

CHARTER AND BY-LAW REVIEW COMMITTEE MEETING

December 18, 2008

The Charter and By-Law Review Committee (CBRC) held a duly posted meeting on December 18, 2008 in the Edward Dlott meeting room in Town Hall. Vice-Chairman Richard Sidney called the meeting to order at 7:10 AM.

Members present: Jay Ball, Barbara Chinetti, Karen Adelman Foster, Robert Healey, Tony Lista, Richard Sidney; Carol Gloff (arrived 7:13 AM)

Members absent: None

Others present: Martha White, Town Administrator

GENERAL DISCUSSION

Initial discussions related to meeting agenda, including complete Charter Article 5, and take-up Charter Article 6 and By-law Article's 12, 30 and 32. Ms. White presented the committee with a draft copy of proposed By-law Article 23A, as previously requested by the committee.

Mr. Lista questioned if proposed By-law Article 23A, under Charter Article 5, section 5-6 (b), will require review by the Finance Committee.

Mr. Sidney suggested no review needed under Charter Article 5, section 5-7 and hoped to keep the proposed Capital Planning Committee out of the Finance Committee.

Ms. Gloff noted the Finance Committee reviews anything that goes before Town Meeting.

Ms. Adelman Foster questioned do we need to spell out a review process in Charter Article 5, section 5-7, and how does this all relate to the proposed By-law Article 23A, Capital Planning Committee.

Ms. Adelman Foster had questions on process for Ms. White's proposal.

General discussion on the 'history' of capital planning in Natick and committee determined to review draft proposal, enter into detailed discussion at next meeting and formulate specific questions for Ms. White after our review and discussion.

Mr. Sidney relinquished the chair to Ms. Gloff at this point.

Ms. Gloff acting as chair.

APPROVAL OF MINUTES

Ms. Gloff re-distributed revised minutes of the August 21, 2008, the September 11, 2008 and the September 18, 2008 CRBC meetings. Mr. Ball motioned to defer approval, seconded by Mr. Sidney. By mutual consent, approval was put off until next CRBC meeting, to allow members an opportunity to further review.

Ms. Gloff advanced discussion to Charter Article 5.

Section 5-2:

Ms Adelman Foster suggested section 5-2 (a) needs a re-write since this is not how the process actually works in the budget process. The school superintendent's budget is submitted to the town administrator before it is "adopted" by the school committee. Ms. Adelman Foster strongly suggested the CBRC discuss with the school committee and the superintendent of schools before we do anything in Article 5.

Ms. Gloff requested Ms. White talk to the superintendent of schools to refine the questioned sections.

Ms. Adelman Foster reiterated her concern that the school committee will want to review any changes.

Ms. Gloff reminded all that Charter Article 5 was written before proposition 2-1/2, various state mandates and changes to MGL, and the school committee needs to remain cognizant of this fact.

Section 5-3:

Ms. Gloff questioned which By-law in line 1.

General discussion on the term "in a local newspaper."

Mrs. Chinetti suggested a return to the original Charter language and delete "in a local newspaper" and revise line four to read; "He shall, simultaneously, provide for the publication of a general summary of the proposed budget." Whereas the term publication is general enough to adapt to present and future publication conditions and options.

Section 5-5:

Mr. Sidney regarding line 2 suggested deleting "including the budget as requested by the school committee" and revise to reflect the actual process currently employed.

Mr. Ball questioned the term "modern concepts" in line 5.

Mr. Healey inquired which takes precedence Town Administrator or Board of Selectmen's 'form' noted in line 3.

Mr. Ball asked for an example of "special accounts" noted in section 5-5 (c), Ms. White noted several examples.

Section 5-6:

Mr. Healey pointed out that Charter Article 5 section 5-6 (c) [seven days] seems to conflict with the By-law Article 23, section 4, line 4, "at least ten days in advance of town meeting." Also Charter and By-laws are inconsistent in how numbers are written –e.g., ten (10) days format in By-law versus seven days in Charter. CBRC to recommend ten days for Charter, to standardize.

Mr. Ball asked what “available” in line 3 of Section 5-6(c) means, in the hands of?

Several minor editing corrections noted to bring to Town Counsel’s attention.

Modernization of some language suggested, majority of CBRC felt they did not raise to level of bring to town wide vote.

CHARTER ARTICLE 6

Section 6-1:

Mr. Ball referring to section (b) offered revised wording. Original, “The town administrator, after consultation with the board of selectmen, may from time to time, ...”

Revised, “The town administrator, after consultation with and receiving the approval of the board of selectmen, may from time to time, ...”

General discussion of differences between ‘re-organize’ and ‘re-alignment,’ Ms. White questioned where and how to draw the line between the two for the Charter.

Mr. Sidney questioned how to handle minor re-organization or re-alignment that happen in the course of every day decisions, versus notification to board of selectmen and/or town meeting.

Ms. Adelman Foster noted that Town Meeting could also perform this task.

Mr. Healey noted in the second paragraph, once again the term “in a local newspaper,” perhaps another revision to Mrs. Chinetti’s suggestion noted above, to standardize.

Mr. Sidney expanding Mrs. Chinetti’s previous suggestion offered deleting the term “in a local newspaper” wherever it appears in the Charter and add to the By-law Article 7 a definition of the term ‘publication’.

Ms. Adelman Foster added that this option enables definitions section to broaden the meaning as needed.

