager does not have full authority to make those appointments. They are subject to approval or ratification by the executive authority.

Mr. Manoogian asked about the idea of having some basic requirements for these department heads, stating that there have been department heads appointed in the past that may not have the type of criteria upon appointment, that you would see in similar positions in other communities. One of the things that Members have discussed is the fact that the next public works director should be an engineer, and asked if there was any suggestion as to qualifications.

Mr. Curran stated that goes to a good personnel system, and good job descriptions with requirements for appointment for every job in the town. It would not be included as part of the charter, but make it clear that the executive branch has the authority to require such.

Ms. de Steuben asked if, in a mayor form of government, the elected mayor has the authority to appoint department heads, having the department heads being appointed by a political official.

Mr. Curran responded that in some of the more recent charters, where towns have gone to a city form of government, Weymouth for example, there were a number of combined departments set up; Department of Municipal Finance, Department of Planning and Development, etc. In those combined departments, the Mayor has the obligation to appoint a head of the department who serves coterminous and at the pleasure of the Mayor. It is a political appointment, and intended to be, so that the Mayor can appoint a department head that is loyal and responsible to him, and do the things that the Mayor believes ought to be done in that department.

Ms. de Steuben noted that, if the Mayor doesn't do that, being a full-time paid elected official, they would be thrown out of office.

The Chairman stated that it appears some of the Members may have a concern that the ideal that both Mr. Curran and Ms. de Steuben express, at face value, would be wonderful if they could have reliance that it would always take place. However, for the current discussion, the Members are looking at what they envision the elected executive / executives to do.

Mr. Manoogian offered a suggestion that, the elected executives, in their supervisory capacity of the town manager, be institutionalized through language, that they require that town manager to produce a personnel manual with those job descriptions and to keep it updated. It is not in the current Charter, and Members discussed this in their "Problems and Needs" narrative. He went on to say that, if the Commission can compel that process, in the supervisory capacity of the executives, then that town manager would have to do it. When the Members get into the evaluation process, which is something else the executives should do, (evaluate the town manager), that would be one of the criteria. He went on to state that, personally, he would rather be very definitive on the evaluation process, and what would be included in the evaluation process for a manager, and the things that the Members want can be included in that. There was a document, compelled by the Finance Committee, that the Commission Members saw, that says "draft" on it, that has never been institutionalized.

Mr. Curran stated that those things can be made part of the review process for the manager.

The Chairman suggested moving the conversation, if Members were comfortable that had been exhausted, to the idea of the elected executives to hire, supervise, and

evaluate the position of town manager, just like the School Committee hires, supervises, and evaluates the Superintendent of Schools. Using the same model on the Town side, that they would have that ongoing responsibility clearly spelled out in the Charter, and further drill down what those evaluation areas would include; personnel, financial management, working with the legislature, community relations, etc.

Mr. Manoogian asked Mr. Curran if he had language relative to the pieces of evaluation.

Mr. Curran stated that he didn't know if putting those things into a Charter was appropriate, but those are the areas that, as the School Committee does, agree on as the goals and objectives for the ensuing year, and years beyond that. Every year they track the progress that the professional is making towards the goals and objectives that have been set for the job for that year. Getting a personnel manual done, which is something that doesn't exist right now, has a much higher priority to get up and running in the first two or three years than it will after you have a human resources department.

The Chairman asked how much specificity is going to be required to bring about the accountability that the Members want.

Mr. Curran stated that he has some language that he has used for the evaluation of a town manager, and asked Ms. Panetta about the similar process when she was on the School Committee.

The Chairman again brought up the question of specificity, stating that he has seen goals for superintendents that they will substitute in a classroom once a month. You can see some real "powder puff" type goals, and the major issues of that town that Mr. Diotte is referencing, and things that the Members have talked about, can get pushed by the wayside.

Ms. de Steuben stated her concern about putting anything more specific, in the Charter, than saying that a job evaluation would be done. She went on to say that, once you put it in a charter, for example, that the manager would be evaluated on the finances, and the appointing authority decides they don't like the town manager because he hasn't done community relations, you have a problem, because the charter says you are only going to evaluate him on finances. Ms. de Steuben continued by saying that, if you put certain things in the charter for the basis of the job evaluation, you are causing a problem for the evaluating authority later on down the road, by restricting what they can look at. You are also restricting what those elected officials can run on, because she can envision people running on wanting a town manager to do more community relations, or do more economic development, and getting into office and wanting to evaluate that town manager on whether or not, that next year, he has done more economic development. Ms. de Steuben stated that she would be concerned if the Members detailed it more than making sure that an evaluation is done every year.

