

**CHARTER REVIEW COMMITTEE
RECORD OF MINUTES AND PROCEEDINGS
February 9, 2010**

The Charter Review Committee of the Town of Weymouth held a public meeting on Tuesday, February 9, 2010, at 7:00pm at Town Hall Council Chambers, 75 Middle Street, Weymouth, MA

Present: Barbara Deacon, Chairperson
Sandra Williams, Vice-Chairperson
Michael Smart
Arthur Mathews
James Wilson
Claire Cunningham
Sean Guilfoyle
John Reilly

Not Present: Michael Gallagher

Also Present: Franklin Fryer, Town Clerk
Kathy Deree, Assistant Town Clerk
Mary Jo Livingston, Superintendent of Schools

Recording Secretary: Janet Murray

Chairman Deacon called the meeting to order at 7:00 pm.

OLD BUSINESS

Minutes

A MOTION was made by Councilor Mathews to ACCEPT the January 26, 2010 minutes and was seconded by Councilor Smart and UNANIMOUSLY VOTED.

Chairperson Deacon stated that there were no phone messages. She stated that there was an email from Mr. Thomas and she has included in the packets the suggestions that Mr. Thomas had made at the last meeting.

NEW BUSINESS

Review of Town Charter Article 6, 7, 8 , 9

Article 6-2

Councilor Mathews stated that there was discussion at the last Budget/Management Committee regarding the time submittal of the mayor's budget. He stated that the consensus of the committee was that 75 days would be the best choice to allow time for departments to be recalled for clarification.

Mr. Wilson stated that Mayor Kay is recommending a reduction in the amount of time the school committee has to submit their budget to the mayor from 21 days to 14 days.

Superintendent Livingstone stated that any time gained in the submission of the budget is helpful. She noted that these changes will result in an additional 22 days which will put off the public hearing until March.

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A MOTION was made by Mr. Reilly to TAKE OFF THE TABLE Article 6-2 and 6-3 and was seconded by Councilor Mathews and UNANIMOUSLY VOTED.

A MOTION was made by Councilor Mathews to reduce the time frame in Section 6-2 (a) and (b) from 21 days to 14 days and was seconded by Mr. Reilly and was UNANIMOUSLY VOTED.

A MOTION was made by Councilor Mathews to change in Section 6-3 to “no later than 75 days before the start of the town’s fiscal year” and was seconded by Mr. Reilly and UNANIMOUSLY VOTED.

Article 7: Elections and Election Related Matters

Article 7-1: Town Elections: General, Preliminary

Mr. Fryer suggested that the town drop the primaries. He noted that the number of candidates has dwindled down. He stated that he believes that this would be a cost saving measure.

Ms. Deree noted that there has not been a full primary since 2001 because there have not been enough candidates. In 2007, District 1 had a primary.

Chairperson Deacon asked how much it cost to have a primary. Mr. Fryar stated that it costs about \$27,000.

Mr. Reilly questioned if Mr. Fryer is speaking solely about local elections, not state or federal elections. Mr. Fryer stated that he was referring only to local elections.

Councilor Mathews stated that he has a bill from Mr. Fryer for registrars for the recent special election. He stated that it is an expense which the town has difficulty finding the money to pay.

Councilor Mathews questioned if this would trigger what attorney Curran called touching the make-up or the composition of the mayor or the town council. He suggested that this issue be put on the list for discussion with Mr. Curran if this would required a charter commission.

Mr. Reilly asked if primaries were eliminated and a primary had more than two candidates Ms. Deree stated that only the district with more than one candidate running has a primary. She also stated that although the cost is lower the work still needs to be done.

Councilor Smart asked how this would affect the mayor’s race. Ms. Deree stated that there would be no primary for any of the races, district councilor, at-large councilors, or the mayor.

Mr. Reilly asked what would happen when there were three or more candidates for mayor. She noted that the top vote getter would be the winner.

Councilor Mathews asked if there were any other communities who did not have primaries. Ms. Deree stated that Randolph does not have primaries, Stoughton is in the process of eliminating primaries, and Lowell did away with primaries several years ago on a Home Rule Petition but it was sent back for review.

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Chairperson Deacon stated that she was concerned that if many candidates are running, the winner would have only a small percentage of the votes.

Mr. Wilson stated that he did not want to eliminate an election because of financial reasons. He stated that he is specifically concerned about the mayoral race.

