

**CHARTER REVIEW COMMITTEE  
RECORD OF MINUTES AND PROCEEDINGS  
April 27, 2010**

The Charter Review Committee of the Town of Weymouth held a public meeting on Tuesday, April 27, 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  
Michael Gallagher

Not Present: John Reilly

Recording Secretary: Mary Briggs

Chairperson Deacon called the meeting to order at 7:03pm.

A MOTION was made and seconded to take New Business out of order and was voted unanimously.

**NEW BUSINESS**

Mr. Gallagher first apologized for any misunderstandings that transpired over the last few weeks. His intent was to clarify the process the committee needs to follow to get its work to the voters of the town, so they can determine if they approve of the work by the committee. In his zeal to get there, he noted his lack of judgement may have gotten in his way. He is pleased Mr. Curran is in attendance, and is looking forward to moving on and making the process run as smoothly as possible.

Chairperson Deacon thanked him, and reminded them that the purpose of the committee is to make sure the committee is correctly following the rules. Mr. Curran and Solicitor Lane were present to discuss. Chairperson Deacon noted the members were provided with information in their packets, and asked Mr. Curran to clear up some of the confusion surrounding the process. The draft document is not in the correct format to bring before the voters. The committee has gone before Town Council and the Ordinance Committee for discussion with the draft document. She knows the committee will need to change the format before it goes to public hearing and the voters and the committee would like to use this discussion to determine the direction to take. A list of questions has been prepared for Mr. Curran.

Mr. Curran stated: I am not second-guessing the committee and I'm trying to be helpful. The committee is correct in that the document produced is helpful to understanding what the Charter Review Committee is trying to recommend. The context is useful, but procedurally, it will need to be converted to specific items; for example, in every instance in the charter in which the word "councilor" and where it appears in the singular or the plural, one of the two "l"s is to be deleted so the word is spelled "councilors" in every case, whether singular or plural throughout the document. I've taken a stab at the document, and will leave a copy for the committee to look at. Procedurally, one or two things need to happen; one, the committee could request the town council return the material submitted so it can be revised or corrected. If the committee wanted to change anything, it would then be given the opportunity. Or, the council itself might send it back on its motion with the request that the committee perfects it and put it into a legislative form, and at which time changes could be made. The committee could determine tonight to file a request to the council to return the document.

Chairperson Deacon asked if that would be done before the public hearing.

Mr. Curran responded: the committee would want to have specific items that can be addressed at the public hearing. It's easier to address them when they are posted in serial form.

Chairperson Deacon asked, as the committee moves forward, is Mr. Curran recommending that the committee show each change with a "yes" or "no" vote?

Mr. Curran responded: it is understood; the committee is submitting the entire document in a format that will ultimately require a "yes" or "no" vote on each question. Ultimately, it must be handled this way, particularly once it goes on a ballot and also for the council to approve and send to the voters. The vote of the council is actually to order the questions on the ballot.

Mr. Wilson asked for clarification of each step. He used examples from the existing working document. He noted a specific change is outlined in red. Once the document is received back from the council the committee would determine each change be shown as an insertion in the section where it applies. The former section would then become the new section. He asked Mr. Curran if that is the degree to which changes should be made.

Mr. Curran responded: the designations of all of the existing definitions in each said section shall be changed accordingly, using the same section example Mr. Wilson cited.

Mr. Wilson asked then if it will be to that level of detail with regard to insertions and changes, and then bundle the changes into a single document, which will then look like an errata sheet.

Mr. Curran responded: it would need to be so everyone understands it.

Mr. Wilson then went back to the chairperson's initial question and asked if now they should phrase the ballot question for the entire document or do they go by each segmented change.

Mr. Curran responded: the committee would not want to offer a single question, but have many questions listed. They might want to bundle some of them, since no substantive changes are being proposed, just grammatical or editorial corrections.

Mr. Wilson said that anything that could be considered a scrivener's note could be bundled for example as a single question.

Mr. Curran also said: the committee has a better chance of getting items voted if there are less of them to vote. The intent is to isolate or reduce the number of "no" votes if possible.

