

Town Of Millbury
Meeting Minutes
Charter Review Committee

RECEIVED
TOWN CLERK
2019 JUN -5 AM 8:24
MILLBURY, MASS

Date: 5/11/19

Time: 9:00am

Location of the Meeting: Town Hall - Large Meeting Room

Meeting Type: Regular ☒ Special ☐ Emergency ☐

Present: Michael O'Connor, Jeff Raymond, Steve Noonan, David Cofske, Paul Concemi, Roger Desrosiers, Marie Cafferty, Scott Despres

Absent: Kaye Peltier

Minutes submitted by: Jeff Raymond

Meeting was called to order at 9:00am.

Michael O'Connor offered the minutes as submitted by Jeff Raymond, Paul Concemi moved to accept the minutes, Steve Noonan seconded, accepted unanimously.

TOWN COUNSEL: Michael O'Connor introduced Town Counsel Brian Falk of Mirick O'Connell Attorneys at Law to discuss the board's responsibilities and limitations under the law. Specifically, questions surrounded our charter and Chapter 43B in Massachusetts General Law under "Home Rule Procedures."

Brian Falk gave the board a memo (submitted with the minutes) outlining the relevant charter portions and the options for action. He gave a capsule description of the memo's comments to the Board. Jeff Raymond asked about a quick clarification/confirmation regarding the limitations of the current committee and the limitations (seen in the memo) were confirmed. Michael O'Connor asked about whether we can talk about Town Manager qualifications, and just not term or type of appointment, and Brian Falk confirmed. The main takeaway was that the Committee needs to be consistent with state law, but otherwise has wide berth to propose ideas.

Scott Despres asked whether the Committee can propose to move things around in the charter for clarity, Brian Falk confirmed. Scott Despres asked if we can add to the charter, Brian Falk confirmed. Scott Despres asked whether Town Counsel recommends anything be changed or clarified, and Brian Falk did not recommend anything specific but noted that individual committees may have recommendations.

Marie Cafferty asked when the amendments should be submitted to the Attorney General for review, and Brian Falk recommended submission before Town Meeting. Jeff Raymond asked

about the turnaround time for the state on those reviews; Brian Falk noted the state has four weeks.

ARTICLE 1 REVIEW: Michael O'Connor gave us examples of the first articles in a printout (submitted with the minutes) to help organize the process. For purposes of version control, Michael O'Connor will control the document. Scott Despres thought about offering this format for changes at Town Meeting. Michael O'Connor talked about just having warrants, but Jayne Davolio (Town Clerk) and Brian Falk noted that the Board could have detailed handouts for Town Meeting.

Michael O'Connor took the Committee section by section through Article 1. Marie Cafferty immediately noted the 1-7 definition of "Town Bulletin Board," noting that it does not meet the modern idea of what a bulletin board is. Jeff Raymond asked if the by-law referenced includes the website; Jayne Davolio and Brian Falk confirmed communication from the Attorney General regarding websites and the Open Meeting Law.

After further discussion, Michael O'Connor noted that we should be suggesting something to change in the charter before tinkering with the by-law in question. After further discussion, discussion began centering around the Open Meeting Law language. Brian Falk noted the use of "town bulletin board" throughout the charter. Marie Cafferty repeated her concern about digital media. Jeff Raymond proposed some language to discuss to clarify at the end of 1-7's (l) section to explicitly note the Open Meeting Law. Scott Despres asked questions about how much to define in the section. Discussion about bulletin boards slowed, and the Committee moved back to Section 1-1.

There was no discussion on Sections 1-1 through 1-6.

In 1-7, Michael O'Connor had a question about section (m) "Town Officer." He had a question as to who actually serves as a "town officer," which is defined, and "town official" which is not in this section. Brian Falk did not want to give a definitive answer, but will provide the Committee with previous memos. Jeff Raymond asked if there was legal value in providing a definition of "Town Official"; Brian Falk confirmed. Michael O'Connor asked about usage of the term in the charter, and Jeff Raymond provided some examples. The Committee will delay further discussion of this issue until we receive the information from Town Counsel.

Marie Cafferty raised a question about "Town Agency" and separation of powers in regard to executive and legislative functions, using the Planning Board and Town Planner under the current Charter.

Michael O'Connor shifted discussion to Article 2. There was no discussion on Section 2-1.

Scott Despres asked for clarification under 2-2, "a temporary moderator may be elected by law." It was confirmed that this gives the town wide berth in handling temporary moderators. Roger

Desrosiers asked whether the "Consent Agenda" used at the previous Town Meeting was handled through this and was specific to the meeting; Brian Falk confirmed.

