

**CHARTER REVIEW COMMITTEE
RECORD OF MINUTES AND PROCEEDINGS**

October 27, 2009

The Charter Committee of the Town of Weymouth held a public meeting on Tuesday, October 27, 2009, 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
 John Reilly
 Sean Guilfoyle (arrived at 7:15pm)

Not Present: Michael Gallagher

Recording Secretary: Janet Murray

Chairman Deacon called the meeting to order at 7:05 pm. She noted that Mr. Gallagher would not be present this evening. She also asked if all the members had received the minutes as she had been having problems with her email. All members present indicated that they had received them.

OLD BUSINESS

Minutes

A MOTION was made by Councilor Mathews to ACCEPT the minutes and was seconded by Mr. Reilly.

Chairperson Deacon noted that there were several corrections that needed to be made. first on page 2 – “this issue” should be deleted. Second on page 3 – “any recommendations from committee to town council to Mayor to Commission” – she did not believe that this was correct. Council President Smart stated that after going to the Mayor any recommendations would go to Mr. Galvin or the Attorney General’s office before it comes back to the voters. There would be a commission only if the Committee were to decide to make changes. Mr. Reilly suggested striking the words after Mayor which was agreed upon. Third on page 6 she noted that her name was not indicated in the 5-2 vote. She noted that she did vote and this should be noted accordingly. Finally, after discussion of the meeting schedule it was noted that the Chairperson was going to invite Mr. Curran when actually a letter was to be sent by Mr. Reilly.

The MOTION to APPROVE the minutes as amended UNANIMOUSLY VOTED.

Mr. Reilly stated that he had sent a letter to the Mayor. He noted that he received a phone call from the Mayor’s office yesterday stating that she was not available this evening.

Mr. Wilson stated that the Mayor would be willing to respond to any questions directed to her from this evening in writing.

Chairperson Deacon stated that there were no phone messages; however there were two emails. One citizen was concerned about grammatical paragraphs that are on the website and the second

CHARTER COMMITTEE

October 27, 2009

email stated that the link to the actual Charter is not working. She stated that she will send this information to the webmaster Tom Rose.

Chairperson Deacon stated that she noticed that one of the November meeting dates is incorrect.

Mr. Wilson asked that he be copied on the email to Mr. Rose.

Chairperson Deacon asked Mr. Reilly if he had an update on the letter to Mr. Curran. Mr. Reilly stated that he has not sent it yet but will do that tomorrow.

Mr. Reilly noted that he had not sent the letter to the School Committee for the next meeting as he had expected Mr. Guilfoyle to be present this evening and that he could take care of passing on this information. He stated that he would send the letter to the School Committee Chairperson and the Superintendent.

Chairperson Deacon stated that she handed out a list of initial questions for Mr. Curran.

Chairperson Deacon stated that Mr. Gallagher had looked up the meaning of the word "remove". She stated that the definition is to move from one place to another. She stated that although the dictionary shows that the meaning is correct this use is confusing.

Mr. Wilson stated that remove is legal terminology. It is used when one literally removes themselves from one district and thereby makes themselves ineligible for participation. He stated that whether it needs to be used here, he did not know.

Council President Smart suggested that the list provided is good and no action is needed on it at this time. There was consensus among committee members.

NEW BUSINESS

Review of Town Charter Article 3: Executive Branch

SECTION 3-1

MAYOR: QUALIFICATIONS; TERM OF OFFICE; COMPENSATION

Mrs. Cunningham stated that she had an issue with Section 3-1 (e). This refers to when the Mayor leaves office and looks to return to the position previously held. Mrs. Cunningham stated that when the Charter was being written, she understood that the wording would be that the Mayor could return to a position, if there was an opening. However, when the final document came out it was not written this way.

Council President Smart asked if this falls under the Civil Service.

Mr. Wilson stated that there were mechanical as well as practical issues regarding the specific situation involving the previous Mayor's return to the Fire Department. He noted that in that case, the former Mayor returned to the position of Fire Chief for one week then retired.

