

**Weymouth Ordinance Committee Meeting
February 15th, 2011 - Tuesday
Town Council Chambers**

PRESENT: Councilor Michael Smart/Chairman, Councilor Brian McDonald/Vice Chairman, Councilor Ed Harrington, Councilor Arthur Mathews

ABSENT: Councilor Kenneth DiFazio

ALSO PRESENT: Victor Pap, III/Town Councilor
Barbara Deacon/Chairperson, Charter Review Committee
John Reilly/Secretary, Charter Review Committee
Claire Cunningham, Charter Review Committee
Mike Gallagher/Director, Administrative and Community Service

Chairman Smart called the February 15th, 2011 meeting of the Weymouth Ordinance Committee to order at 6:38 PM, explaining that the purpose of tonight's agenda was to review the Charter Review Committee's proposed changes.

Next Chairman Smart welcomed the members/representatives of the Charter Review Committee and invited them to come forward.

At this point Madam Chairperson Barbara Deacon introduced the members who were present this evening: John Reilly, Claire Cunningham and Michael Gallagher.
(File Note: Councilor Mike Smart and Councilor Arthur Mathews are also members on this Committee).

It was then noted that members were in receipt of a 17-page document prepared by the Charter Review Committee, which outlined all of their recommendations/proposed changes to the Weymouth Home Rule Charter.

Chairperson Deacon then began her presentation.

10 016 Charter Review Committee Proposed Amendments

Chairperson Deacon thanked the members for inviting her and her committee to appear this evening. She noted that the document before them reflected what the committee members felt were needed changes in the Home Rule Charter that would allow the town to be governed in a more effective and efficient manner. She stated that they have had (20) meetings beginning in August of 2009. Their recommendations were based on a variety of sources that included Town officials, staff and employees as well as the residents. She also wanted to acknowledge the help they received from Town Solicitor George Lane and Atty. Mike Curran. She explained that the delay in submitting their report was because they wanted to make sure they submitted it to the Ordinance Committee in the proper format - as required under State Statute and the Commonwealth's Constitution. She said she was looking forward to working in a timely manner with the Ordinance Committee, Town Council and Mayor in a concerted effort to finalize the recommended changes so they could get it on the ballot in time for the 2011 Fall Election.

Chairperson Deacon acknowledged there would be some discussion on how to get this information out to the voters. She also wanted members to know that, based on '43B section 11' that all substantive changes to the Charter should be prepared by separate ballot questions. Further, the Secretary of State's office informed them that there is a requirement for the Town to send each voter a copy of the original language with the recommended changes. She commented that concerns had also been voiced about the size of the ballot - and the expense involved to accomplish this, including mailing costs.

In referring to her handout Chairperson Deacon pointed out that their recommended changes were divided into (2) categories: Section 1 which addressed substantive changes and Section 2 which addressed housekeeping/clerical changes.

Lastly, Chairperson Deacon noted that one item had not been included in the document and that was the Charter Review Committee did not feel it was necessary to have an elected Charter Commission. She said that the Committee's job is to decide on the need for a full charter commission or to just make changes. Further if the proposed changes they have before them are acceptable to the Ordinance Committee they can choose to move forward and process the changes. In reference to a Charter Commission, she said they would have to be elected by the Town like the first time around - so bottom line, they felt it was not necessary.

Chairperson Deacon then referred to the primary 'substantive' changes, noting they were addressed in more detail as they progressed through the packet.

Proposed Substantive Changes

Page 5 - Section 3-1 Mayor; Qualifications; Term of Office; Compensation -

Recommendation: delete "a town office or other town employees who has taken a leave of absence in order to serve as mayor from returning to the same office".

Page 13: Section 6-2 School Committee Budget
(time line change*)

Page 14: Submission of Budget and Budget Message

Re. Page 13 & 14 - *Their proposal called for *changes in the 'time line'* - to one that was more realistic and would deal with the uncertainty of funding.

Page 15: Periodic Review of Charter and Ordinances

Their proposal calls for additional language clarifying that the Charter may be reviewed at any time before the required specified (10) year interval.

At this point Chairperson Deacon began her detailed review of all proposed changes to Weymouth's Home Rule Charter, but first Chairman Smart and the Ordinance members voiced their concern for the size of the packet and its many changes - a total of (17) pages and how the process would be handled with the Town's residents/voters.

Councilor Harrington said he was concerned with putting 17 pages on the ballot, commenting it would take too long to read and viewed it as a disservice to the people.

