

CHARTER REVISION COMMISSION

Thursday November 12, 2020

Via teleconference

7:00 P.M.

Phone: 1-929-205-6099

Meeting ID: 895 7718 5202

The November 12, 2020 special meeting of the Charter Revision Commission was called to order at 7:06

1. ROLL CALL

MEMBERS PRESENT: Chair Gwen Marrion, Adam Teller, Richard Hayes, Jay Brudz, Jim Aldrich, and John Toomey.

MEMBERS ABSENT: Vice Chair Eleanor Georges

OTHERS PRESENT: Board Clerk Michael Stankov

2. PUBLIC COMMENT

G. Marrion called for public comment, but there was none.

J. Toomey noted discussions that had occurred at the Tuesday Board of Selectmen meeting and how they related to the work of the CRC. As this was the first BoS meeting after an election, the chair and vice-chair of the commission were reappointed, even though there had been no change in the structure of the board since there had been no municipal elections. J. Toomey proposed that chairs should be reappointed to boards following municipal elections, not any election in general.

3. ACT ON MINUTES OF SEPTEMBER 10, 2020 REGULAR MEETING AND OCTOBER 29, 2020 SPECIAL MEETING

MOTION MADE by J. Brudz, seconded by A. Teller, to adopt the September 10, 2020 minutes.

DISCUSSION: R. Hayes mentioned that there were two points in the minutes where his statements could be better represented. On page 5 of the minutes, he requested that his previous questions regarding how an individual would be removed from the Finance Committee (FC) be clarified. On page 7 of the minutes, R. Hayes pointed out that his final thoughts about the way a budget that has failed at referendum multiple times reverts to a previous year were not explicitly spelled out. In his comments on September 10 R. Hayes stated that a budget that fails at referendum at least two times, and thus reverts to the budget approved in the previous year, should have an elevator clause that automatically increases the previous year's budget commensurate to any increases in the grand list.

VOTING IN FAVOR: G. Marrion, A. Teller, J. Brudz, J. Toomey, J. Aldrich

VOTING AGAINST: R. Hayes

ABSTENTIONS: NONE

MOTION MADE by J. Brudz, seconded by A. Teller, to adopt the October 29, 2020 minutes.

DISCUSSION: None

VOTING IN FAVOR: G. Marrion, A. Teller, J. Brudz, J. Toomey, J. Aldrich

VOTING AGAINST: R. Hayes

ABSTENTIONS: NONE

4. DISCUSSION AND POSSIBLE VOTE ON CHANGING REFERENCES TO MAJORITY OF BOARD OF SELECTMEN (VARIOUS SECTIONS)

E. Georges arrived at 7:18.

The CRC was in general agreement about changing the language of the charter to remove all references to the number “3” alongside a majority, as the current recommendation of the commission is to increase the size of the BoS to 4 individuals. There was some discussion, however, regarding the exact language that should be used alongside the word “majority”. In A. Teller’s view, any vote that requires a majority vote of the BoS should require a majority of the total number of individuals on the board, not the majority of the individuals on the board that are currently present and voting at any given meeting. A. Teller, G. Marrion, and R. Hayes discussed potential discrepancies in the charter related to this idea.

J. Aldrich read each part of the charter that used the language “majority”, looking for discrepancies in the language that would leave the word “majority” ambiguous in its meaning of “all board members” or “all board members present”. However, after a thorough review of all instances of the word majority, there was no such ambiguous language currently in the charter. J. Brudz noted that there might be language in the charter that gave an explicit number of individuals required for a vote as “3”, and implies majority – this language would also have to be changed to remain consistent with the above issues.

After much discussion of the above topics, the commission resolved to define the word “majority” as 4 individuals on a 7 person body, and to define “supermajority” as 4+1 individuals for a body of the same size. The Commission also decided to nominate an individual to go through the charter and scan for all references to numerical vote requirements that may need to be changed as a result of other changes the Commission has made.

MOTION MADE by J. Brudz, seconded by A. Teller, to define the concept of a “majority” and a “super-majority” in section 5.1.b1. of the charter, and move said language to the drafting bin.

