

CHARTER AND BY-LAW REVIEW COMMITTEE MEETING

December 14, 2009

The Charter and By-Law Review Committee (CBRC) held a meeting on December 14th, 2009, at 7:30 a.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 7:35 a.m.

Members present: Karen Adelman Foster, Carol Gloff, Robert Healey, Tony Lista, Richard Sidney.

Members absent: Jay Ball, Barbara Chinetti

Others present: Paul Connolly, Town Meeting Member

Attachments: Attachment A: "Charter 2-11 (d) Amendment"
Paul E. Connolly, 12/9/2009

Attachment B: "By-Laws Art.3 s.3 Amendment"
Paul E. Connolly, 12/10/2009

DISCUSSION OF THE CHARTER

Charter Article 2.11.d (see Attachment A)

Mr. Paul Connolly distributed Attachment A and spoke in favor of a change to Charter 2-11(d). Mr. Connolly reviewed the rationale behind his proposals, including his concerns about the physical accessibility of warrants as posted in various locations in town, the understandability of the full warrant as now posted, and as posted if the first page is a signature page, and other points as printed in Attachment A.

A discussion was held regarding the proposal. Points raised included the potential difficulty of summarizing a proponent's warrant article fairly, and possible liability to the town in being required to do so; the desirability of providing less rather than more information to the public; timing issues pertaining to attesting the warrant; the current existence of a table of contents that serves as a concise digest of the subject matter to be discussed; the desirability of moving the posting procedure to the by-laws, the desirability of including the Town Clerk on the initial distribution list.

Mr. Sidney moved that the CBRC propose changing the words "in each precinct in the town" to "as prescribed by by-law." There was no second.

DISCUSSION OF THE BY-LAWS

By-Law Article 3, Section 3

Mr. Paul Connolly distributed Attachment B and spoke in favor of a change to By-Law 3-3. Mr. Connolly reviewed the impetus for his proposals, including his concern at the duration of speeches in Town Meeting and the duration of sessions, and his belief that establishing in the By-Laws a speech-duration limit option would encourage its use.

The observation was made that members currently have the power to limit speech duration, and there was a discussion regarding whether it would be nevertheless useful to include this measure in the By-Laws.

This proposal will be discussed further at a future meeting.

APPROVAL OF MINUTES

Note: Mr. Lista left the meeting prior to the approval of any sets of minutes. As there were still 4 members present, a quorum existed and the meeting continued.

The minutes of 7-8-09 were discussed and minor errors corrected. Mr. Sidney moved approval of the minutes of 7-8-09 as amended. Mr. Healey seconded the motion, and the minutes were approved by a vote of 4-0-0.

The minutes of 7-15-09 were discussed and minor errors corrected. Mr. Sidney moved approval of the minutes of 7-15-09 as amended. Ms. Adelman Foster seconded the motion, and the minutes were approved by a vote of 4-0-0.

The minutes of 7-29-09 were discussed and minor errors corrected. Mr. Sidney moved approval of the minutes of 7-29-09 as amended. Mr. Healey seconded the motion, and the minutes were approved by a vote of 4-0-0.

The minutes of 8-5-09 were discussed and minor errors corrected. Mr. Healey moved approval of the minutes of 8-5-09 as amended. Ms. Adelman Foster seconded the motion, and the minutes were approved by a vote of 4-0-0.

The minutes of 8-13-09 were discussed. Ms. Adelman Foster moved approval of the minutes of 8-13-09. Ms. Gloff seconded the motion, and the minutes were approved by a vote of 3-0-1, with Mr. Sidney abstaining.

The minutes of 8-21-09 were discussed. Ms. Adelman Foster moved approval of the minutes of 8-21-09. Mr. Healey seconded the motion, and the minutes were approved by a vote of 3-0-1, with Mr. Sidney abstaining.

The minutes of 10-2-09 were discussed. Ms. Adelman Foster moved approval of the minutes of 10-2-09. Mr. Sidney seconded the motion, and the minutes were approved by a vote of 3-0-1, with Mr. Healey abstaining.

