

Meeting of the Charter Review Committee, December 7, 2020

- 1) CALL TO ORDER: The Chair called the meeting to order at 6:30; present: PRESENT: Patrick Stephan (Chair), Mike Potaski, Ray Talke (Clerk), Melissa Desmarais (Vice Chair), Ron Parsons, Jeff Lourie, Joann Lindenmayer; ABSENT: Barry Desruisseaux, Rob Knapik
- 2) OPEN PUBLIC FORUM: there were no attendees at the Open Public Forum
- 3) INTERVIEW(S): Kelly Cote, Town Clerk

Kelly has been with the Town for 13 years. The Chair thanked her for help getting agendas and minutes out during this review process. Kelly was with the Town when the Charter Review Committee met 10 years ago – it was playing out as she came on as Town Clerk. She didn't understand the Charter then as well as she does now. She opined that the Review Committee is there not to make major corrections but to tweak the Charter as needed. For example, there was some discussion about changing from appointed to elected and she didn't expect it.

Ray asked what has worked since the last Charter Review Committee. The Town has been through a lot in the past two years. She has been in office through 7 Town Managers (TMs) and a few interim TMs as well, and it's been tricky to maneuver. Overall the Charter does what it's meant to do. She doesn't feel there is a lot wrong with the Charter. Her issues relate more to the lack of noncriminal disposition and enforcement where the Town can issue fines.

When she first came in, they had to get a payroll warrant signed to pay people, and then get the Board of Selectmen (BoS) to sign the warrant, and it was difficult sometimes. Now with the BoS the Town functions better. The functions of some departments/committees may relate to others but these entities may not connect. In her opinion, the definition of quorum is wrong – it should be the number of people on a Board, not the number of seated positions. The Charter should be accurate.

Ray asked if there were any aspects in the way current town government is structured that have a positive or negative impact on her work. She replied that the structure works fine. She reports directly to the TM and interacts with boards, committees and others but always has the TM to refer people to if the need arises. Ray then asked if there were any issues that affect what she does. A couple sections of the Charter affect the Town Clerk (recall, others) but there are good structural pieces that are there for us to use. She suggested changes to the definition of quorum and the posting of vacancies. With regard to the latter, the interpretation speaks to filling vacancies in a few different spots. It's not wrong but it's not clear. For instance, with an elected body there are strict rules for filling vacancies, but with an appointed position it's less clear. At the end of an appointment term, does she have to post for a 10 day vacancy if the person wants to stay? The language of the Charter is overly complex and not overly wordy but for the lay person it can be difficult to understand the legal language.

What about the possibility of enforcement actions on persons who violate the Charter (and Bylaws)? The Charter is a governing document, but with respect to the bylaws, the Town has no noncriminal disposition, it can issue fines but there is nothing attached to them. Most of the time education and talking to people can rectify situations that come up. **Is there a way to incorporate noncriminal disposition into the Charter?** Ray noted that the Town failed to pass it. **Should there be sanctions when people in elected or appointed positions violate the Charter or Bylaws?** The Town can refer to MA statutes. Town positions are driven by law and MA statute and she would hear from the

State first if they're violated. Ray noted that Kelly is the center of the town government world. **Does she believe that based on that we have an appropriate number of committees and boards? Should there be a sunset position?** Kelly stated that if we had good people volunteering for these positions we should probably not have sunset provisions, but there are a lot of vacancies. Some committees seem to exist on paper only. She is hopeful that the Town is in a good position now with boards getting stronger and working together, and with that we will get more people involved in town government, for example with the Parade, Recreation, and other boards and committees where people tend to get beat up over simple issues. **Pat asked how have people have been recruited in the past and can Charter help to make it easier to recruit folks?** Even committees like this can be training grounds for new folks to get involved in areas with greater responsibility.

How can the town avoid resistance to people getting more involved? It's the nature of the beast. With social media, if there are disagreements, people don't want to get involved. The more we can make committees seem more fun, and with the transition from "old to new school" folks, maybe this will improve and there will be room for new ideas.

