

Government Study Task Force Committee
November 4, 2009
Selectmen's Meeting Room, 7:30pm

Attendance:

Peter Cahill
Thomas Daly
Margery Eramo
Paul Fitzgerald
Charles Flahive
Frank Jacobs
Karen Manor Metzold
Alice Moore
Michael Jaillet
Anne Marie McIntyre

Absent

Ken Foscaldo

Meeting Summary

Mike began the meeting with an indication that he received offers from two individuals who would be willing to serve as Chairman and Vice-Chairman: Peter Cahill and Karon Manor respectively. Frank Jacobs moved and Charlie Flahive seconded to nominate Peter Cahill to serve as Chairman and Karon Manor to serve as Vice-Chairman. There were no further nominations and the membership voted unanimously to adopt the motion.

Peter Cahill opened the meeting for the discussion.

It was noted that the meeting summary from the last meeting were not distributed until late and/or not everyone was able to access them on the established FTP site. Therefore, a point was made to distribute the meeting summaries earlier so that they can be edited and accepted at each meeting. Hard copies should be brought to each meeting in the event that someone forgets to bring their copy.

Additional communication problem and/or suggestions included a note that Alice Moore had not received any emails which might be due to the mistake in the email address that was being used, some were having problems accessing the FTP link, but indicated they will try again, a suggestion was made that the date and source of information distributed on the website should be identified, a meeting folder be established containing all of the information distributed at each meeting, that email attachments include such meeting related items like the agenda and minutes and that the larger documents simply be posted on the website and listed in the body of the email which might also include a hyperlink directly to that posting.

A point was made that any policy related discussions should not occur in the email but rather be reserved for the next meeting.

Anne Marie indicated that Marilyn Contraeas of the Department of Housing and Economic Development has agreed to attend the next Committee meeting on November 16th. In response to a question, Mike explained that he has known Marilyn since he began in the profession 25 years ago. It is his understanding that she has served as the states

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expert and advisor to almost every community that has sought to change their Charter over the last 25 years.

Charlie asked about the articles that were proposed at the last Town Annual Town Meeting that gave rise to the Selectmen's decision to create this Task Force. Mike explained that there were three articles proposed at last year's Town Meeting. One proposed to change the composition of the Board of Selectmen, the Chief Executive Officers of Town from three to five members and to have the members elected by district. The second sought to establish term limits on the Board of Selectmen and the third

sought to change the date of the Town election from a Tuesday to a Saturday. Mike further indicated that the first two articles which proposed changes to the composition and/or terms of the Chief Executive Officers were not submitted in accordance with Massachusetts General Law. The first article was amended to be proposed as a Home Rule Petition which in fact could have been adopted by Town Meeting. In the end, all three were indefinitely postponed.

The question was asked if it was the objective of the Task Force to simply discuss and weigh in on an article related to the composition of the Board of Selectmen. The response was that the Selectmen had created the Task Force to review the entire Charter and advise on whether or not it needed to be amended and what specifically should be considered.

Charlie indicated that when he reviewed that Charter he was specifically concerned about the lowered quorum which results in a hand full of residents voting on matters that affected the entire community. Marge, who is responsible at Town Meeting for delivering the message that the Town has achieved its quorum, noted that many times the Town Meeting just barely meets the 175 voter requirement.

Peter indicated that rather than beginning with a general discussion of the entire Charter that it might be better to go through each chapter one at a time.

Chapter 1 – Powers of the Town

Peter noted that Section 3 covers the general form of government which is Selectmen, Open Town Meeting and Executive Secretary. He noted that this is one of the primary issues to be considered by the Task Force. Issues like the quorum, types of Town Meeting (Representative or Open) are issues to be considered. Tom indicated that Representative Town Meeting can allow for more frequent Town Meetings and a better ability to respond to issues. In addition, elected officials from precincts, as he observed when he was in Natick, can organize themselves by precinct where they can meet and assume more responsibility for gathering information.

Paul noted that one of the facts related to Representative Town Meeting is that they tend to meet more frequently and over more days.