The minutes of 10-13-09 were discussed. Mr. Healey moved approval of the minutes of 10-13-09. Mr. Sidney seconded and the minutes were approved by a vote of 4-0-0.

The minutes of 12-7-09 were discussed. Mr. Sidney moved approval of the minutes of 12-7-09. Ms. Adelman Foster seconded and the minutes were approved by a vote of 4-0-0.

CONCLUSION AND ADJOURNMENT

It was mentioned that it might be advisable for the CBRC to place an article on the Spring Town Meeting warrant to request the extension of our terms. No action could be requested on the article if we are done with CBRC business.

Adjournment was moved by Mr. Sidney and seconded by Mr. Healey. Ms. Gloff adjourned the meeting at 9:15 a.m.

Respectfully submitted by Karen Adelman Foster, CBRC member

Minutes approved on March 15, 2010 by a vote of 4-0-2.

Attachment A

Charter 2-11 (d) Amendment

Paul E. Connolly
12/9/2009

Proposed Amendment of Charter 2-11 (d)

In Section 2-11 (d) replace the entire section with the following:

(d) **Publication** - Within five days following the date the warrant for any town meeting shall close, the board of selectmen shall cause copies of the warrant articles for such meeting to be sent to the town clerk, the town moderator, the chairman of the finance committee, and to such other persons as may be designated by by-law. Additional copies of the warrant articles shall be made available for general distribution in the office of the town clerk. As a prerequisite to the official signing of the warrant, the board of selectmen shall also produce a concise description of the subjects in the warrant, by article, that shall be part of any official notice posted to inform the voters of the upcoming town meeting. Posting of such notices shall be done in the manner prescribed by the by-laws.

Explanation, Rationale

The problem with the existing section is mandating posting of a document that is often 20 or more pages in numerous locations where the public cannot reasonably be expected to be able to read it. These locations generally are a bulletin board with limited space or a window to which the document is attached, usually with the pages one behind the other, so that only the first page can be viewed by a reader.

Why is it important to have this section about publication and distribution of the warrant?

It is important to have clear time requirements for the distribution of the warrant because Natick's practice is much more stringent than the notice requirements of 7 days or 14 days (ATM or STM, respectively) found in MGL, c.39, s.10.

Some towns do not close the warrant until just before a posting date that meets the minimum requirement in the MGL. In such situations, there is usually a draft warrant in circulation that undergoes some periodic revision before it is finalized by the board of selectmen.

Overview of proposed amendment.

- (1) The warrant articles should be distributed as soon as possible after the warrant closes.
- (2) The board of selectmen needs to prepare a summary list of the subjects of the articles which will constitute, along with the date and time and place of the meeting, the notice of the town meeting.
- (3) Posting the entire warrant throughout the town is no longer required.
- (4) Details about the posting of the notices and making the warrant available to the public should go in the by-laws.

*What about the **attested** copy of the warrant?*

I don't understand the importance of this concern about attestation. The general practice is that the warrant is distributed to just about everyone with a list of article titles and the warrant articles themselves. There is no official signature page included.

The official signed copy of the warrant that the town clerk retains may qualify as the attested copy. Why are more such copies needed?

I also question if postings of the notices of the upcoming town meeting require the extensive signature page that is used. (The board of selectmen prepares notices to advise the public to submit warrant articles for an upcoming town meeting, and those notices have only a single signature block.)

What is the objective for posting notices?

The objective is to produce a one-page notice that contains all the information needed. That one page ought to be 8.5x11, 8.5x14, or (at as a very last resort, side-by-side columns) 11x17. A reader should be able to quickly scan the subjects to be considered at town meeting and to learn where the warrant articles of interest may be reviewed.

What else needs to be done?