Under 2-3, Michael O'Connor presented a proposed change to 2-3, eliminating "The subject matter of" and leaving "All." He gave some background on petitions and amendments making it to the ballot regardless of quality of writing or other fundamental issues in the submissions. A question of the word "shall" versus "may" was brought up as well in this context; Brian Falk confirmed that "shall" is not discretionary, but the way such a situation is enforced is a political question. Michael O'Connor moved to change any use "The matter of a" to "All" in the entirety of Section 2. Roger Desrosiers seconded. Jeff Raymond raised a question during discussion as to whether it was better to only amend 2-3 for the purposes of understanding and structure. Michael O'Connor agreed, and moved to amend his motion to apply only to 2-3. Jeff Raymond seconded. Vote to accept the recommendation for change as amended was unanimous.

On Section 2-4, Jeff Raymond clarified whether the Committee wanted to discuss any codification of the town meeting date. Discussion came to the consensus that this is a by-law rather than Charter section.

Paul Concemi and Scott Despres asked about 2-2, (b) "Finance Committee" and warrant recommendations. Discussion came to the consensus that this was covered.

There was no discussion on Section 2-5.

On Section 2-6, Michael O'Connor saw this as another issue of "shall," and that we as a town are not good at closing the Warrant on time. Scott Despres, given the approved motion in Section 2-3, asked if the Committee should revisit "the subject matter to be acted upon." Brian Falk saw no real conflict, and there was no further discussion. Jayne Davolio, Town Clerk, clarified that the Warrant has always been posted in accordance with Section 2-6.

On Section 2-7, Michael O'Connor provided a printout of a number of changes. One discussion is about officers that will be revisited next meeting, but would strike "elected" from (1). Brian Falk gave some perspective as to how other towns handle warrant articles, and Millbury is somewhat unique in that we have town officers/officials who can add warrant articles. Jeff Raymond asked for the clarification on intent on who can bring forward warrant articles. Roger Desrosiers had a further question as to some clarification as to who submits warrant articles where, and who has the power. Michael O'Connor gave some background on Town Manager warrant articles in particular that are submitted at functionally the last minute. With the questions raised, Jeff Raymond recommended the Committee delay discussion of Section 2-7 until we receive the Town Counsel information and feedback from the Board of Selectmen. Michael O'Connor will invite them to one of the next three meetings to cover Section 2-7 and other issues. Roger Desrosiers noted we may want more time to review before inviting the Board of Selectmen, and Michael O'Connor agreed to push them to a meeting in August or September. Before moving on, Michael O'Connor noted the difference between "close" and "sign," as he

always saw that as the same, but practice has been otherwise. Jayne Davolio noted that the Board of Selectmen may have "closed" the warrant with contingencies. Jeff Raymond asked about whether defining "close" would help things, and the consensus was that it would not. Brian Falk noted that Section 2-7 is probably the most difficult to navigate legally and for the Town Clerk. He recommended that we clarify our intent and what we are looking for. Michael O'Connor effectively sees the current situation as a loophole.

On Section 2-8, Scott Despres asked about enforcement of chairpeople and town officers attending or not attending Town Meeting. Jeff Raymond noted that he always read "town official" as everyone in elected government. Brian Falk noted that it would be impossible to have every employee, as currently noted, anyway. Scott Despres said the current situation ("town officer") also questions the role in why people attend.

There was no discussion on Section 2-9.

On Section 2-10, there was a clarification question from Paul Routhier as to the role of the Town Moderator compared to the language in the section. Jayne Davolio and Brian Falk noted how Millbury works and operates, and Brian Falk noted no issues with how we operate.

There was no discussion on Section 2-11.

Michael O'Connor went back to definitions for "quorum." He made the Committee aware of the definition, which is different for Millbury compared to standard/state law. Paul Routhier asked if we needed to do anything to this, Brian Falk felt it's fine.

SCHEDULING MEETINGS: Scott Despres asked if the current schedule allows us to finish our work under the current schedule. Jeff Raymond noted that the Committee does not want to tie its hands on agendas, either. Consensus was that the Committee revisit in the fall.

Scott Despres noted, speaking for the Board of Selectmen, said the Board would be willing to attend the Committee meeting as a work session. Michael O'Connor will offer the Board of Selectmen the September meeting.

PUBLIC HEARING: Deferred.

FINAL DISCUSSION: Brian Falk noted a technical point that we needed to reorganize as this is the first meeting following a Town Meeting. Jeff Raymond made a motion to reconfirm the slate of existing officers (Michael O'Connor as chair, Kaye Peltier as vice-chair, Jeff Raymond as clerk), Scott Despres seconded. Accepted unanimously.

ADJOURNMENT: Steve Noonan moved to adjourn, Roger Desrosiers seconded. Adjourned at 11:11am.



Handwritten signatures of the attendees: Scott Despres, Michael O'Connor, Jeff Raymond, Kaye Peltier, and Roger Desrosiers.