Chairperson Deacon asked if they might want to consider the idea of proposing questions per article or section. Mr. Smart noted that if there are too many questions, the voters have lost interest before getting through it. Mr. Mathews reminded the committee that in 1999, the specific question of adopting the charter was given to the voters of Weymouth with a single "yes" or "no" vote option; the entire document was not on the ballot. The suggestion Mr. Curran is making will make for a massive ballot of many pages, which will be expensive and a huge task. Maybe a suggestion could be to mail out a revised version, similar to what the town did in 1999 and ask if they want to adopt the recommended changes by the Charter Review Committee. If you make a ballot of that size and magnitude, and the public does not have something to cross-reference, it will be difficult.

Mr. Curran responded: Mr. Mathews is referring to a charter revision, which would require another charter commission. After a charter has been adopted, as one has been here, if another charter commission is elected, the question then is shall another charter commission be elected to revise the charter? That charter commission has the option of submitting either a complete revision as the councilor is suggesting, or a series of amendments. You are not a charter commission; you are a charter review committee. You're in a position to recommend amendments; not a complete document. The difference between the charter commission in 1999 and the single question they had is what they were required constitutionally to do. There is no option for the first charter commission elected in a community under the constitution and the question is shall a commission be elected to frame a charter for the Town of Weymouth and the question is shall the recommendation of the charter commission be accepted? Single vote the entire document. Again, that's to be distinguished from what a charter revision commission, which is one elected after a charter commission. You are not that, so that option is not available, with all due respect to the councilor.

Mr. Mathews then asked if Mr. Curran is recommending that the committed put each individual change as a ballot question, which is going to be a ballot that's going to be thick. So it depends on how far they go with grammatical changes.

Mr. Curran responded: it would depend on how well they are bundled.

Mr. Mathews responded that his opinion is bundling the question will confuse the voters. He would try to make it as simple as and cost-efficient as possible.

Mr. Curran responded: there are no particular rules to relate in terms of distribution of the report, at least not as extensive as the charter revision commission would be required to publish their preliminary report in the newspaper and then every voter would be required to get a copy of the final report. The committee's final report will have to include a booklet going out to every voter with what's actually going to be on the ballot, after the council has adopted it, and what prevails at that point. Not this committee's report, but when the council adopts and recommends that amendments appear on the ballot, the town is required to publish and distribute to the voters a booklet that will contain those questions, similar to what the Secretary of State's office publishes for state elections.

Mr. Mathews asked: if what Mr. Curran is saying is that under Massachusetts General Law, we cannot, as a charter review committee, send them our recommendations in a booklet and ask them to answer a question of "yes" or "no" on the ballot; "Do you accept the recommendations of the Charter Review Committee; yes or no?"

Mr. Curran responded: I did say that; it's more than the general law; it's in the constitution itself that provision appears; Article 89 of the Amendments of the State Constitution.

Ms. Williams asked for clarification; if there are individual questions, that's ok but cannot put it as one question on the ballot?

Mr. Curran responded: that is correct.

Mr. Wilson then asked if the committee's report to the council would be twenty-six proposed ballot questions for their review and consideration. Assuming this goes forward with no changes or amendments, once the council looks at all twenty-six questions, then do they vote up or down on each question? Is that how council will proceed with their process?

Mr. Curran responded: I sent the committee a memo on March 29<sup>th</sup> summarizing the provisions under MGL Ch.43B on amendments and the language that was used, it is my opinion that, after looking at the statute again, I think it's clear that the intent of the statute is the council would vote on the recommendations specifically, either up or down.

I call the committee's attention specifically to the provisions of 43B, Ch.10, which provides in essence that the town council must not only consider any proposed charter amendment that is submitted to it. Effectively, what it says is that within three months you have to set a public hearing on it; within four months you must hold a public hearing

on it, and within six months you have to vote on it. I believe that for your construction of the provisions it requires the council to act specifically on the proposal made by the filing party and to not permit the council to make changes in the proposal other than minor changes to meet technical requirements.

