

TOWN OF BRIDGEWATER

Charter Review Committee

Dennis C. Gallagher, Chair

Carlton Hunt
Stephanie Ryan
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Bridgewater Charter Review Committee

Minutes for the Charter Review Meeting that Convened on Wednesday October 1, 2014

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 7:07PM.

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

Members Not Present: *Gerald Muller, Aisha Losche, Eric Desrochers*

Officials/Public in Attendance: *Ed Ivaldi, Former Town Government Study Committee Chairman; Bruce Langlan, TGSC member*

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

Approval of Meeting Minutes: *The Committee defers approval of minutes until its next scheduled meeting.*

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

Announcements: *There are no announcements for the current meeting.*

New Business: *The Committee engages in formal discussion of new business.*

Conversation with Town Government Study Committee

The Chair and Committee meet with members of the former Town Government Study Committee (TGSC) to discuss the Town Charter and to gain insight on the TGSC's thought processes when they developed the Charter now in use. The Charter Review Committee sent the TGSC a series of questions which they have deemed important in their current review of the Charter and where to make adjustments or refinements. Mr. Ed Ivaldi, the former TGSC Chair provides answers to the questions asked by the Charter Review Committee. The following information is a verbatim of the written answers provided:

1. What did the TGSC intend in the Charter's language by the terms "full Town Council" and "vote of Town Council", is there a marked difference or limitation?

The term "Full Town Council" means all 9 members are present...not just a partial Town Council. A majority of "full town council" would equate to 5 members. A majority of simply the "town council" could vary depending on who is present at any given meeting.

Therefore the purpose of "Full Town Council" is to ensure that all members are present, for the purpose of voting on certain required measures (i.e. Sec 4.1 & 4.8....Appt / Removal of Town Manager)

2. Why did the TGSC choose to go with a nine-member Town Council set-up? Is there a significant impact in having more or less members?

During our research and interviews with other town council municipalities, we determined that a 9 member council was optimum and used most frequently among towns similar to Bridgewater's size and makeup. Greater than 9 was deemed unmanageable and less than 9 did not maximize representation across the town. In addition, the TGSC wanted to have a good balance of local/neighborhood and town-wide representation. With 7 precincts and 2 at-large members, each citizen of Bridgewater has 3 votes on the council.

3. What does the TGSC see as the Finance Committee's role in the current Town Government as put forth in the Charter?

See section 6-9 of charter.

The primary role of the finance committee is to advise the Town Council on all finance related matters, including support of the budget process. The committee shall carefully examine all budget and appropriation proposals and shall issue its review thereon before consideration, debate and vote by the town council.

4. What are some of the thoughts of the TGSC as they relate to the Town Manager/Mayoral forms of government?

When considering the Council form of government, the TGSC had two variations of that form to consider: Council-Manager and Mayor-Council. The major differences between those two variations center on allocation of authority and political influence. The International Council Manager Association (ICMA), which is the key organization, recognized nationally as the leading authority on Council forms of government, has listed at least three defining characteristics that distinguish a true council-manager government:

- *All governmental authority rests with the council, or other sovereign elected body, except for certain duties that are assigned by charter or other law to the manager. However, the manager always is employed at the pleasure of the elected body.*
 - *The appointed executive, a manager, officially is allocated the executive or administrative functions in codified form (i.e. Administrative Code).*
 - *The manager must be responsible to, hired by, and can be dismissed only by the entire council, not one individual, such as a mayor or chairperson.*
1. *How authority is allocated between the council and executive bodies*
 - a. *The Council-Manager form places all governmental authority in the hands of the council, with certain functions assigned by law, charter, or convention to the manager appointed by the council. Authority is unified in the collective leadership of the council.*
 - b. *In contrast with the council-manager form in which the council has authority over the manager, the mayor in the mayor-council form is a separate and independent executive.*
 2. *How executive functions are assigned*
 - a. *In the council-manager form, executive functions are the responsibility of the manager even if some functions on occasion are shared with other officials.*
 - b. *In the mayor-council form, executive responsibilities are exercised under the authority of the mayor.*
 3. *How the reporting structure is defined for the top administrator under council-manager form*
 - a. *Responsibility to the entire council is an essential characteristic of the council-manager form and helps to ensure both transparency and a focus on the public interest rather than the political interests of a single elected official.*