I think that the By-Laws, Art.1, s.4 should be reworked and expanded, responding to more than just changes in the charter. I have the following ideas:

- (1) Specify the date when the notices are to be posted in the precincts and the newspaper. I feel a date should be chosen that precedes the holding of hearings on the warrant. After all, the purpose of the notice is to alert those voters who may wish to make their opinions known on subjects of special interest to them.
- (2) Specify the places where copies of the warrant articles can be obtained. Are the libraries such a place? Or, are persons just expected to make copies of pages from a library reference copy? I question why the copies need to be attested by means of the detailed signature page. Certainly, the warrant articles on the website don't have a signature page.
- (3) Perhaps the town clerk should be named as the responsible official for providing sufficient copies of the warrant articles to the libraries as the supply of copies diminishes.
- (4) I cannot see the value of specifying the post offices as an extra place for posting notices. One place in each precinct is sufficient. Let the town clerk pick the best places. The post offices may be best places, but they may not if few people frequent them.
- (5) In many cases, the warrant articles use boiler-plate language. It is not until the finance committee produces a report with specific recommendations that the public can really find in one place the motions that town meeting will be acting upon. It seems appropriate to include something in the by-laws about where voters can review copies of the report of the finance committee

Attachment B

By-Laws Art.3 s.3 Amendment

Paul E. Connolly
12/10/2009

Proposed Amendment of By-Laws Art.3 s.3

In Article 3, Section 3:

1. Add two new paragraphs after the last paragraph as follows:

With reference to a main motion or a motion to amend, a subsidiary motion to limit the time for each speaker to three (3) minutes may be entertained by the Moderator, provided at least two (2) persons for the affirmative and two (2) persons for the negative have already spoken on the motion. The motion for the "three-minute limit" may not be amended or debated, and it requires a two-thirds (2/3) vote.

Notwithstanding any other provisions of this section to the contrary, a subsidiary motion to permit a specified amount of time for a particular person to speak may be entertained by the Moderator, provided the motion is made before the person is recognized to speak. This motion may not be amended or debated, and it requires a majority vote.

2. In the existing first paragraph, delete the phrase "without permission of the Town Meeting" in the two places where it occurs.

Explanation, Rationale

The problem to be corrected is the increasing tendency of speakers to speak at length, repeating again and again what has already been stated either for or against the pending motion. The overwhelming majority of Town Meeting members are held hostage as captive listeners. The solution to the problem is to provide an accepted procedure through a by-law to limit debate if so voted by Town Meeting.

The proposed solution is expected to garner much more support than an alternative solution that removes or reduces current restrictions on use of the motion for the previous question.

The proposed solution relies upon the use of existing parliamentary procedures (*Town Meeting Time*, §43; 3rd edition, p.101).

The proposed solution puts the task of suggesting limitation of debate on a Town Meeting member, not on the moderator (who could then be accused of favoritism).

The proposed procedure still allows Town Meeting to allow a particular speaker an amount of time exceeding the limit.

Why a three-minute limit?

The point is to reduce the time for follow-on speakers from the standard ten minutes. Although 30-second and 60-second commercials are known to be very effective, a one-minute limit seems too short. A three-minute limit seems just right.

If the subsidiary motion to limit debate is currently available as a parliamentary tool, why does Town Meeting need a by-law?

Adoption of a by-law is a way to promote an acceptable way to limit debate that Town Meeting members recognize as being applied fairly. Safeguards are built in.

Even if the by-law is adopted, it is still acceptable for a person to make a motion to limit (or extend) the time for debate. In such a case, the maker of the motion determines the effect that results from adoption of the motion by his selection of the wording in the motion. (See *Town Meeting Time*, §43; 3rd edition, p.101.)

What are the built-in safeguards?

Perhaps, the safeguards are more like features. The motion for the "three-minute limit" (which can be a shorthand expression to refer to this motion in the by-law as the maker of the motion may call for it) applies to the immediately pending motion. The motion cannot be applied to all debate under an article. Debate on any motion starts with the standard (ten-minute limit) rules in effect. Town Meeting must decide to vote the three-minute limit to reduce the time for subsequent speakers. Town Meeting may grant more time for a particular speaker if a request is made.