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Alice indicated that she would like to hear the opinions of other town officials on this and other matters.

Marge stated she is always discouraged when a large number of people attend Town Meeting to take action on a specific issue and then leave once that issue is addressed, often times leaving Town Meeting with less than a quorum for the remaining decisions to be made. Alice noted that the people in the room studying this issue usually are among those that stay all night. These individuals are conscientious and make choices that are responsible.

Tom noted that often people that leave early are surprised the next day to hear that Town Meeting ended with quick action at the end. Paul noted that the Charter contains reference to an Executive Secretary. Mike indicated that the term Executive Secretary is an old term used at the time that the Charter was written. The Charter defines the Executive Secretary as the Chief Administrative Officer which has since been converted in most towns to Town Administrator. On that basis, a Board of Selectmen in the early 90's approved the use of the term 'Town Administrator' which was then incorporated in the job description by the Personnel Board.

Chapter 2 – Elections and Town Meeting

Peter said that clearly the section related to legislative powers is where the discussion of the appropriate form of Town Meeting will take place.

Paul noted that in the current economic environment, a later Town Meeting into June may be more appropriate because more information is available from the state such as the Cherry Sheet.

Marge noted that the reference to the first date of Town Meeting in April relates to the Town Election which is the first action of Town Meeting. She did note that section 6 refers to the first Monday in May as the first night of Open Town Meeting.

Peter noted that the number of signatures required to get a petition article on the warrant may need to be reconsidered. Paul responded that he thinks that this section is actually a repeat of the requirements stated in Massachusetts General Law.

Peter noted that there is no recall process noted in the Charter. Paul responded that these are all things that we can do but all need to be done within the states statute.

Peter raised an issue about what the Finance Commission role would be in the dates by which they would have to act might need to change if the Town were to change its legislative process to a Representative Town Meeting or Town Counsel.

Marge noted that the whole issue of the Town Meeting quorum is definitely something we will make to discuss.

Paul noted that on some of these issues it would be better and easier to change the bylaw than to change the Charter because it provides more flexibility.

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Karen noted that in Canton, where she once lived, the Moderator position is appointed alternatively by the local Democratic and Republican Parties and that the Moderator seems to have more power. Paul noted that in fact the Moderator is considered to be one of the most powerful local town officials.

Karen also pointed out that in Canton, the order that the articles are taken up on Town Meeting floor is determined by a lottery selection at Town Meeting. She noted also that Town Meeting in Canton tended to take four nights compared to the one night Town Meetings in Westwood.

Marge noted that the Charter often time refers to "He" and she suggested that these references be changed to be gender neutral.

Karen noted that the Town Moderator position is the only position that remains at a one year term. Paul responded that he believes that is governed by Massachusetts General Law and cannot be changed.

Chapter 3 – The Board of Selectmen

Peter noted that in discussing this section, the Task Force should discuss all of the sections.

Paul noted that the powers and duties of the Board of Selectmen are broader than are defined in the Charter and asked if the Selectmen by tradition have reserved all of the powers available to it. Mike responded that the Board of Selectmen reserves all of the powers available to it by statute, unless those powers have been assigned to another board or commission. For instance, state statute allows the Board of Selectmen the duties and responsibilities that can be and have been assigned to the Board of Health.

Peter pointed out that there is a conflict between the bylaw and the Charter, for example, the Executive Secretary.

Charlie noted that although there is mention of authority to rescind an appointment, in his experience he has never seen this in practice. Peter noted that Section 3 is an important duty which may lead to someone's removal. Mike noted that although there is no actual reference to removal nor has it been obvious that there has been any such removal. There have been, however, a couple of instances where that has occurred.

Chapter 4 – Elected Town Boards and Offices

Paul noted that the number of School Committee members should be something that the Task Force considers. Karen noted that in recent years, the Town has been having trouble finding people to even run for the position so increasing the number doesn't seem to be the right way to go. Marge expressed that we should look at it all. Charlie noted that he just ran to represent the Town on the Blue Hills Regional School Committee as a

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write-in candidate because no one else had taken out papers. In the process of running this campaign, he noted that he was surprised to learn that after the election that those people that had put in a sticker he had provided on the ballot did not have their vote counted if they did not check the box.