What is her biggest challenge? Her biggest challenge is lack of understanding by the public. We should push the Cable Channel to every department, to people who are less involved, to give them a view about what goes on in town government. People don't know about what goes on. We are moving in a great direction now, people are working together. **What does she attribute that to?** It starts at the top, and trickles down from the TM to employees and then to public. We have good teams in place now.

What is her opinion about elected vs. appointed positions? If it doesn't affect her position, it doesn't affect her. If the Town Clerk position were to be an elected position, it could be a problem if it's a popularity contest. She likes the Finance Committee (FinCom) makeup (half elected and half appointed).

Pat notes that Kelly is the center of posting. We have only had about two people who have joined the Citizen's Forum. We struggle with official postings vs. more informal methods. **What's possible with the current system to make people more informed about the work of this committee?** Elections are in the news, are posted, on cable so there are many channels for getting information out but still people don't know. People have to be accountable for getting the information for themselves. At the last Town Meeting, Pat suggested a table where the Committee could take comments. Kelly responded that the opportunity to make comments is limited in time frame as there are only two town meetings a year and during each one people can be outside submitting their comments as long as it doesn't interfere with the election. Pat likes the idea of getting high school students involved.

Ray asked if there is there any structure in town government that she would like to see changed. Kelly responded that now we have a strong TM and a good one, we are moving in a good direction so the structure works as long as we can keep the good employees. **Ray then asked if we could improve the structure if we don't have good employees.** Kelly replied that we need a good TM. She would like to see the BoS reach out to department heads to get input on the TM offline because the BoS doesn't always get the true picture from whoever happens to be in the room. The Town needs a strong review process to retain a good TM. **What about a personnel manager? Would she support that to handle HR issues?** Kelly has had only three/four reviews in the past 10 years. She replied that there should be someone there to help, especially as the town continues to grow.

Ray noted that some previous individuals who were interviewed suggested a nominating committee to suggest appointments to boards and committees. Kelly thinks this is not a good idea especially as we already have too many committees. Do we need a committee to appoint a committee?

Mike Potaski asked about duties and responsibilities. MGL has an absolute requirement reinforced in the Manual of Municipal Procedures that the BoS must perambulate the town and report annually to the Town Clerk. The last time this was done was 2009. MGL imposes a fine on the BoS if it fails in this responsibility. **Is it the Town Clerk's responsibility to report them to the AG? And can we build this into the Charter?** Kelly asked if having it in the Charter would have more teeth than MGL? We are not the police, and if they call to ask about it, we don't bear any responsibility to report – we are not mandated reporters. They should report to her but she has no responsibility to report their failure to report. Don't ask – don't tell.

Ron asked if failure to report has ever been reported. Mike stated that the last record of reporting such a failure was in the 1740s. **Ron asked about elected vs. appointed positions and who in current town government should be responsible for appointing members of these boards?** The BoS appoints some, TM appoints others. There's no good answer right now. Should the TM? Yes. Should the BoS? Yes. What if we have a poor TM and it's left to the TM? In that case we could have a selection of poor candidates to these boards. Kelly stated that it goes back to the structure of committees and town government. We have staggered replacements. There should be training of new members by established members. That alone helps insure that we keep good people.

Pat asked if there is a mechanism for training people who are new to town government. FinCom has a binder for new people. Kelly said that FinCom members have to rely on existing committee members for information and training. Mike noted that serving on committees in the town could be a training ground for the future so that people understand what goes on at the lowest level of government. Several years ago a town resident ran for state rep but had never held a position in town. The Conservation Committee has a full day of training for new personnel, and an experienced member accompanies new members on site visits.

Pat stated that the Town Moderator will guide us through the report to Town Meeting. We started our deliberations late, should have been ready to go at spring TM. We will have a plan at March meeting and then go to public hearings, jump through other hoops as necessary, but there is a difference between a Charter Review Commission and a Charter Review Committee. **Pat asked for Kelly's advice to fulfill the Committee's obligations in April.** She said that if the goal is to vote at FATM, it will have to be put on the ballot in May 2021. Pat confirmed that we would like to have a final vote at FATM 2021. Kelly will do research because the outcome of our work falls under reports. **Does she foresee that we will have to stand up at Town Meeting or just have a report ready?** We would want to hand a report out ahead of time because they're read at the beginning of TM and then questions could be addressed.

