

Meeting Minutes

By-law and Charter Review Committee

September 13, 2012

7:00 pm at Town Hall

In Attendance:

Committee Members

David Surprenant

Glenn Coulter

Richard Hersom

Louis Ciavarra

Absent:

Henry Whittier

1. Approve Minutes

Minutes of August 22, 2012 unanimously approved with a correction to Item #3 – change “made” to “recommended.”

2. Organization of Committee

Mr. Ciavarra nominated Glenn Coulter as Vice Chair. Voted unanimously to approve.

3. Review Articles 1-3 of the Charter

The Committee reviewed and recommended several changes to Articles 4. See attachment.

4. Next meeting scheduled for September 27, 2012 at 7:00 pm.

Meeting adjourned at 8:46 pm.

Respectfully submitted,

Laura Caruso

ARTICLE 4 *TOWN MANAGER*

SECTION 4-1: APPOINTMENT; QUALIFICATION; TERM

The *Town Manager* shall be appointed solely on the basis of demonstrated executive and administrative qualifications *set forth in the by-laws* from a list prepared by a screening committee established ~~by~~ *in accordance with the* by-law. The Board of Selectmen shall appoint the *Town Manager* and shall fix the term and compensation for such person. The *Town Manager* shall be a person especially fitted by education ~~training~~ and ~~previous~~-experience. ~~in public administration to perform the duties of the office.~~ ~~A *Town Manager* need not be a resident of the town or of the Commonwealth at the time of appointment or at any time during the period of such service. The *Town Manager* shall not have served as an elected official in the Town of Sutton for at least 12 months prior to appointment. The town may from time to time establish, by by law, such additional qualifications as necessary and appropriate.~~

The *Town Manager* shall devote full time to the office and shall not hold any other town elected or appointed office, or engage in any other business or occupation during such service, unless such action is approved in advance and in writing by the Board of Selectmen.

Each member of the Board of Selectmen shall complete an annual written review of the job performance of the *Town Manager*. A summary of the overall evaluation shall be a public record.

SECTION 4-2: POWERS AND DUTIES

The *Town Manager* shall be the chief administrative official of the town, directly responsible to the Board of Selectmen for the administration of all town affairs for which the office of *Town Manager* is given responsibility under this charter. The powers and duties of the *Town Manager* shall include, but are not limited to, the following:

- (a) To supervise, direct, and be responsible for the efficient administration of all functions and activities for which the office of *Town Manager* is given authority, responsibility, or control.
- (b) To appoint, subject to the provisions, *if applicable*, of the civil service law and ~~of any applicable~~ collective bargaining agreements, all department heads, officials, members of multiple-member bodies, for whom no other method of selection is provided by this charter. Such appointments shall become effective on the fifteenth day following the day on which notice of the appointment is filed with the Board of Selectmen, unless the Board of Selectmen shall within that period by a majority of all of its members vote to reject such appointment or has sooner voted to affirm it. Copies of the notices of all such proposed appointments shall be posted on the town bulletin board when submitted to the Board of Selectmen.
- (c) To remove or suspend in appropriate circumstances appointed officials and employees pursuant to section 7-8 of Article 7.

(d) To be the administrator of a town personnel system including, but not limited to, personnel policies and practices, rules and regulations including provisions for an annual employee performance review, personnel by-law and collective bargaining agreements entered into by the town. The *Town Manager* shall also prepare and periodically review at least every five years a plan establishing the personnel staffing and job classification for each town agency and positions therein, except the school department.

(e) To attend all regular and special meetings of the Board of Selectmen, unless unavailable for reasonable cause.

(f) To maintain full and complete records of the financial and administrative activities of the town. The *Town Manager* shall render a quarterly report of such activities to the Board of Selectmen. ~~and a copy shall be placed on file with the Town Clerk.~~

(g) To keep the Board of Selectmen fully advised as to the needs of the town and to recommend to the Board of Selectmen, and to other elected Town Officials and agencies, action *to be considered or* required by them or by the Town Meeting.

(h) To have full jurisdiction over the rental and use of all town facilities and property except school property and property under the control of the conservation commission. The *Town Manager* shall be responsible for the maintenance and repair of all town buildings and facilities placed under the *Town Manager's* control.

(i) To prepare and present, in the manner provided in Article 6, an annual operating budget for the town, a staffing plan pursuant to the Administrative Code as defined in subsection (b) of section 5-1 of Article 5 and conforming with subsection (d) of section 4-2 of this Article, and a proposed capital outlay program for the five fiscal years next ensuing.

(j) To maintain a complete inventory of all real and personal property of the town including all property under the jurisdiction of the School Committee.

(k) To negotiate all contracts involving any subject within the jurisdiction of the office of *Town Manager*, including contracts with town employees, except employees of the school department, involving wages, hours, and other terms and conditions of employment.

