

Meeting Minutes

By-law and Charter Review Committee

October 24, 2012

7:00 pm at Town Hall

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In Attendance:

Committee Members

David Surprenant

Henry Whittier

Louis Ciavarra

Glenn Coulter

Absent:

Richard Hersom

1. Approve Minutes

Minutes of September 27, 2012 unanimously approved.

2. Review Articles 7 of the Charter

The Committee reviewed and recommended several changes to Article 7. See attachment.

3. Next meeting scheduled for November 19, 2012

Meeting adjourned at 8:30 pm.

Respectfully submitted,

Laura Caruso

## ARTICLE 7 GENERAL PROVISIONS

### SECTION 7-1: CHARTER CHANGES

This charter may be amended, restated or replaced in accordance with its terms and pursuant to the state constitution and the General Laws.

### SECTION 7-2: SEVERABILITY

The provisions of this charter are severable. If any provision of this charter is held invalid, the other provisions of this charter shall not be affected thereby. If the application of ~~this charter or any of its provisions~~ *any provision of this Charter* to any person or circumstance is held invalid, the application of this charter and its provisions to other persons and circumstances shall not be affected thereby.

### SECTION 7-3: SPECIFIC PROVISIONS TO PREVAIL

To the extent that any specific provision of this charter shall conflict with any provision expressed in general terms, the specific provisions shall prevail.

### SECTION 7-4: NUMBER AND GENDER

Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; words importing the feminine gender shall include the masculine gender; words importing the masculine gender shall include the feminine gender.

### SECTION 7-5: DEFINITIONS

Unless another meaning is clearly apparent from the context in which the word is used, the following words as used in this charter shall have the following meanings:

- (a) **Charter** - The word "charter" shall mean this charter as the same may hereafter be amended or restated.
- (b) **Days** - The word "days" shall refer to calendar days, including Saturday, Sunday, and holidays.
- (c) **Emergency** - The word "emergency" shall mean a sudden, unexpected, unforeseen happening, occurrence, event, or condition which necessitates immediate action.
- (d) **General Laws** - The words "General Laws" shall mean laws which apply alike to all cities and towns, to all towns, or to a class of municipalities of which Sutton is a member specifically including the General Laws of Massachusetts, as amended.
- (e) **Local Newspaper** - The words "local newspaper" shall mean a daily or weekly newspaper of general circulation in the Town of Sutton.
- (f) **Majority Vote** - The words "majority vote" shall mean a majority of those present and voting, provided that a quorum of the body is present when the vote is taken, unless a higher number is required by law.

(g) Multiple-member Body - The words "multiple-member body" shall mean any town body consisting of three or more ~~persons~~ *positions* and whether titled board, commission, committee, subcommittee, or otherwise, whether elected, appointed or otherwise constituted.

(h) Quorum - The word "quorum", unless otherwise required by law or this charter, shall mean a majority of the members of a multiple-member body then in office, excluding any vacancies which might then exist.

(i) Town - The word "town" shall mean the Town of Sutton.

(j) Town Agency - The words "town agency" shall mean any department, division or office of the town government.

(k) Town Bulletin Board - The words "town bulletin board" shall mean the bulletin board in *or on* the town hall on which official town notices are posted and such other locations within the town which may from time to time be designated as town bulletin boards by by-law, or by vote of the Board of Selectmen.

(l) Town Official - The words "Town Official" when used without further qualification or description, shall mean a person having charge of a town agency, or a member of a multiple-member-body of the town who, in the exercise of the powers or duties of that position, exercises some portion of the sovereign power of the town.

(m) Voters - The word "voters" shall mean registered voters of the Town of Sutton.

#### SECTION 7-6: RULES AND REGULATIONS

A copy of all rules and regulations adopted by any town agency *in accordance with this charter, bylaws or law* shall be filed in the office of the Town Clerk before any such rule or regulation shall become effective, and copies shall be made available for review by any person who requests such information. No rule or regulation adopted by any town agency shall become effective until ten days following the date it has been so filed in the office of the Town Clerk.