Mr. Ball suggested the inclusion of “at least ten (10) days in advance” after publication in paragraph 2.

Do we need to present all these minor revisions to town vote? Mr. Ball thinks probably not.

Section 6-2:

Mr. Healey inquired to location of such a plan and does it exist? Ms. White indicated in the future this plan to reside in the budget book.

Section 6-3:

Mr. Ball noted in past town comptroller not cognizant of board of selectmen’s oversight role. This must be made perfectly clear and revision of existing language is required to clarify.

Ms. Adelman Foster and Mr. Sidney spoke in agreement of Mr. Ball's comments.

Ms. Adelman Foster referencing 6-3 (b) (5) asked; "Does this mean that the administrative computers in the school department are under the supervision of the comptroller? How does this work de facto? How does it apply to computers that do both business work and education work, like those of the pupil services and curriculum administrators? Or is this pre-computer holdover language that applies only to calculators, or the like?"

General comments reflected a need to clarify this issue in discussion with town administrator, superintendent of schools, school committee and comptroller.

Mr. Healey questioned if 6-3 (b) (6) included the school department too?

Ms. Adelman Foster questioned what was the original intent for (b) (6)? Mr. Sidney agreed to this line of thought.

General discussion continued on section 6-3.

Ms. Adelman Foster notes section seems to indicate comptroller "audits" Town Administrator is this intent?

Mr. Ball stated in any case the board of selectmen has oversight of the town administrator, however the town administrator must have supervision over the comptroller. Mr. Ball continued that all audits in town done by the comptroller.

Mr. Sidney spoke on the checks and balance issue past problems, wonders how someone who writes the checks can then audit themselves.

Ms. Gloff noted that MGL prohibits comptroller from auditing his own office. The town each year brings in an outside audit agency to perform this task.

Ms. Adelman Foster asked committee to question the school superintendent regarding position on section 6-3 (b) (5).

Ms. White when asked by Mr. Ball suggested the following language to replace or supplement 6-3 (a) first sentence; "There shall be a comptroller appointed by and reporting to the board of selectmen; the comptroller shall work under the day-to-day supervision of the town administrator."

Mrs. Chinetti asked if this discussion and suggestions actually fixes the problem to prevent history from repeating? She is not sure we are solving the problem.

Mr. Lista asked the chair to question town counsel to see if anything in MGL addresses this question.

Ms. Gloff suggested we move on and she'll ask town counsel for opinion and to clarify.

Mr. Ball notes the existence of Treasurer Collector, Finance Director and Comptroller, and asked how do these three work together?

Long general discussion on 6-3(b) (1) and (2) whereas;

Ms. White notes, Treasurer Collector and Finance Director currently one and the same; fundamentally town collector deals with deposits and comptroller deals with withdrawals. Reconciliation efforts are getting better, checks and balances (no pun intended) are in place.

Ms. Adelman Foster asked the chair to inquire with town counsel regarding 6-3-(b) (2) how this or does this work with school department?

Mr. Lista notes 6-3-(b) (5) does this properly cover all current technologies. Mr. Lista stated that terminology used does not reflect current equipment. However, once again does this fine tuning raise to a level of town wide vote?

Section 6-4:

Mr. Ball asked [6-4(b) (4)] on what basis?

Ms. Adelman Foster and Mr. Sidney suggested adding to 6-4 (b) (4), “using standard accounting practices.”

Ms. Gloff and Mr. Ball requested clarification from town counsel, section 6-4 (b) (7), who pays for the bond?

Mr. Ball asked if 6-4 (b) (8) is clear, he was not sure? Committee did not find intent cloudy.

Mr. Ball suggested 6-4 (b) (2) very poorly written, the entire section is bad and needs change, do we need to strike this section, re-write and bring to town meeting and if approved to voters?

Ms. Gloff suggested Mr. Ball create a draft section to further discuss.

BY-LAW ARTICLE 12

Section 1:

Mr. Ball questioned meaning and/or intent of term “committed to him.”

Dictionary definition “To place in trust or charge, entrust, consign. To give over as for keeping.”

Ms. Gloff noted this is a standard legal term used in this context.

Section 2:

Mr. Ball asked why this is in Charter, isn’t pocketing of town money illegal?

Ms. Gloff these are old MGL terms, in past commission payment allowed in some cases.

Section 3:

Mr. Ball asked what does “due the town mean?”

Section 5:

Mr. Sidney questions the use of the word “oftener” in line one. Do we modernize? Does this go to the level of a town vote?

Ms. Gloff suggests we ask town counsel to clarify in line five (5) the “Commissioner of Corporations and Taxation.” What is or who is this? Is this state position still true?

Section 7:

After brief general discussion regarding bad grammar and various requirements, Ms. Adelman Foster will work on a re-write for section 7.

FUTURE MEETING DATES

CBRC entered discussion on future scheduling. Determined if school closed due to snow emergency our meeting is cancelled too.

CBRC wants to begin weekly meeting to advance through By-laws. Hope to schedule 7:00 AM each Thursday. Ms. Gloff will advise and post next scheduled meeting.

Ms. Gloff noted that at the next session By-law Article 30, 32, and hopefully 41, 42, 43 and 44, will be reviewed.

Motion to adjourn was made by Mr. Ball and seconded by Mr. Lista.

The meeting was adjourned at 9:15 AM.

Respectfully submitted by Bob Healey

Minutes Approved on February 26, 2009 by a vote of 7-0-0.