

CHARTER AND BYLAW REVIEW COMMITTEE MEETING

August 5, 2009

The charter and bylaw review committee (CBRC) held a meeting on August 5, 2009 at 5:30 p.m. in the Dlott meeting room, town hall. The meeting was duly posted by Carol Gloff, chair. Ms Gloff called the meeting to order at 5:45 PM.

Members present: Barbara Chinetti, Karen Adelman Foster, Jay Ball, Carol Gloff, Robert Healey, Tony Lista (arrived 5:46) and Richard Sidney

Members absent: None

Others present: Bob Bois, Charlie Sisitsky

DISCUSSION OF MINUTES

No discussion of minutes.

HANDOUTS

Status table of CBRC Hearings and Bylaws.

There were no comments from Town Counsel on the articles on tonight's agenda.

DISCUSSION OF BY-LAW ARTICLE 30

Regarding the questions posed:

1. Should we have a sentence about resignation from this board?
2. Should we add a severability clause?
3. Should we add a sentence requiring appointees to be residents of Natick?

The presenters indicated that these questions are covered by MGL Ch 4 § 8C.

The CBRC did not move any amendments to this by-law.

DISCUSSION OF BY-LAW ARTICLE 32

Moved by Ms Adelman Foster to change "lease" to "least". Second by Ms Chinetti. Approved 6-1-0.

DISCUSSION OF BY-LAW ARTICLE 70

Moved by Mr Ball to change the term "Dump" to the term "Recycling Center". Seconded by Ms Adelman Foster. Passed unanimously.

Regarding the questions:

§ 5: What do we do about such cars? Who is responsible for getting the car(s) removed?

Mr. Sisitsky: DPW calls the police.

§ 6: Why is 100% of the cost of the street, but only 50% of the cost of sidewalks assessed to the abutter?

Mr Sisitsky: No answer.

§ 6: How deep is to be considered sub-surface?

Mr. Sisitsky: Don't know what this means. The DPW keeps streets passable for Emergency Vehicles. All Private Ways and unaccepted streets are treated the same.

DISCUSSION OF BY-LAW ARTICLE 71

§ 4: What if a new property is developed after the cost of sewerage construction has already been apportioned?

Mr. Sisitsky: After the sewer line is installed, it is the Town's property and new development only pays a connection fee.

DISCUSSION OF BY-LAW ARTICLE 77

No DPW questions. All questions for Town Counsel and Mr. Palmer.

DISCUSSION OF BY-LAW ARTICLE 79

Mr Bois reported that By-law Articles 79A and 84 are based on model by-law articles from the Massachusetts Attorney General's office.

Comments by e-mail from Mr. Scott Lundgren:

1. Add the term "Buffer Zones". Mr Bois indicates that they are already included.
2. Should the term "Resource Area Values" include "Functions"? Mr. Bois indicated that the term "Resource Area Values" has specific meaning in MGL, so adding "functions" would not change the meaning.
3. Should we only define terms that are different from 310CMR? Mr. Bois indicates that we should leave these definitions alone.

§ 2: Is the term "Order of Conditions" defined in MGL or elsewhere? Mr Bois indicated the term is defined in MGL.

§ 3: Why are certain terms, such as "alteration" capitalized? Mr Lundgren, by e-mail, indicates that all defined terms are capitalized.

§ 4.1: What if Natick is ordered by a Federal Agency? Would that constitute an "Emergency Project"? Mr. Bois indicated that only the State DEP and Conservation Commission can make these orders.

§ 5.2: Is this section being followed? Mr Bois indicated that it is.

DISCUSSION OF BY-LAW ARTICLE 79A

Mr. Bois will get back to the CBRC as to whether the term POLLUTANT should be defined in this by-law.

DISCUSSION OF BY-LAW ARTICLE 80

§ 2:

- a. Do we have this plan? Mr Sisitsky indicates the plan is on file at the DPW, and that MA DEP also has a copy.
- b. Does this plan describe how the town handles water bans? Mr Sisitsky indicates that the plan does cover that. DEP is coming out with new regulations and this plan will change, and DEP will be removing the authority over water bans from the Town.