I made an analogy to the somewhat limited powers some of you may remember town government; it's always been assumed that the selectmen have a very limited power to alter warrant articles that are submitted to them by the voters and have to put on the ballot what voters have asked for under Town Meeting warrant. I think this is somewhat similar and is how I would construe the language of Chapter 10 to be. Again, it does not mean that the council is powerless to do anything about it. They're acting on a proposal that has been submitted to them, but 43B, sections A and B; A is the strangest section of all. The first section starts off by saying "that the city council (town council or any legislative body) may at any time propose amendments to the charter." The Attorney General's office has construed that to mean no requirements in A, similar to those in B, that I just referred to about holding a public hearing, giving notice of the public hearing, voting on the proposal. The Attorney General's office, in an opinion construing A has said that it's independent of B. Frankly, I could never see how, this is how the council gets to act on A without holding a public hearing. It can then take these proposals that were made and don't like for whatever reason and substitute or create one that accomplishes what they think should be done with the particular subject matter. They can't amend the proposal made, but can craft one of their own that does what they want it to do.

Mr. Wilson said that once these twenty-six questions are submitted to the council; they then have one vote on these twenty-six questions, up or down. Then, as sort of part two, based upon your analysis, they can say they have some other thoughts on, whatever section, and they can craft a twenty-seventh question, beyond what the committee has recommended.

Mr. Curran responded: they can; any member of the council can, at any time, originate a proposal, separate from this document. Anything the council tacks onto it is a separate vote by them. This will remain forever the recommendations of the Charter Review Committee. Continuously with considering those, they are also considering other amendments that have been filed by other individuals.

Chairperson Deacon asked for further clarification: if the twenty-six articles go through and the council would like to substitute something differently. If for example they disagree with three of the committee's recommendations and they vote the whole document down because of those three recommendations. What happens then?

Mr. Curran responded: if two articles appear on the ballot dealing with the same subject matter, is that what the chairperson is asking? Chairperson Deacon said no; she asked if the council does not like for example three of the twenty-six recommendations, and decide that they are major to them; that they vote down the entire document.

Mr. Curran responded: As Mr. Wilson said earlier, they are voting each of twenty-six questions, not a single vote on the whole document.

Mr. Wilson then reviewed to be sure the understood the recommendation from Mr. Curran. This committee submits a document. As an example, there are twenty-six ballot questions recommended by the committee to the council. The question arises; does the council get twenty-six votes on this, or one?

Mr. Curran responded: I would think the council gets twenty-six, the same as the voters. Mr. Wilson further clarified that the council could then add questions as they choose.

Mr. Curran responded: yes.

Mr. Mathews asked if the council votes to not accept ten of the recommendations of the committee what would happen?

Mr. Curran responded: the items that are affirmatively voted will go forward. To go forward and onto a ballot, they require a 2/3 vote of the council, not just a majority, and the approval of the mayor.

Mr. Guilfoyle asked if the council votes items to go forward, will they be identified as recommendations from the Charter Review Commission, as opposed to a council or citizen recommendation?

Mr. Curran responded: if they are going forward, the voters should be aware of who sponsored them.

Mr. Guilfoyle asked what if there were additional recommendations coming from the council?

Mr. Curran responded: I don't know what the council policy is, but if the mayor submits action, is it indicated that way?

Mr. Wilson responded yes.

Mr. Curran said: it would then be whatever the council policy is in how matters are identified before the council.

Mr. Guilfoyle noted that he is more concerned with how it will appear on the ballot.

Mr. Curran responded: if it appears on the ballot then it is with council approval. I would think people would know ultimately where...there might be some people who recommend certain questions be approved and others not. As a practical matter, when things come on the ballot for a state election, you are referred to the Secretary of State's booklet. It doesn't say who the sponsor was. If they're on the ballot, it's because they got the requisite votes. Council amendments at the state level takes two consecutively elected

general courts to put it on the ballot. In this case it takes 2/3 vote of the town council, and the mayor to put an item on the ballot.

Chairperson Deacon then asked if twenty-six items came forward and say sixteen are voted by council, that document is then presented to the mayor? Can the mayor revisit any items that were disapproved?

Mr. Curran responded: I cannot not speak for the mayor, but it seems to me that it would be useful if the mayor gave her views at the public hearing so the council would know early on what the mayor's position was. Ultimately, what I started to say earlier, is that it has to have the 2/3 vote of the council and the approval of the mayor to appear on the ballot. So I would think the council would want to know early on what the position of the mayor is going to be on these questions. They may not want to spend a lot of time on something if they know that it's not going to be approved by the mayor. Why would they spin their wheels; there are more useful things they could do. I think it would be to the town's advantage for the mayor to let her position be known to the council as early as possible on these proposals; that is my opinion.

