

TOWN COUNCIL MINUTES
ORDINANCE COMMITTEE
Town Hall Council Chambers
April 12, 2010 at 6:30 PM

Present: Michael Smart, Chairperson
Kenneth DiFazio
Ed Harrington
Arthur Mathews

Absent: Brian McDonald

Also Present: James Wilson, Chief Financial Officer
Michael Gallagher, Director of Administrative &
Community Services
George Lane, Town Solicitor
Barbara Deacon, Chair of Charter Review Committee
Claire Cunningham, Member of Charter Review Committee
Sandra Williams, Member of Charter Review Committee
John Reilly, Member of Charter Review Committee

Recording Secretary: Diane Hachey

Councilor Mathews (at the request of the Chair) called the Ordinance Committee meeting to order at 6:43 PM.

Councilor Harrington MOTIONED to take item **10 013 (Amendment to Section 3-209 of the Code of Ordinances –Cultural Council)** out of order, seconded by Councilor DiFazio and UNANIMOUSLY VOTED.

Mr. Gallagher noted that the Mayor is requesting an amendment to the Code of Ordinances to reduce from 9 (nine) to 7 (seven) members. There are problems obtaining and keeping members in addition to difficulties in getting a quorum, given the size of the committee. It was noted that the Cultural Council currently has 5 (five) members.

Councilor Mathews noted that a public hearing was held last week to which there were no comments by the public. Councilor Mathews motioned for favorable action, motion seconded by Councilor Harrington and unanimously voted.

10 016-Charter Review Committee Proposed Amendments

Ms. Deacon presented to the committee and noted that this is a recommendation including explanations. It is understood that the document will be reformatted for the public hearing. She noted that this document resulted from many hours of deliberation by the Charter Review Committee. Ms. Deacon suggested that for the purpose of tonight's presentation, that only substantive changes, although housekeeping matters are included. The following were the substantive changes which were presented to the

Ordinance Committee:

Section 1-7 (a) Definitions/Charter-additional language was added to the current definition.

Section 1-7(b) Definitions/Computation of Time-this definition was added to this section and is verbatim to Section 8-9.

Section 1-7(r)- the language “or Town Official” was added for clarification purposes.

Section 1-7 (s)-“voter” changed to “voters” for clarification purposes

Section 2-8 (a) (b) (c) “shall elect by a majority vote of the town council” was added following each position

Section 2-11 (a)-change made to “sixteen months” to ensure that Section 2-1 (a) is consistent with Section 2-1 (c).

Section 3-1 (e)-added “for the Town of Weymouth” following “town employment” for clarification purposes and additionally proposes deleting the last six lines of that section.

Councilor Harrington asked for the reasoning behind the proposed deletion of that section. Ms. Deacon wanted to ensure an even playing field. It was noted that exceptions based on civil service and collective bargaining were possible. Other municipalities currently follow this suggestion.

Councilor Harrington asked if this precludes the Mayor from knowingly creating a position if they were leaving office. It was noted that all reorganizational changes are subject to Town Council approval and must occur within 90 days under a newly formed administration.

Additional suggested changes were as follows:

Section 3-5- for clarification purposes additional language was added.

Section 3-6-a timeline of “no later than October 15” was inserted in lieu of “within 12 weeks”.

Section 3-8-language specifying “who is a voter of the town” was added for clarification purposes.

Ms. Deacon noted that since the committee reviewed this section, there was a new development regarding the absence of the Mayor. The fourth line of the second paragraph needs to mirror the 3rd line of the first paragraph reading “ten successive working days” in order that the two sections are consistent.

Chairman Smart noted that in order to change the composition of the Town Council or Mayor or the terms of both parties, a Charter Commission (not a committee) would have to be formed by election of the constituents. The committee as it currently stands, cannot alter these.

Proposed changes continued as follows:

Section 4-it is proposed that “school committee” replace “school department” throughout this section

Section 4-1(a)-for clarity language noting that “The Mayor may not hold the office of school committee chairperson” is being added

Section 4-2-“at the first scheduled meeting in January” is added for clarification

Section 4-3-proposing that the last paragraph of this section is deleted

Section 4-4-“with the exception of the Mayor” to be added

Section 5-3, 5-4, 5-5, 5-6, and 5-7 (2)-add the language “federal laws” following “state statutes”

Section 5-7-add “weights and measures” following “planning board” as this is an additional responsibility assumed by the Department of Municipal Licensing and Inspections.

It was noted by Ms. Deacon that Section 6 encompassed much deliberation. The committee’s goal was to obtain a more realistic picture of the budget submission timelines. The committee is therefore proposing the following:

Section 6-2 (a)- changed to “fourteen days” from previous “twenty one days”

Section 6-2 (b)-changed to “fourteen days”

Section 6-3-changed “90 days” to “75 days”

Section 6-4-delete the wording “summarize the town’s debt position”, as recommended by James Wilson, as it is repetitive and is mentioned in three other areas of the charter.

It was noted that there are no suggested revisions to Section 7.