Mr. Thomas stated that he believed that this may trigger a need for a charter commission.

Chairperson Deacon stated that this would be a question for discussion with Mr. Curran.

A MOTION was made by Mr. Reilly to take NO ACTION on Article 7 and was seconded by Mr. Wilson and UNANIMOUSLY VOTED.

Article 7-5: Districts

Ms. Williams noted that every ten years the distribution of the districts is reviewed. She asked if this was done after the census is received.

Mr. Wilson stated that the town census came up late winter last year.

Councilor Mathews noted that it is Mr. Fryar's office that reviews and draws up the district line.

Article 8: General Provisions

A MOTION was made by Mr. Wilson to take NO ACTION on Articles 8-1 to 8-4 and was seconded by Mr. Reilly and UNANIMOUSLY VOTED.

Section 8-5: Periodic Review of Charter and Ordinances

Councilor Mathews noted that the charter is to be reviewed every ten years and ordinances are reviewed every five years. He suggested reducing the number of years to review the charter from ten years to five years as he believes that ten years is too long.

Mr. Wilson stated that the review is required every ten years but a review can be done more frequently as there is nothing that prohibits the town from doing it earlier.

Mr. Guilfoyle stated that he agrees that ten years is too long. He noted that as a member of the school committee he and other members struggled with the problem of the budget timelines and waiting for the charter review committee to be formed.

Chairperson Deacon agreed because she would like to see if the work the committee has done is working and does not want to wait ten years. She noted that although it can be done sooner, she stated that it helps that the charter forces the review to happen at a particular time.

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Mr. Reilly made a MOTION to that in the last paragraph of Article 8-5 that the ten year interval be changed to 5 year interval and change year ending in 9, to year ending in 4 or 9 and was seconded by Councilor Mathews.

Mr. Thomas suggested rewriting Article 8-5. He agreed with Mr. Wilson that there is nothing in the section to preclude a review sooner than ten years. He suggested adding “nothing in this section shall preclude a review in a lesser number of years”.

Mr. Reilly stated that if there is a committee reviewing the charter in certain year, it may be better to have the ordinances reviewed in a different year to avoid conflicts.

Councilor Smart stated that had he known, he certainly would have looked to have the review done earlier to look at the budget timelines. He pointed out that in speaking with a Quincy city councilor, Quincy has not done a charter review.

Chairperson Deacon stated that she believes that by changing the language town officials would be forced to have the review

Ms. Cunningham stated that she would like to see the charter remain the same with the addition of language clarifying that it could be done sooner if needed.

Mr. Thomas pointed out that the ordinance review happens after the charter review. He stated that the one year interval allows for the committee that is reviewing the ordinances to pick up any changes that were made in the charter and then incorporate them into the ordinances.

Mr. Thomas handed out a copy of his suggested rewrite of Article 8-5.

Ms. Williams made a SUBSTITUTE MOTION to add a sentence at the end of the last paragraph “If necessary the town charter may be reviewed any time before the required specified ten year mark” and was seconded by Councilor Smart.

Councilor Mathews expressed concern about the substitute motion. He stated that it needs to be specified who is going to trigger the review, especially if there is disagreement as to whether the review should take place.

Ms. Williams pointed out that this is already addressed earlier in the paragraph. It states “Not later than the first day of July, at ten year intervals, in each year ending in a nine, the mayor and town council shall provide for a review to be made of the town charter”. She stated that if it necessary based on the mayor and town council that would trigger the earlier review.

Councilor Mathews asked what if there is disagreement between the two groups.

Ms. Williams stated that then there is no charter review.

Councilor Mathews stated that he cannot support this substitute motion.

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Mr. Guilfoyle stated that for the same reasons as Councilor Mathews, he cannot support this motion. He stated that having by having it every 5 years it starts the process regardless of who agrees or disagrees.

Councilor Smart stated that you could add the word “or” between the words mayor and council so that it reads “mayor or council”.

Councilor Mathews questioned what happens if the mayor says he/she does not see the need for a committee. The mayor seats 5 members but refuses to seat those members the committee would never have a quorum. He stated that the substitute motion does not address this.

Mr. Wilson stated that if you change the language from and to or, it goes back to the question if that would trigger a charter commission. You are changing who calls and why and that one word would; going from “and” to “or”, from a conjunction versus a disjunction. He recommended that this questioned be question of Mr. Curran

Mr. Reilly MOVED the question.