Mr. Wilson reiterated that the committee is seeking guidance from Mr. Curran and that Mr. Wilson is trying to keep the sequence of events as clear in his mind as possible. So they submit this report, which has twenty-six recommendations to the council. They like fifteen of them; they get fifteen yes votes and then the council adds three more of their own, so now there are eighteen questions. Let's presume that the mayor says nothing at the public hearing. Then, the mayor says she only likes fourteen of these eighteen; does only the fourteen go on the ballot?

Mr. Curran responded: yes. I gave you a case when I first met with you. There was a situation in the City of Gloucester some years ago and the council said nevermind what the mayor says, and they went back and overrode the mayor's veto, effectively. They construed the provision as being a veto effectively by the mayor and they reconsidered and by 2/3 vote overrode the mayor's veto. The Supreme Judicial Court, in an advisory opinion said that was not sufficient; that the language of the amendment is specific in that it does specifically require the approval of the mayor and the council cannot override the mayor's approval. I gave you a copy of that opinion early on. That came up early in the game so you know what the rules are.

Mr. Wilson responded that he is trying to get all of the rules sorted on one piece of paper, with the help of the recording secretary.

Mr. Mathews asked if Mr. Curran is saying the mayor has a similar or same power as the council; that both can look over each item individually. If thirty questions were approved by the council and came to the mayor, would the mayor have line item veto power? Can she say she only likes twenty of the council's thirty approved recommendations or does she have to reject the document in its entirety?

Mr. Curran responded: it isn't so much if she rejects, but only those she approves goes forward; those that she does not approve do not go forward. It counts as rejection but she takes only an affirmative action, not a negative one.

Mr. Mathews noted he thought it had to be a general consensus between the legislative and executive branches of government prior to anything going to the ballot.

Mr. Curran responded: You have to have both the mayor and the council approval to put it on the ballot; right.

Mr. Wilson noted then that the role of this committee is essentially a jumping off point; we begin the process. We've done our job once we get this in final form; we can disband if we so choose after we've delivered a report which is in good form to the council. Nothing then comes back to us for further review?

Mr. Curran responded: the council, I suppose, could refer something back.

Mr. Wilson said then it could take on the aura of an ordinance committee.

Mr. Mathews asked about the timeframe, given that the committee's document is not in the correct format. With a specific timeframe of May 1<sup>st</sup> that this committee must submit its recommendations to the council. He read from page 46 of the Charter: "The special committee shall file a report with the town Clerk of the Council no later than the first day of May in the year following the year in which the committee is appointed."

Mr. Curran responded: You've already filed your report. You've met that deadline.

Mr. Mathews noted that it was not however in the proper format.

Mr. Curran responded: You're asking to have it sent back, but you have filed it. There's plenty of time and I don't know when the committee was appointed, but this can't appear on a ballot until not this November, but November of next year; 2011. So, there's no hurry. The vote that the council will ultimately take will be to put the question on the ballot at the next regular municipal election, sixty or more days after the council vote. That vote is suspended for thirty days, while you send it in to the Attorney General's office for her review, and when the Attorney General comes back, then the suspension is lifted and then goes to the ballot. What it amounts to is thirty days plus sixty days, so the city election is ninety days after the council votes. That could occur as late as July of 2011, so you have thirteen, fourteen months after the May 1 deadline.

Mr. Mathews interjected; the next sentence on page 46 of the Charter reads: "The recommendation of the special committee shall appear on the council agenda for action before the 15th day in June, in said year, and if not so scheduled by the Clerk of the Council, the matter shall come before the council for action at its next meeting held following the said 15th of June, and no other business shall be in order until such report

has been acted upon by roll call vote.” So, there is an additional timeframe specifically outlined in the charter.

Chairperson Deacon said her confusion is that based on the same timeframe, it says the committee has to have a public hearing within three months from the time of the submission. The committee did submit a report by May 1<sup>st</sup>.

Mr. Curran responded: It seems to me that this would be if it were going on the ballot that November. It could be. Years ending in nine; that doesn't seem right. If in a year ending in nine; that's a municipal election year. So if filed May 1<sup>st</sup> in 2009, then you would need this kind of a time period to put it on the ballot in November of 2009. But this is 2010, and it's not a municipal election year and it can't go on the ballot until 2011, so as a practical matter, I would say this wouldn't be operative unless you are dealing with a July of a municipal election year. That's the reason to get the thing done; so it gets to the Attorney General and gets on the ballot in November.

