

**Town of Uxbridge
Charter Review Committee
November 16, 2020**

The tenth meeting of the Uxbridge Charter Review Committee, held on the Zoom platform, was called to order by Chair, Patrick Stephan at 6:34 PM, Monday, November 16, 2020.

Present were Chair, Patrick Stephan, Vice-Chair, Melissa Desmarais, Clerk, Ray Talke, and committee members, Rob Knapik and Joann Lindenmayer. Absent were Barry Desruisseaux, Jeffrey Lourie, Ron Parsons, and Michael Potaski. Former Uxbridge Fire Chief, William Kessler, Chair of the last Charter Review Committee, Harry A. Romasco, and Uxbridge resident, Jean Ouellette, were also in attendance.

During Citizen's Forum, Former Uxbridge Fire Chief, William Kessler clarified some of the remarks he offered at the November 2, 2020 Charter Review Committee meeting. Chief Kessler reiterated the need for professionalism among members of town boards and committees and stated that filling committees with appointed individuals, rather than through elections, tends to promote professionalism. Chief Kessler said that some qualified individuals may not be willing to participate in an elections process, yet would be valuable contributors to town committees. Also, in the event in which no candidates appear on a ballot, an individual can be elected with a minimal number of write-in votes from a small number of voters. Chief Kessler believes the members of the Finance Committee and Board of Health should be appointed by the Town Manager or the Board of Selectmen. Regarding the Board of Health, Chief Kessler said, "to perform the responsibilities of the Board of Health, there really should be a vetting process (to get) professionals in the health arena who understand the issues."

The Uxbridge Charter Review Committee interviewed the Chair of the last Charter Review Committee, Harry Romasco. In response to a question by Mr. Stephan, Mr. Romasco stated the last Charter Review Committee wasn't quite ready to present its findings at the Spring Annual Town Meeting, and instead chose to make its recommendations at the Fall Town Meeting. Since the Spring Town Meeting's primary purpose is the approval of a town budget, the Charter Review Committee of ten years ago didn't want to take any of the emphasis away from the budget in order to debate and implement changes to the town Home Rule Charter at the same meeting.

Other issues addressed by Mr. Romasco include:

Ten years ago, many in town wished to abolish the Charter. In response, the Charter Review Committee stretched the process out in order to hear from town employees, board members, and the citizens in town. The Charter Review Committee "gave everyone a chance to share their thoughts and concerns."

Every meeting of the Charter Review Committee of 2011-2012 included a public forum. In addition, Mr. Romasco actively solicited input from citizens who were active and attended town committee and board meetings.

Mr. Knapik pointed out that, over time, the size of town government has increased, requiring more professional management. Because of this, creating a charter was an inevitability. Mr. Romasco said the Charter Review Committee of ten years ago asked, "How can we run a \$32 million organization with part-timers?" The answer to this question reinforced the need to retain the Town Charter.

Mr. Romasco mentioned town stakeholders (residents, businesses, organizations) deserved a well-run town and needed accountability in the operations of town affairs. There needed to be professional management in the form of the Town Manager. However, "as we moved from the selectmen to town manager form of government, it was very difficult for some selectmen to evolve ...and let go of the day-to-day form of micromanagement they were used to."

In order to achieve professional management of the town, Mr. Romasco believes, "we absolutely need a town charter."

In spite of some growing-pains, Mr. Romasco believes we are better off with a charter than without.

Dr. Lindenmayer pointed out the town doesn't have a town personnel system, despite its mention in the Town Charter and that there have been limited evaluations of town employees. Mr. Romasco responded that the primary duty of a town manager is to "hire, (hopefully not) fire, train, and retain employees."

The Town Manager must build good-will and facilitate an atmosphere of expectation, motivation, transparency, and trust in the government. There should also be transparent salary schedules available to employees. The biggest asset of any organization is its employees. In order to attract and retain employees, town managers must create a culture in which employees feel appreciated, recognized, and motivated to come to work. So far, the town has not been able to afford dedicated human-resources personnel. The town manager must be able to wear several hats, according to Mr. Romasco.

In terms of contract negotiations, Mr. Romasco believes we should have trust and faith in our town managers, and if these individuals have control of the budget, they must also have the skills and ability to negotiate contracts commensurate with the budgets. When boards and committees get involved in contract negotiations, we almost always run into the "agenda" of one or more people. The Town Manager should be above any political agenda, and should be the one to conduct contract negotiations.

Mr. Romasco said he found it difficult to find town committee members and believes that all boards and committees should have an odd number of members.