CHARTER COMMITTEE

October 27, 2009

Mr. Wilson stated that the language allows for someone to return to a position; how it is executed internally is another issue.

Mr. Guilfoyle stated that since the former Mayor did not resign his position as chief, this allowed him to retain a spot in the Fire Department. He noted that this is related to requirements of the Civil Service. He suggested that Section 3-1 (e) be put on the list for clarification for Mr. Curran.

Mr. Reilly stated that clarification is need to determine if any suggested changes comply with Civil Service requirements and statutes.

Mr. Guilfoyle stated that he believes that the current exemption is only for Public Safety employees such as the Fire Chief and Police Chief.

Councilor Mathews stated that he believes that these changes should apply to all employees.

A MOTION was made by Mr. Reilly to take NO ACTION on Section 3-1 (a-d) and was seconded by Councilor Mathews and UNANIMOUSLY VOTED.

A MOTION was made by Mr. Reilly to REFER Section 3-1 (e) to Mr. Curran and was seconded by Councilor Mathews and UNANIMOUSLY VOTED.

SECTION 3-2

EXECUTIVE POWERS; ENFORCEMENT OF ORDINANCES

Councilor Mathews questions why the Mayor would, by virtue of office, be a member of every multi-member body in town. He questioned specifically the potential for conflict of interest.

Mr. Guilfoyle stated that as chairperson of the School Committee he is a member of sub-committees, ex-officio. He stated that he attends many of these meetings but does not vote nor steer the discussion in this situation.

Mr. Wilson stated that if the Mayor wants to be heard on a topic, by virtue of office he/she can sit and state that he/she would like something done a certain way; thus executing influence without the right to vote. He noted that the Mayor appoints virtually every board and committee in town. This provision gives him/her a voice without needing to ask permission of a Board or Committee.

Mrs. Cunningham stated that this is a courtesy to the Mayor.

Council President Smart stated that these four paragraphs indicate that the town has a strong mayoral form of government. He pointed out that the Charter Commission that put forth the Charter to the voters wanted a strong mayor form of government. He noted that the will of the voters was that they wanted this type of government. He noted that the intent of review committee is not to change the will of the voters; the intent is to tweak it.

CHARTER COMMITTEE

October 27, 2009

A MOTION was made by Mr. Reilly to take NO ACTION on Section of 3-2 and was seconded by Mr. Wilson and UNANIMOUSLY VOTED.

SECTION 3-3

APPOINTMENTS BY THE MAYOR

Council President Smart noted that this section, in conjunction with Section 2-10 are on the list for Mr. Curran, specifically in regards to South Shore Tri-Town Development Corporation (SSTTDC) Board of Directors.

A MOTION was made by Mr. Reilly to REFER Section 3-3 (reference #5 on “questions for Mr. Curran, Section 2-10 as it relates to SSTTDC Board) and was seconded by Mr. Guilfoyle and UNANIMOUSLY VOTED.

SECTION 3-4

REMOVAL OR SUSPENSION OF CERTAIN OFFICIALS

Ms. Williams asked if there about the reference to “days”. Mr. Wilson stated that unless it is specifically noted otherwise, it is generally interpreted as calendar days.

Ms. Williams stated that this could be added to definitions.

Mr. Wilson referred to Section 8-9 which defines computation of time.

Mr. Guilfoyle stated that he would like to see the computation of time added to this section for reference purposes.

Chairperson Deacon asked if this change would be for both (a) and (b). It was agreed that it should refer to the entire section.

A MOTION was made by Mr. Reilly to RECOMMEND a change to Section 3-4 (a) and (b) to add the reference to Section 8-9 and was seconded by Ms. Williams and UNANIMOUSLY VOTED.

SECTION 3-5

TEMPORARY APPOINTMENTS TO TOWN OFFICES

Councilor Mathews referenced the recent situation where the Mayor appointed temporary members to the Conservation Commission due to the resignation of several members. He noted that there is no definition for town office although there is a definition of a town officer. He stated that he believed that this refers to department heads not necessarily members of standing committee. He stated that there should be a definition for town office.