#### SECTION 7-7: CHARTER AND BY-LAW REVIEW

##### A. By-law and Charter Review Committee

(1.) Purpose- A ~~standing~~ By-law and Charter Review Committee shall be established *every five years* to provide ~~an annual~~ *a* review of all General By-laws, exclusive of Zoning By-laws, and the ~~Home Rule~~ Charter.

(2.) Composition- The By-law and Charter Review Committee shall consist of five members, two to be appointed by the Town Moderator and three to be appointed by the Board of Selectmen. Members of the By-law and Charter Review Committee shall serve ~~for an indefinite term~~ *until discharged by the Board of Selectmen*.

(3.) Duties- The By-law and Charter Review Committee shall

- ~~Investigate and~~ Review ~~specific~~ portions of the general by-laws and ~~Home Rule~~ Charter.
- Submit ~~an annual~~ *a* report to the Board of Selectmen.

- Meet ~~annually~~ with the Board of Selectmen regarding ~~annual~~ review and suggested changes.
- ~~— Recommend changes, additions, and deletions to general by laws and Home Rule Charter.~~
- ~~— Act as a resource for town boards, committees and officials to interpret the meaning and language of the Home Rule Charter and general by laws as deemed necessary.~~

B. Attorney General Approval- Subsequent to enactment by the Town Meeting, copies of the revised charter and by-laws shall be forwarded to the attorney general of the Commonwealth for approval, and they shall be otherwise published, all as required by the General Laws. Copies of the revised by-laws shall be made available for distribution to the public.

#### SECTION 7-8: REMOVALS AND SUSPENSIONS

Any appointed official, member of a multiple-member body or employee of the town, not subject to the provisions of the state civil service law, or covered by the terms of a collective bargaining agreement which provides a different method, and whether appointed for a fixed or an indefinite term, may be suspended or removed from office, without compensation, by the appointing authority for good cause. The term cause shall include, but not be limited to the following: incapacity other than temporary illness, inefficiency, insubordination and conduct unbecoming the office.

Any appointed official, member of a multiple-member body or employee of the town may be suspended from office by the appointing authority if such action is deemed by said appointing authority to be necessary to protect the interests of the town. However, no suspension shall be for more than 15 days. Suspension may be conterminous with removal and shall not interfere with the rights of the official or employee under the removal procedure given below.

The appointing authority when removing any such official, member of a multiple-member body or employee of the town, shall act in accordance with the following procedure:

- (a) A written notice of the intent to remove and a statement of the cause or causes therefor shall be delivered in hand, or by registered mail or certified mail, return receipt requested, to the last known address of the person sought to be removed.
- (b) Within five days following delivery of such notice the official, member of a multiple-member body or employee of the town may request a public hearing at which such person may be represented by counsel, shall be entitled to present evidence, call witnesses and to question any witness appearing at the hearing.
- (c) Between one and ten days after the public hearing is adjourned, or if the official, member of a multiple-member body or employee of the town fails to request a public hearing between six and 15 days after delivery of the notice of intent to remove, the appointing authority shall take final action, either removing the official, member of a multiple-member body or employee of the town or notifying such person that the notice is rescinded. Failure of the appointing authority to take any action within the time periods as stated in this section shall be deemed to be a rescission of the original notice and the official, member of a multiple-member body or employee shall, forthwith, be reinstated.

Nothing in this section shall be construed as granting a right to such a hearing when a person who has been appointed for a fixed term is not re-appointed when the original term expires.

## SECTION 7-9: PROCEDURES GOVERNING MULTIPLE-MEMBER BODIES

(a) *Meetings and Agendas* - All multiple-member bodies shall meet regularly at such times and places within the town as they may by their own rules prescribe. *In addition to any notice otherwise required by law, a multiple-member body shall post a notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. Notice shall be printed in legible, easily understandable format and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting. Notice shall be filed with the town clerk and posted on the town bulletin board.*

Except in cases of emergency, special meetings of any multiple-member body shall be held on the call of the respective chairman, or by one-third of the members thereof by suitable written notice delivered to the residence or place of business of each member at least 48 hours in advance of the time set. A copy of the said notice shall also be posted on the town bulletin board. Special meetings of any multiple-member body shall also be called within seven days after the date of the filing with the Town Clerk of a petition signed by at least 50 voters and which states the purpose or purposes for which the meeting is to be called.