One of the key reasons the TGSC chose to recommend the Council-Manager form over the Mayor-Council form was to minimize any political influence in the day-to-day operation of the town. In other words, we wanted to minimize the potential for politically motivated appointments to administrative positions. In addition, we wanted to ensure that the person running the daily operations of the town was an experienced professional. If we had a Mayor (as an elected official), there would never be any guarantee that the person elected would have the necessary professional credentials to perform the required duties of the position. According to numerous studies conducted by the ICMA, when council-manager cities/towns are compared with mayor-council cities/towns, council-manager governments are more likely to have greater efficiency, sounder finances, and stronger management performance.

Objective 1: Findings From Research

Council / Mayor (as Manager)

- Council members vote on policy decisions
- Citizens elect Executive (Mayor) and Legislators (Council)
- Mayor appoints key officials

Pros

- Citizen oversight of legislators reduced (small body)
- Streamlined legislative decision making (small body)
- Frequent legislative meetings (weekly or bi-monthly)
- Chief executive elected by citizenry

Cons

- Citizen participation in decision making becomes informal and advisory in nature (no voting on policy)
- Potential for politically motivated appointments to administrative positions
- Executive may not have professional credentials and can only be removed from office by vote of the citizenry

Council / Town Manager

- Council members vote on policy decisions
- Citizens elect Legislators (Council)
- Legislators (Council) appoint the Executive (Manager)
- Manager appoints key officials

Pros

- Citizen oversight of legislators reduced (small body)
- Streamlined legislative decision making (small body)
- Frequent legislative meetings (weekly or bi-monthly)
- Appointed executive can be removed by elected legislators
- Appointed executive must have professional credentials
- Political appointments minimized

Cons

- Citizen participation in decision making becomes informal and advisory in nature (no voting on policy)

5. Do you see any issues or areas of improvement as it relates to the recall of public officials in Town Government?

The current recall provision in Bridgewater (1990 Special Act Providing for recall Elections – Chapter 251 of the Acts of 1990) was enacted on October 26, 1990 under Bridgewater's prior form of Government (Open Town Meeting/Municipal Administrator), and is thus outdated. A new recall provision should be developed and included in the charter, to reflect the new Council/Manager form of government. Potential updates should include criteria for petitioning a recall, as well as revised affidavit requirements.

6. What do you see as being the best structure of Town Government (levels of government and divisions of power/checks and balances)?

Reference Pages 25-33 of TGSC Final Report (May 2009), in which the TGSC discussed and recommends a new org structure for Town Government. Additional consideration should be given to restructuring the town's Legal services. Perhaps a separate Legal Services Department. The Town Attorney currently reports to the Town Manager....is that ideal or should the position report to the Town Council?

7. When the original Town Charter was developed what were some items that were taken out or adjusted in the development process? Are there any that should be added, removed or further adjusted?

The final two charters were presented by the TGSC and approved by Town Meeting on 12/15/2009, which included 9 amendments presented by the TGSC and 1 proposed by Town Clerk (Ron Adams) to keep the Town Clerk position Elected. The charters were then reviewed and updated over a 2 month period (Jan-Feb 2010) by Town Attorney (Mark Gildea), to reflect changes recommended by the Mass State Legal Team. Those changes are included in multiple red-lined versions of the charters. The final approved charters were included in a Special Act in March 2010, which the citizens voted for on April 26, 2010.

Potential UPDATES to Bridgewater Home Rule Charter / Special Act:

SECTION 3. Charter for a TOWN MANAGER – TOWN COUNCIL form of government

Section 1-3, 2-2

1. Clarify Interpretation / Division of Powers between Legislative and Executive Branches

2. Clarify reporting relationship between TC and TM
3. CEO vs. CAO for Town Manager

Section 1-9

1. Clarify or further define the terms ordinance, order, resolution etc.

Section 2-6 (C-3)

1. Clarify TC's role in establishing qualifications for appointed positions

Section 2-9

1. ADD the following " ... advertising required by this section,.. a summary sufficient to explain the proposal shall be published as described herein, and..."

