

**Town of Uxbridge  
Charter Review Committee  
October 5, 2020**

The seventh meeting of the Uxbridge Charter Review Committee, held on the Zoom platform, was called to order by Vice Chair, Melissa Desmarais at 6:52 PM, Monday, October 5, 2020.

Present were Chair, Patrick Stephan, Clerk, Vice-Chair, Melissa Desmarais, Clerk, Ray Talke, and committee members Barry Desruisseaux, Joann Lindenmayer, and Ron Parsons. Absent were Rob Knapik, Jeffrey Lourie, and Michael Potaski. Former Board of Selectmen and School Committee Chair Jennifer Modica and Moderator Ed Maharay were also in attendance.

Dr. Lindenmayer volunteered to serve as timekeeper.

The Uxbridge Charter Review Committee interviewed Jennifer Modica. Ms. Modica introduced herself. She served as a member of the Board of Selectmen from 2013 through 2019 and was chair for three and a half years. She also served as a member of the School Committee from 2015 through 2018 and 2019, holding the position of chair for four months. She is also the Dog Park Committee chair and has served in that position for four years. Ms. Modica is currently the chair of the Pout Pond Recreation Committee and has served on that committee for over four years.

During the interview, Ms. Modica made the following observations:

The Uxbridge Home Rule Charter is not relevant to the School Committee, since the actions of this committee are governed by state law.

Although the Town Charter seems to work when the Board of Selectmen and Town Manager have a good relationship, Uxbridge has experienced above average churn of Town Managers. Over the last 20 years, Uxbridge has had a new Town Manager every three years, whereas Ms. Modica maintains successful towns keep their Town Managers for over ten years. Because of the rapid turnover of Town Managers, town initiatives get forgotten. For example, Uxbridge approved the aggregate purchasing of electricity during Town Meeting over three years ago, but this initiative "fell through the cracks" because of the turnover of Town Managers.

There needs to be a feeling of common responsibility between the Board of Selectmen and the Town Manager, where each group feels they're doing enough. Sometimes Town Managers have left because they felt they couldn't do their jobs according to the responsibilities outlined in the Town Charter. Selectmen have sometimes chafed against the restrictions placed upon them by the Town Charter, and they attempted to exceed their authority and infringe upon the authority vested in the Town Manager. This sometimes results in a power struggle between the Board of Selectmen and the Town Manager.

In reviewing the respective responsibilities of the Town Manager and the Board of Selectmen, it might be advisable to expand the responsibilities of the Board of Selectmen, in the hope it may prevent future conflicts with the Town Manager. However, this does pose the risk that political considerations, rather than professionalism, may drive their decisions. Allowing the Board of Selectmen to involve themselves in contract negotiations, for example, may be a useful revision to the town charter. This would allow the Board of Selectmen to feel more in control of things.

However, care should be taken to ensure the involvement of the Board of Selectmen in negotiating or ratifying contracts should not spill over into day-to-day management of town employees. Management and discipline of employees should remain the responsibility of the Town Manager. Because of open meeting requirements, any involvement of the Board of Selectmen in day-to-day management or discipline of employees must be conducted in public. This may not be desirable in creating a productive and positive work environment for employees.

When the Town Charter was revised ten years ago, there were two primary issues some members of the Board of Selectmen had with the revisions. The first is the Charter doesn't explicitly define who serves as Chief Executive Officer of the town. This sometimes causes conflict between the Board of Selectmen and the Town Manager, with each entity believing they should function as CEO.

The second area of contention was the prohibition of members of the Board of Selectmen from talking to town employees and department heads without the permission of the Town Manager. The purpose of this prohibition was to ensure town employees would have a clear chain of command and wouldn't receive conflicting direction from the Town Manager and members of the Board of Selectmen. Town employees should only answer to a single entity.

Ms. Modica did not find the Town Charter constraining. She was able to make the Board of Selectmen job what she wanted it to be – in her case as a representative of the town on different committees.