Councilor Mathews interjected 'that was why we intend to mail it out in advance', noting at this point they were only recommendations and they might change. Next step calls for them taking them to the Mayor and Town Council for a consensus. In summary he shared Councilor Harrington's concerns, adding while serving on that committee they spent a lot of time discussing that point. He said that whatever they do they would

invite Kathy Deree (Asst. Town Clerk) before them to give her input - before going to the Atty. General's office.

Councilor Mathews said that they talked about listing all the proposed recommendation on the ballot as follows:

Question 1 - YEA or NAY

Question 2 - YEA or NAY

Councilor Mathews further wanted to point out that the process calls for public hearings, adding that during the public hearing process they might receive some solid recommendations, changes, additions, etc. which could change the final product.

Chairman Smart asked about correspondence from the Atty. General - explaining that the changes would have to go to the Mayor then back to them.

Chairperson Deacon commented that since their recommendations are unrelated they would need to address each proposed change via separate questions, stating that they initially leaned toward placing just **one** question on the ballot to eliminate confusion - but they were told legally they could not do that and would had to go with separate questions.

Councilor McDonald asked about the time frame and Councilor Mathews responded that in order to get it on the next ballot they would have to be ready by mid-June.

Mr. Reilly told the members their committee also had concerns regarding the size of the packet as well as the expenses involved - so they decided on mailing it out in advance, acknowledging there would be a significant postage cost.

Chairperson Deacon noted that the School's Graphic Department printed the packet for them and they could possibly use them again. With regard to the time frame, she noted that the Attorney General's office has 4 weeks to get back to them.

In refererence to the time frame Councilor Mathews read 'no later than the first day of May - action must be taken before the 15th day of June, if not, the next meeting held before June 15th.

Chairperson Deacon wanted to point out that since this is a non-election year that would allow for more time.

Councilor Harrington referred back to the manner in which they would be able to inform the voters - stating that they would first receive a copy in the mail and then they could read it again at the polls, but he felt even at that point they would still have questions.

Mr. Gallagher interjected that the information would also be on the Town's website.

Councilor Harrington suggested they also advertise it, address it at Town Council meetings and at every opportunity they have - informing the voters about the proposed changes to the Charter time and time again.

Chairman Smart noted that Chairperson Deacon requested Mike Gallagher post the Charter Review Committee minutes on the Town's website, with Mr. Gallagher confirming that all the minutes were there.

At this point Chairperson Deacon began addressing the proposed changes to the Town's Charter.

ARTICLE 1 - Incorporation; Short Title; Definitions**Section 1—7; Definitions****(a) Charter**

Councilor Mathews first wanted to point out that the definitions could be cross-referenced with the original Charter.

Chairperson Deacon also wanted to point out that the recommended changes, for clarity purposes, were in **bold**.

Next Chairperson Deacon explained that the first proposed change called for the addition of the following language:

"The term should mean any law enacted by the state legislature as a result of a home rule petition by the town which applies only to Weymouth".

(b) Computation of Time

This change also called for the addition of the following language:

"In computing time under this charter the day of the act of event after which designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is Saturday, Sunday or legal holiday, in which event the period the period shall be extended to the next day which is not a Saturday, Sunday or legal holiday. When the period of time designated is less than seven days, intermediate Saturdays, Sundays and legal holidays shall not be included, when the period is seven days or more, every day shall be counted.

(It was noted that this same language also appears in Section 8-9 of the original Charter.)

(r) Town Officer

Add: **'or Town Official'**

(s) voter

Add the letter 's' = voters

ARTICLE 2**Section 2-8; Officers Elected By Town Council****(a) Town Auditor**

Change the language from 'The town council shall choose a town auditor to serve for a term of three years and until a successor is chosen and qualified.....

To: The town council **shall elect by a majority vote of the town council** a town auditor

(b) Town Clerk

Change the language from 'The town council shall choose a town clerk to serve for a term of three years and until a successor is chosen and qualified.....

To: The town council **shall elect by a majority vote of the town council** a town clerk.....

(c) Clerk of the Council

Change the language from 'The town council shall choose a town clerk of the council, who may be the town clerk, to serve for a term of two years and until a successor is chosen and qualified.....

To: The town council **shall elect by a majority vote of the town council** a clerk of the council

Section 2-11: Filling of Vacancies

(a) Councilor-at-Large

In the first paragraph change 'eighteen months'

To: **sixteen months**

Chairperson Deacon explained she was recommending this change for matters of consistency.

At this point Chairman Smart further explained that the change was necessary because it came to light that this was a conflicting section, referring to 16 months vs. 18 months.