The MOTION PASSED on a 5-3 vote as follows:

Mr. Guilfoyle – No	Councilor Mathews - No	Councilor Smart - Yes
Ms. Cunningham – Yes	Chairperson Deacon – No	Ms. Williams - Yes
Mr. Reilly – Yes	Mr. Wilson - Yes	

Section 8-6: Uniform Procedures Governing Multiple Member Bodies

A MOTION was made by Mr. Reilly to take NO ACTION on Article 8-6 and was seconded by Mr. Guilfoyle and UNANIMOUSLY VOTED.

Section 8-7: Number and Gender

A MOTION was made by Mr. Wilson to take NO ACTION on Article 8-7 and was seconded by Mr. Reilly and UNANIMOUSLY VOTED .

Section 8-8: References to General Laws

A MOTION was made by Mr. Guilfoyle to take NO ACTION on Article 8-8 and was seconded by Mr. Reilly and UNANIMOUSLY VOTED.

Section 8-9: Computation of Time

A MOTION was made by Mr. Guilfoyle to take NO ACTION on Article 8-9 and was seconded by Mr. Reilly and UNANIMOUSLY VOTED.

Section 8-10: Oath of Office of Mayor, Councilors, and School Committee Members

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Councilor Mathews stated that since he has been a councilor, the clerk has not presided over meeting after the council is newly sworn in; typically it is the president at that time. He noted that if that president is voted out or does not run for re-election.

Mr. Guilfoyle stated that there are two pieces to this; Article 4-2 and Article 8-10. He stated that both sections need to match. One section states to reorganize when sworn in, the other says when you get it. He stated that he would like to see the reorganization happen at the 1st scheduled meeting in January.

Councilor Mathews spoke to paragraph 3. He stated that in the last sentence, “the president and vice-president shall be sworn by the town clerk, or, in the case of the absence of the town clerk, by any person qualified to take oaths or affirmations”. He noted that all councilors are sworn in that evening and there is no additional swearing in of president and vice president.

Mr. Guilfoyle stated that he has not seen an official swearing in for the president and vice-president.

A MOTION was made by Mr. Reilly to STRIKE the last sentence from paragraph 3 and was seconded by Councilor Mathews.

Mr. Guilfoyle made a SUBSTITUTE MOTION to STRIKE the last sentence from paragraph 3 and 4 and was seconded by Mr. Reilly and was UNANIMOUSLY VOTED.

Councilor Mathews discussed the paragraph that states that the town clerk presides over the meeting. He pointed out that the clerk has not presided over the meeting

Mr. Reilly noted that the clerk is only presiding over the election.

Mr. Wilson stated that the intent is for neutrality. He stated that he is not convinced that since it has not been done that it should not be done

Councilor Mathews stated that there is a rule that a councilor cannot serve more than two consecutive terms.

Chairperson Deacon questioned if the clerk could appoint a designee.

Councilor Mathews pointed out that the clerk’s office falls under the jurisdiction of the town council so this may not be viewed as impartial.

Councilor Smart pointed out that there is a provision if the clerk is not available.

Section 8-11: Certificate of Election or Appointment

A MOTION was made by Mr. Reilly to take NO ACTION on Article 8-11 and seconded by Councilor Smart and UNANIMOUSLY VOTED.

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Section 8-12: Limitation on Office Holding

A MOTION was made by Mr. Reilly to take NO ACTION on Article 8-12 and seconded by Mr. Guilfoyle and UNANIMOUSLY VOTED.

Section 8-13: Enforcement of Charter Provisions

A MOTION was made by Mr. Reilly to take NO ACTION on Article 8-13 and seconded by Councilor Mathews and UNANIMOUSLY VOTED.

Section 8-14: Annual Report of the Town

Ms. Williams asked about previous conversations regarding this section in relation to Article 3-6 (a) and she also noted previous comments about changing town comptroller to director of municipal finance.

A MOTION was made by Mr. Wilson to change town comptroller to director of municipal finance and was seconded by Mr. Reilly and UNANIMOUSLY VOTED

Councilor Mathews asked if there was an issue with the time frame in this section.

