

Charter Review Committee August 18, 2020
Minutes

Members present: Larry Levine, Phil Adams, William Fonseca, Ralph Page, Jeff Bosworth, Andy Fraser, Marilyn Richards, Jeanne Quaglietti (non-voting) and Michael Kane (ex-officio, non-voting)

Member Late: Tom Christensen arrived at 5:23 PM.

Meeting was held via Zoom and called to order at 4:30 PM by Chairman Larry Levine. Meeting was being videotaped by ELCAT and there were no audience members taping.

Chairman Larry Levine announced that the minutes of the August 11, 2020 meeting, will be reviewed at the next meeting which will be on Tuesday, August 25, 2020.

The committee resumed the conversation where we left off on the August 11th meeting at article 2, section 6, (Town By-laws), fifth paragraph. Chairman Larry Levine read the fifth paragraph seeking any comments, suggestions and/or questions from the members present.

Ralph Page spoke and indicated that he created a ballot question. Ralph stated that the Town is in the process of doing a re-codification of ALL Town by-laws. In that process it has come to the understanding there would be no possible way that we could present each by-law individually, Ralph stated that he crafted some language that would go into the Charter to allow re-codification of ALL by-laws to be done at one time. This suggested re-codification process would be added to section 6, Town by-laws, just before the fifth paragraph that we are currently discussing.

Chairman Larry Levine questioned whether this was going to be a ballot question or added to the Charter. Ralph Page stated that he originally thought of having this process put on the ballot last year, but after speaking with Jeanne Quaglietti that thought was changed to placing this provision in the Charter via this committee. Ralph Page read his proposal is length and Chairman Larry Levine requested that Ralph send a copy of this proposal to all of the members of this committee to reviewed and digest for discussion at the next meeting. Ralph stated he would do so.

Marilyn Richards stated that this is similar to the 1991 revision of the Zoning by-laws where there was a format change. Marilyn asked Ralph does this proposal have subjective changes with the information that you are proposing or just a re-codification and a format change? Ralph stated that his proposal was both and explained his thoughts on this proposal.

Phil Adams questioned Ralph on why we not mirror what was done at the Town meetings in the past, which is to go over the budget items that had no questions and/or objections in one pile and the budget items that had questions and/or objections in another pile.

Vote the pile with no questions and/or objections all together and to deal singly with the items that have questions and/or objections. Could we do this with the c-codifications of the by-laws? Ralph believes that the Charter states the Town Council can only vote on the proposed by-law one at a time and this would be too time consuming. Ralph refer to Jeannie who is currently working on the re-codification of the Town by-laws. Phil Adams also asked the question on how often does re-codification happen?

Jeanne Quaglietti indicated that the Town Attorney is looking into this issue, with language into the Charter pertaining to re-codification. Jeannie did not know how often this process happens but once in place she thinks it will be updated and so worth. Jeannie will speak with Town Attorney and inform some of the language that Ralph has brought forth.

Chairman Levine questioned Ralph on having to change the language on the first line of section 6, Ralph stated yes, but what he is saying that portion does not refer to re-codification. Ralph will send proposal to everyone.

Chairman Levine went back to the fifth paragraph on section 6, looking for any comments.

Marilyn questions that this paragraph states a vote of a majority of the full Council for the passage of a by-law, however the Zoning by-law requires a supermajority vote. Marilyn further stated that this paragraph does address General Laws, and Chapter 40A would certainly address supermajority vote for the Zoning by-laws, however Marilyn thoughts are that Town Council members do not always know what the Zoning by-laws require and it would not hurt to add language addressing the supermajority of vote for a Zoning by-law change and Zoning map amendment. Marilyn indicated that she has additional language that she would like to bring forward, Chairman Levine requested this language. At the end of the fifth paragraph Marilyn would like to add the following, "A supermajority vote of 5 members of a 7 member Council is necessary for the final passage of a Zoning by-law or amendment to a Zoning map." Chairman Levine made a suggestion to adopt the language of the State Law of two-thirds vote instead of a supermajority. Marilyn questioned if supermajority is mentioned in the Charter pertaining to ousting the President of the Council. Bill Fonsaca spoke and gave his thoughts on why the wording of supermajority was used in the original Charter, as a safeguard so it just required more than a majority. Bill thinks we are talking about two different things right now between Marilyn and Larry, and feels the wording of two-thirds per State Law might be better served. Marilyn is neutral on the language it's the intent that she wants to make sure we understand.