Mr. Guilfoyle suggested that the word could be changed from town office to town agency be used.

CHARTER COMMITTEE

October 27, 2009

Mr. Wilson stated that when someone is appointed to an office they take an oath of office.

Mr. Reilly stated that he agrees with Mr. Wilson. He noted that the oath that he took to be on the Charter Committee is the same oath that he took when he took an elected office.

Councilor Mathews asked if someone in a position such as Mr. Wilson leaves takes an oath of office.

Mr. Wilson stated that he does take an oath of office.

Councilor Mathews asked if someone such as a DPW worker would take an oath of office.

Mr. Wilson stated that an employee is not an officer.

Mr. Guilfoyle referenced Section 3-2 and pointed out that the language be kept similar.

Mr. Wilson stated, as an example, that his department is not an agency as it has no independent authority to act. He stated that he has the responsibility to advise and to stop something under certain conditions.

Mr. Guilfoyle stated that the definition of town agency includes the word office.

Councilor Mathews stated this should be referred to Mr. Curran for a clarification on what is the definition of town office.

A MOTION was made by Mr. Reilly to REFER Section 3-5 to Mr. Curran and was seconded by Mr. Guilfoyle and UNANIMOUSLY VOTED.

SECTION 3-6

COMMUNICATIONS; SPECIAL MEETINGS

Mr. Wilson questioned the requirements in Sections 3-6 (a) and 18-14. He noted that these reports have been interpreted as repetitive reports, thirty days apart from each other. He stated that he believes that the 3-6, the 12 week report, is a better definition than what the annual report is of the town. He thinks that 3-6 (a) and 8-14 should be combined to make for a strong annual report.

Mr. Wilson noted that a complete report is required on the financial affairs of the Town. He stated that he has interpreted this to mean a comprehensive report of all financial aspects of the town. This report is 35-40 pages.

Mr. Wilson stated that within this same time frame an additional report is required in the form of a general summary according to Section 8-14. He questioned the intent of the general summary; is it a two sentence statement or the more complete report. He would like to see this clarified.

CHARTER COMMITTEE

October 27, 2009

Chairperson Deacon asked about the start and close of the fiscal year. Mr. Wilson stated that these dates are set by statute; the close of the fiscal year is June 30 and the beginning is July 1.

Mr. Reilly asked if there was anything to prevent Mr. Wilson from submitting the comprehensive report with the annual report.

Mr. Wilson stated that he has does in fact combine the two reports. He stated that he is then required to do another detailed report which is the same thing in a different document. He stated that he believes that the detailed report should be in the annual report and a detailed report which is what the MDNA is when the independent audit report is done each year. He stated that the detail should be in both places.

Chairperson Deacon questioned which change Mr. Wilson was suggesting.

Mr. Wilson stated that the annual report should reflect the detail as is required in 3-6 (a).

Mr. Wilson stated that as he sees it compliance with the annual report can be short. In the same time frame a complete analysis is required but this does not necessarily make it into the annual report.

Mr. Guilfoyle noted that the report in Section 3-6 (a) be presented to the Council; Section 8-14 does not have the requirement. Mr. Wilson stated that one big report goes to the Council. He stated that he believes the citizens should have this information in the annual report that is generally available to the public, not in a financial report.

Mr. Wilson stated that he combines the reports but that this is not required by the Charter. He sees this as an inconsistency in what is available to the Town Council and what is available to the citizens.

Ms. Williams asked if this information should also be included in the annual report.

Mr. Wilson stated that he was pointing out the inconsistency in the detail included in the reports required in Section 3-6 (a) and Section 8-14.

Mr. Reilly suggested that this language be incorporate this information when Article 8-14.

A MOTION was made by Mr. Reilly to take NO ACTION on 3-6 (a) and was seconded by Councilor Mathews and UNANIMOUSLY VOTED.