Mr. Wilson stated that he would combine the two. He would strike the first sentence of section 3-6 (a) the add an additional paragraph/sentence under section 8-14 “As part of the annual report, the mayor shall provide for a complete report on the financial and administrative activities of the town for the preceding year”.

A MOTION was made by Mr. Wilson to eliminate the first sentence in section 3-6(a) and add under section 8-14 “As part of the annual report, the mayor shall provide for a complete report on the financial and administrative activities of the town for the preceding year”. The motion was seconded by Councilor Mathews and was UNANIMOUSLY VOTED.

Section 8-15: Notice of Vacancies

A MOTION was made by Mr. Reilly to take NO ACTION on Article 8-15 and was seconded by Councilor Mathews and UNANIMOUSLY VOTED.

Article 9: Transitional Provisions

Section 9-1: Continuation of Existing Laws

Councilor Mathews read the second paragraph of Article 9-1:

In any case in which the provisions of this charter are found to be inconsistent with the provisions of any general or special law which would otherwise be applicable, the provisions of this charter shall be deemed to prevail. Every inconsistency between the prior law and this charter shall be decided in favor of this charter.

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He stated that this does not address Special acts of the Legislature passed after the adoption of the charter

Mr. Reilly stated that he believes that the general laws of the state prevail over local laws. He suggested that this be discussed with Mr. Curran.

Mr. Guilfoyle stated that he thought that his section was strictly for the transition from the town meeting form of government to the city form of government.

A MOTION was made by Mr. Reilly to REFER Article 9-1 through 9-6 and was seconded by Councilor Smart.

UNANIMOUSLY VOTED.

PUBLIC COMMENT

Chairperson Deacon asked if there was anyone in the public who would like to speak; there was the following response.

Mr. Thomas submitted the following document reflecting his comments at the 1/12/10 Charter Review Committee:

Corrections for CHARTER **REVIEW** COMMITTEE RECORD OF MINUTES AND PROCEEDINGS January 12, 2010.

On page 1 of 6:

I would suggest changing “Charter Committee” throughout to “Charter Review Committee.”

The Charter **Review** Committee of the Town of Weymouth held a public meeting on Tuesday, January 12, 2010, at 7:00 PM at Town Hall Council Chambers, 75 Middle Street, Weymouth, MA

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Mr. Bob Montgomery Thomas asked about how the draft document would look. Chairperson Deacon noted that this has not ~~be~~ **been** decided but a draft should be available to the Committee on 2/18/10.

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1. Mayor Kay discussed the swearing in of council and school committee members. On page 30, section 4 - 2, as soon as ~~practical~~ (**practicable**), school committee shall organize – Article 8-10 after oath has been administered, council organization shall occur; same with school committee, but 4-2 states as soon as ~~practical~~ (**practicable**). She stated that she is pointing out that this language is “muddy” and seems in conflict.
7. Mr. Thomas spoke to Article 4-2 (a) in that the language ~~does not preclude~~ (**should read: specifically precludes**) the mayor from being the chairperson; this section references a ~~member elect~~ (**should read: members elect**) The mayor is a member of the school committee by virtue of office and is not elected to the committee.

PUBLIC COMMENT (1/16/10)

1. Mr. Bob Montgomery Thomas stated that there is not a table of contents; there is on in the booklet, but it is not in the PDF file. He also stated that the document should be identified at the

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~~top of each page~~ **(should read: at the top of the first page of every document)** as “Town of Weymouth Home Rule Charter”.

2. Mr. Thomas ~~stated~~ **suggested** that the word voters ~~shall~~ **(should)** read “voter or voters” as noted on page 4 of the Charter and on page 3 on the PDF document.

8. Mr. Thomas noted that he believes that 30 days is a good time frame. He stated that this would establish a time certain as to what a temporary **(absence for the Council President)** means.

9. Mr. Smart noted that it is inferred what temporary means in Article 3-8. He noted that there is already a mention of 10 days in the Charter. **(That refers to the absence of the mayor Mr. Thomas countered.)**

12. **I suggest that this paragraph read:** Mr. Thomas commented on Article 2.3, prohibitions regarding returning to the same office or position held. **He suggested adding the wording “provided however, that the former office or position is available.”**

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1. 7. Mr. Thomas commented on Article 3-1 and the mayor’s qualification that the mayor be a voter should be changed to “voters of the town”. Ms. Williams pointed out that the word voter is defined in **the Definitions** section. She noted that this was discussed previously.