For a new member of the Board of Selectmen, there is a lot to know about the Town Charter and Massachusetts General Law. The Town Charter takes precedence over Massachusetts General Law when it comes to defining the responsibilities of elected and appointed town officials. However, the Constitution of the Commonwealth always takes precedence. Ms. Modica believes it takes a new member about a year to become comfortable with the contents of the Town Charter, Massachusetts General Law, and the Massachusetts Constitution.

A Board of Assessors should be established in Uxbridge. The Division of Local Services (DLS) recommends towns establish a Board of Assessors, and most

towns have such a board. A Board of Assessors would serve as a check and balance of the Assessor's office, and would provide a different entity than the original assessor in addressing appeals. As is the case with many town committees, obtaining volunteers willing to serve may be an issue.

According to Ms. Modica, separating the function of serving as Water and Sewer Commissioners from the duties of the Board of Selectmen may not be desirable. If this role was removed from the duties of the Board of Selectmen, Ms. Modica maintains there would be a need for a separate Water Commission and Sewer Commission since not all consumers of town water overlap with consumers of town sewer. In response to a question from Dr. Lindenmayer, Ms. Modica stated the Board of Selectmen don't possess any particular expertise in managing water and sewer departments. However, on a day-to-day basis, the management of these facilities and the primary decisions are made by professionals in the field.

In answer to a question by Mr. Stephan, Ms. Modica maintained the presence of a Town Charter is preferable to abandoning a Charter. Without a Charter, the town would have a Town Administrator, with responsibilities far more limited than those exercised by a Town Manager. A Town Manager provides a level of professionalism in managing the town which is not provided by a Town Administrator. The presence of a Charter also removes the influence of politics from day-to-day decision making and management.

Ms. Modica favors the use of the Town Meeting form of government over other municipal government types allowed by the Commonwealth.

The Charter Review Committee interviewed Town Moderator, Ed Maharay. Mr. Maharay has served as Town Moderator since 2010, having previously worked on the Finance Committee beginning in 2000.

During the interview, Mr. Maharay made the following comments.

The Finance Committee members are selected using an unusual hybrid approach. Four members are appointed by the Town Moderator and three are elected to office. Mr. Maharay expressed his preference that this hybrid approach be abolished and that all Finance Committee members be appointed or all be elected. In about 70% of the Massachusetts towns, the members of the Finance Committee are appointed by the Town Moderator.

Mr. Maharay pointed out there were no candidates on the ballot for the Finance Committee two years ago. He does not consider this to be healthy. The difficulty in finding individuals willing to run for office sometimes results in individuals winning the office with a small number of write-in votes and limited support across the community. Mr. Maharay also shared the difficulty he has in finding qualified individuals to serve as appointed members of the Finance Committee.

Reading, Massachusetts has a Nominations Committee, whose sole mission is identifying and recruiting volunteers to serve on town boards and committees. Mr. Maharary believes there are qualified individuals in our town of 14,000 people, but “we’re not getting to them, or they’re not coming to us.”

Some of the difficulty with recruiting members to serve on the Finance Committee relates to the Uxbridge Bylaws, which prohibit members of the Finance Committee from serving on any other committee. Although this bylaw prohibition prevents potential conflicts of interest from members who may serve on other committees, it limits the pool of potential qualified individuals. Mr. Maharary would like the Moderator to have the ability to appoint members of “minor” committees (those which don’t have a major impact on the town) to the Finance Committee.

In response to Mr. Stephan’s question about the advisability of reducing the size of the Finance Committee to five members, Mr. Maharary expressed his opinion that the more people we have who can give voice to an issue, the better off we are.

In response to Mr. Talke’s question as to why the Moderator possesses the appointment authority to the Finance Committee, Mr. Maharary pointed out that the Moderator runs Town Meeting and the Finance Committee is an arm of Town Meeting. Mr. Maharary stated he has no problem with having a Nominations Committee take over the selection process. In essence, he would like “to expand the way people are selected to the Finance Committee” and “expand the candidacy of people who can serve on the Finance Committee.” A nominating committee should be the first step in identifying people who can serve the town.