A MOTION was made by Mr. Wilson to take NO ACTION on Section 3-6 (b) and was seconded by Mr. Reilly and UNANIMOUSLY VOTED.

SECTION 3-7

APPROVAL OF MAYOR, EXCEPTION (VETO)

CHARTER COMMITTEE

October 27, 2009

A MOTION was made by Mr. Wilson to take NO ACTION on Section 3-7 and was seconded by Mr. Guilfoyle and UNANIMOUSLY VOTED.

SECTION 3-8

TEMPORARY ABSENCE OF THE MAYOR

Ms. Williams questioned what the procedure is if the Mayor were to become incapacitated and was unable or unwilling to acknowledge the situation.

Mr. Reilly asked if there is a section in the Charter regarding the removal of the Mayor.

Chairperson Deacon questioned if this is covered in Section 3-10.

Mr. Wilson stated that there is no reference in Section 3-10 as to who would make the declaration of the incapacity.

Chairperson Deacon stated that Mr. Curran may be able to shed some light on this situation.

Mr. Guilfoyle stated that he believes that there is something in the state statute regarding this issue. He pointed out that it is a convoluted process.

Chairperson Deacon stated that she would like to see the Council involved in this as it is the President of the Town Council who would take over until the election.

Mr. Wilson stated that a decision like this would typically be done administratively.

A MOTION was made by Ms. Williams to REFER Section 3-8 (a) for clarification on what is the process to remove a Mayor who has become incapacitated to Mr. Curran and was seconded by Council President Smart and UNANIMOUSLY VOTED.

A MOTION was made by Mr. Reilly to take NO ACTION 3-8 (b) and was seconded by Mr. Guilfoyle and UNANIMOUSLY VOTED.

SECTION 3-9

DELEGATION OF AUTHORITY BY MAYOR

A MOTION was made by Mr. Guilfoyle to take NO ACTION and was seconded by Councilor Mathews and UNANIMOUSLY VOTED.

SECTION 3-10

VACANCY IN OFFICE OF MAYOR

Mr. Guilfoyle recommended that Section 3-10 (a) be referred to Mr. Curran for clarification for many of the same reasons that 3-8 (a) is being referred.

CHARTER COMMITTEE

October 27, 2009

A MOTION was made by Mr. Guilfoyle to REFER Section 3-10(a) to Mr. Curran and was seconded by Mr. Riley and UNANIMOUSLY VOTED.

A MOTION was made by Mr. Reilly to take NO ACTION on Section 3-10 (b) and was seconded by Mr. Guilfoyle and UNANIMOUSLY VOTED.

Council President Smart questioned the reference in the first sentence to 3-9 (a) and (b) but should read 3-10 (a) and (b) as there is reference to 3-10 (a) and (b) further in the Section.

Mr. Wilson pointed out that this is scribner (sp?) error than a technical change.

A MOTION was made by Council President Smart to CHANGE the reference in the first sentence from "3-9 to 3-10 and was seconded by Mr. Reilly and UNANIMOUSLY VOTED.

PUBLIC COMMENT

Chairperson Deacon asked if there was anyone in the public who would like to speak; there was no response.

MEETING SCHEDULE

Chairperson Deacon stated that the meeting schedule is as follows:

- November 10, 2009 - School Committee
Mr. Guilfoyle noted that he has instructed the superintendant to send out Section 4 to Committee members and to invite them to this meeting.
- November 24, 2009 - Mr. Curran
Mr. Reilly will send out a letter of invitation tomorrow.
Committee members encouraged to have questions for Mr. Curran.
- December 22, 2009 - Article 5
Department heads to be invited to attend
Ms. Williams stated that Department heads should be informed that a Section may be revisited at a different meeting if they are not available the night that Section is discussed.

ADJOURNMENT

At 8:15 pm, there being no further business, a MOTION was made by Councilor Mathews to adjourn and was seconded by Council President Smart, and UNANIMOUSLY VOTED.

Barbara Deacon, Chairperson

Date