

**Town of Uxbridge  
Charter Review Committee  
November 2, 2020**

The ninth meeting of the Uxbridge Charter Review Committee, held on the Zoom platform, was called to order by Chair, Patrick Stephan at 6:31 PM, Monday, November 2, 2020.

Present were Chair, Patrick Stephan, Clerk, Ray Talke, and committee members, Barry Desruisseaux, Rob Knapik, Jeffrey Lourie, Joann Lindenmayer, Ron Parsons, and Michael Potaski. Absent was Vice-Chair, Melissa Desmarais. Current Uxbridge Fire Chief, Thomas Dion, former Fire Chief, William Kessler, and Uxbridge resident Jean Ouellette were also in attendance.

During Citizen's Forum, Uxbridge resident Jean Ouellette expressed her preference for separating the functions of the Water and Sewer Commission from the Board of Selectmen. She believes it is not fair to the town ratepayers or the Board of Selectmen to have the Board of Selectmen "making such large monetary decisions." Ms. Ouellette supports having the Water and Sewer Commissioners appointed by various other town boards and committees – for example, having the Board of Selectmen appointing some members and the Finance Committee appointing others. Ms. Ouellette believes the Department of Public Works not be involved in the appointment process in order to avoid a potential conflict of interest. Ms. Ouellette expressed concern about the \$28 million cost of completing betterments for the wastewater treatment plant, and believes ratepayers should not be required to exclusively shoulder these costs.

Ms. Ouellette finds the water and sewer bills to be almost equivalent to the cost of property taxes for some people, and is concerned that the wastewater treatment plant won't be paid off for many years. She believes an appointed Water and Sewer Commission will ensure that qualified people serve and will be able to represent the ratepayers and the citizens of the town.

The Uxbridge Charter Review Committee interviewed Fire Chief, Thomas Dion. Chief Dion introduced himself and stated he began serving as the Uxbridge Fire Chief on January 1, 2020 after having served as Interim Fire Chief since December 2018. Chief Dion joined the Uxbridge Fire Department in 1987 and served as Deputy Chief for six years under Chief Kessler. While serving as an on-call firefighter, Chief Dion worked for 25 years in the private sector as a telecommunications engineer, twenty years of which were spent in management.

During the interview, Chief Dion offered the following insights:

Chief Dion believes it beneficial that Uxbridge has adopted the strong fire chief statute (Massachusetts General Law, Chapter 48, Section 42). This statute allows the Board of Selectmen to select the Fire Chief, who may only be removed from his position for cause after a hearing. Chapter 48, Section 42

grants the Fire Chief, "full and absolute authority in the administration of the department" and allows the Chief to "make all rules and regulations for its operation."

According to Chief Dion, this allows the Fire Department to operate independently from any political pressures. He believes this should not be changed by the Charter Review Committee.

Chief Dion expressed satisfaction with the current Town Manager and Board of Selectmen and hasn't found any sections of the Uxbridge Home Rule Charter which have affected his day-to-day responsibilities, although the Charter may have "hindered the solving of some of the problems of the past." Chief Dion clarified that he was referring to the May 2017 Town Meeting amendment which cut the recommended town manager's and selectmen's administrative budget by \$128,840 when he used the term, "hindered."

Although Uxbridge has adopted Massachusetts General Law Chapter 48, Section 42, Chief Dion specified the Fire Chief reports to the Town Manager and is evaluated by the Town Manager. Chief Dion expressed satisfaction with this approach. As the Fire Department relates to town government, Chief Dion likes the way things currently are. He said the zero-based budgeting process with the current Town Manager went smoothly. He communicates regularly with the Town Manager.

Chief Dion would be "fully onboard" if the town were to institute a human resources department. He likes the self-evaluation process as part of employee appraisals.

The Uxbridge Charter Review Committee next interviewed former Uxbridge Fire Chief, and current Mendon Fire Chief, William Kessler. Chief Kessler joined the Uxbridge Fire Department in 1988 as an on-call member. He holds an accounting degree and spent twelve years in the private sector, working in accounting and information systems. Chief Kessler became a career firefighter in 2000 and became the Fire Chief of Uxbridge in 2012. Chief Kessler served on the Uxbridge Finance Committee in the late 1990's and briefly served on the School Committee. In 2018, Chief Kessler left the employment of Uxbridge to become Mendon's Fire Chief. Chief Kessler is currently serving as a member of the Uxbridge Finance Committee.