DISCUSSION: NONE

VOTING IN FAVOR: G. Marrion, A. Teller, J. Brudz, J. Toomey, J. Aldrich, R. Hayes, E. Georges

VOTING AGAINST: NONE

ABSTENTIONS: NONE

5. DISCUSSION AND POSSIBLE VOTE ON STATUS OF ECONOMIC DEVELOPMENT COMMISSION (SECTION 7.1 (A))

MOTION MADE by J. Aldrich, seconded by J. Brudz, to eliminate the mandate for the existence of the Economic Development Commission from the charter, with the option to create that body being granted to the BoS.

DISCUSSION: A. Teller pointed out that a motion to grant the BoS the power to create commissions doesn't cause any effective change to the charter, because the BoS is already invested with the power to create whatever commissions that it chooses to. J. Aldrich offered to amend the motion, but it was deemed unnecessary to do so.

VOTING IN FAVOR: G. Marrion, A. Teller, J. Brudz, J. Toomey, J. Aldrich, R. Hayes, E. Georges

VOTING AGAINST: NONE

ABSTENTIONS: NONE

6. DISCUSSION AND POSSIBLE VOTE ON SERVICE ON APPOINTED BOARDS BY NON-ELECTORS (SECTION 7.3(A))

G. Marrion noted that at the last meeting, the commission had largely agreed that non-electors of the town did not have the standing to serve as appointed members of a board.

MOTION MADE by R. Hayes, seconded by J. Aldrich, that an individual that wishes to serve on any Board in the Town of Bolton must be an elector of the Town.

DISCUSSION: NONE

VOTING IN FAVOR: G. Marrion, A. Teller, J. Toomey, J. Aldrich, R. Hayes, E. Georges

VOTING AGAINST: J. Brudz

ABSTENTIONS: NONE

7. DISCUSSION AND POSSIBLE VOTE ON REMOVAL PROVISIONS (SECTION 7.3 (C)(1))

MOTION MADE by J. Brudz, seconded by R. Hayes, to move the removal provisions in Section 7.3(C) (1) to section 12 of the Charter.

DISCUSSION: It was noted that the decision to move this language was primarily a decision to delay conversation about the topic until Chapter 12, not a decision about the inclusion of the language or changes to it.

VOTING IN FAVOR: G. Marrion, A. Teller, J. Brudz, J. Toomey, J. Aldrich, R. Hayes, E. Georges

VOTING AGAINST: NONE

ABSTENTIONS: NONE

8. DISCUSSION AND POSSIBLE VOTE ON VACANCY PROCEDURE (SECTION 7.3(D))

A. Teller and R. Hayes began by discussing the efficacy of moving the language regarding vacancies to Chapter 12, which deals with removal of individuals from various bodies in town. Since the removal of an individual necessarily creates a vacancy, it was argued that placing all language dealing with vacancies adjacent to the language dealing with how those vacancies are created would be a structural improvement to the charter. E. Georges agreed with the consolidation of the language into one place.

MOTION MADE by J. Brudz, seconded by E. Georges, to move the removal provisions in Section 7.3(D) to section 12 of the Charter.

DISCUSSION: NONE

VOTING IN FAVOR: G. Marrion, A. Teller, J. Brudz, J. Toomey, J. Aldrich, R. Hayes, E. Georges

VOTING AGAINST: NONE

ABSTENTIONS: NONE

9. DISCUSSION AND POSSIBLE VOTE ON TERM OF FIRE COMMISSIONERS (SECTION 7.4(B))

MOTION MADE by J. Brudz, seconded by J. Aldrich, to change the term of the office of Fire Commissioner to 4 years, and change the appointments to be a staggered appointment with at least one appointment per year.

DISCUSSION: J. Aldrich clarified that the Fire Commission would still have 5 officers, that the term would be shortened to 4 years from 5, and that there would still be at least

one appointment each year. J. Aldrich also offered to abstain from this vote, as he has served with the Bolton Fire Department for over 10 years, but the commissioners felt that voting on the largely technical nature of this change would not constitute any sort of conflict of interest.

VOTING IN FAVOR: G. Marrion, A. Teller, J. Brudz, J. Toomey, J. Aldrich, R. Hayes, E. Georges

VOTING AGAINST: NONE

ABSTENTIONS: NONE

10. DISCUSSION AND POSSIBLE VOTE ON INCOMPATIBLE OFFICE PROVISIONS (SECTION 10.2)

R. Hayes began by reading A. Teller's comments pertaining to section 10.2(B) and 10.2(G) of the charter, which pertained to formally allowing appointed and elected individuals to serve the town in a volunteer capacity as fire fighters or other emergency service providers, provided no compensation was provided for said services or leadership roles without the express permission of the Board of Selectmen.