Mr. Romasco wishes his Charter Review Committee had created Department of Public Works (DPW) Commissioners. These commissioners would study other communities and perform long-term planning on DPW needs. This group would have meshed very well with the Water and Sewer Commissioners. The state of the town infrastructure creates the most complaints in town. Opponents of creating DPW Commissioners ten years ago felt we should not continue to grow government and that the employees of the DPW should have the required skills and credentials to effectively perform their jobs. DPW Commissioners, if instituted, should function as an advisory board, working closely with the DPW director.

Dr. Lindenmayer asked what should have been included in the Town Charter to address emergencies like the current pandemic. Mr. Romasco responded that he was very concerned about the number of individuals attending town meeting. He stated that less than 1% of the town typically attends Town Meeting and has concerns about reducing the quorum requirements at Town Meeting.

In response to a question about considering other forms of town government, Mr. Romasco felt, in a small town like Uxbridge, "the last, best form of democracy is that of Town Meeting." Everyone may take the floor at Town Meeting and "speak their piece," and any other form of town government would force citizens to give up that right.

Dr. Lindenmayer stated, "if town government decides it's not safe to attend (Town Meeting) and if people are quite rightly afraid for their health," we lose that form of open town government. Mr. Romasco pointed out we "are in uncharted waters" and we should consider proxy voting, absentee ballots, or the like. Overall, there is a concern that a very small number of people (a special interest group) may make decisions that impact the whole town.

Regarding having "strong" fire and police chiefs with substantial autonomy, Mr. Romasco declared that town managers are responsible for hiring and negotiating the contracts of police and fire chiefs. In order for a town manager to attract the best candidates, he or she must be able to grant the police and fire chiefs significant autonomy to manage their departments. Police and fire chiefs know their departments better than either the Town Manager or Board of Selectmen. The town needs strong personnel in public safety leadership positions to motivate, support, and train people.

In 2011-2012, the Charter Review Committee reviewed the Town Charter section by section. Every sentence and word was deliberated and the Charter was reviewed page by page. There was significant discussion as to whether the

Town Manager or the Board of Selectmen served as the Chief Executive Officer of the town (the committee felt it was the Town Manager). Changes to the Charter were discussed and votes were held on each change, with a majority required to approve a change. Good notes and records were essential in capturing all of the discussions and votes, and all votes were recorded in the Charter Review Committee minutes.

As a member of the Charter Review Committee, Mr. Romasco felt the members needed to do that which was right for the entire community, and not just the boards or committees that appointed them. Certain individuals in the community and the Board of Selectmen were opposed to the concept of a town charter, but were unable to offer a consistent or veracious argument against the Charter. These individuals appeared to be driven by a specific agenda.

Mr. Romasco suggests the current Charter Review Committee look into the way the members of the Finance Committee are appointed. He believes the Moderator should have the authority to appoint all of the members, and that a nominating committee should have the authority to first screen potential members. Mr. Romasco, having served on the Finance Committee in the past, believes the committee is an autonomous, advisory (not policy-making) body responsive to the town and not the Moderator or Board of Selectmen. Mr. Romasco agrees that the Finance Committee is being stretched too thin – being required to weigh-in on many Town Meeting warrant articles that have little to do with finances.

Rob Knapik, as Chair of the Zoning Board, pointed out the Charter mentions the Zoning Board in very few instances. Like the Board of Health, most of the duties and powers of the Zoning Board are mandated by statute in the Commonwealth, rather than through a charter. However, he does support an increase in the size of the Zoning Board from three to five members, even though the current size of the Zoning Board is dictated by the Town Bylaws, rather than the Charter.

Mr. Knapik believes the size of town boards and committees should be established in the Town Bylaws, rather than the Town Charter. The Charter should function similar to that of a constitution – laying out the basic structures of government. Legislation should be used to address more granular issues like the number of members of various boards and committees. The Finance Committee and the Board of Selectmen might be appropriate exceptions in which the number of members should be dictated by the Town Charter.

Motion by Rob Knapik to accept the meeting minutes for the November 2, 2020 meeting of the Charter Review Committee, seconded by Melissa Desmarais. The motion passed unanimously with Mr. Stephan, Ms. Desmarais, Mr. Talke, Mr. Knapik, and Dr. Lindenmayer all voting in favor.

Town Clerk, Kelly Cote, and Department of Public Works Director, Benn Sherman, are scheduled to be interviewed by the Charter Review Committee at its December 7, 2020 meeting. Selectmen Brian Butler and Jeff Shaw are scheduled to be interviewed at the December 14, 2020 meeting. Dr. Lindenmayer would like to see former member of the Board of Selectmen, Susan Franz, interviewed at a future Charter Review Committee meeting.

