

ORDINANCE COMMITTEE
RECORD OF MINUTES AND PROCEEDINGS
February 22, 2011

The Ordinance Committee of the Town of Weymouth held a public meeting on Tuesday, February 22, 2011 at 6:45 P.M. at Town Hall Council Chambers, 75 Middle Street, Weymouth, Massachusetts.

Present: Michael Smart, Chairperson
Brian McDonald, Vice Chair
Ed Harrington
Arthur Mathews
Kenneth DiFazio

Also Present: Robert Conlon
Victor Pap III
George Lane, Town Solicitor
Franklin Fryer, Town Clerk
Kathy Deree, Assistant Town Clerk
Michael Gallagher, Director of Administrative Services
Barbara Deacon, Chairperson Charter Review Committee
Attorney Michael Curran

Chairperson Smart called the meeting to order at 6:45 P.M.

10 016 Charter Review Committee Proposed Amendments

Chairperson Smart thanked Town Solicitor George Lane, Attorney Michael Curran, and Charter Review Committee Chairperson Barbara Deacon for their presence.

Chairperson Smart stated that the Ordinance Committee had questions relative to the proposed amendments put forth by the Charter Review Committee. Some of the Councilors had questions about procedure regarding the number of proposals that could be put on one ballot. Referencing the seventeen page report from the Charter Review Committee, he stated that the Councilors had questions and remarked that the Attorney General and Secretary of State were saying two different things.

The Chair stated that they had ended up with a number of changes and thought it had started to be discussed at the last meeting. There were so many pages and proposals that the intention is to not overwhelm the voters. He opened it up to the other committee members to use the opportunity of Mr. Curran and Mr. Lane's presence to ask any specific question they may have had.

Councilor Mathews asked why the Attorney General and the Secretary of State gave them

conflicting answers.

Attorney Curran stated that the Attorney General has a duty to give opinions related to certain aspects of the charter commission amending process and that the Secretary of State's office has no role, whatsoever, in the process.

Councilor Mathews asked if they approve the content that goes onto the ballot.

Attorney Curran replied that the Secretary of State has nothing to do with it...it is totally up to our Town Clerk.

Vice Chair McDonald stated that his concerns were that too many questions might confuse the voters.

The Chair asked Attorney Curran if he recalled what the statute indicates regarding distribution and whether it is to be delivered to every voter or every household.

Attorney Curran replied that the report, with amendments, has to be distributed one copy to each residence that contains one, or more, registered voters, at least two weeks prior to the election. It was suggested to have the post office distribute to each household with a blanket "Residential Customer" on each letter.

Chairperson Smart pointed out the proposal that Chairperson Deacon developed references the old section and then gives a brief explanation of each proposed change.

Attorney Lane complimented Barbara Deacon's work. The Chair agreed.

A discussion ensued regarding the details of what would appear on the ballot. Mr. Curran noted that the "Constitutional Amendments of Ballot Questions" which is published by the Secretary of State's Office would indicate the full text of the amendment, with the actual questions and summaries also included.

Councilor Mathews suggested prioritizing, taking input from the public hearing, and seeing what should go on the ballot in the fall. Due to the probable confusion to the voters, he did not feel that all pages including the detail would be appropriate.

Councilor Harrington asked if it was possible to provide a detailed explanation, attached to each ballot box, then simplify the questions on the actual ballot.

Attorney Curran responded that we cannot do that as the statute specially sets out the form of ballot. The question and the summary both appear on the ballot.

Attorney Curran explained that within three months of the time the report was filed, a public hearing has to be held and must be done within four months after it is filed with the Town Council. The final action on the suggested amendment shall occur not later than six months after

the filing date. He advised that they must take their final vote and suggested they consider having a vote, by the Town Council not later than mid-June and that is because the statute provides the actual vote of the Council is to put the question on the ballot. That vote would be suspended and appears on the ballot at the next regular town election ninety or more days after the Town Council vote. That vote is suspended for, essentially, thirty days - four weeks for the Attorney General to review the material and to advise of the amendments whether or not their consistent, or inconsistent with the Constitution and the General Laws. Therefore we need 120 days from the vote ; given the election is in November we must be sure you are 120 days prior to it. The rule of thumb to have in mind is to attempt to have your final vote, by Council, by mid June. Attorney Curran distributed correspondence to follow in proposing amendments to the Charter, in addition to text on the required public hearings, and action by the Town Council.