Marge noted that she doesn't know what the Sewer Commission does. Frank expressed an opinion that this might be a board that would better appointed rather than elected.

Charlie noted that in reference to some boards, there is a specific reference to when they have to meet and for others there is no reference to that. He indicated that this should be standardized.

Frank asked if Tony is still on the Sewer Commission? Mike responded that he was.

A question was asked related to the Planning Board and its composition as elected officials. Mike explained that one of the issues that has come up related to the Planning Board, specifically during the permitting of the Master Plan for Westwood Station, related to the fact that two members of the Planning Board were up for election in the midst of that process and had they been defeated, the entire process would have had to restart because an affirmative vote of four participating members was necessary. During this time, there were some discussions of alternative formats for the Planning Board that could be adopted that would avoid this possibility.

Alice expressed that the Task Force should hear from members of all these boards and committees, including the Planning Board, before rendering a decision.

Paul indicated that it may be time for some boards, like the Board of Assessors, to be appointed rather than elected because of the competence required to serve on certain boards. Marge indicated that the School Committee and Library Commissioners were an example of committees that should probably remain elected.

Frank asked which Boards and Commissions receive a stipend? Mike responded that the Board of Selectmen, Board of Assessors and Sewer Commissioners are the three boards that receive a stipend and that the Town Treasurer and Collector also receive a stipend and the Town Clerk is the only salaried elected Town Official.

Tom asked why some committees and boards are listed in the Charter and other are not. Mike responded that the Charter generally includes those committees and boards there were established and in existence at the time the Charter was adopted. Other boards and commissions, which were established later like Youth & Family Services and Historical Commission, were created by adopting state statute. Paul noted that in some respect it is better to have boards and commissions established by adopting state statute because it provides greater flexibility in adjusting such things like the size of the membership, bylaws in which they operate and general responsibilities. Marge confirmed that she participated in the establishment of the Youth & Family Service Commission after the Charter. Frank indicated that he is a member of WAHA, which is the not-for-profit arm of the Westwood Housing Authority which was also formed by the adoption of state statute.

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(Frank excused himself from the meeting)

Marge noted that Town Meeting has changed the term of office for the Tax Collector, Town Treasurer and Town Clerk to three years but 4-6-1 still references their terms as one-year terms.

Paul asked how the Finance Director position was created? Mike responded that a vacancy in the Selectmen's Office resulted in the creation of an Assistant Town Administrator position which was also given the title of Finance Director and the responsibility for overseeing the Town's financial operation. Although this process did not include assigning direct management responsibility over the collection, treasury, assessing, accounting, payroll and budgeting functions, sheer competence and cooperation among all of these departments has effectively evolved to this point. Paul asked if this should be formalized? Mike responded that it would appear to be time to formalize the current state of affairs.

Chapter 5 – Appointed Town Boards

Charlie noted that the Board of Health currently only has three members and given its responsibility and work load, might be something we want to increase. Peter noted that of all the board listed only the Council on Aging included a requirement for members to step away after a specific number of years before being considered for reappointment. Mike explained that this is a recent change for the Council requested by the Council itself in order to encourage new points of view. Paul asked if this approach shouldn't be applied to other boards and commission. Pete responded that it should be considered. Marge explained that prior to the COA requesting this change, members tended to serve, and serve and serve. Marge also noted that the Recreation Commission language includes a reference that they shall serve without compensation and she feels that this language should either apply to all or none.

A point was made about the duties of the Executive Secretary/Town Administrator, what is specified is very limited and some, like the budgetary responsibilities, have been assigned to the Finance Director. There is a need to discuss this matter further. Charlie noted that the Executive Secretary position had a reference to preference being given to a non-resident which he thinks should be taken out.