With our population of 14,000, Mr. Maharary believes Uxbridge is not large enough for a Town Council form of government. He believes Uxbridge should have at least 20,000 residents for that form of government. Open Town Meeting allows all residents to voice their opinions, particularly as they relate to larger or more controversial issues. Representative Town Meeting would prevent some residents from expressing their opinions.

Mr. Maharary relayed the value of having oversight for all town positions and checks and balances for each. Specifically, he expressed his opinion that the town has neglected and underfunded its capital needs. The Capital Planning Committee should be strengthened, and should have some oversight over the Department of Public Works and even the Water and Sewer Commissioners. While we must be cognizant of an expanding bureaucracy, there is real value in having oversight of all functions.

Mr. Maharary believes there should be a single Water and Sewer Commission, independent of the Board of Selectmen.

Mr. Maharary pointed out Uxbridge has had a “revolving door” of members on many boards and committees, and, as a result, it has been hard to “gain any traction.” He would like to establish an environment in which people feel dedicated to the town and would be willing to serve long periods of time in order to get something done.

Mr. Maharary stated there are “four key elements to what the town does in terms of its operations” – personnel, facilities, technology, and finances. We are lacking a personnel system and capital planning and technology needs improvement. Oversight is sorely lacking, as the Justin Cole situation illustrates. The Board of Selectmen needs to be tougher on the Town Manager.

The Charter went into effect in 2002, and has taken a long time to mesh. Mr. Maharary suggested we talk to the previous chairman of the last Charter Review Committee, Harry Romasco. The last Charter Review Committee strengthened the role of the Town Manager because they felt the Town Manager was being micromanaged by the Board of Selectmen. Mr. Maharary also suggested the Charter Review Committee visit and review similar, well-run towns.

Due to some recent suggested revisions to the draft minutes, Clerk Ray Talke requested the approval of the minutes for the September 21, 2002 Charter Review Committee be tabled.

The media notice from our Committee was published on the front page of the New Uxbridge Times. Patrick Stephan will post our media releases to social media.

To date, no public comments have been received by the Charter Review Committee.

Ray Talke spoke during the citizen's forum. Mr. Talke suggested, after a few more interviews, the Charter Review Committee dedicates a meeting to discuss that which was learned so far. Mr. Talke expressed concern that Uxbridge is overlooking qualified people to serve on town committees for various personal and political reasons. Mr. Talke also expressed concern that some believe only “qualified” people, with previous experience and expertise in the subject, should serve on specific committees. While there is certainly a need to populate committees with members possessing expertise in each committee's mission, there is also a need for each committee to include members of the public who can assess the impact each committee's decisions has on other areas. There is a tendency for people with specific areas of expertise to grow myopic and fail to recognize the consequences or repercussions of their decisions on other areas of government or the community.

Ms. Desmarais expressed her support of the creation of a Nominating Committee to help identify volunteers because many people are not educated about “what's going on” or recognize the available opportunities. She expressed the opinion that people aren't getting involved because they don't know what's available.

Mr. Desruisseaux also expressed support for the creation of a Nominating Committee. Agreeing with Ms. Desmarais that people aren't aware of opportunities, Mr. Desruisseaux also mentioned that many people don't want to contend with the "beat down" by other residents unhappy with their actions while serving the town. He mentioned his experiences with criticisms from friends for his decisions and being sued for his decisions in office. Mr. Desruisseaux pointed out that one must be "thick-skinned" to serve the town. People don't want to put themselves "through the ringer" of criticism by running for election. While appointing people to positions mitigates some of this issue, there is still a tendency of people appointing friends and like-minded people to town positions.

Mr. Stephan believes members of the Charter Review Committee will have differing opinions and reiterated the need for all disagreements to be aired in a civil fashion.

The next meeting will be held on October 19, 2020 at 6:30 PM on the Zoom platform and will feature interviews with former Police Chief Jeffrey Lourie and current Police Chief Marc Montminy.

The meeting was adjourned at 8:29 PM.

Respectfully submitted,

/s/

Raymond A. Talke, Jr.  
Clerk