

TOWN OF BRIDGEWATER

Charter Review Committee

Dennis C. Gallagher, Chair

Carlton Hunt
Stephanie Ryan
Erick Lynch
Aisha Losche
Eric Desrochers



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Academy Building - 66 Central Square
Bridgewater, MA 02324

Bridgewater Charter Review Committee

Minutes for the Charter Review Meeting that Convened on Wednesday, March 18, 2015

Meeting called to order as formal session by Dennis C. Gallagher (Chairman of the Committee) in accordance with rules governing meetings and quorum filled. Meeting starts at 7:04 PM.

Members in Attendance: *Dennis C. Gallagher, Carlton Hunt, Aisha Losche, Stephanie Ryan, and Erick Lynch*

Members Not in Attendance: *Eric Desrochers; recording Secretary, Patti Paccia, was unable to attend due to prior commitments. Minutes were compiled by Carlton Hunt and Dennis Gallagher.*

Guests: Councilors Pete Colombotos and Timothy Fitzgibbons

Approval of Agenda: *The Committee accepts the agenda of the current meeting.*

Approval of Meeting Minutes:

Approval of the 12/25/14 and 03/04/14 meeting minutes were deferred until the next meeting.

Public Comments: *There are no public comments for the current meeting.*

Committee Meeting Schedule: *The Chair and Committee reviewed the upcoming schedule of meetings and potential for topics of conversation in those meetings. The Committee considers the following:*

March 25, 2015

April 1, 2015

April 7, 2015 Town Council Presentation confirmed

Chair announced that he had contacted the Town Attorney and confirmed his intention to attend the CRC meeting on March 25, 2018. Chair also announced he will miss the next CRC meeting due to previously scheduled vacation plans.

Old Business:

The Committee summarized several of the CRC recommendations with Mr. Colombotos and Mr. Fitzgibbons. Discussion of those recommendations ensued. Specifically, the committee asked the Councilors to comment on the recommendation to change the Town Council make up by merging Districts 4 and 5 into a single representative and increase the number of at large councilors to three. The rationale for the recommendations is based on the fact that the number of registered voters in districts 4 and 5 are low relative to the other districts. The supporting data in the table below was reviewed. This results in challenges to getting nomination signatures for the districts relative to other districts. The general sense was that merging the representation for the two districts into a single counselor would not diminish the ability of the councilor to represent the districts. On questioning, Councilor Colombotos noted that the University's direct interaction with him was essentially nil. The discussion then focused on transition issues. Suggestions were made that the easiest

way to make the transition would be to merge District 5 and 6 to avoid upsetting the current election cycle. The committee determined that this option would be noted in the recommendations report.

Precinct #	Population 2010 Effective Date 12-31-2011	State Facility Average Population 2010	Registered Voters 2014	Registered Voters 2014 @ State Facilities	Recent Registered Voter Turnout			
					2012 General Election	2012 % Registered Voters	2013 Town Election ³	2013 % Registered Voters
1	3,873	0	2,805	0			455	16.2
2	3,886	0	2,566	0			445	17.3
3	3,861	0	2,810	0			523	18.6
4	3,904	2,200 ¹	1,320	86			222	16.8
5	3,623	3,200 ²	957	186			129	13.5
6	3,743	0	2,155	0			229	10.6
7	3,673	0	2,484	0			427	17.2
Total	26,563	5,400	15,057	272			2,430	16.1

1. Average Daily Prison Complex Population in 2010 (State Prison Website)
2. Housed on BSU campus in 2014 (<http://colleges.usnews.rankingsandreviews.com/best-colleges/bridgewater-state-university-2183>)
3. Precincts 4 and 7 and an at-large Town Council positions on the ballot; only precinct 7 was competitive (Voting statistics from Town Clerks office 2014)

Other CRC recommendations reviewed include:

1. The change from an elected Town Clerk to one appointed by Town Council for 5 years.
 - a. Questions included how to best ensure the Town Clerk can operate independently and not have Town Council interfere with job and decision making; suggestions were to define the position as a "strong Town Clerk" much as we have strong police chief and fire chief.
2. Better defining the role of Town Attorney if conflicts between Town Manager and Town Council arise in the future
 - a. The rational for this was considered
3. Ability of town employees to serve as elected officials and on boards, committees, commissions or other agencies OR serve in appointed positions
 - a. Concerns over ethics and conflict of interest were raised and the potential awkwardness of such a situation
 - b. A suggestion was offered that a town employee could serve in an appointed position as long as they were 1) a town resident and there were not Conflicts of interest. Also a Town employee who does not live in Bridgewater could not be eligible for an appointed position.
4. Limitations on the number of appointments that a volunteer citizen may hold
 - a. Discussion over the current low volunteer turnout and desire to not limit ability of boards, committees, commissions or other agencies to conduct business
 - b. The suggestion was offered that limitations to a single appointed position was not the most desirable policy
5. Changing the date Town Councilors are seated from second Monday after election to July 1st following election
 - a. Concerns raised included potentially having three "lame duck" councilors for two months.
6. Ability of town Finance director to transfer up to \$25K across or within department accounts with only town manager approval
 - a. A question of how money transfers or similar requests that include the term "is thereby ordered" comport with concerns voiced during the March 17, 2015 Town Council meeting were raised (see new business for an in depth discussion of concerns surrounding the Town Councils ability to order an action by the Town Manager)
7. Modification of the waiting period for resolutions and orders to become effective from 30 to 10 days
8. Recommendations regarding changes to FINCOM make up and role

The CRC continued reviewing selected suggested Charter revisions summarized in the committee's issue tracking table.

Section 2-1 Town Council Make up. Motion to accept the first vote to change make up from 7 districts and 2 at large to one merged district (4&5), five districts, and three at large councilors was made (Mr. Lynch, seconded by Ms. Ryan), Passes unanimously. Committee agreed to indicate in our report that other district merger (i.e., 5 and 6) may simplify the transition scheduling.

Section 2-12. Term Limits. Motion to accept the first vote to change for 12 consecutive years to four consecutive terms offered (Mr. Lynch, Mr. Hunt), Motion passes unanimously

Section 2-12. Motion to accept the first vote to rearrange the order of sentences in the subject section offered (Ms. Losche, Mr. Lynch), Passes unanimously.

Section 2-7a. Motion to accept the first vote to reduce waiting period on orders and resolutions from 30 to 10 days offered. (Mr. Hunt, Mr. Lynch), Passes unanimously.

Section 3-1. Concerning eligibility of BRRSD and Town employees to participate as in town government as appointed or elected position or simultaneously serve as in an elected and appointed positions. Ms. Ryan presented ethics commission findings that relate to the discussion (see MGL 268A, part 20). Committee agrees to provide the interpretations as part of the report and cite the relevant MGL in the charter.

Motion to reference MGL Chapter 268, part 20 in the charter offered (Mr. Lynch, Ms. Ryan), Passes unanimously.

Motion to not recommend changes to Section 3-1 previously passed in light of ethics commission finding and clarifications offered (Mr. Hunt, Mr. Lynch), Passes unanimously.

Section 4-2. Motion to accept the first vote to modify language of 4-2, xx?? offered (Mr. Hunt, Ms. Losche), Passes Unanimously.

New Business:

Ability of the Town Council to "order" the Town Manager to conduct/complete an action was raised by Councilor Colombotos. The issue came to the CRC based on Councilor Colombotos' concern over actions taken at the March 17, 2015 Town Council meeting. Specifically the question of whether the Town Council has the right to specifically direct/manage the Town Manager through orders that are voted on by the Town Council was raised.