Jeff thanked Kelly for her service. **Melissa asked about the balance of powers between the BoS and TM.** Kelly said there were a lot of struggles over power with previous TMs. The BoS should not be involved in day-to-day operations. TM is the first line of defense for employees.

There were no other interviews as Benn Sherman was called to BoS so may or may not join us.

Pat noted that we will be getting into requirements related to charters under MGL as they relate to the language in our Charter.

4) OLD BUSINESS

- Review, edit and approve Minutes from the November 16, 2020 meeting: Ray received comments from Pat and Joann but did not see changes marked up in the document that Pat sent, so Ray will download it and view them. Harry Romasco and Bill Kessler, who were interviewed at that meeting, were copied on the minutes. The Committee will wait to approve these minutes until Ray can make changes.

- Timeline for Committee activities: Pat noted that we have certain milestones to reach and one is the May Town Meeting. If we are giving a report, do we need to complete it 60 days ahead of time? Yes, for FinCom, BoS and others to comment. The article on the warrant is a standard one, but we have to approve our report and forward it to others for review, so we should have public hearings before we submit it for review. Mike noted that if it's going to be a report it will go to the FinCom public meeting which is public and would give people the opportunity for public input. We have interviews scheduled through midJanuary. **What should we do about sending forms out to others (e.g., Peter Hechenbleikner)?** If we want more input we will need speed things up and cut off formal interviews by midJanuary. February and March would be set aside for discussion of issues. The previous CRC had discussions as they went along. Pat will put a timeline together before the next meeting. He sees a potential for subcommittees. Suggestions include:
 - i) looking at state laws,
 - ii) review of town charters from other towns (Pat put three - Northboro, Westboro, and Grafton – on the OneDrive). There is some good innovative work in other charters, some that isn't)
 - iii) Collating comments from interview forms and summarizing them for the CRC.

We may want to appoint a few members to each of these subcommittees. Mike will check the Manual of Municipal Procedures. Jeff is familiar with Westboro and will assist with the comparative study of other town charters, but his schedule is tight right now for the next month or so.

- Interview schedule with date changes in December and January: Next Monday is BoS, as is the second week in January. We will extend the second slot on January 4th to Benn, who could not attend tonight. Mike asks if we are inviting Lisa Bernard from the Senior Center. We aren't, but he would like to send the form to her. Mike – we hear a lot about getting information out to people, so the Senior Center has a good sense of what are the needs of seniors and how well the town is serving the senior community. Lisa has a monthly newsletter. Pat asks if we are dealing appropriately with the School Committee. Yes, because a lot of what they do is governed by State Law and the Charter may not apply.
- Review forms for comments and recipients: Ray created the forms several months ago, is using them as a basis for the interviews. Pat will send copies to committee members to see if any modifications are needed based on what we've already learned. Pat has a spreadsheet with potential interviewees/form recipients. Is that list sufficient? Yes. Someone will have to take charge of that because we will need to collect responses and summarize them. Melissa asked for clarification as to whether we are sending forms to the School Committee for their input? We will solicit input from the Committee's Finance Director and Superintendent.

5) NEW BUSINESS

- Discussion on input received after solicitation for comments: The Committee has received comments from David Tapscott (covered in the last meeting), but no others since then.
- Discuss agendas for December/January meetings. Covered previously.

Ray announced that Tim Rice, who was very involved in town government, passed away last Thursday. Visiting hours will be held this Thursday at St. Mary's, followed by a funeral service. He was a true gentleman who served on the BoH, as a library Trustee, and on several other town offices. Ray requested a moment of silence in his memory and for his service to the Town.

Joann moved to adjourn. Melissa seconded the motion. The meeting was adjourned at 8:07 pm.
Respectfully submitted,

Joann Lindenmayer, Secretary Pro Tem