The Chairman then asked if you could make reference to a particular standard, such as ICMA, or some other sort of structural guideline that is universally accepted.

Mr. Curran noted that "The mention of one thing is the exclusion of all other," continuing that, any time you have a list, presumably, you have identified those items as the only things that are important. Things change, and one of the dangers of putting things in the charter, is that emphasis changes over time. Something that is very



important now, might not be important at all five years from now, and something that isn't even considered now, could be important then.

Ms. Cote asked if they could have an evaluation committee of some sort, that would come up with the goals and objectives for the manager's review.

Mr. Curran responded that you could ask for input from people, but "a man can only serve one master." Who would the employee be responsive to if he / she had a myriad of bosses? Only the appointing body should be determining whether or not the employee is retained.

The Chairman noted that, so far, on the list of duties for the executive body, Members have the following as areas of consensus:

- Establishing Policy
- Appointing Citizen Boards
- Hiring the Manager
- Supervising the Manager
- Evaluating the Manager

Mr. Decareau stated that, as he perceives it, the selectmen / executive group are going to be the supervisors of the town manager / administrator. They will be the policy making group. The manager reports directly to the selectmen, who must, in order to evaluate any manager, need a job description of exactly what that manager is supposed to do. How that job description is derived at, is not the Commission's function, but certainly, it requires a professional to derive what the board expects of the manager. The manager will appoint department heads as specified within the charter, and the selectmen will do the other departments, but as a courtesy and a part of running the town's business, the manager will go before his supervisors and explain his process and reasons for wanting to appoint that person. Their job depends on how they run the town's business, and it is the responsibility of the selectpersons to supervise that. If that manager doesn't do a good job, they replace him, but you can't knit-pick every little thing that goes on. A manager must be able to manage. His superiors must review him every single year, although Mr. Decareau would prefer every six months, to keep him on line in what he is doing. The Commission needs to decide which groups the executive branch is going to appoint, and have a job description for the manager, and Mr. Decareau feels it is time to move forward.

Mr. Manoogian asked Mr. Curran if there would be a job description in the charter for the manager, to which Mr. Curran responded, absolutely.

Mr. Stewart agreed with Mr. Decareau, and stated that when he came into the Meeting tonight, he was wondering how the Commission could decide what they wanted in an executive until they decided what the executive is going to do. He continued, saying that he is beginning to sense that the primary thing the executive authority is going to be doing is the supervisory role over the manager. This is not a discussion that the Members have had before. They are now talking about the executive branch being very different, not just setting policy, but also providing direction to the manager, that will then funnel down to the department heads. Given that they are going to have a manager, Mr. Stewart would recommend that the manager should have a lot of authority appointing their department heads. The

oversight comes by the voters holding the elected officials accountable, and if the manager is making bad appointments, the voters are not going to stand for it. Agreeing with Mr. Decareau, Mr. Stewart went on to say that it is necessary to have a good evaluation process, and a clear standard for hiring and terminating.

Ms. Cicolini stated that she feels the town manager has too many appointments that he is responsible for, and believes that some of them should be handled by the board of selectmen, such as the DPW.

Mr. Stewart responded that, if you are hired as a manager, but you have the executive authority hiring the people who report to you, it causes a “disconnect” between the manager and the department head.

Mr. Decareau agreed, saying that the manager should be allowed to appoint the department heads that report to him, so that they are not able to “go over his head.” You must have a chain of command, and the manager must have the authority to do his / her job.

The Chairman explained that, according to the consensus of the Members, the manager will no longer be appointing the planning board, nominating the conservation commission, the board of assessors, or any of the policy oriented boards. They will be directly nominated and approved by the elected executives. What you are down to is public works, public safety, treasurer, town clerk, town counsel, and after that, staff members.

Ms. Cicolini stated that those are all of the ones that run the town.

Mr. Stewart again stated that the difference is the clear supervisory role that the executive authority will have over the manager. By putting in a more constant supervisory role for the elected officials, the Commission will be addressing the concerns that Ms. Cicolini has.

The Chairman confirmed that the Commission will clearly establish the fact that the elected executive branch establishes policy, and therefore, that would flow down to the town manager to implement that policy, and that town manager would look for department heads that can, in the most competent, effective, efficient way, implement that policy. There is that hierarchy which doesn't exist now, that will establish a clear role for the executive.