§5: How are these fines set? Mr. Sisitsky indicated that these fines are set under local authority.

§6: Mr Sisitsky indicates that 310 CMR § 22.22 applies to backflow protection. He suggests giving the BOS authority to establish regulations for such. Mr. Sisitsky will provide a paragraph to describe hydrant misuse, cross-connection, backflow regulations and regulation of water meters, to allow the Board of Selectmen to create regulations.

DISCUSSION OF BY-LAW ARTICLE 81

Comments provided by Jim White of the Board of Health via e-mail.

Does this by-law apply to the Natick Army Labs? Mr White indicates that they do send information to the Natick BOH, but that they are Federal Property and therefore not subject to local regulations.

§1:

- a. What about above-ground storage tanks? Mr White indicates that above-ground tanks are covered by the State Fire Marshall. BOS issues permits for such tanks.
- b. What about rainwater recovery systems into which chemicals may be placed? Mr White indicates that that would be covered under BOH regulations.

The CBRC will request that Mr White provide rewritten provisions for these definitions, if needed.

§ 6: Who determines that these measuring methods are accurate? Mr White indicates that the measurements must be technology that is approved by ANSI, EPA, the State Fire Marshall and so forth.

§ 6e: Is this being done? Mr White indicates that it is, and that delinquency is subject to a fine.

§8a: Are the tank requirements adequate? Mr. White indicates that steel is allowed in some conditions.

§8c: Is fiberglass still the “gold standard”? Mr. White indicates that double-walled construction is the current “gold standard”.

§8d1: Should the BOH be notified? Should the Trench Inspector also be notified? Mr White indicates that both should and usually are notified and that BOH reviews all installations. BOH is also a Trench Inspector. All new installations require BOH review by local regulations.

§8g: Should the Fire Department also be notified? Mr White indicates that BOH will notify the Fire Department. If the service is out of commission for more than 6 months, MGL requires removal.

§ 9a: Is this standard still adequate? Mr White indicates that only if they exist and are in good standing. All service stations have been replaced, but testing must follow the best technology available.

§ 9b1: Is this grammatically correct? Mr White indicates that “exhumed” is an appropriate term.

§ 10 a: Mr Sisitsky indicates that this is less restrictive than the Zoning By-law for Zone 2, which is more restricted. Zone 2 regulations are approved by the State.

§ 12 a: How are these fines set? Mr. White indicates that Natick By-law 92 will apply if not set in this By-law.

§ 13 b 1: How is it establish that it will not threaten or adversely affect public or private water sources? Mr White indicates that this differs from the State Fire Marshall’s regulations. In Natick’s protected areas, complete protection from leaks must be presented using best practices or current technology that satisfies any concerns of the BOH and Staff.

DISCUSSION OF BY-LAW ARTICLE 82

Moved by RS to change “Inspector of Buildings” to “Building Commissioner”. Second by Ms Adelman Foster. Passed unanimously.

§1: Should this Bylaw add the requirement for an automatic rain shut-off device for irrigation devices? Mr Sisitsky indicates “Yes”. The CBRC is not proposing to restrict watering during rain.

§ 8: Should the DPW be involved in determining conformity or non-conformity with the by-law? Mr Sisitsky indicates “No”.

§ 10: What is this intended to say? Mr Sisitsky indicates that if the Town fails to provide a permit because the applicant failed to apply. The applicant is still responsible. CBRC suggests asking Town Counsel.

§11 Mr Bois will review to see if changes are necessary.

DISCUSSION OF BY-LAW ARTICLE 84

§ 6: How do we deal with beaver dams? Mr Sisitsky indicates that there are existing BOH and Conservation Commission regulations along with MGL Ch 131 § 40 and 80A ceding authority to local BOH and ConCom.

§ 7 B h: What if they automatically put fertilizer in the irrigation water (fertigation)? Mr White indicates that these systems are supposed to be clean unfertilized water. Mr Bois indicates that fertigation water is an illicit discharge.