Section 4

1. Clarify Town Managers reporting relationship to TC (more detail than from Sec1/Sec2 update)
2. Expand on TM role as CAO
3. Clarify role of town council in ratifying contracts, possibly expand to include contract terms not just appropriations.

Section 4-2 (4)

1. REPLACE "provide consultative services" with "engage in ongoing consultation"

Section 5-3

1. Clarify role of Town Attorney and/or Legal Services.
2. Consider legal officer appointment by the town council. Any additional legal services will be hired by the town council.
- 2a. We would encourage the Charter Review Committee to do some additional research here using the ICMA or other Massachusetts municipalities. to determine how to best establish Legal Service reporting responsibilities.

Section 6-3 (c)

1. REPLACE "Assessments" with "Expenditures"

Section 6-9

1. Clarify role of Financial Committee.
 - 1a. Does it include reviewing and making recommendations on proposed town council financial policies as well as appropriations?
 2. Section 6-9 (a) Amend last sentence as follows: " The Finance committee shall have such additional powers and duties as may be provided by this charter or by ordinance."
- (NOTE: there are no General law references to finance committees for city government forms)
3. Section 6-9 (b) ELIMINATE "general law" REPLACE "by law" with "by ordinance"

Section 9 -7 1st paragraph

1. REPLACE "council president" with "town manager" (NOTE: town manager is the appointing authority; there is no reference to the council or council president until after the town manager has acted)

Section 9-8

2. Housekeeping..... remove reference to board of selectman.

Section 10

1. This section may **NO LONGER** be needed, as the Transitional Period has ended.

ADDITIONS

1. Recall Provision that reflects new form of Government

1a. We would suggest the basis for which a recall can be enacted must have more teeth than what exists today. We had two councilors recalled and they never did anything legally or ethically wrong. If the citizens did not like them, they should handle that through the election process.

2. Clarify reporting structure of Board of Health (Local vs. State)

8. Can the TGSC provide input on the advantages/disadvantages of having all at-large Town Council seats versus specific Town Council Districts (i.e. currently by Precinct)?

Both town council – manager governments in Franklin (1978) and Southbridge (1973) had councils composed of at-large and district/precinct representatives and elected subsequent charter commissions that adopted new charters that made the councilors all at-large – both towns currently have 9 at-large councilors – Franklin's newest charter was in 1995 and Southbridge in 2003. On the other hand, Barnstable remains the only town that elects all of its councilors by district – this seems particularly unfair to the voters who go to the polls to elect only their own district councilor – not much influence on the composition of the council. It might make sense to interview someone from the council or the Town Manager in either Franklin or Southbridge to get their perspectives on how this is working and what if any downsides may exist.

Historically it appears that the precinct model is more conducive to larger, more densely populated cities and towns, and not all that meaningful in a more suburban town, especially one with a fairly stable population with no distinct cultural, ethnic, etc. "divides" that would lead residents to prefer that at least one councilor come from a particular geographic area.

The town must also consider Voting Rights Act ramifications – i.e., if an all at-large council can be used as a device to impede the election of minority councilors – this proved to be the case in the city of Springfield which had been electing 9 at-large councilors for decades – as a result of various court rulings, the state enacted special legislation for the city providing for 8 district councilors and 5 at-large councilors several years ago. (In the prior at-large arrangement there was a definite "clustering" arrangement with 4 or 5 of the councilors coming from one area of the city.)

Under the current structure, each citizen of Bridgewater has 3 votes on the Council....1 Precinct and 2 At-Large.....so they essentially have both "local/neighborhood" as well as "town-wide" representation. There may be hesitation among residents to move to an all at-large council.....because the make-up of the council may draw from one area of the town to the exclusion of all others, and perhaps alienate residents who suspect that the council does not see their concerns and preferences (e.g., "the council only cares about South Bridgewater or whatever area of town, because that is where they are all from"). At what point does that kind of arrangement begin to resemble a clique of sorts? Could certain groups stack the deck with candidates that end up winning seats on the council and ultimately drive a specific agenda? Under the current model of mixed precinct/at-large positions, this kind of situation is minimized.