Ms. de Steuben, deferring to Mr. Curran, stated that the board of selectmen, at one time, served exactly the role that Ms. Cicolini is talking about. Before town managers and professional management, and still true in some towns today, the board of selectmen do appoint department heads, and have much more of a role in running the town, but now we have gotten away from that.

Mr. Curran responded that, historically, we had “picket fence” administration in Massachusetts towns. The selectmen were responsible for very limited functions, and everyone else was elected. Many towns don't even have public works. They either have independent departments, water commissioner, sewer commissioner, highway superintendent, cemetery commissioner, or they combine the department of public works with a separately elected board of public works. Although the selectmen are perceived as being the town fathers, they do not have coordinating responsibility.

He went on to say that, in Home Rule Charters, they have written in a central coordinating role, even where other boards and officers continue to be elected,

selectmen have the authority to call all elected officials together to consult on the common good, but that doesn't generally apply.

The Chairman reviewed what the Members had established for the executive branch so far:

- Establishing Policy
- Appointing Citizen Boards
- Hiring the Manager
- Supervising the Manager
- Evaluating the Manager

Mr. Manoogian then went on to say that there are other functions that the current executive branch performs, which include being sewer commissioners, and the licensing authority. They are also the special permit granting authority, which is somewhat unusual for Massachusetts selectmen to special zoning permits. He went on to say the Members agree that water / sewer should be invested in one body, and have to make a decision as to whether they want it in elected executive body, or a separately appointed executive body. Members also need to discuss licensing.

Ms. de Steuben wanted clarification on what the Commission was talking about when they referred to "establishing policy," because it seems like a vague term.

The Chairman asked Mr. Curran to speak on that issue.

Mr. Curran noted, as he has previously discussed, the importance of making up the executive budget; the budget that the town manager is going to be preparing in accordance with policy guidelines that are established by the executive authority; policies in the way in which public works functions, the way streets are laid out and constructed, water and sewer extensions are made and financed. If you are going to have a multiple member executive body, that would be the most likely source for water and sewer commissioners, cemetery commissioners, making all of those decisions that are carried out by the public works department. There are guidelines for the general operation of government and procedures that the executive should be establishing, and would expect the administration to follow through on, such as the hiring of minorities, equal opportunity employment, sexual discrimination, sexual harassment, and all policies that relate to the overall good of the community are expected to be performed and administered by the administrative branch.

The Chairman stated that, at the very least, the Charter will inform people that if there is no policy, it is absent because the chief elected officials chose not to do it. He went on to say that the Town has a situation right now with handicap access, where the Town has been woefully deficient in compliance with the Americans for Disabilities Act. The executives would be the ones responsible for complying with and implementing Civil Rights statutes.

Mr. Manoogian noted that the Town has a Cemetery Commission, and that the last Charter Change was to have them directly appointed by the Board of Selectmen, because there were situations that the citizenry felt they were not getting responsiveness to. If Members want to discuss having the executive body morph into cemetery commissioner, it is on the table for discussion.

Ms. Cote stated that she believes the water / sewer commission, and the rates, should be with the executive branch, with a check in the legislative branch for the

approval, so that you have your checks and balances. Ms. Panetta agreed with Ms. Cote.

The Chairman stated that the Members will have to decide if that would be an elected body or an appointed body, because in Saugus, it is tall task, with Administrative Consent Orders, I&I water removal, and the types of issues that come with an older infrastructure. It requires an ongoing focus. He asked if you could get that type of attention from an appointed board, as opposed to an elected board. He asked Mr. Curran what the current trend is.

Mr. Curran responded that the current trend is to consolidate, and do away with the separately elected boards and to consolidate into a department of public works, and then to have the board of selectmen acting as the board of public works, and not have a separately constituted board (either elected or appointed). The executive authority has the responsibility. He noted that one of the key elements in the master plan, to be provided for in the charter, is water and sewer upgrading and extensions, and that master plan would be proposed by the executive branch.

Ms. de Steuben stated that she thought that Members were discussing setting the rates, and not any more than that. Mr. Manoogian questioned if that is a legislative function.

Mr. Curran responded that under the General Laws of Massachusetts, rates can be set by anybody who is performing a service or delivering a service. If they are set by an appointed board, they have to be approved by the elected body that appoints them.

Ms. de Steuben questioned what the Town has now, with the Board of Selectmen setting the rates for sewer, and the Town Meeting setting the rates for water, and then everything else is handled within the Department of Public Works.

Mr. Manoogian explained that the Enterprise Account for Sewer has to be approved by Town Meeting.

Ms. de Steuben confirmed that what the Members are doing now is trying to decide where the rate setting function should reside, as opposed to anything else.