During the interview, Chief Kessler offered the following commentary:

As it now exists, the Town Charter, structurally, is appropriate for Uxbridge. However, in practical terms, the Charter has not been followed since the day it was instituted. Chief Kessler believes the Charter Review Committee should concentrate on separating the duties of the Town Manager and the Board of Selectmen. Since the Charter was first established, the Board of Selectmen have not been able to make the transition to a Town Manager form of

government. Uxbridge has not allowed “a professional Town Manager to truly manage the town.”

Despite the provisions in the Charter, members of the Board of Selectmen still directly communicate with department heads. This can cause two primary problems. First, it gives a department head the opportunity to undermine the Town Manager. Secondly, department heads may feel they are receiving conflicting direction. For example, a Board of Selectmen member may direct a department head to do something the Town Manager doesn’t want him or her to do.

Chief Kessler believes we should retain a Town Manager form of government. However, the Charter Review Committee should ensure that clear lines of direction and authority between the Town Manager and Board of Selectmen are established. The Charter should more clearly define the roles of the Town Manager and Board of Selectmen. Chief Kessler suggests a corporate governance model, in which the Town Manager acts as the Chief Executive Officer and the Board of Selectmen act as a Board of Directors.

Members of the Charter Review Committee and Chief Kessler engaged in a discussion examining the differentiation of the Town Manager and the Board of Selectmen in more depth. Mr. Knapik stated the Board of Selectmen should function as the “broader policymaking authority” whereas the Town Manager completes “the day-to-day operations” of the town, implementing the policies of the Board of Selectmen. Although the “spirit” of the Uxbridge Home Rule Charter infers this distinction between the Town Manager and the Board of Selectmen, there may be a need to more explicitly provide verbiage to that effect.

Chief Kessler also believes there is not a clear definition of the role and responsibilities of the Finance Committee. The Finance Committee should not be directing the activities of department heads. As an advisory board, if the Finance Committee, as well as any other committee, has any issues with individual town departments, they should express those concerns through the Town Manager. Committee members and elected town officials should not be directing the activities of town employees.

Chief Kessler recommends the Charter Review Committee examines the parts of the Charter not currently being followed, and determine the causes that compel individuals to ignore the Charter. As an example, he cited timeframes mentioned in the Charter. Are the timeframes and lead times in the Charter appropriate for the tasks at hand, or do they “ask to be ignored?”

According to Chief Kessler, Uxbridge has “issue-based” town meetings. The issues being addressed at specific town meetings dictates the size and composition of the audience in attendance. When controversial issues aren’t on the town meeting warrant, a relatively small audience attends, “driving the

direction of the town.” Because of this, Chief Kessler recommends serious consideration of implementing a representative town meeting, rather than an open town meeting. He compared representative town meeting to the representative system used in our federal government and maintained it would support more professionalism in government than town meetings in which participants attend to address only one issue. Chief Kessler believes representative town meeting would facilitate more consistency in town decision-making, since the representatives would be familiar with discussions held at previous town meetings. Admittedly, representative town meeting takes away the direct voice of town residents as opposed to open town meeting. However, residents could still voice their opinions to the representatives.

In response to a question by Mr. Potaski, Chief Kessler felt implementing a Mayor/Council form of government “would swing the pendulum farther” than he is comfortable with.

Chief Kessler likes the use of “clickers” to vote at town meeting, since they now allow a secret ballot to be cast. He mentioned an instance in past years in which some members of the fire department voted the “wrong way” on an issue in the estimation of some residents. These residents then said, “we will never vote for anything for the fire department again!” Without a secret ballot, some residents and town officials were reluctant to publicly vote on certain issues.

Chief Kessler would like the Charter Review Committee to examine whether the Board of Health should exist as part of town government or as a separate entity. In an earlier iteration of the Town Charter, the Board of Health was an appointed body. It was later made an elected body, which grants it more autonomy, according to Chief Kessler. While not explicitly endorsing either an elected or appointed Board of Health, Chief Kessler believes it should remain a distinct entity, rather than being integrated into the duties of the Board of Selectmen.

Dr. Lindenmayer, a member of the Uxbridge Board of Health stated, “As an elected body, the Board of Health represents the will of the people (who elected its members),” and, according to state law, always functions as an independent body. She maintained that “public health should not be subject to political considerations. Public health is health.”

In response to Dr. Lindenmayer’s comments, Chief Kessler stated, “by definition, an election is politics.”

Mr. Potaski brought up the issue now impacting Worcester, in which their Board of Health has determined that “social justice” is a public health issue. This has caused conflict between the Worcester Board of Health and their police chief.