2. 8. Mr. Thomas commented on Article 3-8 regarding when neither the president nor vice president is available to serve as acting mayor. He suggested adding, “the council shall appoint an acting mayor ~~form~~ **(from)** their number”.

Ms. Hilbert expressed concern regarding the elimination of the primary elections. She stated that she does not think that there is any community in the state that does not have a primary.

Ms. Hilbert stated that she has read many charters and has not seen one that has the charter reviewed as often as five or ten years. She commented that in Boston there has not been a review since the early 1900’s.

Mr. Thomas stated that in his review of Article 8 found several punctuation changes in 8-2 and no changes in Article 8-3 or 8-4. He stated that Article 8-5 is badly written and should be completely rewritten. Mr. Thomas noted that there are two subjects that should be broken into a part a and b; one for ordinances and one for the charter. He noted that in the 2nd paragraph the added wording that at least five of whom shall not be employed by the town or serving as elected or appointed officials during the review process

Mr. Thomas read the following comments into the record:

**BOB MONTGOMERY THOMAS’ CHARTER REVIEW COMMITTEE COMMENTS FOR
FEBRUARY 9, 2010**

Thank you Madame Chairwoman and committee members,
Let me start this evening by saying that I spent five and a half years on the Bylaw Review Committee under the able tutelage of Claire Cunningham at first and then with Attorney Henry Dunker before I became Chairman for the last two years of our former government. I learned well from them and acquired a good understanding of legal parlance and phraseology, and for that I am forever indebted to them. And let me not forget John Reilly for appointing me to the committee to get rid of me in the first place. That’s where he stashed the noisy town Republicans – all three of us.

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I have two points I want to make tonight and I'll be quick if I'm not interrupted. I'll start with the minutes of the meeting of November 24 at which Mr. Curran was present and work forward. **On page 6 of 8**, starting with the dialogue from Mr. Mathews in the fourth paragraph, ad literatim:

“Councilor Mathews asked if an ordinance can originate from the council” in relation to his previous question about the establishment of a central municipal maintenance department. Mr. Curran stated that it says that the council by ordinance can do it but it does not say how the ordinance originates. He pointed out that only the council can adopt an ordinance. Mr. Curran stated that it originates through a re-organization subject to 5-1 or 5-2. This has to originate with the mayor. Mr. Curran stated that this section does not talk about how the ordinance originates.

At this point I have to stop and ask why not? This appears to me to be a major defect in the Charter or perhaps it's simply legal doublespeak by Mr. Curran.

Moving on to the dialogue on the Review of Town Charter Article 5-1 – Councilor Mathews noted that there have been some ordinances that have come from the council. Mr. Curran stated that if the mayor agrees with the proposal it could go forward. He noted that there is no provision for an override of a mayor's veto.

This is where I have to emphatically disagree because of § 3-7: Approval of mayor, exception (veto), to wit:

Every order, ordinance, resolution or vote adopted or passed by the town council relative to the affairs of the town, except memorial resolutions, the selection of town officers by the town council and any matters relating to the internal affairs of the town council, shall be presented to the mayor for approval. If the mayor approves of the measure the mayor shall sign it; if the mayor disapproves of the measure the mayor shall return the measure, with the specific reason or reasons for such disapproval attached thereto, in writing, to the town council. The town council shall enter the objections of the mayor on its records, and not sooner than ten days, nor after thirty days from the date of its return to the town council, shall again consider the same measure. If the town council, notwithstanding such disapproval by the mayor shall again pass the order, ordinance, resolution or vote by a two – thirds vote of the full council, it shall then be deemed in force, notwithstanding the failure of the mayor to approve the same. If the mayor has neither signed a measure nor returned it to the town council within ten days following the date it was presented to the mayor, the measure shall be deemed approved and in force.

Moving forward: Mr. Curran stated that it is the intent of the charter is that the mayor is responsible for day to day delivery of services not the council; therefore it is the mayor who determines how the services are delivered. The council can offer advice and comment on proposals put forth by the mayor.

Councilor Mathews noted that with he had tried to establish an ordinance relating to the Community Preservation Act (CPA). He noted that it was ruled (assuming by the Solicitor) as a section 5.1 re-organization plan.

Mr. Curran referenced chapter 43b section 20, which provides a number of exceptions for general laws for charters.

Councilor Mathews stated that a number of ordinances were originated by the council.