ARTICLE 3

Executive Branch

Section 3-1: Mayor: Qualifications; Term of Office; Compensation

(e) Prohibitions

Add the words: '**for the Town of Weymouth**' after the words: appointed town office or town employment

Chairperson Deacon explained that if a person leaves office and goes to work - for example to the Town of Braintree - this change confines it.

At this point Councilor Harrington asked to go back to Councilor-at-Large and the reference to 6 months; i. e., the 2nd paragraph (on the handout) stating this also needed to be changed from 6 months to 8 months.

Councilor Harrington specifically cited the current language:

If a vacancy shall occur in the office of councilor-at-large during the last 'six months' of the term - recommending it be changed from six months

To '**eight months**'.

After a brief discussion, all parties agreed.

In keeping with consistency and clarity, Councilor Harrington referred to the third paragraph in Section 8 in the original Charter that would also need to be changed to read: **eight months**.

Chairman Smart stated that they would make this additional recommendation before they go before the Mayor and Town Council.

It was noted that this change would be consistent with: 11A.

Councilor Pap asked when they expected these proposed changes to be on the full Town Council's agenda, because there were some small changes he would also like to see.

Chairman Smart recommended they first continue going through proposed changes by the Charter Review Committee, and then take up any additional changes (additions, deletions, etc.) at the next meeting and all agreed.

ARTICLE 3

Section 3-5: Temporary Appointments to Town Offices

After 'Whenever a vacancy occurs':

Add: in an office appointed by the mayor

Chairman Smart explained that this was based on the question re. the Auditor or Clerk

Section 3-6: Communication; Special Meetings

(a) Communication to the Town Council

The recommendation was to change the language at the beginning of the first paragraph from:

'Within twelve weeks following the start of each fiscal year' the mayor shall submit to the town council, and make available for public distribution, a complete report on the financial and administrative activities of the won for the preceding year.....

To: **No later than October 15** the mayor shall submit to the town council, and make available for public distribution, a complete report on the financial and administrative activities of the won for the preceding year.....

Section 3-8: Temporary Absence of the Mayor

(a) Acting Mayor

Two changes were recommended:

1) Add: after qualified town office or town employee **'who is a voter of the town'**

2) Change the following language: 'periods of ten days' to read: **'period of more than ten successive working days'**

It was explained that this was being done for purposes of consistency - and that this matter came to light when Mayor Kay was out of the office for medical reasons.

Councilor Mathews pointed out that the first change was brought to their attention by a constituent.

ARTICLE 4

Section 4-1: School Department -

Change: School Department

To: School **Committee**

(a) Composition, Term of Office

Recommendation is to **add** the following at the end of this paragraph:

Add: **The mayor may not hold the office of school committee chairperson.**

It was explained that the change was based on the recommendation of Sean Guilfoyle of the School Committee.

Section 4-2: School Committee Chair

Change the first sentence of this paragraph to read:

Change: As soon as practicable'

To: **At the first scheduled meeting in January**

This change was also recommended by Mr. Guilfoyle.

Chairman Smart commented that they didn't want to be in violation of the Charter.

Chairperson Deacon pointed out that Council members are all elected at the same time, so are all present on Election Day.

Section 4-3: Prohibitions

It was noted that this is in regard to 'leave of absence'.

Recommendation Delete:

This provision shall not prevent a town office or other town employee who has taken a leave of absence in order to serve as a member of the school committee from returning to the same office or other position of town employment held at the time such leave of absence commenced; provided, however, no such person shall be eligible for any other municipal position until at least one year following the termination of service as a member of the school committee.

Chairperson Deacon told members that this topic generated a lot of discussion as well as mixed feelings among those who served on this committee.

Mr. Reilly commented that he personally did not agree with this recommendation, but majority rules.

Chairperson Deacon explained this proposed change was because her committee members felt that all should be on the same level playing field; i. e., that the Mayor can not take a leave of absence from a Town job, so neither should it be appropriate for a person who serves on the School Committee.

Mr. Gallagher added, that this was also based on business practice in the private sector.

Mr. Reilly said he didn't think this change would affect the legislators, strictly the Town.

Section 4-4 Compensation, Expenses

(a) Salary

Recommendation is to Add **'with the exception of the mayor'** - after the words 'The members of the school committee,

ARTICLE 5

Administrative Organization

Section 5-3 Department of Public Works

Section 5-4: Department of Municipal Finance

Section 5-5: Department of Planning and Community Development

Section 5-6: Department of Human Resources

In all of these sections

The recommendation is to Add **federal laws** - after the words 'in accordance with the state statutes,

Chairperson Deacon told the members that at two meetings in December they invited the Town Department Heads and asked them 'how the Town's Charter was working' and if they would recommend any changes - and all seemed very content with the Charter as is and that the Town was being run more effectively. She added that the other changes proposed were based on Department Head recommendations - one being from Human Resources.