Chief Kessler referred to the Board of Health as an independent “island,” and believed it might be beneficial to integrate it into the other aspects of town

government. Setting up individual, independent organizations in town can cause problems when certain types of personalities are involved. Appointing members to the Board of Health could more closely integrate them into other facets of town government by placing them under the auspices and control of the Town Manager.

Some members of the Charter Review Committee then discussed the issue of a small number of people consistently attending town meetings and ways to increase representation at town meeting. Public health and accessibility considerations were aired. During the discussion, Mr. Desruisseaux pointed out that most residents would have a hard time naming the members of the Board of Selectmen, Finance Committee, or other town boards and committees. Mr. Desruisseaux believes the majority of people only get involved when an issue affects them personally.

Overall, Chief Kessler believes the positioning and functions of the Finance Committee are acceptable. He recognizes the reality that workload increases during budget season, but believes the Town Manager, rather than department heads, should be the lead person in presenting the budget. Chief Kessler is comfortable with the Finance Committee members being selected by the present hybrid model, in which some members are appointed by the moderator and other members are elected. In Chief Kessler's opinion, the Finance Committee is an independent entity.

The revised minutes of the October 5, 2020 meeting of the Charter Review Committee were presented. Dr. Lindenmayer moved the committee accept the revised minutes of the October 5, 2020 meeting, seconded by Mr. Parsons. The motion passed, 5-0-3, with Mr. Knapik, Mr. Lourie, and Mr. Potaski abstaining.

The amended minutes of the October 19, 2020 meeting were presented. Mr. Lourie moved the committee accept the amended minutes of the October 19, 2020 meeting, seconded by Mr. Potaski. The minutes were approved 7-0-1, with Mr. Desruisseaux abstaining.

Mr. Stephan will look into the procedure for posting the Charter Review Committee minutes on the town website.

In order to allow members of the Board of Selectmen to participate in the meetings of the Charter Review Committee, the meetings of the Charter Review Committee will be held on the first and second Mondays of December 2020 and January 2021.

Town resident, Chris Grant, submitted written comments to the Charter Review Committee on October 20, 2020. These comments were read into the record during the meeting, and are attached as an appendix to these minutes.

Harry Romasco, Chair of the last Charter Review Committee, is scheduled to be interviewed during the November 16, 2020 Charter Review Committee meeting.

A discussion on how to increase public engagement with the Charter Review Committee was held.

The next meeting will be held on Monday, November 16, 2020 at 6:30 PM on the Zoom platform

The meeting was adjourned at 8:21 PM.

Respectfully submitted,

/s/

Raymond A. Talke, Jr.  
Clerk

## **Appendix**

### **Comments of Town Resident, Chris Grant, Sent to the Charter Review Committee on October 20, 2020**

(Comments are presented exactly as sent by Mr. Grant, with no editing or corrections.)

#### **Charter issues as I see it**

Greetings all,

In 2014 I moved to Uxbridge from Douglas, at some point in 2015 I began actually following town government. I have witnessed in the last 5 years all sorts of interesting town dynamics related to government. In this document I have provided a list of items that I feel have not functioned as smoothly as maybe it could have. I think that modifications to the charter may help in these situations, but I will leave it up to you to decide. I do not claim to have all the answers, just throwing some ideas around from just one citizen's point of view. In this document I have split these issues up into two categories process and actual documentation in the Charter, so let's get to it.

#### **Issues with Process:**

##### **Town and Town manager dynamic:**

In the 5 years I have been following town government I have witnessed a staggering 2 full time town managers and 2 temporary town managers come and go. Not to mention certain cross over times when the chief of police had to fill in as town manager. Yes this is not a good look, but what bothers me more is how they left. I witnessed both permanent town managers be forced out of their position not by government as a whole but by selected government officials in just the right positions with just the right influence to bend processes. I have witnessed government officials deliberately destroy a budget just to get back at a town manager for daring to not agree with certain officials. This was the genesis that caused the mass exodus of town employees that still continue to this day 3 years later. Then I witnessed elected officials purposely undermine and intimidate a town manager so much that we actually agreed to paying them more in severance than what they earned in salary just to keep the town from getting sued. These types of behavior leaves the town vulnerable to people that do not have the best intentions of the town in their hearts and the headlines about Uxbridge of late show the outcome of that.

I mention these issues here because they all have one thing in common. When the choice was made to try and force a town manager out, that town manager had no recourse. Since these attacks were done by individuals and not by a complete board or committee there was no recourse from a town manager to try to stop it or even adequately defend themselves, as they cannot remove an elected official. I do not have a clear answer on how to address this but coming up with a mechanism to bring issues



like this up to town meeting for correction may help, or maybe incorporating section 8 into this issue in some way.