Mr. Curran stated that in effect these ordinances were originated with the implied approval of the mayor and that the mayor is able to prevent an ordinance from being introduced by the council. **I have a lot of serious problems with that statement.**

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Councilor Mathews had spoken with several charter commission members and they had stated that it was not the intent to prevent the council from originating an ordinance. He asked if the committee can recommend changes to section 5-1.

This dialogue continues on page 7 of 8

Mr. Curran stated that changes to section 5-1 can be made but approval of the mayor is required.

I have many more serious problems with that statement.

Council President Smart asked about making changes to section 5-1 and if this needed to be done through the legislature.

Mr. Curran stated that this can be done with a 2/3 vote of the council, approval of mayor, and passage by the voters. He then noted that this can be done through a petition to legislature with a majority vote of the council and approval by the mayor. **He pointed out that either way approval of the mayor is needed... Was he seriously being serious?**

Again, that, in my opinion, erroneous statement decimates the legislative branch of our government and grants the powers of dictatorship to a mayor.

The main problem I see is that the solicitor is an arm of the mayor with his rulings, which generally always favor the mayor's views. There's a reason for that, which I will explain later. First I must say that there is no section in the Charter that gives any such power of supremacy to a solicitor, especially a non-resident solicitor. And this is not a slight of Mr. Lane, whom I respect and like personally. But he works for the mayor and does what the mayor wants him to do. It's that simple.

In this regard, the council is its own worst enemy. In establishing § 3-330 of the Code of Ordinances, which relates to the office of Town Solicitor, the council ceded its obligations and duties to the people of Weymouth.

Rather than read the ordinance in its entirety, copies of which I have for the benefit of this committee, I'll read a few excerpts:

SECTION 3-330 Town Solicitor

(a) Appointment - **The Mayor shall appoint a Town Solicitor who shall serve an indefinite term of office.**

(b) Powers and duties. - The Town Solicitor shall, **and I'm going to go directly to subsections 5 and 6:**

5. Furnish all legal advice to the Mayor, Town Council, and all elected or appointed Town Officers, Departments, Boards and Committees pertaining to the discharge of their official duties. All requests for legal opinions, other than routine day to day questions, shall be made in writing to the Town Solicitor and routed through the Mayor's office for purposes of administrative control

6. The Town Solicitor shall have charge of and perform, under the direction of the Mayor, any and all other law business of the Town except as otherwise provided, including: yada, yada, yada.

For the committee's enlightenment, here's what that says, in my humble opinion. The mayor, whomever it may be, is running the show. The town council is nothing but a dog and pony show doing a lot of grunt work for short money and no real bennies other than getting to wear a suit and be televised. According to the testimony of Mr. Curran, the legislative branch may not legislate, which means to make laws, without the approval of the mayor through the solicitor, who works for and at the pleasure of the mayor. That is preposterous to say the least.

Even the makeup of this committee is weighted in favor of the mayor. Almost everyone here has some position in the government or town employ – like foxes guarding the hen house. It appears

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that the citizenry in general, who could care less save the one or two who show up at these untelevised meetings, has been precluded from participating in the review of the governing document, except for being able to make suggestions just before the close of the meetings.

Whether those suggestions will be taken into consideration or not remains to be seen.

At one meeting, the mayor bristled about an idea that I suggested and said that she wouldn't agree to that. To that I have to ask the question, whose government is this anyway? Did she mean to say that if she doesn't like the suggestions – that all of your earnest endeavors are dead meat? When this committee organized, did it take any oath of allegiance to the people of Weymouth or was one taken to benefit the government's interests?

I'm just thinking out loud here and hope no one takes personal offense to what I say or said because people born in Philadelphia generally don't dance around issues. We're purists who tend to speak plainly and bluntly.

On to point two for this evening:

At the January 26 meeting, I spoke to there being some ambiguities in § 6-8 and § 6-9 and whether there was any connection to the sections regarding violations of § 6-8 being bounced to § 6-9 for disposition or penalty purposes. After explaining the allotment procedures, Mr. Wilson went on to say that the word "official" in the first line of both paragraphs in § 6-9 refers only to the mayor or the chief financial officer, who he said are the only "officials" authorized to spend the taxpayers' money and that the word "officials" refers to them only.