J. Brudz requested that the Town Administrator should be excluded from this provision, as he viewed the full time, paid role of the Town Administrator as being somewhat incompatible with also volunteering and receiving compensation from the town via a second avenue, even if disclosed.

J. Aldrich argued that the fire services are in desperate need of individuals with the skills and availability to provide the necessary emergency services at any time of day. As recruitment and retention has been a long-standing issue for the fire services, he was uncertain about the judiciousness of forbidding a potential competent individual from serving. A. Teller noted that he was sympathetic to that point, and J. Brudz agreed that he was fine with most any other town official also serving in the fire services, but he remained uncomfortable with allowing the Town Administrator that much power. The commission agreed to return to this point when they finalized the language pertaining to the Town Administrator role.

G. Marrion asked A. Teller about his suggested changes in 10.2 (B) that would make the First Selectman a non-voting, Ex-officio member of every board in Town. A. Teller noted that the Charter already makes the First Selectman an Ex-officio member of every board, but that they should not have the power to drop in and strategically vote on issues on boards whenever they choose to. Thus, it should be clarified that they can participate and be heard on any board, but that they do not have the power to directly influence every board in town – particularly judicial boards such as the Zoning Board of Appeals (ZBA) or Board of Tax Assessment (BTA).

MOTION MADE by A. Teller, seconded by J. Brudz, to Amend Section 10.2 to add A. Teller's proposed language for 10.2(G), in which service on the fire commission or any other emergency services body does not constitute a violation of the incompatible office

provisions of the charter, provided that all leadership roles and compensation are disclosed to and approved by the Board of Selectmen, and all Ethics provisions are followed.

DISCUSSION: R. Hayes asked if this vote would be the end of the discussion related to section 10.2, or if discussion could continue afterwards. The commission determined that it would continue discussion of section 10.2 after the vote.

VOTING IN FAVOR: G. Marrion, A. Teller, J. Brudz, J. Toomey, J. Aldrich, R. Hayes, E. Georges

VOTING AGAINST: NONE

ABSTENTIONS: NONE

R. Hayes inquired about why section 10.2(E) features an exception in its provisions for a registrar of voters. J. Toomey noted that the Registrar of voters is technically a state position, and that it has a slightly different reporting structure. Though the Registrar is paid from the town budget it is not technically a town elected position. A. Teller noted that in addition to this, the registrar of voters may be elected, but the election for the position is non-partisan – the individual running for the position is a member of a political party only insofar as they have to be to run for office.

R. Hayes pointed out that despite these above facts, the Registrar is a paid town employee, and as such why does it have exemptions that other paid town employees do not have? A. Teller noted that while the registrar is paid by the town, they are not technically a town employee, because they cannot be given an order by anyone except the Secretary of State. Their method of compensation may be strange based on the chain of command, but that is an artifact of the system that existed when the position was created. G. Marrion requested that R. Hayes research this question further in order to bring more information before the commission regarding the status of the Registrar.

G. Marrion returned the conversation to a previous point that had been made by A. Teller, regarding whether or not the first selectman should be explicitly stated to be a non-voting member of each board in town.

MOTION MADE by J. Brudz, seconded by A. Teller, to add the word “Non-voting” to the front of the wording “Ex-officio” in section 6.1.

DISCUSSION: R. Hayes and E. Georges asked if adding this language would automatically disqualify the First Selectman from being a voting member of the Board of Education (BoE). E. Georges argued in favor of allowing the First Selectman to be a voting member of the BoE, while J. Brudz was apprehensive about allowing the First Selectman to have power to vote on BoE matters, speculating that explicitly granting that power or permitting such a vote would be anathema to voters and would kill the charter revision at referendum.

J. Aldrich noted that he did not view this as a major issue. There is only one town in the state of Connecticut, Naugatuck, wherein the First Selectman is a voting member of the BoE, and no other towns have adopted that stance. In his view, Bolton has fundamentally had a non-voting Ex-Officio First Selectman this whole time, and this change is simply a language clarification, not a stripping away of previously held executive powers.