Mr. Wilson asked to go through and to be certain this is a procedural question. This committee has submitted its report in a particular format. The format needs cleaning up. Either the committee can request the document comes back or the council can send it back. Once it is cleaned up and it goes back and the council is prepared to deliberate, Mr. Curran is indicating to the committee that the June 15th date, for purposes of this specific instance, because the municipal election is a year from now, this specific instance will permit the committee to go beyond the June 15th date without imposing a penalty on the council of having to deliberate on it at its next scheduled meeting and no further business can be conducted. That's Mr. Curran's practical opinion?

Mr. Curran responded: it was designed to be in effect during a municipal election year, which this is not. You have fourteen months.

Mr. Wilson noted then to the committee that they then could ask the council to send it back and allow the committee to refine it or bring it into a better format and the council could breathe a sense of relief that they don't have to act on it by June 15th. The committee doesn't have to race through it. He asked Mr. Mathews if a public hearing has been scheduled. Mr. Mathews responded that it is in Ordinance Committee; an initial presentation has been made, all of the recommendations were reviewed, and some discussion taken place, but a hearing has not been scheduled yet. Mr. Wilson noted that the committee not put the Ordinance Committee in a bind by requesting it back, and from the explanation it sounds prudent given the fact that the committee needs to do further work on it. He likes the opinion. He recommends the next time the Ordinance Committee meets, they could go before them.

Mr. Mathew noted that he could facilitate an Ordinance Committee meeting prior to the council's meeting Monday. The council could then make a motion and support sending it back to the Charter Review Committee. He would want a request from the Charter Review Committee in writing so it can be in the packets for the next meeting.

Mr. Wilson suggested that maybe the Charter Review Committee should establish its own procedure first; shall the committee adopt the position recommended by Attorney Curran: Suggest that the committee retrieve the document for further refinement and indicate that the June 15<sup>th</sup> date, because of an opinion that the committee received on the record is not binding upon this specific set of circumstances and that the committee would appreciate their cooperation in sending it back. It doesn't put the Ordinance Committee in a fever pitch and allows everyone to digest what is being recommended.

A Motion was made by Mr. Wilson to-

1. Craft a letter to the Ordinance Committee indicating that the Charter Review Committee is aware that the report they submitted needs to be in a format suitable for placement on the ballot and that,
2. At the Charter Review Committee meeting of April 27, 2010, the committee received legal advice that given the circumstances (this being a non-municipal election year), the June 15<sup>th</sup> provision is not applicable,
3. requests the document be returned to the committee to put into a form and get back to the Ordinance Committee as soon as practicable.

This was seconded by Mr. Guilfoyle.

Mr. Mathews asked if Mr. Wilson would like to amend the motion to include something in writing for the committee indicating the information about this being a non-municipal election year. Should someone from the council question it, he would prefer to have a letter that basically outlines that this is the opinion of Mr. Curran that because this is a non-municipal election year, the deadlines do not apply.

Mr. Curran responded that he would; Mr. Mathews asked him to consult with Solicitor Lane. Mr. Curran responded that Mr. Lane's opinion would be the one the council would want to hear. Solicitor Lane noted he would be happy to join in on any opinion from the committee's expert. Mr. Wilson amended his motion to include Mr. Curran's opinion in writing and Mr. Guilfoyle seconded the amended motion.

Mr. Smart asked if this action in any way affects the requirement of submitting the document although he understands the document has already been submitted. Is there any way this could be construed as in conflict with the charter?

Mr. Curran responded: I will look more carefully and try to more specifically review what's been addressed, and it's been a long time since I've reviewed the provisions, but in looking at it now, and in the context in which it was written, I'm sure the intent of this paragraph was...if it was filed as late as the first day of July, this is what they have to adhere to. In an odd-numbered year...

Mr. Smart interjected that is not what he is referring to; he refers to the May 1<sup>st</sup> submission to the council. Now the council is to send it back; the committees was ignorant to think that they could get it to the council and tell them to vote it, put it on the ballot and it's on its way. Mr. Smart does not want something coming back and saying the committee is in conflict with the charter because it missed a deadline on May 1.