The Chairman explained the relationship between the Enterprise Account, and the rate setting. The rates must support the Enterprise Account that is voted by Legislature. The Enterprise Account is voted first, and then the rates are established to yield the necessary revenue.

Mr. Curran noted that, under the law, you can only charge fees that reasonably cover the costs of providing the service. Anything else is a tax, and is illegal unless authorized by State Law.

The Chairman stated that the nature of water and sewer, in Saugus, is much more policy oriented than function oriented, because there have been times when the Town has been neglectful of its infrastructure and wouldn't be under an Administrative Consent Order if they weren't.

Members recessed at 9:10 P.M.

Meeting resumed at 9:18 P.M.

The Chairman noted that Members had left off talking about the executive branch, and the functions of the elected executive branch, and were also talking about integrating water and sewer policy, and water and sewer functions with that executive

branch. He asked Members if there was any more discussion on this matter, and asked Mr. Curran for his thoughts.

Mr. Curran gave his opinion that it would be desirable to consolidate things in the executive branch, but stated that it is the Members' decision to make. Consolidating is definitely the trend. He went on to say that the big problem in, eastern Massachusetts today, is the failure of the regional authorities for water and sewer to deal with the issue in any meaningful way for almost 50 years.

Mr. Manoogian discussed the Water Resources Authority, MWRA, and other State agencies that set rates, charge people, borrow, have taxing authority, and absolve local legislature from accountability. The Chairman stated that he didn't know if Members wanted to take functions that have a big impact on people's pocketbooks and their household budgets and investing that in a group of appointed individuals, seven to eight million dollars of the budget, and not have transparency or a connection back to the voters.

The discussion moved to "licensing," and the fact that, currently, the Board of Selectmen act in a licensing capacity for common victual, alcohol, and the licenses under Chapter 140, and everything from used goods to junk yards and junk dealers, to fortune tellers. The Chairman raised the question, that if the Commission continues to add to the list of responsibilities, will they become overwhelmed. Right now a lot of their time is spent having these required public hearings.

Mr. Diotte stated that he believes there should be a separate licensing board.

Mr. Manoogian asked Mr. Curran about a hybrid, if they have a multi-member executive, where you could have one or two of those members also serve on the licensing board as appointees or designees.

Mr. Curran responded that the statute is silent as to what you might do. It's a default situation, where in towns the selectmen are the licensing authority, and in cities there is a board established in Chapter 138, of three members, equally representing the two major political parties, and not more than two members from any one party, and appointed for four year terms. However, the statute says, "unless otherwise provided in a charter."

Ms. de Steuben stated that she would like to see a separate licensing body, and leave the elected officials to deal with policy.

Mr. Curran noted that a couple of towns that he worked with, followed the Quincy model to make it non-political, and had the police chief, fire chief, planning director, board of health, and town or city clerk making up the five members. These are all people that have to give an opinion anyway. In West Springfield, they didn't want to do that, and have a three member board appointed by the mayor.

The Chairman asked Mr. Curran if it was possible to have Chapter 138 (liquor, common victual, all alcohol, entertainment, package stores, convenience stores, etc.) licenses by the elected board, and Chapter 140 licenses by an appointed board.

Mr. Curran stated that he doesn't know anybody that does it. The licensing board is established in Chapter 138, the liquor license Statute, and Chapter 140 talks about the board of selectmen or the licensing authority. The Statute assumes that one board is going to issue all of the licenses. He went on to say that it seems to be a State policy, but could make some inquiries.

The Chairman noted that he had a separate licensing board in his proposal. He went on to say that, in his experience as a Selectman for six years, the license holders took a keen interest in who was elected to the Board, and imagines that is still the case, because obviously that licensing board can make or break, for example, how late they stay open. He went on to say that he can remember when they rolled the hours back from 2:30 to 2:00, that it was a tremendous pressure point on the Board. Mr. Manoogian continued, saying that as he looks at the surrounding communities with appointed licensing boards, he sees that they have all made the decision to have 1 o'clock closings, and Saugus is the only one with a 2 o'clock closing. So, there is something to be said about the political relationship between liquor licensing and an elected official issuing those licenses. In Saugus, liquor licenses on Route 1 are extremely valuable, and there is tremendous pressure for liquor licenses. He questioned, if you have a multi-member board, how would you appoint that licensing body so that you can keep them insulated from the political process. The Chairman went on to say that you would need something like the Federal Reserve Board, with a term of office that is greater than the appointing authority so that they can do their work without being influenced by that appointing authority.