Chairman Levine questioned Jeanne whether the Town needed a nine-tenth vote to pass a past year expense. Jeannie never heard of this type of vote. Chairman Levine recalls this was done at past Town meetings votes. Jeanne questioned the definition of a full Council and Chairman Levine indicated that this would be addressed at a later date.

Marilyn made a motion: "A supermajority vote of the Council is necessary for the final passage of a Zoning by-law or amendment to a Zoning map. Seconded by Bill Fonsaca. Roll call vote on this motion: Phil-Yes, Larry-Yes, Marilyn-Yes, Bill-Yes, Ralph-Yes, Andy-Yes, Jeff-Yes. Vote is Unanimous.

Ralph requested a motion to add General in front of by-laws due to the passage of Marilyn's motion. Chairman Levine suggested that in front of Marilyn's motion we add, "Notwithstanding the above", which should address Ralph's concerns. Ralph agreed and made the motion to add, "Notwithstanding the above". Seconded by Marilyn. Roll call vote on this motion: Phil-Yes, Larry-Yes, Marilyn-Yes, Bill-Yes, Ralph-Yes, Andy-Yes, Jeff-Yes. Vote is Unanimous.

The last sentence in section 6, paragraph 6, will remain the same with no changes.

Chairman Larry Levine read article 2, Section 7, Action requiring a by-law: seeking any comments, suggestions and/or questions from the members present.

Ralph started with his concerns with the language that states, "those acts of the Town Council". Ralph indicated that the Town Manager has the authority to alter or abolish with a reorganization plan at the Department. If the Town Manager does this is that consider an act of the Town Council? Chairman Levine and Bill Fonsaca consider this a conflict within the Charter. Ralph does not agree since the Town Manager would have to submit a reorganizational plan to change any department and to submit to Town Council. Town Council would vote on this change. Not that it has worked that way but that is how Ralph thought it would work. The other one that Ralph mentioned was, "establish all fees which are not set by General laws", he read that as the Town Council sets all fees within the Town. This would require a list of all Town fees and create a new by-law and the Town Council would have to approve any changes not individual departments within the Town. Is this what we actually meant? Chairman Levine asked if all the fees are listed in the general by-laws, Ralph indicated no, not even close. After a lengthy conversation with different thoughts by different members of the committee, Chairman Levine thought that the Town lawyer should look into this issue. Jeanne stated that they were working on creating a table for Town fees with the re-codification process.

Chairman Levine posed another question for the committee pertaining to section 7, going back to sentence (a) about abolishing, altering, or establishing a town department would be in conflict with article 3, section 2, paragraph 20 of the Charter? Chairman Levine feels it seems to say that the Town Manager is the one in charge of that but needs the approval from The Town Council and yet going back to section 7, the Town Councils powers it appears they could initiate that as well. Jeff Bosworth spoke and thought it brings up the point of discussion of the amount of power that the Town Manager has now and is that going to be limited in the future allowing the Town Council to take a little more responsibility for running the Town, instead of having one person having sole say on everything, which I do not think they should.

Chairman Levine mentioned that the paragraph under the Town Manager of powers that the power to establish, reorganize, consolidate or dissolve a Town department would still need the approval of the Town Council, so Town Manager unilaterally could not do that. However, Chairman Levine mentioned that going back to the paragraph of the Town Council which sort of implied that the Town Council can establish, alter, or abolish any Town department. Chairman Levine asked Bill and/or Ralph their recollections on this issue as having been on the original Charter committee. Bill stated he does not know where the language came from it might of came from our consultant and just plugged it in. Ralph remembers this as the Town Manager has the authority to draft a plan to change a department which is brought to the Town Council for a vote. Ralph's concern is the fact that we are requiring it to be done by a by-law. The question before the committee is how do you actually make the above work and be efficient.