(l) To be responsible for purchasing all supplies, material, and equipment for all departments and activities of the town ~~but not including food for schools, school books, and other instructional material, supplies and equipment unless otherwise specifically requested by the School Committee.~~ *except those necessary for the operation of the school department.* The *Town Manager* shall examine, or cause to be examined the quantity, quality and condition of all supplies, material and equipment delivered to or received by any town agency except schools. The *Town Manager* shall be responsible for the disposal of all supplies, material, and equipment which have been declared surplus by any town agency.

(m) To see that all of the provisions of the General Laws, this charter, town by-laws, other votes of the Town Meeting and votes of the Board of Selectmen which require enforcement by the *Town Manager* or officials subject to the direction and supervision of the *Town Manager* are faithfully executed, performed or otherwise carried out.

(n) To inquire at any time into the conduct and operation of office or performance of duties of any town official or employee, ~~department, board, commission,~~ or other town agency except schools.

(o) To attend all sessions of all Town Meetings and answer questions raised by voters which relate to warrant articles and to matters over which the *Town Manager* ~~exercises any supervision.~~ *has responsibility.*

(p) To reorganize, consolidate or abolish, in the manner provided in Article 5 town agencies serving under the supervision of the *Town Manager*, in whole or in part, and to provide for new town agencies, and to provide for a reassignment of powers, duties and responsibilities among such agencies so established or existing.

(q) To coordinate the activities of all town agencies serving under the office of *Town Manager* and the office of Board of Selectmen with those under the jurisdiction of other officials and multiple-member bodies elected directly by the voters. For this purpose the *Town Manager* shall have authority to require the persons so elected, or their representatives, to meet with the *Town Manager* at reasonable times for the purpose of effecting coordination and cooperation ~~among~~ *of all agencies of the town agencies* .

(r) To perform any other duties as are required to be performed by the *Town Manager* by by-laws, administrative code, votes of Town Meeting, votes of the Board of Selectmen. ~~or otherwise.~~

(s) To establish a Personnel Resource Development Committee and maintain a talent resource bank of prospective volunteers for town service.

SECTION 4-3: DELEGATION OF AUTHORITY

The *Town Manager* may *with the approval of the Board of Selectmen*, authorize any subordinate *Town* Official or employee to exercise any power or perform any function or duty which is assigned to the office of *Town Manager*, provided however, that all acts performed under any such delegation shall at all times be deemed to be the acts of the *Town Manager*.

SECTION 4-4: ACTING *TOWN MANAGER*

(a) Temporary Absence - By letter filed with the Town Clerk, the *Town Manager* shall designate a qualified town official or employee to exercise the powers and perform the duties of *Town Manager* during a temporary absence. During a temporary absence the Board of Selectmen may ~~not~~ revoke such designation *and appoint* until at least ten working days have elapsed, ~~whereupon the Board of Selectmen may appoint~~ another qualified Town Official or employee to serve until the *Town Manager* shall return *or the position is declared vacant.*

(b) Vacancy - Any vacancy in the office of *Town Manager* must be filled by the Board of Selectmen. Pending such regular appointment, the Board of Selectmen must appoint a qualified ~~town official or employee~~ *person* to perform the duties of the office on an acting basis. ~~Such temporary appointment may not exceed three months, but one renewal may be voted by the Board of Selectmen not to exceed a second three months.~~ The Board of Selectmen shall set compensation for such person.

(c) Powers and Duties - The powers ~~and duties~~ of an acting *Town Manager*, shall be limited to urgent matters and shall include temporary or emergency appointments or employment. *determined by the Board of Selectmen.*

SECTION 4-5: REMOVAL

The Board of Selectmen may, by a majority vote of the full board terminate and remove the *Town Manager* from office in accordance with the following procedure.

(a) The Board of Selectmen shall adopt by the affirmative vote of a majority of all its members a preliminary resolution of removal that must state the reason or reasons for removal. This preliminary resolution may suspend the *Town Manager* for a period not to exceed 45 days. A copy of the resolution shall be delivered to the *Town Manager* forthwith.

(b) Within five days after receipt of the preliminary resolution the *Town Manager* may request a public hearing by filing a written request for such hearing with the Board of Selectmen. This hearing shall be held at a meeting of the Board of Selectmen not less than 20 days nor later than 30 days after the request is filed the *Town Manager* may file with the Board of Selectmen a written statement responding to the reasons stated in the resolution of removal, provided the same is received at its office more than 48 hours in advance of the public hearing.

(c) The Board of Selectmen may adopt a final resolution of removal, which may be made effective immediately, by the affirmative vote of a majority of all of its members, not less than ten nor more than 21 days following the date of delivery of a copy of the preliminary resolution to the *Town Manager*, if the *Town Manager* has not requested a public hearing; or, within ten days following the close of the public hearing. Failure to adopt a final resolution of removal within the time periods as provided in this section shall nullify the preliminary resolution of removal and the *Town Manager* shall, at the expiration of said time, forthwith resume the duties of the office. The *Town Manager* shall continue to receive a salary until the effective date of a final resolution of removal.

The action of the Board of Selectmen under this section shall be final, it being the intention of this provision to vest all authority and fix all responsibility for such action solely in the Board of Selectmen.