Mr. Curran stated that, right now, the Board of Selectmen has been given a short script of duties to perform, and consequently the licensing has become their dominant function. He went on to say that Members are planning on giving them more responsibilities that will take up a lot more of their time, and questioned if they would have time to look at things like the liquor licenses, and whether establishments are staying open after hours, and hold public hearings on violations.

Ms. de Steuben noted that in the Statute, there is a term of six years that comes under the Statute itself, referring back to the Chairman's comment about the Federal Reserve Board, and suggested making the licensing board a term of six years.

Mr. Curran noted that Section 20 of Chapter 43b has a five year term as a maximum for any office in a town or city.

The Chairman stated that the Town has that already with the Board of Appeals, so there is precedent already in the community, and suggested that you could even have a four year term, having them a little further out than their appointing authority, so that they can't be "gotten to."

Mr. Decareau stated that he believes there should be a separate licensing board, continuing that, if Members are expecting the elected officials to do their job as managers, and supervise the town manager, they are going to be busy enough. Mr. Decareau asked if the Members could make it a rule that when an establishment no longer need a liquor license because they are no longer in business, that the license automatically reverts back to the town, instead of the individual selling it for \$200,000.

The Chairman stated that is a regulation issue, and the licensing board establishes regulations as to renewing licenses, "pocket" licenses,. Unfortunately, the ABC allows them to hold onto those licenses.

Mr. Manoogian asked, if the Members go in this direction, who would appoint the licensing body.

Mr. Decareau noted that in his model, he had an elected licensing board, which he is flexible on, but he just didn't want the selectmen to be the licensing board. It should be separate.

The Chairman stated that he liked the idea of having representation from public safety, but having it be exclusive, without requiring residency for town employees, you could potentially have non-Saugus residents making licensing decisions that Town citizens have to live with.

Mr. Decareau suggested that, in order to serve on the board, they must be Saugus residents.

The Chairman stated that you would want to establish the make up of that licensing board in the Charter, for example, if the fire chief is going to be a member of that board, then he must be a resident of Saugus. He went on to say that, maybe you could have one representative and some citizens. Mr. Manoogian asked the Consultant what the make-up is in Revere.

Mr. Curran stated that he thinks the Statute is three members, but you could go to five, or whatever you want.

Ms. de Steuben wanted to clarify how the licensing board makes its decisions, and asked about the distinction between having the police chief, fire chief, town clerk, or whoever the Members decide to have on the board, and whether they are residents or not, what type of decisions that would affect, and the rules they would have to follow in making those decisions.

Mr. Curran responded that liquor licensing is heavily regulated by the Alcoholic Beverages Control Commission, a State agency, and almost anything that the local licensing authority does can be appealed to the State ABC. He went on to say that the other licensing authority is a lot less subject to State control. Mr. Curran noted that in some cities and towns the Class 2 licenses for used car dealers are just as important, with their lights, banners and flags, and noise issues. He didn't see auto dealers as a problem for Saugus.

Mr. Manoogian discussed the process before renewing liquor licenses, where the members of the Board of Selectmen will visit these establishments, and although it is supposed to be a surprise, every time he, as a Selectman, went on these inspections, it seemed like the establishments knew they were coming. He went on to say that he didn't know what type of resistance you would get from the department heads, going out on the nights prior to Christmas, for example, to perform these inspections.

Ms. de Steuben stated that, as she understands it, there would be less of a concern with the liquor licensing not having residents, because it is very controlled by the state, and more of a concern with the other types of licenses, because there isn't as much control by the state. The other types of licenses are where you might have a concern that there aren't residents on the board. She went on to say that you would have to make it a requirement of these department heads' jobs that they perform this function correctly, at least in regards to the liquor licenses.

Mr. Curran stated that it would definitely be grounds of some type of discipline or dismissal if they are not doing their job properly.

Mr. Diotte suggested that, since you already have to have recommendations from the police, fire, board of health, and building inspector, why not have three citizens that could run for the other three positions.

The Chairman stated that it seems like there is consensus on having a separately appointed / elected licensing board that is not part of the elected executive function. Members agreed to add “a separately constituted licensing board” to the list of consensus items.

The Chairman recapped that the Members have talked about water / sewer, and licensing. He noted another other important issue; currently the Board of Selectmen grant some S2 permits (Special Permits), and the Zoning By-Law specifies that. He went on to say that he believes that is a very important role that the executive performs, because they are accountable to the voters. No other issue will bring out neighbors and citizens to a Board of Selectmen’s meeting than a Special Permit matter that can place something that could have noise, motors, fumes, or whatever, in a neighborhood. The Board of Appeals does some Special Permits, but the retail type use, the warehouse type use, and the industrial uses all go before the Board of Selectmen, and it’s not that frequently that they have those Special Permit hearings.