I have to disagree with his assertion because there are other references to "town officials" in the Charter; the closest reference in Section 6-8, ALLOTMENTS referring to "town officials in charge of departments or agencies. Including the superintendent of schools..."

Other uses of the term are at § 2-8, (a); § 3-4, in the title; § 6-8, Allotments; § 6-9, twice as stated above; § 6-11, fourth line from the bottom; § 8-10, Oath of Office, paragraph 1, line 7; and § 9-6, Time of Taking Effect, paragraph 17, page 63.

And there is no definition of what constitutes an "official" in § 1-7, Definitions.

Per the Charter:

No official of the Town of Weymouth, except in the case of an emergency involving the health and safety of the people or their property, shall intentionally expend in any fiscal year any sum in excess of the appropriations duly made in accordance with law, nor involve the town in any contract for the future payment of money in excess of such appropriations. It is the intention of this section that the provisions of section thirty-one of chapter forty-four of the General Laws shall be strictly enforced.

Any official who violates the provisions of this section shall be personally liable to the town for any amounts so expended to the extent the town does not recover such amounts from the person to whom such sums were paid.

So if Mr. Wilson were correct about § 6-9, I would suggest the following changes for clarity:

Charter Page 28 rewrite

(B) Whenever said chief financial officer determines that any department or agency, including the school department, will exhaust or has exhausted its quarterly or shorter time period allotment and any amounts unexpended in previous periods, he shall give notice in writing to such effect to the department head, the mayor, the town solicitor, and to the town clerk who shall forthwith transmit the same to the town council. Upon such a determination and notice thereof, said chief financial officer shall provide such officers additional reports on at least a monthly basis indicating the status of such accounts.

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(C) The mayor, within seven days after receiving such notice, shall determine whether to waive or enforce such allotment. If the allotment for such period is waived or is not enforced, as provided above, the department or agency head shall reduce the subsequent period allotments appropriately. If the allotment for such period is enforced or not waived, thereafter the department shall terminate all personnel expenses for the remainder of such period. All actions, notices, and decisions provided for in this section shall be transmitted to the town council and the town clerk within seven days.

(D) No personnel expenses earned or accrued within any department shall be charged to or paid for such department's or agency's allotment of a subsequent period without approval by the mayor, except for subsequently determined retroactive compensation adjustments, approval of a payroll for payment of wages, or salaried or other personnel expenses. Any expenditure in excess of such department or agency's allotment by a department or agency head, including the superintendent of schools and/or the school committee, shall be a violation of this section.

If the continued payment of wages, salaries or other personnel expenses is not approved in a period where a department head has exhausted the period allotment or allotments as specified above, or, in any event, if a department has exceeded its appropriation for a fiscal year, the town shall have no obligation to pay such personnel cost or expense arising after such allotment or appropriation has been exhausted.

SECTION 6-9: PERSONAL LIABILITY FOR EXPENDITURES IN EXCESS OF APPROPRIATIONS

Except in the case of an emergency involving the health and safety of the people or their property, no mayor, chief financial officer or other town official with authority to expend appropriations shall intentionally expend in any fiscal year any sum in excess of the appropriations duly made in accordance with law, nor involve the town in any contract for the future payment of money in excess of such appropriations. It is the intention of this section that the provisions of section thirty-one of chapter forty-four of the General Laws shall be strictly enforced.

Any mayor, chief financial officer or other official who violates the provisions of this section shall be personally liable to the town for any amounts so expended to the extent the town does not recover such amounts from the person to whom such sums were paid.

Councilor Mathews

Public submit questions to committee to be forwarded to Mr. Curran

Councilor Mathews suggested that when Mr. Curran is present at the meeting that public comment be allowed.

MEETING SCHEDULE

2010 meeting schedule

1. February 23, 2010
 - Begin discussion of final document to be presented at March 15, 2010 town council meeting.
 - Committee members should have initial draft document on Thursday, February 18th.
2. March 9, 2010

CHARTER REVIEW COMMITTEE

February 9, 2010

- Invite Mr. Curran back to review/finalize document.
3. March 15, 2010
- Proposed presentation to town council
 - All committee members should plan to attend.

ADJOURNMENT

At 9:00 pm, there being no further business, a MOTION was made by Mr. Guilfoyle to adjourn and was seconded by Mr. Reilly, and UNANIMOUSLY VOTED.

Barbara Deacon, Chairperson

Date