Councilor Pap asked 'what if the state statute conflicts with federal laws?' He felt there were some, commenting that he saw this addition as being unnecessary and that it could possibly create legal issues down the road. He stated 'if there were no problems now then why make the change'.

Mr. Gallagher said it came from HR's perspective, adding it was viewed as more a housekeeping matter.

Councilor Pap reiterated again he saw no problems now and felt they have probably already complied. He said he was looking at education standards, asking 'would that potentially create a problem down the road'.

Chairman Smart and Councilor Mathews both agreed that they should ask Town Solicitor Lane for his opinion about Councilor Pap's concern and all agreed.

Section 5-7: Department of Municipal Licenses and Inspections

(1) Establishment, Scope

Recommendation Add: **weights and measures** - after the words: conservation commission, historical commission, planning board,

It was noted that 'weights and measures' is now under this departments jurisdiction, but wasn't originally.

Section -7:

(2) Director of Municipal Licenses and Inspections

Add: '**federal laws**' - after the words 'in accordance with the state statutes

(this would make it consistent with those previously addressed in Section 5)

ARTICLE 6

Finance and Fiscal Procedures

Section 6-2: School Committee Budget

(a) Public Hearing

(b) Submission to Mayor

Recommended change in language from: "At least twenty-one days" before the meeting to read: At least **fourteen** days.....

Chairperson Deacon explained that the intent was to give them as much time as legally possible to finalize their budget.

Councilor Mathews told members that they came to a consensus after discussing this with all involved parties. He felt this was one of the most important changes proposed - that is the time frame involved in the budget process commenting, that presently there is just not enough time. He felt that the time constraints between all parties involved in the budget process/final numbers was just not adequate.

Chairperson Deacon wanted to point out that all parties compromised on this time sequence.

Councilor McDonald noted that the state budget picture keeps changing and given time constraints with the constant changing of the numbers involves a lot more work for all parties.

Councilor Mathews noted the changes demonstrated two compromises, the first a reduction in days from (Section 6-2) 21 to 14 and in Section 6-3 from 90 days to 75 days.

Section 6-3: Submission of Budget and Budget Message

Recommended Change in language from: "No later than ninety days" before the meeting

To: No later than **seventy-five** days.....

Section 6-4: Budget Message

Recommended change

Delete: **'summarize the town's debt position'**

Members were told that this was the recommendation of Jim Wilson, prior Chief Financial Officer - because he felt it was repetitious.

Chairman Smart said that this information is also included in another section of the Charter.

ARTICLE 8

General Provisions

Section 8-5: Periodic Review of Charter and Ordinance

Recommendation

Add: **If necessary the town charter may be reviewed at any time before the required specified ten year interval.**

Re. the budget - the explanation was that the entire budget process needs to be changed and has for some time.

Chairperson Deacon said the intent was to make sure someone reviewed it.

Chairman Smart stated that the City of Quincy, who also has a Charter, have never heard of it and never done it.

Chairperson Deacon added that they couldn't find any other municipality that did this.

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

Recommendation

Delete: **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.**

(this sentence follows the words 'If two or more members are equally senior in years of service on the town council the member senior both in years of service and age shall preside.)

2nd recommended

Delete: The Chair and the vice-chair 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.

(this sentence follows the words 'If two or more members are equally senior in years of service on the school committee the member senior both in years of service and age shall preside.)

Section 8-14: Annual Report of the Town

There were (3) recommendations for this section of the Charter:

Add : after the words 'shall be published "no later than October 15th"

Replace: 'the town comptroller'

With: the director of municipal finance

Add (the last sentence of this section): **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 fiscal year.**

Housekeeping/Scribner Change Recommendations

The following recommendations list all Housekeeping/Scribner changes by the Charter Review Committee
Should this language be changed?

Yes _____ No _____

ARTICLE 1

Incorporation; Short Title; Definitions

(c) Emergency

It was noted that these were essentially housekeeping matters including definition clarification/typographical errors, etc.

In summary, Chairperson Deacon commented that she realized all of their proposed changes could be very confusing.

Councilor Harrington agreed, suggesting they could hold a series of meetings commenting "that's what public hearings are for:.

Chairman Smart said that if the people felt the proposed changes were too confusing they could hold additional public hearings as needed.