Ms. de Steuben asked for an explanation of how other communities deal with Special Permits, because Mr. Curran had stated that Saugus was a “special case.”

Mr. Curran responded that he doesn’t know of any place else that has Selectmen as the Special Permit granting agency. More commonly a board of appeals would be designated as the Special Permit agency. In addition to going to the board of appeals you also have to go to the special permit granting agency, which could be a separate board just serving that purpose. He went on to say that he thinks it is unique to have the selectmen involved in that. In cities, the legislative branch, or council, may be designated as the special permit granting agency. Mr. Curran stated that, since it is already in the executive side, he doesn’t see a problem with that, because they are still an elected multiple member body.

The Chairman cited an example of an issue that Saugus had, when there was a discussion of putting a trash disposal company in the Easter Tool property. It required a Special Permit from the Board of Selectmen, and the neighbors turned out in mass for that. The fact that the elected officials were accountable at the ballot box made a big difference in the way that the neighborhood organized their approach to the elected officials, with the Selectmen saying, “The neighborhood has spoken.” Because there is so much of Saugus where commercial property abuts residential property, these types of uses come up on a frequent basis.

Mr. Manoogian reminded the Members that they had discussed having the executive branch propose its own master plan that would include a new zoning by-law, and in that proposal, that function could be redistributed. He went on to say that the Members would not be locking that multiple member body, if they choose to have one, into that special permit granting role. They would just maintain it until such time that the master plan the executives propose to the legislature might specify otherwise.

Mr. Curran noted that, right now, they wouldn’t have to do anything, because it is already specified in the zoning by-law, and if Members keep the multiple member body, it would just stay where it is, without the Commission saying or doing anything about it.

The Chairman noted that these Special Permits require a super majority vote, 4 of the 5 members seated on the current Board of Selectmen, and if they did move it to



the legislature, it would require 4/5 of the 27 members. But then you could have a situation where someone is petitioning for, perhaps, a nursery or some type of church use, where they would have to go before a large legislative body.

Discussion followed as to the standards that the Board of Selectmen have to follow, as well as the Board of Appeals, and that these are reviewable standards. Members also discussed the difference between having an elected board, with a direct connection to voters, granting the permits, and an appointed board granting the permits. Discussion continued as to whether the function of granting these permits is administrative or policy making.

Mr. Stewart stated that he could see this function as something that is suited best to elected officials, and suggested the possibility of giving this responsibility to the six at-large members of the legislature. They are still elected officials, and it would give a little more “meat” to that at-large position, and be an attraction to people running for those positions, while still keeping it in the hands of elected officials, and allowing the executive authority the time to do the other additional duties.

Mr. Curran stated that he would be uncomfortable with mixing executive and legislative responsibilities. People that are elected to the legislature would be performing an administrative / executive function.

Ms. de Steuben, addressing Mr. Curran, brought up a unitary form of government, called town council, where they don’t have that separation. She stated that the Members have not had a full discussion of the benefits of that type of government as opposed to the one that they are talking about. She went on to say that, in an earlier discussion about the board of selectmen being able to help with the decision of appointing department heads, that was a discussion about a “mayor,” but Members called it a “board of selectmen.” Ms. de Steuben stated that she was not “on the road” of deciding to have a separate executive function, and feels that the Commission should also be having a discussion about having just one body of elected officials.

The Chairman asked Mr. Curran about councils, where constituted that the executive and legislative functions are combined, for example the one in Winthrop. Mr. Manoogian went on to say that Mr. Reilly had spoken to the Commission twice, and the second time, Members asked what the biggest problem was. Mr. Reilly had stated that some of the council were not entirely sure of what their role was. The Chairman asked Mr. Curran if that was a problem with a unitary form of government where the executive and legislative are combined.

Mr. Curran responded that his observation has been that there are a number of people on the council that were formerly selectmen, and know how the selectmen functioned, but haven’t seen that they are now in a different role. He went on to explain the differences between having the leader elected by the public, or elected by the council.

Mr. Decareau stated that he doesn’t believe that they should mix the two, and should work with a multi-member executive.

Ms. Panetta stated that the type of Special Permitting work that the Selectmen do is very “high profile,” because of the large number of people that are directly impacted every time one of these permits comes to be. She went on to say that, right now, she is comfortable with it sitting in the executive board.