§ 7 B k: What if the pool water is not declorinated? Mr Sisitsky indicates that the water will naturally declorinate with time. Mr White indicates that this is a nuisance that may be fined through non-criminal disposition by the BOH. MWRA and DEP require declorination.

§ 9: How is the disposition of dog feces handled? Mr White indicated that local police regulations apply.

DISCUSSION OF BY-LAW ARTICLE 26

Comments by e-mail were provided by Mr Steve Evers and Mr Michael Collins.

§ 1: Are we really following these requirements when appointing members to the Historical District Commision? Mr Evers suggests consulting MGL Ch 40C. Mr Collins suggested slight changes to this wording.

§2 1 Is this referenced map still the correct map? Is it actually on file with the Town Clerk? Mr Evers indicates that these should be fine. Mr Collins had no suggested changes.

§2: Is this referenced map still the correct map? Is it actually on file with the Town Clerk? Mr Evers indicates that this district may have been expanded, but he is not sure when. Mr Collins suggests changing the filing location to the Community Development Office.

§ 2:

- a. The CBRC will ask the Community Development Director about District Definitions.
- b. Mr Collins asks whether there should be anything in the By-law to extend or change a district. After discussion, the CBRC determined that the appropriate process is to draw new maps and take the new maps to Town Meeting for a vote to change the district.

§ 3 a: Should this section be rewritten to clarify? Mr Collins indicates that the wording is directly from MGL Ch 40 § 8C. Mr Flynn (Town Counsel) suggested changing "Location of lighting" to "location, lighting". Mr Evers indicates that he is not sure this can be rewritten. The CBRC will check the wording for typos and agreement with MGL.

§4: Is "Money Gifts" the correct term? Mr Flynn indicate that MGL Ch 40 § 10 (h) provides for similar wording. This language is acceptable.

§ 5: How can the commission conduct business subject to appropriation and also expend money from gifts for this purpose? Mr Collins indicates that MGL Ch 40C uses 60 days.

DISCUSSION OF BY-LAW ARTICLE 29

No changes are proposed by the CBRC.

DISCUSSION OF BY-LAW ARTICLE 78 and 78A

These will be held until the Spring Annual Town Meeting.

CONCLUSION AND ADJOURNMENT

The meeting for Thursday August 6 is cancelled.

Adjournment was moved by Mr. Sidney, seconded by Mr. Healey, and voted unanimously. Ms. Gloff adjourned the meeting at 8:32 PM.

Respectfully submitted by Richard Sidney, CBRC member

Minutes approved on December 14, 2009 by a vote of 4-0-0.

Review of Charter and By-law Articles – Status as of August 4, 2009 (TBR = To Be Reviewed)

#	Charter Article Title	Status
1	Incorporation and Powers	No changes needed; review complete
2	Legislative Branch	O. Maloney, M. White and J. Ball to propose wording for Section 2-11 (d)
3	Elected Officers	No changes needed; review complete
4	Town Administrator	Review complete; changes voted by CBRC 7/29/09; J. Flynn drafted TM article.
5	Fiscal Procedures	Revision to be drafted by M. White and P. Sanchioni.
6	Administrative Organization	Changes needed from B. Palmer, etc.; may need further work, C. Gloff to check.
7	General Provisions	No changes needed; review complete. C. Gloff tell CBRC members one thing on Section 7-11.
#	By-law Article Title	Status
1	Town Meetings	J. Ball, M. White and O. Maloney to provide draft wording for Section 4.
2	Nominat./Elect. Procedures for TM Members	No changes needed; review complete
3	Procedure at Town Meetings	F. Foss and K. Adelman Foster to draft wording for Section 4; several other changes voted by CBRC on 7/8/09.
10	Board of Selectmen	Wording in Section 4 to be checked with Building Comm; table to be updated; J. Flynn drafted TM article
11	Town Clerk	M. White and O. Maloney to review/revise Section 1; Section 2 may be moved to Article 20, Town Administrator.
12	Collector of Taxes	B. Palmer and C. Panagopoulos to provide draft wording for Section 4; K. Adelman Foster to provide draft wording for Section 7.
20	Town Administrator	May require changes if C. Article 5 changes; table to be updated.
21	Planning Director	P. Reffett provided draft revised wording; to be reviewed by CBRC 8/13.
22	Town Counsel	Review complete; changes voted by CBRC 7/29/09; J. Flynn drafted TM article
23	Finance Committee	Review complete; changes voted by CBRC 7/1/09; J. Flynn drafted TM article.
24	Town Employ/ Person Board	TBR at a future date, after Personnel Board has completed review.
25	Council on Aging	No changes needed; review complete. C. Gloff to talk to M. Munns
26	Historic Dist Commission	TBR 8/05
27	Inform Syst Adv Board	No changes needed; review complete
28	Registrars of Voters	TBR 8/13
29	Board of Appeals	To be re-reviewed 8/05
30	Conservation Commission	TBR 8/05
32	Open Space AdvComm	TBR 8/05
40	Town Reports and Records	TBR 8/13