Except as authorized by law, all meetings of all multiple-member bodies shall be open and public. All meetings shall be held in places to which members of the public have a convenient right of access.

~~(b) *Agendas* - At least 24 hours before any meeting of a multiple-member body is to be held, an agenda containing all items which are scheduled to come before the multiple-member body at the meeting shall be posted on the town bulletin board. No action taken on a matter not included in the posted agenda shall be effective unless the multiple-member body first adopts, by a separate vote, a resolution declaring that the particular matter must be acted upon at that meeting for the immediate preservation of the peace, health, safety or convenience of the town.~~

~~(c) *Rules and Journal Minutes of Meetings* - Each multiple-member body shall determine its own rules and order of business unless otherwise provided by this charter or by law and shall provide for keeping a journal minutes of its proceedings. These rules and journals minutes shall be public records, and, following their approval by the multiple-member body, certified copies shall be certified and placed on file in the office of the Town Clerk and for the convenience of the public, kept available for public inspection in the office of the Town Clerk.~~

~~(d) *Voting* - Except on procedural matters all votes of all multiple-member bodies shall be taken by a call of the roll. The vote of each member shall be recorded in the journal minutes; if the vote is unanimous, only that fact need be recorded.~~

~~(e) *Quorum* - A majority of the members of the multiple-member body then in office shall constitute a quorum. However, a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the multiple-member body. No other action of the multiple-member body shall be valid or binding unless ratified by the affirmative vote of the majority of the full multiple-member body.~~

~~(f)~~ (e) Filling of Vacancies - Whenever a vacancy shall occur in the membership of an appointed multiple-member body, the remaining members shall immediately give written notice of such vacancy to the appointing authority. If, at the expiration of 30 days following the delivery of such notice to the appointing authority said appointing authority has not appointed some person to fill the vacancy, the remaining members of the multiple-member body shall *may* fill such vacancy for the remainder of any unexpired term by majority vote of the remaining members.

~~(g)~~ (f) Composition of Multiple-member Bodies - All multiple-member bodies when established shall be composed of an odd number of members, of not less than three. Whenever the terms of office of a multiple-member body are for more than one year such terms of office shall be so arranged that as nearly an equal number of terms as is possible will expire each year.

#### SECTION 7-10: NOTICE OF VACANCIES

Whenever a vacancy occurs in any ~~town office, paid position or employment, or whenever~~ by reason of a pending retirement or expiration of a fixed term a vacancy can be anticipated, the appointing authority, *following determination that such position should be filled*, shall ~~forthwith~~ cause public notice of such vacancy to be posted on the town bulletin board for not less than ten days. Such notice shall contain a description of the duties of the office, position or employment and a listing of the necessary or desirable qualifications to fill the ~~office, position or employment~~. No permanent appointment to fill such ~~office, position or employment~~ shall be effective until 14 days following the date such notice was posted to permit reasonable consideration of all applicants. This section shall not apply to positions covered by the civil service law and rules or if in conflict with the provisions of any *contract or* collective bargaining agreement.

#### SECTION 7-11: LOSS OF OFFICE, EXCESSIVE ABSENCE

If any person appointed to serve as a member of a multiple-member body shall fail to attend four or more consecutive meetings, or one-half or more of all of the meetings of such body held in one calendar year, the remaining members of the multiple-member body may, by a majority vote of such body, declare the office to be vacant, provided that not less than ten days prior to the date said vote is scheduled to be taken, the body has given in hand, or mailed by registered or certified mail, return receipt requested, notice of such proposed or pending vote to the last known address of such person.