The Chairman stated that, even if Members have a separate licensing board, they are still dealing with water / sewer issues, and didn't know if it would be possible to have a separate water / sewer board, and separate licensing board. He went on to say that, if you look at the issues in the community, and the Members' "Problems and Needs" narrative, one of the big things, as Mr. Stewart pointed out earlier, is the role of the selectmen and not knowing that role.

Mr. Manoogian questioned, if there is going to be a confusion by having an executive body as well as a legislative body, where that confusion would lie, and would there still be an opportunity for the public, not to understand that government. He went on to ask if the government could be made clear to the public with a separate executive, and separate legislature, and the functions are specified.

Mr. Curran noted that the Town has functioned that way for at least 50 years, with the Selectmen and the Town Meeting.

The Chairman stated that the Town has functioned, but has had problems with clarity, transparency, and confusion of those that run for office, those that are elected, and the public not understanding. He asked Mr. Curran if it was possible to craft a document that would maintain a separately elected legislature and a separately elected executive branch, and have it be clear to the voters as to what those functions are and how those people are performing in those functions. Or, would it be more clear and transparent to voters if it's all in one unitary group?

Mr. Curran responded that you can't go wrong if it's all in one place, and when you have two separate groups you need to have clearly defined lines of responsibility spelling out what each is responsible for. He went on to state that a modern charter would do that. The existing Charter was written in 1948, and the Town Meeting Act was written independent of it, so it was never a unitary thing. It was two separate legislative acts at two separate times.

The Chairman suggested that it was time for Members to move on this matter, as they still have not discussed the November schedule and the direction that they are going in.

Ms. Panetta stated that she would like to hear from Mr. Decareau, because he will be absent from the November meetings, and would like to know his thoughts on the issue.

Mr. Decareau stated that he perceives the Town running with 5 selectmen, and thinks it is very important for the community to understand, for the first time, that the selectmen, the way Members are setting up the charter, are the policy making board, and are the boss of the manager. People have always blamed the selectman for everything, thinking that they were telling the manager what to do, but didn't really have any power. He went on to state that he is glad that the Commission is heading in the way of giving them that power. He stated that he thinks the community will accept that and appreciate that. Mr. Decareau confirmed that he is leaning towards 5 selectmen.

Mr. Stewart stated that he had made his pitch for a mayor, and wasn't necessarily sure that retaining 5 members in the executive is necessary. He would like to see the board reduced to 3 members, and would like to be convinced that 5 is necessary.

Ms. Cicolini stated that she would like to stay with 5 selectmen, because with 3, you only need two votes to hire / fire, and that 5 is a better number for the types of decisions that they have to make.

Ms. Cote stated that she also likes having 5 selectmen, stating that through the Charter Commission meetings, the public is beginning to get a better understanding of how the government is today, and what the Members are looking to improve for the future. She feels that if the Commission goes too extreme, the public will not go for it.

Mr. Manoogian stated that his original proposal was for a unitary model. He recognized that Members were not comfortable with that, and in the spirit of compromise, was struck by Mr. Currans suggestion, "Can you make something better than what you have? You might not get what you want, but can you get something that is a lot better than what you have?" Mr. Manoogian addressed Mr. Stewart's concern of needing 5, stating that he wouldn't want a two or three people deciding on zoning issues, or supervising the manager. He went on to say that he is comfortable with the number 5, and thinks it is workable.

Ms. Panetta stated that she came to the table looking for 7 selectmen, but will compromise to the five. She went on to say that giving them so much more to do, they will have a lot on their plate. She does feel, however, that making a large change in the legislative branch, and also to the selectmen, could be too much for the public, so she would keep the 5 selectmen.

Mr. Diotte stated that he also agreed with keeping the 5 selectmen, having a separate licensing board, but leaving the Special Permits with them.

Ms. de Steuben stated that she believes they should have a much more town council form of government, and still hasn't heard a good argument being made for keeping the board of selectmen. She stated that she doesn't think the Town's current form of government works, and isn't responsive to the public. Ms. de Steuben stated that she had hoped for a unitary form of government.

Ms. Fowler stated that she would go along with 5, maybe even 7, selectmen and a separate licensing board.

The Chairman said that he didn't know if the Commission could create Utopia, but he is convinced that, with the types of suggestions that Members have brought to the table, what the Commission puts before the voters next November will be a great improvement over what they have. He went on to state that his biggest concern is that they end up with nothing at all. The worst thing would be to have a charter proposal that is rejected, and there are no changes. Two years of work, and the expense to the taxpayers, would go for nothing.