Mr. Curran responded: what I was trying to suggest and what I believe is that the answer is that these regulations apply to a committee that's appointed in an odd-numbered year, which is a municipal election year. You were appointed in an even-numbered year. It gives you fourteen months instead of the six months period that is described here. I think that's how I interpret this.

Mr. Guilfoyle noted that because the document has already been submitted, the committee has met the letter of the charter. It was filed before the deadline.

Mr. Wilson added that the committee's transmittal letter clearly indicated that they were submitting their report, in accord with the charter provisions. Anyone can make an argument of it, but it's form over substance. They met the requirement.

Chairperson Deacon noted that was her concern, that they met the terms of the charter in submitting the document, and wasn't sure it was ignorance in getting it prepared properly. What she thought would happen was that once everyone made their changes, that's when it would be prepared. When the committee asks for the Ordinance Committee to send the document back, it's only for format. It's not for further deliberation, other than one item from tonight's agenda. It should not be a long process since the work has been done. It's just going to be formatted.

Voted unanimously.

Mr. Smart brought up Mr. Curran's email response. He takes exception to the comment in the email to Mr. Gallagher (and thanked Mr. Gallagher for apologizing here). He states that he believes any discussion should be at the committee table and he appreciated Mr. Gallagher coming forward and owning up to the faux pas. He then addressed Mr. Curran's suggestion that "the work that this committee did be buried in a back room." Mr. Smart noted that was his committee- the Ordinance Committee and asked where did Mr. Curran think that this work was going to go? To suggest that they would bury it in a back room; it's no different than this meeting. This is a public meeting; advertised, published and on the website, just like every other committee meeting. He does take exception to the comment. He is not sure if Mr. Curran was misguided or led to respond in that manner. Many of the council members were angered, including himself.

Mr. Curran responded: it was a poor choice of words and I apologize. If it was meant as anything, he meant that the full council should be hearing...

Mr. Smart responded that the full committee did hear it; it was presented first to the council and then referred to committee and then public hearings will be scheduled just like was discussed here in this committee when Mr. Curran was in attendance on November 24, 2009. This had already been discussed.

Mr. Curran responded: didn't I have that in quotes?

Mr. Smart responded that he did.

Mr. Curran responded: take that in context.

Mr. Smart said it was a poor choice of words especially for someone as experienced as Mr. Curran. He did not appreciate it.

Mr. Curran responded: again, it was a poor choice of words, but by putting it in quote marks, it was using a phrase not really meaning it in the way the words themselves convey.

Chairperson Deacon noted she was in agreement with Mr. Smart; as chairperson of this committee, and as hard as everyone worked on this committee, none of them would allow it to be “put in the back room.” It’s been a lot of work.

Mr. Mathews noted that the chair of this committee will be invited to every meeting where this document is deliberated as would anyone else on the committee.

Chairperson Deacon asked, referring to the mayor’s recent absence, and section 3-8 of the Charter, the committee determined that some of the wording in that article needs to be changed and updated. The committee did not do that in prior deliberations. Can the committee make that amendment to their 26-page document, or must they submit an addition?

Mr. Curran responded: if you get the report back, I think you can add, and point out to the council that you’re adding it. Again, it’s a technical...George explained to me...the word “working days” appears in one place and “days” alone appears in the next paragraph. That is a scrivener’s error and when you are reporting it to the council it is not of substance but correcting a scrivener error.

Chairperson Deacon also reported to Mr. Curran that she was approached at the meeting at which the committee’s presentation was made to town council by someone who wanted to make a suggestion or add something to the document. She referred that person to Mr. Mathews because at that point the document was in the deliberation of the town council. Was that the right position to take, or should it go to citizen’s petition route. Could that person be included in the process?