When speaking of ways to get the word out - Chairman Smart suggested they do it through a variety of ways; such as, the Town's website, ongoing Town Council announcements, public hearing(s), press releases and mailings. He noted that there are 16,000 households in the Town of Weymouth - and they would do their best to reach out with as much information as possible.

In respect to informing the public, Mr. Reilly commented that the Charter Review Committee held many meetings, all being well posted - and although they did their best in the end not many showed up.

Chairperson Deacon informed the members that the word from the Secretary of State was that every voter should have a packet. She felt that realistically every 'household' was the way to go. She made one other point, her committee recommended the changes take effect within 30 days of the adoption/vote.

It was noted that based on the November election, if it passed it would take effect in December and then it should be in place in time for the budget process.

Councilor McDonald felt it important they speak about the cost involved to educate the public. He asked if any thought had been given to implement the proposed changes in phases, prioritizing them based on what would be the most important to have addressed by election time. He felt there were just too many changes for the average person to digest at one time.

Chairman Smart wanted to point out that their (Charter Review Committee) charge was to bring forth the recommended changes - how they go about accomplishing it would be up to the Ordinance Committee.

Councilor Mathews said that originally he was supportive of sending out a booklet to the voters comprised of 'one' question (it would include all their recommendations presented as one question), but now he has learned that they can't do that, so at this point he has found it very perplexing. He thought they might get suggestions at the public hearing on how to handle this. He felt some might say go with the top 5 recommended changes, then take it from there.

Councilor Harrington felt that because it was so cumbersome the voters wouldn't read it no matter which way they presented it. He felt that the cost for the mailings should also be a consideration,

Councilor McDonald wanted the Charter Review members to know that he appreciated the huge undertaking, but again he felt because of the number of changes the voters would be overwhelmed.

Chairperson Deacon agreed, adding she considered herself a concerned citizen and she is totally confused.

Councilor Mathews noted that back in 1999, the voters were sent out a 62-page booklet, with the only response offered being a 'yea' or 'nay', but now the size of the booklet is only 17 pages and the consensus is they can't do it.

Chairman Smart commented that many never ever open the document.

Chairperson Deacon said if they chose to do it in phases, they have to make sure they have the right priorities.

Councilor Mathews stated that he was also thinking about the cost to put it on the ballot, adding that out of all the things they need to consider the cost factor should be one of them.

Chairperson Deacon told the Ordinance members that her committee would be available to them whenever called upon.

Councilor Pap also wanted to commend the Charter Review Committee for all of their hard work. He then suggested they might think about mailing out some of the proposed changes with the tax bill, taking into consideration the budget time line. He said he viewed the changes that pertain to the budget/time line as imperative changes, and in regard to the others they could take a more sensible approach.

Mr. Gallagher wanted to point out that the state restricts what you can enclose with the tax bill.

Chairman Smart said that he saw the most important changes were those related to the budget process, but they could discuss that further at a future meeting. He then took a moment to thank Barbara Deacon and the other committee members for their hard work. Next he pointed out that in order to put it all in process they would first need to schedule a public hearing, inviting the Mayor and others so they could get the ball rolling.

Councilor Mathews said that their next meetings should include Town Counsel, Kathy Deree/Asst. Town Clerk - then a public hearing should be scheduled at which time they would listen to the resident's suggestions - then it should come back to them, then to the Town Council.

Chairman Smart then asked Chairperson Deacon for any written communications she had with the Secretary of State and Attorney General's office.

Chairperson Deacon replied they actually had nothing in writing from either office, with Chairman Smart asking if she could then give him the information they received from those offices in paper form.

Chairman Smart said he would like to have all questions cleared up in time for the public hearing. He also wanted to invite Atty. Bill Curran, but Councilor Mathews felt it was a little premature for that.

Councilor Mathews suggested they first speak with Town Solicitor George Lane and also ask Kathy Deree/Asst. Town Clerk for cost estimates (re. ballot/mailling, etc.).

Chairperson Deacon said another question would be 'what we can learn in the booth'.

Councilor Mathews stated they would need to meet as early and often as possible to get the document finalized, hopefully by budget season (by June 15th).

Chairman Smart suggested they meet on Tuesday, prior to the Town Council meeting - 6:45 PM with Kathy Deree.

Councilor Mathews felt they would need a longer period of time for that meeting.

Adjournment

Mr. Mathews moved to at 8:15 PM.

Councilor McDonald seconded.

UNANIMOUSLY VOTED

Respectfully submitted,

Susan DeChristoforo
Acting Recording Secretary

APPROVED: _____

DATE: _____