Why the requirement for two affirmative and two negative speakers before the motion is in order?

As a practical consideration, it seems reasonable to allow the courtesy of the standard full time for initial presentations in favor of adopting a motion. However, what is available for proponents must be equally available to opponents. (That opinion is not favored in some other towns where **sponsors only** are allowed more time, but everyone else is permitted a much shorter time.)

Two-and-two just seems reasonable to insure that both sides are heard. It is entirely possible that the first speakers recognized to speak may be mostly on the same side of the issue. Therefore, just counting the number of speakers or the total minutes of debate time elapsed does not seem to be an acceptable trigger to permit the motion to be in order. *Two-and-two* just seems workable for the moderator and the motion maker to track. Who wants to try to keep track of the total elapsed time to balance pro and con debate before the motion for the "three-minute limit" is in order! Of course, the key safeguard is that Town Meeting still has to vote the limitation by a 2/3 vote.

Two-and-two is just an attempt to prevent abuse. Note that two affirmative and two negative speakers could imply a total time of 40 minutes or more before Town Meeting could vote to limit debate. I do not recommend higher numbers than *two-and-two*.

Why delete a phrase in the existing first paragraph?

To retain the phrase while adding the second of the new paragraphs which addresses the same issue in a somewhat broader context, I think, will introduce confusion.

How is the proposed procedure expected to change things at Town Meeting?

Ideally, nothing would change. Persons would speak only to add substance to the discussion, not to browbeat listeners by repeating reasons supporting their positions that had already been heard before. But, if necessary to obtain relief, one long-suffering listener could seek recognition to make the motion for the three-minute limit. There would be no debate on that motion. If Town Meeting votes for the limit, my hope is that new speakers would be very time-conscious about making just a few key points and then sitting down. I expect that the moderator would be very careful about enforcing the time-limit. (How about a count-down timer displayed on the screen?)

I would also expect that outcries to impose the three-minute limit would be ignored by the moderator. Because of the fact that the moderator does not recognize persons to speak a second time on a question while persons who have yet to speak the first time desire to be heard, it will probably be the case that the person who makes such a motion will not be someone who has already spoken and wants to limit others. It will be a person who had not planned to speak, but who has heard enough and wants to proceed to the vote sooner rather than later. That person would need to keep raising his hand to seek recognition to make the motion.

It is possible that a person may have prepared a good presentation somewhat more than three minutes in length, but was not recognized to speak before the three-minute limit is imposed. In such a case, that person (or another person on his behalf), when recognized to speak, could first make a motion requesting the necessary time required. I suspect that Town Meeting members would vote for such a request unless the speaker had a reputation of not being respectful of his listeners in the past.

Are there any other problems that can be addressed in Section 3?

Yes. I feel there is a problem with speakers asking questions for information that almost amount to a trial attorney questioning a witness. These questions are hard to follow and often lead to clarifications and follow-up questions which are very trying for listeners to endure.

I contemplated writing a by-law to put all these clarifications and follow-up questions on the speaker's time clock. Thus, the "three-minute limit" could be invoked.

However, I thought a better procedure followed by speakers and enforced by the moderator may be better. The procedure is outlined as follows. (1) Questioners should be more considerate and formulate clear and concise questions that are effective in stimulating the responder to provide information that Town Meeting members really can benefit from hearing. (2) A question can be a simple question or a reasonable multi-part question. Time to ask a question does not count as a person's time for speaking. (3) But, when the response is given, the questioner has only three options: (i) sit down, with a chance to be recognized soon again; (ii) make a motion; (iii) speak in debate. Clarifications and back-and-forth interrogation of the responder should be assessed as speaking in debate, and time limits should be enforced. (4) If the questioner sits down, then he is still eligible to be recognized again as someone who has not yet spoken. When later recognized, he can start off by choosing to ask a question, in the same way as anyone else.