The Chairman asked Mr. Curran if he could come back with a skeletal model with a little "meat" on it that reflect the conversations that he has heard, perhaps 2-5 pages of a substantive outline.

Mr. Curran stated that he could put together a working draft.

Members discussed what they would like to see included in the draft, focusing primarily on the areas of consensus, or highlighting the areas of consensus, and including two versions of the executive, to view all Members' ideas.

- **November Meeting Schedule**

The next meeting is scheduled for Thursday, November 13, 2008 at 7:30 P.M.

**MEMBERS ANNOUNCEMENTS / MOTIONS**

None at this time.

**PUBLIC FORUM**

None at this time.

**ADJOURNMENT**

Ms. Cote moved to adjourn at 10:40 P.M.

The Chairman seconded the motion.

The motion passed **9-0**

**APPROVED ON** \_\_\_\_\_

**SUBMITTED BY** \_\_\_\_\_

## **Areas of Apparent Consensus**

1. **A professional administrator with the title of Manager**
2. **A screening committee to be used in the process of hiring a manager**
3. **Having policy reside in the hand of elected officials**
4. **An auditing function within the structure of town government**
5. **Auditing and enhanced financial oversight of the School Department**
6. **25 to 35 member legislative body**
7. **Keeping quantity of 10 precincts**
8. **A mixture of at large and precinct specific representatives**
9. **Appointments to policy making boards would be by elected officials**
10. **Staggered terms**
11. **Provision for ethics or conflict of interest**
12. **The proposal or initiation of a master / comprehensive plan should reside with elected official / officials.**
13. **An initiative process**
14. **Continue with a referendum process**
15. **Retain recall in the Charter lowering the percentage to 15% for town wide elections in 25 days, and for precinct specific offices, 20% of registered voters in that precinct.**
16. **Barring an elected official from obtaining a town position during his / her term, after their term has ended, or after they resign, for an amount of time to be determined.**
17. **Having a conflict of interest provision for the legislative body**
18. **A comprehensive plan would be proposed by an elected executive, (individual or multiple member body), and would be adopted by a legislative branch after recommendation of the planning board is obtained. There would be an annual report on the status of the comprehensive plan. There would be transitional provisions in the charter.**
19. **The right of Individual Petition that can take place with either 1 or 10 signatures** (See Section 8-5 (a) of the October 6th Discussion Draft submitted by Mr. Curran)

20. **There will be a group petition process with 50 signatures, and an action required not later than 90 days.**
21. **Include citizen initiative measures**, (as outlined in “Section 8-6: Citizen Initiative Measures” of the October 6th Discussion Draft submitted by Mr. Curran), **but may want to revisit the percentages.**
22. **Article 6 as submitted on October 6th, will be the workable framework for Finance and Fiscal Procedures.** (The Members are waiting to hear back from Mr. Curran on a timeline of budget events, language related to public input process, and language related to quarterly reporting to the elected body that establishes the budget.)
23. **That there would be a finance / audit committee, with the majority of membership originating from the elected legislative body.**
24. **The “Timetable for Budget Actions,” as proposed by Mr. Curran on October 16th, will be the framework for budgetary chronology.**
25. **Section 6-8: Allotments**
26. **General Provisions, provided by Mr. Curran on October 16<sup>th</sup> as follows:**
  - **Section 9-3: Rules of Interpretation**
  - **Section 9-4: Removal or Suspension**
  - **Section 9-5: Rules and Regulations**
  - **Section 9-6: Periodic Review of Charter and Ordinances**
  - **Section 9-7: Uniform Procedures Governing Multiple**
  - **Section 9-8: Oath of Office of Elected Officials**
  - **Section 9-9: Certificate of Election or Appointment**
  - **Section 9-10: Limitation on Office Holding**
  - **Section 9-11: Enforcement of Charter Provisions**
  - **Section 9-12: Public Forums**
  - **Section 9-13: Annual Report of the Town**
  - **Section 9-14: Notice of Vacancies**  
(Language will be filled in and clarified later)
27. **A 27 member legislature**
  - **1 leader elected town wide**
  - **20 precinct representatives (2 from each precinct)**
  - **6 at large** (whether all 6 town wide or 3 per district is still to be discussed)
28. **Committees, some piggy-back provisions, and some specified by charter**  
(nature of these committees still to be discussed)

**29. Duties of the Elected Executive would include:**

- Establishing Policy
- Appointing Citizen Boards
- Hiring the Manager
- Supervising the Manager
- Evaluating the Manager

**30. A separately constituted licensing board**