Councilor Mathews asked Attorney Curran what the genesis of the public hearing is. Would it include comments on the Ordinance Committees proposals or all proposals from the Charter Review Committee.

Attorney Curran responded that the testimony from the public should include everything that has been submitted to the committee; be it public or employee input. The statute specifically provides that they all can be heard at one hearing. There's nothing to restrict the Council from acting on these measures in the same way they would act on any other measure and amending to the same extent that they can amend any other measure.

Chairman Smart asked Mr. Curran how many times he had seen the review process go through.

Attorney Curran answered that it depended on what the issues are. He advised that it was best not to confuse the voters and concentrate on what the important things are.

Chairman Smart stated that their concern was that voters would say they were not going to bother reading up on it. He also advised that he had made a few calls to other communities that had similar forms of government and that they had not done any charter review. He said he was curious how frequent it happens and if it was written into most charters that there is a review.

Attorney Curran noted that Billerica is a town that he has worked with on numerous charter reviews. He cannot recollect any committee being as diligent and as ambitious as the committee appointed in Weymouth.

Attorney Lane stated that Mr. Curran had given a very concise overview back on June 10, 2009, in a letter directed to him which he had sent a copy to Chairman Smart as the Council President at the time. He offered to provide a copy again for assisting with easing their complicated task. Chairman Smart said that the other committees' members/Councilors may not have it and agreed to have Solicitor Lane provide them an additional copy.

Barbara Deacon wished to let the Councilors know that the Charter Review Committee's final document was now available on the Town's website.

Councilor DiFazio asked if any of the changes were determined to be absolutely necessary at this time for the form of government to continue to run as we are right now. He additionally asked who bears the cost of publication and raised the issue of cost versus what the suggested revisions are.

Chairman Smart responded that the cost is the burden of the Town, triggered by the Charter that says it must be distributed and certainly, the statute that Mr. Curran and Mr. Lane had indicated, has to be distributed similar to this one here which was also distributed to everyone back in 1999. Subsequent to the public hearings, we are going to have to make a decision on prioritizing what needs to go forward, how large a document we going to send out, inclusive of the detail.

Barbara Deacon advised the committee that the cover page sent was prioritized by the Charter Review Committee and included three issues that they felt were the most important issues.

Councilor Mathews confirmed that they discussed priorities at the committee in length. He feels strongly that a change is necessary to the timeframe of the budget. At the Charter Review Committee meetings, we had school administration as well as School Committee members, the Mayor come in, as well as some Councilors, to testify their issues with the current timeframe of the budget. There was a consensus that was made that we came up with this new timeframe as a recommended change to better streamline the information and give the School Committee and school administration, as well as the Mayor, additional time to work on the documents as they prepare the budget for the upcoming fiscal year.

Councilor Mathews recommended that they ask the other Councilors if they have any other proposals that they get them and have it at a future meeting. He also suggested inviting Mrs. Deree and Mr. Fryer to attend so that they would be able to add to the conversation.

Chairman Smart added that he knew that Councilor Pap had sent something in that was included in their packets, but wouldn't be able to get to it tonight and would put it on another agenda.

Councilor Pap asked about the inserted term 'federal laws'. He stated that he had a question last time whether it was necessary. He had concerns whether there are items that are covered from an HR perspective, under federal laws, which are not necessarily covered under state statutes.

Councilor Mathews requested a copy of Councilor Pap's letter forwarded to Solicitor Lane so that he would have time to review it at the next meeting. He thought some of it might be already covered by the new Open Meeting Law which was passed.

ADJOURNMENT

At 7:20 p.m. with no further business to discuss, a motion to adjourn was made by Councilor Mathews and seconded by Councilor McDonald. It was unanimously voted.

Respectfully submitted,

TOWN OF WEYMOUTH ORDINANCE COMMITTEE
February 22, 2011

Paula MacLeod
Recording Secretary