The CRC asked for information regarding why this has come up and role of the CRC. Discussion concerned definitions of an order, whether the Town Council and Town Manger have an agreed upon performance plan, and the span of August 2, 2011 Superior Court findings regarding the interaction of the Town Council and Town Manager. The CRC reading of the courts finding (see attached) during the meeting suggests that the judgment is narrow and focus on the Council's ability to affect the hiring and dismissal of the Town Attorney. The CRC defers to the Town attorney for any legal input.

Since Section 4-9. Annual Review of the Town Manager directs the Town Council President to complete a written annual performance review, the Committee questioned what weight the goals and objectives for the Town Manager's performance plan carry and how does the Town Council hold the Town manger accountable. Comments included concern on how the Town Council can hold the Town Manager accountable given the courts order and ability to hire and fire the Town Manager with just cause. The Committee also questioned whether the charter should set a date certain for the Town Manager's annual review possible mid-June after the annual budget cycle is complete.

The Committee also pointed out that an improved set of definitions has been recommended for the charter including that of an order. The Committee also pointed to Section 4-2 Administrative Powers and Duties that refers to the Town Manager's job as providing some guidance. Specifically item #22 states "to perform such other duties as necessary or as may be assigned by this charter, by ordinance or by vote of the town council" as likely being relevant to the discussion.

Discussion was also held regarding dictating a hard date, say mid-June, for completing the Town manager's performance review.

No formal votes were taken by the Committee with respect to this topic.

Section 6-9. FINCOM. Ms. Ryan introduces information from MGL Section 36, Section 16 that requires any municipality whose valuation for the purpose of apportioning the state tax exceeds \$1M to have a Finance Committee.

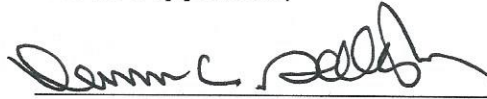
Motion to include a citation of this requirement to the charter offered (Mr. Lynch, Ms. Ryan), passes unanimously.

With formal discussion concluded, a request is made to adjourn: *By unanimous consensus of the Committee, the meeting is hereby adjourned. The next meeting will be March 25, 2015.*

Meeting is hereby adjourned by unanimous consensus of the members in attendance in accordance with rules governing meetings. Meeting adjourns at 9:00 PM.

I hereby affix my hand to this document that the minutes of this meeting are true and accurate to the best of my ability, note-taking, and penmanship as so ordered by the Chair of the Committee this Eighteenth Day of March, Two Thousand and Fifteen.

A True Copy Attest,

A handwritten signature in blue ink, appearing to read "Dennis C. Gallagher", written over a horizontal line.

Dennis C. Gallagher, Chairman of the Committee

A handwritten signature in blue ink, appearing to read "Patti Paccia", written over a horizontal line.

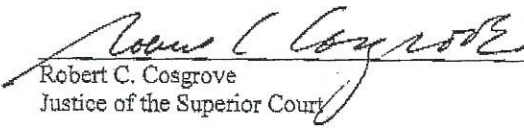
Patti Paccia, Secretary of the Committee

Judgment

Upon consideration of the Plaintiff's and Defendant's cross-motions for Judgment on the Pleadings and the arguments of the parties, judgment will enter for the Plaintiff on Count I and Count III of the Plaintiff's Complaint. Pursuant thereto, the court declares and adjudges that:

- A. The Town Council's Order #2011-015 conflicts with the Town of Bridgewater Home Rule Charter, and therefore, is invalid and unenforceable.
- B. The Town Council is without authority to adopt Orders that establish conditions of appointment and removal of the Town Attorney beyond those set forth in the Town of Bridgewater Home Rule Charter.

The Court finds that no actual controversy exists between the parties as to the continuing vitality of Article VI, Section 1 of the Bridgewater General Bylaws, all parties agreeing that it conflicts with the Town of Bridgewater Home Rule Charter, and therefore, is invalid and unenforceable. Accordingly, Count II of the Plaintiff's Complaint is dismissed.


Robert C. Cosgrove
Justice of the Superior Court

August 2, 2011