41	Contracts, Tn Property, & Regulations of town Boards /Officials	M. White to revise Section 1, paragraph 1; questions for J. Flynn on Sections 4, 5 and 11; M. White to check on Section 12 comment; J. Flynn and M. White to check on other regulations that should be included in last page listing.
42	Licenses	Done 6/24; need to check status.
43	Licenses/ Permits of Delinquent Taxpayers	Done 6/24; need to check status.
44	Conflict Between Town Agencies, Assignment of Counsel	No changes needed; review complete
50	Police Regulations	CBRC voted changes 6/24/09; in addition, M. White to research Section 11; N. Mabardy to respond to comment CG14 on Section 15; O. Maloney to draft wording for Section 16.7 and 16.17; M. White to have J. McGilveray look at Section 22.
51	Alarm Systems	CBRC voted changes 6/24/09; in addition, we need feedback on wording in Section 1.i. from B. Lefrancois and/or D. Malozzi.
52	Solicitors and Canvassers	No changes needed; review complete
53	Use of Recreational Conveyances	Additional feedback received; to be reviewed at 7/29/09 meeting.
60	Fire Regulations	Ask J. Flynn question on Sections 3, 8.5.5 and 10; see J. Flynn comments dated 8/01.
70	Public Works Regulations	TBR 8/05
71	Sewer Assessment	TBR 8/05
72	Building Regulations	CBRC voted changes 7/15/09; in addition, ask J. Flynn question on Section 6; M. White to check Section 6 for consistency with Sign Zoning By-law.
72A	Newsracks on Public Property and Public Ways	One change voted by CBRC 7/15/09; J. Flynn drafted TM article.
73	Junk Collectors	No changes needed; review complete
74	Junk Dealers	M. White, O. Maloney and J. Flynn to consider changes to this article and CBRC questions/comments.
75	Remedy of Public Nuisance	CBRC voted one change; not sure where we stand on the other comments.
76	Regulations for the Demolition, Alteration or Relocation of Histor Significant Buildings or Structures	Changes voted by CBRC on 7/15/09; need to submit to J. Flynn to draft warrant article.
77	Water and Sewer Rate Discount Program	TBR 8/05
78	Removal of Overhead Wires	TBR 8/05
78A	Prompt Removal of Utility Poles	TBR 8/05
79	Wetlands Protection	TBR 8/05
79A	Stormwater Management and Erosion Control	TBR 8/05
80	Water Supply Protection	TBR 8/05
81	Chemical Storage Tanks and Systems	TBR 8/05
82	Water Conservation	TBR 8/05

83	No Smoking in Public Places	Revision by J. White, Board of Health provided to CBRC 7/29; TBR 8/13
84	Illicit Discharge	TBR 8/05
90	Repeal of By-Laws	See draft changes from J. Flynn
91	Collective Bargaining	Voted to repeal; J. Flynn drafted TM article
92	Enforcement of By-Laws	Need answers to questions from J. Flynn and M. White.