Mr. Stephan and Ms. Desmarais will be condensing and consolidating all comments from the interviews into a single document.

Due to employment commitments on the part of the Clerk, Mr. Talke, Dr. Lindenmayer will be creating the minutes for the first Charter Review Committee meetings of December and January.

Town resident and member of the Board of Health, Dr. David Tapscott, submitted written comments to the Charter Review Committee on November 12, 2020. These comments were read into the record during the meeting, and are attached as an appendix to these minutes.

Mr. Stephan asked all committee members to contact him if they will not be able to attend any future Charter Review Committee meetings.

The next meeting will be held on Monday, December 7, 2020 at 6:30 PM on the Zoom platform

The meeting was adjourned at 8:27 PM.

Respectfully submitted,

/s/

Raymond A. Talke, Jr.
Clerk

Appendix

Comments of Town Resident and Board of Health Member, Dr. David Tapscott, Sent to the Charter Review Committee on November 12, 2020

(Comments are presented exactly as sent by Dr. David Tapscott, with no editing or corrections.)

I would like to comment on some of the discussion which has come up regarding the Board of Health and provide some context. It is no secret that certain individuals think there is too much power on the Board and that we do not represent the Town adequately. MGL invests a fair amount of power in the Board, in the sense that we are charged with overseeing sanitary and health related practices of businesses and homes and individuals and can issue permits, fines, etc. The Board has the power to issue cease and desist orders also. Needless to say, all of these permitting and enforcement powers need to be exercised judiciously. I think you would get the same response from the UPD. Here are two examples of how the Board has been stymied in bringing initiatives to the Town that we felt would be beneficial:

1. The initiative to explore and promote an opt-in municipal volunteer trash and recycling program was viewed with suspicion and the Board was accused of becoming too powerful and not operating in a transparent way. The program has been shelved.
2. A warrant article to transform the Recycling and Sustainability Committee from an advisory committee to the Board of Health appointed by the Board of Selectmen, was again viewed with suspicion. This warrant article used the word "promote" in its language and this was taken to mean the RSC would foist some a green agenda on the Town. This article was characterized at one FinComm hearing as leading to "jackboots and truncheons", meaning the promotion of any of ideas or programs would be implemented in a Naziesque way. The warrant article did not go any further.

My sense is that a fear of governmental power led to these two roadblocks cited above. This was essentially a political struggle motivated by differences in ideology and ideas. I believe there is no way to prevent these differences from playing out, no matter what the structure of a given board. (See attachment.) As long as political struggles evolve in a civil way and persons involved in them abide by established rules, government can function well. It is the function of the Charter, is it not, to give the best structure within which good governance can occur.

The Uxbridge Charter prescribes that the Board consist of 3 elected members. The difficulty before you as a Charter Review Committee is not whether political struggles can be avoided, but in deciding whether an elected board has adequate accountability to the public. I believe that appointment of individuals gives less accountability. Specifically, the Board of Health would be appointed by the Town Manager. There have been historically instances where the Board has needed to disagree with the Town Manager in issuing orders or enforcing public health

mandates. Having the Board be accountable to the public through election rather than an appointing authority gives the Board enough independence to fulfill its responsibilities without being unaccountable. The same could be said for any appointed board or committee, however, public health decisions are much more likely to affect a wide range of individuals and businesses in ways which quite frankly make life more difficult, even when made in the name of public health and safety. Therefore, ensuring that public health decisions are as far away from political ideologies is extremely important.

The issue of the number of members of the Board has been raised. Having three members makes for easier communication and less complex decision making. On the other hand, a five member Board spreads the workload that is traditionally expected from an active Uxbridge Board of Health. This would allow for more effective implementation of policies and regulations. Over the course of 10 years total serving on the Board, I have been involved in inspections of housing/property, food establishments, nuisances, septic systems and water contamination. With the present pandemic and to a lesser degree the EEE situation of 2019, each Board member has volunteered to contribute countless hours of extra work as each situation unfolded. Even with a stellar Department Head and Administrative Assistant, these situations needed to be addressed by a cooperative and active Board. I don't believe this situation will change and public health issues will continue to be at the forefront of local governmental activity.

The other possible advantage of a five member Board is that it would spread the decision making process out over a wider range of people. In an indirect way, this might serve to ensure greater accountability to the public. A majority vote of 3 seems qualitatively different than a majority vote of 2.

Please feel free to reach out to me if you have questions about these comments, or for any other matter regarding the Board of Health. And best of luck. I will support you in any way possible to get more public awareness.

David Tapscott

