

Charter Review Committee Meeting Minutes November 15, 2006

Agenda Attached

Convened: 7:05 P.M.

Members Present: Janet Loewenstein, Reuben Cook, Robert Hankey, Jerry Houk, Sara Robinson (arrived just before 8 PM), and Liz Stansell

Members Absent: None

Public Participants: Dale Donovan, Ben Gitlow, Barbara Gray, and Barbara Taylor

Item 1: Minutes for November 1, 2006 Meeting

Motion to accept the November 1, 2006 minutes as presented (Reuben).

Motion seconded (Liz).

Motion passed with three Yeas (Janet, Reuben, and Liz) and two abstentions (Robert and Jerry).

Item 2: Public Comment

Ben Gitlow commented that Dale Donovan gave him a copy of the meeting minutes from previous CRCs, including many recommendations for further consideration that were not acted upon. He thought that the current CRC might want to review these. He also noted that the minutes of the previous meetings did not show the details of motions, seconds, or votes that are currently being done.

Janet responded that she would try to work in the list of previous CRC recommendations in an agenda for a December meeting.

Dale alerted the CRC that even though the topic had yet to be discussed by the Board of Selectman, he did have a casual conversation with the Finance Committee concerning looking at Town government and coming up with ways to streamline it. He also brought up the Groux Report and noted that it probably should have gone to an intermediate committee before being given to the CRC.

Ben stated that one consideration from the Groux Report was to strengthen the Finance Committee, possibly by making it a more formal Finance Department. Janet questioned whether such a change would require a change in the Charter. Ben said that if

appointments or elections were used to fill positions, then a change to the Town Charter would be needed. He went on to note that some other town charters are more specific with respect to town organizational charts.

Dale mentioned the Town organizational and reporting structure and the Groux Report and said that what was needed was a consolidation of efforts to streamline Town government internally by looking from the bottom up instead of from the top down.

Jerry stated that the former CRC reviewed the organizational structure of the Town government and decided not to add an organizational chart to the Charter.

Ben expressed concern that the Town Administrator has certain responsibilities, but not authority over some people. Dale suggested that a compromise would be to give the Town Administrator the right to appoint people to positions currently appointed by the Board of Selectmen, but give the Selectmen the right to veto by a 4-to-1 vote. This idea started a further discussion concerning how things have worked or not worked in the past concerning a Board of Selectman veto. At the end of the discussion, Jerry suggested that no changes be made and Janet asked Dale if he would submit language in writing for the CRC to consider at a future meeting.

Item 3: Typographical Errors & Renumbering – Status of Document

Barbara Taylor gave a report on the status of the Charter renumbering and typographical errors. Liz completed written edits and Barbara added those edits to the ones she had. The combined corrected document was given to Dawn Rickman on November 9th. Dawn noted that she could not do the renumbering or make any changes in wording that had been specifically voted on. She will look over the rest of the document and determine what the CRC must handle. Janet requested that Barbara ask Dawn if the Charter changes she can make can be completed by January 16th.

Item 4: Proposed Alternate Wording in Section 2-2-3

NOTE 1: To avoid confusion, it was decided to refer to the Charter with previously proposed changes, dated April 10, 2006, as “the Draft”.

NOTE 2: The CRC decided at a previous meeting to retain “Board of Selectmen” throughout the document, rather than use “Select Board” as amended in “the Draft”, thus that change will not be required each time “Select Board” is shown in “the Draft”.

Janet handed out a proposed new wording for Section 2-2-3. However, Jerry did not agree with the new wording, as he believed that it was unclear that the Board of Selectmen should have the right to make appoints, not just the Town Moderator. Ben

stated that his intent in preparing the new wording was not to take away the rights of the Board of Selectmen, but that he could see how it sounded that way.

Jerry suggested that (d) be stricken from Section 2-2-3 in “the Draft”.

Motion to adopt Section 2-2-3 as presented in “the Draft” except to strike everything after the words “Town Meeting” (Jerry).

Motion seconded (Robert).

Liz noted that if the motion passed as stated, there would be some punctuation inconsistencies and wanted to clarify it.

Motion amended to state that Section 2-2-3 should read as follows: “The Moderator shall appoint:

(a) the members of the Finance Committee;

(b) two members of the Cape Cod Regional Technical High School Committee; and

(c) members of committees as voted by the Town Meeting.” (Janet).

Motion seconded (Liz).

Motion passed unanimously.

Item 5: Proposed Alternate Wording in Section 2-7-9

The CRC decided not to make any changes to Section 2-7-9 in the current Charter.

Item 6: Section 4-3 Changes

Janet noted that Section 4-3-1 (b) in “the Draft” specifies two months for reporting requirements and wanted to know if the CRC thought such specificity was appropriate. There was considerable discussion about why the two months were specified and, while some members of the CRC were not completely comfortable with specific months listed, the CRC decided to leave the two months as specified.

Dale noted that the Nauset Regional School Committee should not be listed in Section 4-3-1 (d) of “the Draft” and Ben concurred by saying that it was not meant to be included.

Barbara Taylor asked that Section 4-3-2 (c) insert “Plan” in place of “Program”.

Motion to adopt Section 4-3-1 as follows:

“In addition to the powers and duties prescribed by General Law, this Charter, and Bylaw, elected Town Officers designated in 4-2-1 and Boards designated in 4-1-1, other

than the Board of Selectmen having independent authority to make appointments to paid positions shall:

- (a) Cause to be written, approve, sign, and file with the Town Administrator job description of all paid positions under their direction;*
- (b) Submit a written report in September and February regarding activities under their supervision to the Board of Selectmen, Finance Committee, and Town Administrator relating to changes in operations and fiscal affairs, general problems and administrative actions, and the effect of long range trends on funding requirements, staff, and facilities;*
- (c) Provide all information requested by the Town Administrator and Finance Committee relating to the preparation of the annual operating budget, capital budget, and the Capital Improvement Plan;*
- (d) The Cemetery Commission, Moderator, and Constables shall be exempt from the requirements of 4-3-1 (b) and (c).” (Liz).*

Motion seconded (Sara).