Chairman Levine gives the committee a scenario for their thoughts, which is a three-step process; 1) Town Manager wants to change a Town department, 2) Town Manager presents that change to the Town Council, 3) Town Council votes, if approved does the approval have to have a by-law amendment. Marilyn stated that the General by-laws we have a section with Town departments and there's some text under each Town department it basically addresses the focus and Marilyn believes that is what we are trying to accomplish here. If we created a new department it is to be listed with all of the other Town departments as to the scope of that particular department. Marilyn pointed out that the Town is now taking a little heat for not having a by-law with the disbanding of the dispatch department that was never created in the first place by previous Town Manager, which was an oversight. Marilyn understands what we are trying to keep track of what we have the scope of our work within the Town as departments and so that's why it probably needs a by-law. Chairman Levine repeats the three-step process and asked the committee if that process is too cumbersome or should it remain the way it is. Marilyn feels it is a little bureaucratic but she is not sure how to get the information into the by-law where it needs to be, maybe this is something that the Town Council could actually oversee. This should be a Town Council responsibility not the Town Manager. Chairman Levine asked if we wanted to cut out any portion of the three-step process and which step should it be. Marilyn feels that we have to create a by-law to get it into the document with the rest of the Town departments, but how can we make it less bureaucratic. Marilyn requested Chairman Levine to go over the three-step process again. Chairman Levine goes over the three-step process again. A public meeting is needed for the Town Manger's proposal to be approved by the Town Council and a public hearing to change and/or amend the current the by-law. Ralph stated that to amend a by-law or to change a by-law there is nothing in the Charter that says we have to hold a public hearing. Chairman Levine stated that we decided on a public hearing at the second of the two Town Council meetings.

Ralph indicated that he likes the process but wants the Town Manager and Town Council to put it to use and actually follow the Charter. Ralph feels that once we get used to and you do it it's pretty straight forward. Andy Fraser suggested to change (a) under section 7 by stopping after the wording, "adopt or amend administrative bylaws", with the rest of sentence being address somewhere else in the Charter where appropriate.

Jeanne Quaglietti suggested maybe you could put it where the Town manager's procedure is to do that.

Ralph stated that the Town Manager would have to mean this is an action requiring a by-law, so what we are saying is if you are altering or abolishing of the department you create the by-law that says we created this new department. If you are going to create or alter a department you got to go to the by-law and adjust accordingly. Andy stated that the sentence in question is saying two different things, it's dealing with changing a Town department in some form and adopting or amending administrative by-laws. Andy's point was making sentence (a) just adopting or amending administrative by-laws, period, dealing with the rest of it in another part of the Charter.

Chairman Levine was looking for other thoughts, Jeff Bosworth suggested to make four instead of three parts to this paragraph but Chairman Levine pointed out that would not solve the issue. After going over different options Marilyn suggested that we tabled this until we deal with the responsibilities of the Town Manager and then looked back at this particular paragraph when we were potentially massaging what's there for Town Manager. Committee members agreed with Marilyn's suggestion as we want to make sure we do this right.

Jeanne Quaglietti wanted clarification on an issue on page 6, section 5, fourth paragraph ending in: "to enforce all laws relating to such licensed businesses". Jeanne missed the meeting that this was discussed and wanted to make sure the committee knew that the Town Council on April of 2019 appointed the Police department to act as agent for the purposes of investigation and enforcement for the local licensing authority. Jeanne wanted to know if the committee would want to put that in there. After some discussion Chairman Levine feels that the enforcing agency which is the Town Council can delegate that authority and no need for change.

Andy made a motion to adjourn the meeting, seconded by Jeff. Voting YES to adjourn were members Phil Adams, Jeff Bosworth, Thomas Christensen, Andy Fraser, William Fonseca, Chairman Larry Levine, and Ralph Page. The meeting adjourned at 5:29 PM.

The next meeting of the Charter Review Committee via Zoom webinar is scheduled for Tuesday, August 25, 2020, starting at 4:30 PM.

Respectfully submitted,
Philip J. Adams