Out of everything on my list, for me this is the most difficult item but can make the biggest impact. Imagine if we could have avoided all the town manager turn over and all the legal maneuvering that went along with it. Imagine how better off our town would have been.

### **Water and sewer commission:**

If anyone keep up with the Board of Selectmen (BOS) meetings they know that they also act as the Water and Sewer commissioners. In that role they are completely impotent. I have yet to see them issue any real solutions for water and sewer rate payers concerns. I am not even confident they really understand the mechanics involved in coming up with rates and fees. At the very least these dual roles conflict with themselves as BOS members. As their role as BOS member they are obligated to the town as whole yet as Water and Sewer commission they are charged with looking out for only the water and sewer rate payers. This dynamic many times conflict with each other. My suggestion for your consideration is an independent Water and Sewer commission made up of 3 people for which 2 are appointed and one is elected. The appointed positions would be for 2 years with the town manager appointing one and Fincom appointing the other. For these 2 appointed positions they must be rate payers. In the event that no rate payer volunteers then the appointment would go to whomever is interested.

### **Info for town meeting:**

This is an issue that is particularly frustrating for me. I have been to many town meetings where we are getting changes to articles or the supporting data for an article at the door. This means I need to vote for articles that I have not had any time to research or investigate. I know there is nothing we can do about motions called on the floor but I think we can do something about having complete articles in the warrant. My thought is to make a regulation that requires that all information for an article on a warrant must be complete, accurate, and made public within one week of the meeting date. If an article must be modified for any reason that article must be passed over. Not only would that make for a more informed town meeting it would speed up the town meeting process as we would not need to get constant clarifications on new information during the meeting.

### **Charter review limitations:**

I feel that it is a conflict of interest to have elected /appointed officials that are bound by the Charter regulations making modifications to those same regulations. That is like have a police officer also be the one writing the laws. It eliminates a check and balance in town government. To that end, I would strongly suggest that a restriction be added to the Charter that restricts Charter review members to only people that are currently not involved in town government nor an employee of the town. In my mind this review is a



review on how our local government is representing us. To that end, it should be citizens that are not part of government doing this review.

### **Board of health lack of checks and balances:**

Over the last few years the Board of Health (BOH) has been very aggressive in implementing more and more fees, restrictions, and regulations. The problem is that they can do this with very few options from the citizens to choose if they want these new policies. The BOH has on a number of occasions have attempted to implement policies that the town clearly did not want based on nothing more than they know what is good for us. Since the BOH and the health director has no checks and balances in place, as

neither needs to get the town managers or town meeting approval for action, there should be more people involved in these proposed policies. Currently the BOH consists of only 3 members. As such the whole town can be negatively affected by the whims of only 2 people.

I would suggest that this board be increase to 5 like every other board and committee in town that has this kind of authority. I would suggest at least one of these positions be appointed by Fincom. As the BOH has a finical element to it, and one appointed from the town manager. This would allow some form of checks and balances in making sure that the BOH is actually carrying out the will of the people and not their own agendas.

### **Issues with Documentation:**

#### **Conflicts with Bylaws and charter dominance:**

The Charter lacks clear guidance on what document to follow when a bylaw conflicts with something in the charter. It should be clear that in the event of a conflict the bylaw in question is no longer valid and the Charter must be followed.

#### **Consequence of Charter violations:**

The Charter lacks any information on what happens if the regulations outlined in the Charter are broken. There are references to this in MGL but I will let a lawyer do the interpretation of those laws. There is also no information on how to proceed if there is a perceived Charter violation. All parties bound by the Charter should fully understand the consequence of violating the charter.

#### **Inclusion of new committees:**

This is a basic clean up activity. This is just an audit to make sure that all boards and committees that are still active be referenced in the charter. There is a catch all (section 9 on page 10). "Other Elected Officers". That is a bit lazy in my opinion, and each part of government should be listed out. At the very least is should also include the verbiage of

“and appointed positions” In the case that a board and/or committee that is in the Charter is no longer active, it should be removed.

**Charter review process:**

I have watched the Charter Review Committee and 3 meetings in there is still confusion on the process of making changes by the committee. I think this is a good time to clear this up and make a clear process on what their charge is and how this should all work.

Thank you for taking time to review my concerns. I hope this document has inspired all of you in this process to improve the most important document this town has.

Regards,

Chris Grant