It would be great if everyone in Bridgewater could be agreeable and if the council to date has seen an interest in "a whole town" perspective, then residents would not be averse to a change to all at-large. Although a shift to an all at-large council may encourage more citizens to run (not a guarantee however), the charter review committee should substantiate their recommendation with research gathered locally (within MA) and nationally that would support the benefits of the change, but that may also reveal any hidden / potential problems. With Council Manager being the most predominant form of government nationally, there is much information available for review. A good source would be the ICMA.....International Council Management Association, which Bridgewater has used in the past. They have a wealth of information on what is going on across the country with respect to Council Manager form of government. (<http://icma.org/en/icma/home>)

Bridgewater's population of 26,500 is slightly smaller than Franklin (31, 600) and larger than Southbridge (16, 700). While the most common arrangements for council size are 9 and 11, the significant majority of at-large councils tend to settle on 9 – the smallest councils in the state have only 7 members – Palmer (population @ 12,000) has 3 at large and 4 from districts, while the city of Medford (population @55,000) elects 7 members at large, which seems to be a little on the small side.

9. How did the TGSC arrive at the limit of 3 months for an acting Town Manager? Should this be a longer period of time/shorter period of time?

See Section 4-6. Vacancy in Office...of the Charter

A vacancy in the office of town manager shall be filled as soon as possible by the town council. Pending appointment of the town manager or the filling of any vacancy, the town council shall forthwith appoint some other qualified person to perform the duties of the town manager. The appointment of the acting town manager shall be for a term not to exceed 3 months; provided, however, that a renewal, not to exceed an additional 3 months may be provided.

During our research and interviews with other town council municipalities, we determined that it typically took up to 3 months for a Town Council to hire a full time Town Manager. Given that in some cases it could take longer, the charter allows for an additional 3 months.....resulting in a maximum 6 month period of time for an acting Town Manager. Given the importance of the Town Manager position, the Town Council should make every effort to fill a vacancy as soon as possible.

10. What are the TGSC's views on having an Assistant Town Manager?

The need for an Assistant Town Manager would need to be justified both functionally and financially

11. What are some of the views of the TGSC on the concepts of certain elected versus appointed officials (i.e. Town Manager, Town Clerk, Finance Director)?

- **Revisit Town Clerk position for appointment – more accountability**

Reference Pages 34-42 of TGSC Final Report

Objective 3: General Characteristics

Appointed

Pros

- Increased ability to require needed expertise
- Increase accountability through Administrator oversight
- Elected officials retain approval role in the appointment process

Cons

- Some potential for appointed authority influence, but can be reduced with proper checks and balances

Elected

Pros

- Direct accountability to citizenry
- Reduced risk of being influenced by executive or administrators

Cons

- High level of citizen responsibility for oversight
- Increasing technical nature and complexity of issues limits qualified volunteer candidates
- Economic needs make volunteerism difficult for most citizens
- Too many elected positions creates little to no competition for positions

At the conclusion of the discussion above, Mr. Ivaldi notes that the Charter Review Committee can reach out to him and other members of the TGSC if there are any additional questions. Mr. Hunt suggests that the Charter Review Committee share its potential changes with the TGSC, the Chair agrees on this point

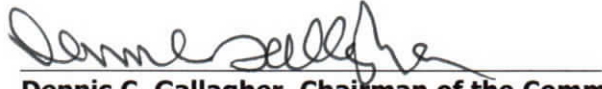
Additional Items: *The Chair and Committee briefly discuss legal review of their eventual recommendations for a charter revision, specifically any revisions on language and definitions. The Committee agrees that such legal review will be necessary to ensure language is both consistent and effective, the question is whether the Charter Review Committee or the Town Council should request legal review.*

With formal discussion concluded, a request is made to adjourn: *By unanimous approval of the Committee, the meeting is hereby adjourned. The next meeting will be October 8, 2014.*

Meeting is hereby adjourned by unanimous consensus of the members in attendance in accordance with rules governing meetings. Meeting adjourns at 9:01PM.

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 First Day of October Two Thousand and Fourteen.

A True Copy Attest,


Dennis C. Gallagher, Chairman of the Committee

Michael J. Spagone, Secretary of the Committee