Motion passed unanimously.

Item 7: Chapter 5 Changes

Section 5-1-2

Motion to delete the first three words in Section 5-1-2 and replace them with “In the event” (Sara).

Motion seconded (Liz).

Motion passed unanimously.

Section 5-3-1

Motion to omit the period (“.”) after “Selectmen” in Section 5-3-1 and add “except employees of the Police Department, Fire Department, School Committee, Library Trustees, and Cemetery Commission.” (Sara).

Motion seconded (Liz).

There was considerable discussion concerning this section as Dale thought that there was confusion in the current Charter and the proposed revised Section 5-3-1 regarding to whom the Police Chief and Fire Chief report. Sara reminded Dale that Section 5 of the Charter refers only to the Town Administrator and, as such, delineates only those positions that report or do not report to the Town Administrator. Section 5 does not and should not specify to whom every Town employee or department head reports.

Dale strongly urged the CRC to consider having the Police Chief and the Fire Chief report directly to the Town Administrator. Jerry responded that the Town voted to have a

Town Administrator, not a Town Manager. Until the voters in the Town say otherwise, the CRC needs to keep the reporting requirements as is.

Ben mentioned that some union contracts might insert a reporting requirement to the Town Administrator.

Barbara Gray stated that she had worked in both Town Administrator and Town Manager forms of government and that a centralized authority is critical, especially in times of disasters or other emergencies.

Jerry reminded the group that the Chief of Police is already designated to be in charge if a disaster strikes the community and the process for coping is already in place.

Janet asked Dale if his concern was just the department heads or all employees and Dale responded that his concern was with the department heads only. Furthermore, he did not see any distinction between a Town Administrator and Town Manager in the General Laws. In addition, he argued that by having some positions report directly to the Board of Selectmen (an elected board made up of 5 people from highly varied backgrounds), you run the risk that people will try to get the backing of any 3 Selectmen. He urged that the Town Administrator make the appointments and have reporting authority.

Jerry again countered that the citizens of Wellfleet don't want to have a system where the Town Administrator makes all appointments. Liz supported Jerry and further stated that the Selectmen are elected to office by the citizens of the Town and are responsible to their constituents. The heads of departments need to report to the Board of Selectmen and be held accountable to the citizens of the Town. Although this type of system requires more work, she added, it is dangerous to have one person (not elected) in overall control of the Town government. The public input and accountability that results from our type of system is worth the extra effort.

Motion passed unanimously.

Section 5-3-2

Motion to accept Section 5-3-2 as presented in "the Draft" (not including Section 5-3-2 (j)) with the following changes: omit the word "he" from Section 5-3-2 (a), insert "Capital Improvement Plan" in place of "capital improvements program" in Section 5-3-2 (b), insert "inform" in place of "Inform" in Section 5-3-2 (i), insert "the Wellfleet post office and the South Wellfleet post office" in place of "one in each postal district" in Section 5-3-2 (l), and use a semicolon (";") at the end of each of the lower case letter subsections (Liz).

Motion seconded (Sara).

Motion passed unanimously.

Motion to table discussion of Section 5-3-2 (j) until the next meeting (Liz).

Motion seconded (Sara).

Motion passed unanimously.

Sections 5-4-1 and 5-4-2

Because Section 5-4-1 in “the Draft” refers to Section 5-4-2, the CRC decided to discuss Section 5-4-2 first. Dale suggested that the CRC needed to change this section as it requires a long process since personnel decisions are very time consuming and difficult. If the Board of Selectmen reviews all the resumes, it will take a long time. As a result, he again suggested that the Town Administrator, subject to Board veto, make the appointments.

Jerry stated that not all members of the Board needed to be at all interviews, however, it was important that the Chairman or Chairman’s designee be present. Jerry also stated that the Selectmen have done a fine job in selecting good people for several Town positions. Moreover, he asked Dale how Selectmen could make any decision about vetoing an appointment made by the Town Administrator if they don’t look at the resumes for that position.

Dale responded that if the Selectmen don’t like a choice, they could go back and review the resumes.

Liz expressed concern that the Town Administrator would be placed in a vulnerable position if the Board of Selectmen exerts veto power over appointments made by the Town Administrator. When the Board vetoes an appointment, the Town could be exposed to liability if the candidate is deceitful with respect to representations made by the Administrator during the interview process.

Liz pointed out that the Beach Administrator was listed in Section 5-4-2, but was not in Sections 3-6-1 (g) and (h). Ben indicated that the inclusion of the Beach Administrator in Section 5-4-2 was an error and that it should be removed.

Motion to adopt Section 5-4-2 as presented in “the Draft” with the following changes: delete the word “less” and replace it with the word “fewer”, insert the word “and” after “Director of Public Works,” and delete “and Beach Administrator” (Sara).

Motion seconded (Jerry).

Motion passed unanimously.

Section 5-4-1

Motion to adopt the wording of Section 5-4-1 in “the Draft” (Sara).

Motion seconded (Liz).

Motion passed unanimously.

Item 8: Next Meeting

The next meeting time is: Wednesday, November 29, 2006 @ 7 P.M.

Item 9: Other Business

None

Motion to adjourn the meeting (Robert).

Motion seconded (Jerry).

Motion passed unanimously.

Adjourned: 9:15 P.M.

Minutes approved on: November 29, 2006