Mr. Curran responded: certainly someone could, or if you wanted to reconsider 3-8 provision, you can entertain their proposal, or they could go to a councilor and have the councilor advance it for them. Or they could speak at the public hearing. We don’t have a provision in this charter, but in a lot of charters we have provisions about citizen’s initiative articles. I don’t know what policies exist here. There is at the state level as I’m sure you all know right of free petition; anybody can go to their state representative or senator, and by tradition, that whatever idea you have they will file in the state legislature. Sometimes they put on it if they think you’re a real crank “by request” so the other legislators know that it isn’t a bill that they themselves support. There’s no

provision for that at the local government level. Even to put an article into town meeting takes at least ten voters, but here at the state level you can file one per person. So, in some charters, they put some provisions in dealing with that. In some cities, or towns like yours, there may be a tradition on the council. When I grew up in the city of Holyoke, which was a much bigger city then than it is now, but anyway, Holyoke had a Board of Aldermen. One of the aldermen, a gentleman by the name of (I remember still), Patrick A. Coughlin. He was proud that if any voter came to him, he would put anything they wanted on the agenda for the Board of Aldermen. Lots of times he'd be laughed at for some proposals, but he would bring it up and say "one of my constituents requested this matter be brought before this distinguished body." You may have a councilor here who would take note of a petition. I don't know if you do but it's something to consider to have a policy to doing.

Mr. Gallagher asked for clarification. The question that the chair was asking was, could the committee as a charter review committee, if requesting the document back, could the committee address that issue as opposed to having it go to the council?

Mr. Curran responded: it is up to you, but I think if you're going to add something at this point, you're going to explain why you're adding the provision in 3-8 and explain whatever the voter is asking you to do that you didn't give them an opportunity to do before or because it deals with some predicament, or whatever the reason is.

Mr. Gallagher asked if they could at the very least, discuss the matter and deliberate on it here in committee.

Mr. Curran responded: Sure. If you can do one, why can't you do the other, I guess. The first one is the hardest.

Mr. Mathews spoke from the town council side, and noted he has spoken with Councilor Smart on it also. As the council goes through its deliberations, he has received emails, phone calls and someone presented documentation to them at the last council meeting. The council will deliberate all materials. It doesn't necessarily mean they will adopt any of them, but whatever is given to them will be reviewed and if a councilor wants to make a recommendation on anything received by a constituent to include it, but it will still require a 2/3 vote of the council and approval by the mayor. The council certainly would not turn away a constituent, nor would they require one hundred signatures in order to review an item.

Chairperson Deacon stated that as it appears the document is going to come back to committee and there are going to be further deliberations are those issues something that Councilor Mathews would be comfortable giving back to the committee for its deliberation? Mr. Mathews responded that one of them was from a resident, Mr. Thomas who has already given his recommendations to the committee. Mr. Mathews can forward a copy of the document and the chair can decide what she'd like to do with it. There are others as well. Mr. Mathews will give them; they are public documents.

Chairperson Deacon noted she was away and missed the last town council meeting and asked if the documentation provided by Mr. Thomas was additional documentation that has not been presented by him before. Mr. Mathews has not had a chance to read the entire document yet, so he is unsure. Mr. Smart noted he has given it a cursory review, and it appears to be a lot of formatting, and much of it repetitive. When the committee votes to send it back to this committee it can be reviewed. Mr. Thomas can also address it later under public comment portion of the agenda.

Chairperson Deacon thanked Mr. Curran and Mr. Lane for providing further clarification to the committee. Mr. Curran wished them luck.

### **OLD BUSINESS**

#### **Minutes**

The chairperson apologized for the delay with the minutes. Part of the delay is that she was of the opinion that this would be the last meeting of the committee and she was deliberating how to address the approval for the minutes from the final meeting and obtained a decision. At the final meeting of the committee, it needs to be stated within the meeting that it is the final meeting, and that Mrs. Deacon, as the chairperson has the authority to approve those minutes, so that then the committee can close down.

A motion was made by Mr. Guilfoyle to accept the March 9, 2010 minutes and was seconded by Mr. Gallagher.

Mr. Gallagher noted there are a couple of minor changes; on page 2, second paragraph, third line, last word should be corrected to read "mayor" and further down it says "Mr. Curran may suggest" should be corrected to read "suggest".

The motion, with the corrections noted, was passed unanimously. She will forward them to the recording secretary to make the changes and ask her to forward to Mr. Gallagher for the website.