R. Hayes asked if J. Brudz thought that the First Selectman currently has the power to vote on the BoE. J. Brudz noted that traditionally, Ex-Officio means “Voting”, and so the current language could be interpreted to grant voting power. A. Teller noted that while the language may be vague, he has never seen an Ex-Officio board member vote anywhere in Bolton, and that the public does not perceive those with Ex-Officio powers as being additional voting members, and does not vote for those individuals with that in mind. Either way, clarification of the actual power of Ex-Officio members is in order.

E. Georges stated that the definition of Ex-Officio does traditionally give voting power, and as such this is a power that is currently held by the First Selectman by the letter of the law. A. Teller conceded that the technical definition of Ex-Officio may entail voting power, but that such powers were never intended to be given to the First Selectman and that such an oversight should be corrected here. J. Brudz also noted that the BoE has the right to set their own bylaws and could choose to restrict that power from the First Selectman in their own bylaws should they choose to. Restricting that power in the charter would simply head off any potential conflicts that could arise about the use of such a power.

VOTING IN FAVOR: G. Marrion, A. Teller, J. Brudz, J. Toomey, J. Aldrich

VOTING AGAINST: R. Hayes, E. Georges

ABSTENTIONS: NONE

G. Marrion noted that this vote negated the need for further discussion of section 10.2(B), and moved on to Agenda Item 11.

11. DISCUSSION AND POSSIBLE VOTE ON CONFLICTS OF INTEREST PROVISIONS (SECTION 10.3)

A. Teller noted that since the town now has an Ethics Committee and an Ethics Ordinance, the language in the charter related to conflicts of interest should be consistent with that of the Ethics Ordinance. Specifically, any individual who acts with the authority of the town, be they elected, appointed, or contracted, should have their actions governed by the Ethics Ordinance. This primarily means that they would have to disclose any conflicts of interest pertaining to any decision and then refrain from taking part in deciding the issue. Further, because of the importance of a body that regulates ethics for town officials, A. Teller argued in favor of explicitly calling out the authority of the BoS to create such a body and any associated ordinances.

J. Aldrich noted that the current Ethics Ordinance is extremely detailed and robust, and wondered if it would not be sufficient to leave the majority of the specific language pertaining to

ethics in the ordinance instead of in the charter. A. Teller pointed out that the language pertaining to conflict of interest is extremely important, and that enshrining it in the charter makes it much more powerful and difficult to do away with in the case of an unethical government than if the language was only found in ordinance.

R. Hayes asked for specific examples pertaining to how having much of the language of the Ethics Ordinance added to the charter would improve the manner in which the Ethics board operates. A. Teller noted that the charter refers to the ability to remove an individual from a position due to behavioral violations, but that it does not yet establish the authority of the Ethics Commission to determine whether an individual should be removed. In his opinion, if a body is given the power to recommend to the BoS that someone should lose their job, position, or reputation due to an ethics violation, such power should be vested in the foundational documents of the municipality.

Based on the exhaustive nature of the Ethics Ordinance, J. Aldrich suggested that the Ethics Ordinance itself should be referenced and linked to in the Charter in order to provide the operational information pertaining to how the Ethics board operates. The language in the charter, meanwhile, should explain how power is vested in the Ethics board and the power that their decisions carry. A. Teller and J. Toomey agreed, noting that the primary goal of having the language in the charter would be to ensure longevity to the ethics board, not to provide it directions for its regular operation.

The commission discussed several further ideas pertaining to the next round of drafting of Section 10.3. Specifically, discussion turned to whether or not the charter would grant the power to a board to undo a vote or action that had been tainted by a member of said body voting when they had a conflict of interest. Currently, the charter does not grant this power, but A. Teller's revisions would explicitly allow tainted votes to be retaken without having to go through substantial litigation.

12. REVIEW CHAPTER 8 AND OTHER SECTIONS OF CHARTER

Discussion of Chapter 8 was tabled until a subsequent meeting due to the lateness of the hour.

13. SET 2021 MEETING SCHEDULE

After some debate, the Commission decided to set its meetings for 2021 on January 14, January 21, February 4, February 18, March 4, April 8, May 13, June 10, July 15, August 19, and October 14.

G. Marrion adjourned the meeting at 9:25.

Respectfully submitted,



Please see future minutes for revisions and corrections to these minutes.