Section 8-5-the following language is added for clarity purposes:

“If necessary the town charter may be reviewed at any time before the required specified ten year interval”. Ms. Deacon explained that it was originally thought that the 10 year review had to be waived in order to effect an amendment to the charter. It was noted that both the legislative and executive branches need to approve the review as per section 8-5.

Section 8-14-changes were made to this section as follows:

Language was added (“no later than October 15”) to be more detailed.

Change in language to “the director of Municipal Finance” was added to reflect the new title of the town comptroller.

Additionally, at the suggestion of the Chief Financial Officer, language was added to specify that the Mayor submits a report on the financial and administrative activities of the town.

Section 9 warranted no substantive changes.

Ms. Deacon noted that the suggested revisions were a culmination of input from the committee, public, department heads, George Lane, and Mr. Curran.

Councilor DiFazio asked if Section 7 8(Citizen Referendum Procedures) was ever discussed regarding the 15% requirement of signatures. He noted that this section is misleading in that should be clarified if the requirement is for 15% of the voting members or 15% of the residents in total.

Attorney Lane noted that the 15% carried over to more than one voting list and that this ruling came from statutory law requirements from many years ago.

Councilor DiFazio questioned changing the composition/terms of elected positions and why the committee but a commission would need to be formed. He asked Ms. Deacon if the committee was aware of this fact when they were initially name as a committee.

Ms. Deacon stated that both Attorney Lane and Curran ruled what the committee’s duties and responsibilities were in detail at the onset of the committee’s formation.

Ms. Deacon noted that she is awaiting word from Mr. Curran as to format of the Charter Committee’s recommendations as they appear on the ballot. She further announced that the committee will hold its final meeting on 27 April at 7:00 PM in Council Chambers, at which time this issue will be addressed.

Councilor Mathews announced that he has received comments from the public as they are aware that the Town Council is currently conducting its’ review of the Charter Review Committee’s recommendations. He wants to reach out to all Councilors for any comments/opinions/changes from them.

He read into the record an email received from Michael Murphy of 425 Front Street dated 5 April 2010-attached.

Ms. Deacon read the following email into the record, authored by Attorney Curran:

“I call your attention, specifically to the provisions of 43b 10 (b) which provides, in essence, that the Town Council not only may, but must, consider any proposed charter amendment this is submitted to it by the Mayor, or by any member of the Town Council, or on a petition signed by 100 voters.”

“Parsing the language of the statute, a fair construction of its provisions require 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.”

Councilor Mathews strongly disagrees with Mr. Curran’s ruling, he wishes this was disclosed prior to committee deliberations. Councilor Smart stated that this contradicts what Mr. Curran told the committee previously. Councilor Mathews requested a copy of the email and suggested that Mr. Curran should be invited in to discuss this matter.

Ms. Deacon suggested that this issue be handled at the 27 April Charter Review meeting, it was determined that Mr. Reilly will forward an invitation to Mr. Curran.

The possibility of a joint Ordinance/Charter Review Committee Meeting was discussed, but it was decided that it would simply be a Charter Review Committee Meeting and all Councilors would be invited to attend as well.

10 031-Proposed Addition the Code of Ordinances Section 8-401 (Excavations)

Councilor Mathews reviewed the proposal which involves additional language be added to Section 8-401.

Councilor Mathews discussed this proposed change with the Mayor and she requested additional time to work on this with her administration.

Chairman Smart also spoke with the Mayor and explained that this is a work in progress, not to be voted out tonight or public hearing scheduled anytime soon. That is why he did not request the utility companies to be present this evening.

Mr. Gallagher noted that street openings used to come before Council for approval. New install/new lines come before Council but replacement of existing lines do not come before Council as this approval is covered under the permitting process. The Mayor asked Bob O’Connor to forward copies of permits to the Mayor’s and Town Council Office.

Mr. Gallagher noted that many surrounding communities have implemented such restrictive ordinances that the utility companies are not doing work there and as a result are concentrating their efforts on Weymouth.

Union Street in South Weymouth was cited as a street with an uneven pattern of cuts which was left in deplorable condition, resulting in numerous calls from constituents to members of the Council.

Councilor Mathew's intent is for the utility companies to put the road back to its original condition and this ordinance intends to address this ongoing problem and makes the utility companies accountable.

Solicitor Lane is in agreement with proposal but cautioned the committee as there are specific laws regarding these issues.

Councilor Harrington questioned if the 30 day time frame proposed in the ordinance is sufficient, the problem may not manifest itself until after that.

Chairman Smart noted that this ordinance is in draft form and he will eventually invite the utility companies in along with Bob O'Connor.

Chairman Smart requested that Diane Hachey ascertain when the road openings (non emergency) ceased coming before Council for approval.

Chairman Smart asked Mr. Gallagher to obtain a set of standards on permits from the DPW Director. He further noted that this measure will be continued to a later date.

At 8:26 PM with no further business to conduct, Councilor Mathews motioned to adjourn, motion seconded by Councilor Harrington and voted unanimously

Respectfully submitted by Diane T. Hachey

Approved by Councilor Michael Smart