Chairperson Deacon noted all members received the memo Mr. Gallagher sent out and the response from Mr. Curran as well as a letter from Mayor Kay. Diane Hachey provided a copy of a memo that went out and Mr. Mathews asked that it be read into the record:

**TO: Allison Manning- Patriot Ledger**  
**From: Diane T. Hachey- Weymouth Town Council**  
**Subject: Freedom of Information Request dated 14 April 2010**  
**Date: 26 April 2010**  
**CC: All Councilors, Charter Review Committee**

**I am writing at the request of President Mathews, in follow-up to his memorandum to you dated April 15, 2010. You included a copy of your freedom of information request regarding the Charter Review Committee, to the Town Council Office.**

**I wish to confirm that I have contacted all Councilors and confirmed that there was no discussion amongst them with Attorney Curran (via email or correspondence) outside the scope of Charter Review Committee deliberations.**

**I have been informed that the Mayor's Office has responded directly to you, under separate cover, in answer to your correspondence.**

**Please contact me directly if you require further assistance.**

Chairperson Deacon asked what the timeframe to respond to these requests? Mr. Mathews and Mr. Wilson both responded that it is ten working days.

### **PUBLIC COMMENT**

Robert Montgomery-Thomas provided an additional copy of the document that he gave to the town council at its last meeting to the committee chair. He has incorporated all of the recommendations made by the committee and added a few that he thinks are important enough to leave in. He reviewed its format and design. Based on tonight's discussion he asked if it would be possible to print the entire document with the changes and leave some room for changes, and a history of the charter. The other comment he made is that the town council is the legislative body of the town; what is considered action? It doesn't necessarily mean what type. His personal opinion is that it does not say anywhere that the mayor must approve it; but that the town council is the legislative body, and he does not see anywhere why they should cede any of the authority bestowed upon them by the charter. He has made this statement before and takes exception to Mr. Curran's fallacious statement he made back in November that the council could not override the mayoral veto.

Mr. Mathews noted that what Mr. Curran referred to regarding the mayoral veto is not in the charter because it is in Massachusetts General Laws, Chapter 43B, section 10, subsection A. Mr. Mathews read the first paragraph of this legislation:

“Amendments to a city or town charter previously adopted or revised under this charter may be proposed by the city council of a city or town meeting of a town by a two thirds vote in the manner provided by this section, provided that amendments to the city charter may be proposed only with the concurrence of the mayor in every city that has a mayor and that the charter commission elected under this charter may propose any change in the charter.”

Mr. Mathews explained that what this says is that it needs the concurrence of the Mayor.

Mr. Montgomery-Thomas made a note earlier to review this section of MGL to see the exact verbiage and will need to do more research. It then begs the question; what is “concurrence”? It doesn't give the mayor the authority to deny...the town council will eventually have to hang its hat on whether or not to eventually get mayoral approval on legislation when in fact the legislative body makes its own rules. It doesn't have specific

language that says the mayor can veto the recommendations of the town council. There is specific language missing.

Chairperson Deacon thanked him for his input and the committee will review the material.

There was brief discussion on the next meeting; Chairperson Deacon asked if the committee could be placed on the council agenda next Monday (May 3, 2010). Mr. Wilson did not think they would receive the opinion from Solicitor Lane in time to get all materials disseminated to the council members by the end of the week. Mr. Guilfoyle suggested the committee request the Ordinance Committee be requested to suspend any deliberation on the document. Mr. Mathews reported that there could be a special town council meeting during May in which it can be addressed. The consensus of the committee is that Mr. Wilson will draft the letter and email to the chair and solicitor, and get on the agenda for the May 17<sup>th</sup> town council meeting. Mr. Mathews noted that the 17<sup>th</sup> is the Annual Town Meeting is held on the 17<sup>th</sup>, and it will be very difficult to fit it on the agenda. Mr. Gallagher recommended that the committee wait to schedule on a June town council agenda, by which time the committee should have all the pieces in place that are needed. Mr. Wilson suggested getting the letter drafter, circulate it, follow up with Mr. Lane and Curran, and if Ordinance Committee chooses not to meet until June, then they choose not to meet until June. The chair will submit the letter once it is ready to the town council and once the document is returned the chair will schedule the next meeting of the committee.

Mr. Smart asked that the portions of the minutes from this meeting pertaining to Mr. Curran's conversations and the conversations with Mr. Curran regarding the timelines be transcribed verbatim.

### **ADJOURNMENT**

At 8:40 PM, there being no further business, a MOTION was made by Mr. Gallagher to adjourn, seconded by Mr. Guilfoyle and voted unanimously.