Chapter 7 – Boards and Commissions

Marge made the point that the power to rescind an appointment should be similar for the Moderator as for the Selectmen. Paul noted that the power to rescind has to be consistent with state statute and he believes there is a difference for the Moderator.

Paul suggested that the Task Force look at the number and role of committees. Mike indicated that over recent years there have been some questions about to whether or not the Permanent Building Committee, which oversees the construction of all the Town's new facilities, is appropriate in this more complex building environment. Paul suggested that one question is what expertise should be represented on the Permanent Building

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Committee. Peter asked if this should become a responsibility of a separate commission, the Selectmen or the Finance Commission.

Peter noted that other commissions and committees now exist in the bylaw. Tom noted that it is easy to change those committees that exist in the bylaw in accordance with Massachusetts General Law which specifies how changes are to be made.

Chapter 8 – Financial Procedures

Paul noted that the language requiring that the Town first approach the state with an audit is no longer relevant. Mike confirmed that the state no longer provides this service to communities and as a result we simply contract, for multiple years, with a private audit firm.

Paul asked if the Town has a 5-year capital plan, and if so does this get adopted by Town Meeting? Mike responded that the Town does prepare a 5-year capital plan which is adjusted each year, but it is not our practice to have that plan adopted by Town Meeting.

Chapter 9 – Town Bylaws

Paul noted that there is a reference made in this section for a review of the bylaws every 5 years. He suggested that something similar might be good for the Charter itself. Mike agreed that it is a good practice, but that every 5 years is too soon and that maybe 10 years may be a better suggestion.

Chapter 10 – Severability

Nothing was mentioned

Chapter 11 – Charter Revisions

Paul suggested that we check with Marilyn when we meet with her to see if this section is consistent with Chapter 43b, M.G.L.

Chapter 12 – Traditional Provisions

Peter suggested that we need to review this section without doubt.

General Discussions

Peter encouraged everyone to think about how the Task Force should look into these matters. Tom asked if there is a procedure to have Town Officials appear before the Task Force to answer questions.

Paul suggested that we agree that we will need to have a few placeholder articles drafted by Town Counsel on the Annual Town Meeting Warrant to be flushed out into complete articles by the end of March when the first Finance Commission public hearings are held.

Anne Marie suggested that one way to get information from Town Officials is to prepare and provide them with a questionnaire that will seek specific information in writing. Karen indicated that she prefers face-to-face contact. Paul suggests that meetings be

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arranged by function and that the Town Officials could be provided with questions in advance so they are prepared for the discussion.

Karen suggested that in order to make the process more efficient and within the time constraints, the Task Force might break up into pairs or small groups and attend the meetings of each of the committees to obtain their input. She suggested that certain committees, like the Board of Selectmen, maybe kept for the committee meetings so that everyone can hear their opinion. Marge indicated that the School Committee should fit into that category as well. Karen offered to make a list of committees and who would obtain information from them.

Peter suggested that we need to think about scheduling Town Officials for the first meeting in December. Alice suggested that the Task Force might want to consider, in addition to the scheduled meetings, to have a 4-hour session scheduled for a Saturday in early December in order to make sure that the Task Force has time to speak with everyone they are interested in talking to. Marge suggested December 5th as a possible date for the session.

Charlie suggested that the Task Force be broken up into sub-committees to meet with boards and commissions. Peter pointed out that Karen had also suggested this and it should be considered.

Peter suggest that we put in a place holder for December 5th and begin asking boards and commissions to see if they are available to come in on that day.

Alice asked when the public hearing would be scheduled because we would need to do some advanced publicizing. Peter responded that he felt it would be somewhere in the January timeframe. Tom suggested that maybe the Task Force should scheduled one of its Wednesday night meetings for this purpose. He also suggested that individuals should be informed that they can write to the committee as well as attend the public hearing.

Anne Marie pointed out that in Sharon they have established a web page, blogs and other internet instruments to communicate between the general public and their Charter Review Committee.

It was unanimously decided to adjourn at 9:20pm.