

**TOWN OF HADDAM
CHARTER REVISION COMMITTEE
REGULAR MEETING
ONLINE VIA GOTOMEETING
TUESDAY, 12 MAY 2020
UNAPPROVED MINUTES
*Subject to Approval by the Commission***

ATTENDANCE

X	Kate Anderson, Secretary and Selectman
X	Michael Battistoni, Chairman
A	Thomas Berchulski
X	William Bowles
X	John Fernandes, Vice Chairman
X	Wayne Ruty
X	Robert McGarry, First Selectman
X	Bunny Hall Batzner, Recording Clerk

1. Call to Order

Mr. Battistoni, chairman, called the meeting to order at 7:05 p.m.

2. Pledge of Allegiance

The Pledge of Allegiance was recited.

MOTION: Bill Bowles motioned to amend the 12 May 2020 agenda to include Approval of Minutes. Wayne Ruty second. Motion carried unanimously.

3. Approval of Minutes

MOTION: Wayne Ruty motioned to approve the 28 January 2020 minutes as submitted. Kate Anderson second. Motion carried with Mr. Bowles and Mr. Fernandes abstaining.

4. Public Comment

Mr. Battistoni reported Ed Schwing submitted a letter, dated 12 May 2020, via email pertaining to the proposed elimination of the last sentence in Section 9.4 (c) (2) – “Transfers within agencies of amounts exceeding \$1,000.00 shall require Board of Finance approval.” (Exhibit A – 1 page; copy on file in the Town Clerk’s Office with the minutes.) Mr. Battistoni stated he read the letter and understands it; and asked if anyone needed any clarification.

There were no additional comments from those residents in attendance.

5. Discuss and Decide on Sections as Directed by BOS (attached)

Mr. McGarry reviewed the Charter revisions as requested by the Board of Selectmen (BOS) [Exhibit B – 2 pages; copy on file in the Town Clerk’s Office with the minutes].

Table of Contents, Section 8.6 (page 2) – Change title from “Director of Civil Preparedness” to “Director of Emergency Management” – Mr. McGarry reported that Director of Civil Preparedness is an obsolete title and was changed elsewhere in the Charter to Director of Emergency Management, but not in the Table of Contents.

Mr. Battistoni stated the Committee did discuss this matter previously and were awaiting a recommendation from the BOS.

MOTION: Bill Bowles motioned to change the title of “Director of Civil Preparedness” to “Director of Emergency Management” in the Table of Contents, Section 8.6 (page 2) as recommended by the Board of Selectmen. Wayne Ruty second. Motion carried unanimously.

Special Powers and Duties - Section 6.3 (j) – Page 17 – Delete “and input from the Long Range Capital Planning Committee.” - Mr. McGarry reported this is the only mention of the Long Range Capital Planning Committee (LRCPC) in the Charter. Mr. McGarry stated the BOS is currently evaluating the budget process and are looking into streamlining it by possibly incorporating the LRCPC in with the Board of Finance (BOF). Mr. McGarry also stated the LRCPC was established by ordinance and will need a town meeting to make this change as it cannot be done at the BOS level. Mr. McGarry stated he would prefer not having to go through another Charter revision for this one item as well as the ordinance.

Mr. Battistoni stated the Committee did discuss this matter previously and were awaiting a recommendation from the BOS. Mr. Battistoni stated this is not currently happening this way. Mr. McGarry stated yes and no, and explained the currently process – a department head could potentially meet three times BOS, LRCPC, and BOF) to discuss the same budget.

MOTION: Bill Bowles motioned to delete “and input from the Long Range Capital Planning Committee” from Section 6.3 (j) as recommended by the Board of Selectmen. Wayne Ruty second. Motion carried unanimously.

Employees - Section 8.14 (a) – Page 23 – Reword to read “The Board of Selectmen shall be responsible for the hiring and termination of all Town employees. On a case by case basis, the Board of Selectmen may delegate these responsibilities to the First Selectman. The First Selectman or designee shall be responsible for the review, evaluation and discipline of all Town employees.” – Mr. McGarry stated the town’s labor attorney brought to the attention of the BOS that the current wording conflicts with the negotiated union contracts which state the first selectman has the hiring, disciplinary, and firing authority. Mr. McGarry stated the BOS discussed this matter at length and this wording will need to be renegotiated with the unions, which should be taking place at this time if not for the pandemic. Mr. McGarry reviewed the recommended wording with the Committee.

Mr. McGarry stated the proposed revision “The First Selectman designee shall be responsible for the review, evaluation and discipline of all Town employees”, which has been the practice, will prevent the matter from having to go to the BOS for discussion regarding an employee’s evaluation, job review or discipline. Mr. McGarry stated in regard to “hiring and termination”, the First Selectman would have to bring any positions that are vacant to the BOS for discussion at which time they would decide how to handle the manner – be directly involved or delegate the matter to the First Selectman solely. Mr. McGarry stated from a personal view point he likes having coverage from the full BOS on a termination. The proposed wording would permit some flexibility and would not take the power away from the BOS in any hiring or firing if they want a full handle in it.

Mr. Bowles asked who would be the designee. Mr. McGarry stated it could be a manager/department head, such as Chris Corsa, Assistant Director of Public Works and Bill Warner, Town Planner, Land Use Manager, or due to there being no designee, it would be the First Selectman. Mr. Battistoni stated it could be the BOS if they should not decide to designate. Mr. McGarry stated not for evaluations, job reviews, or discipline, but for hiring and firing the BOS would be and they get to determine how much they’re involved. Mr. Bowles stated he agreed that the First Selectman delegate responsibilities to a particular department manager, but did not necessarily see that there is any authority for a designee in the Charter. Therefore, Mr. Bowles suggested the deletion of “or designee” in the last sentence and it read:

“The First Selectman shall be responsible for the review, evaluation and discipline of all Town employees.”

Mr. McGarry stated he was o.k. with that. Ms. Anderson asked Mr. Bowles to explain his rationale again. Mr. Bowles stated there is no place within the Charter for a designee (no authority for a designee to act), the only authority that exists is either the BOS or the First Selectman. Ms. Anderson stated she understood, but was still concerned about the review process. Mr. Bowles explained.

Prior to the vote, Mr. Battistoni asked if all the language had been run in front of the town attorney or did it need to be. Mr. McGarry stated it has already been run by the attorney and that he commented that it's unusual most of his clients, it's just the first selectman that has this authority; but didn't see the need to go to that extreme.

Mr. Fernandes stated he didn't see an issue with “designee” being included and that Mr. McGarry may run into a problem with the contract negotiations

MOTION: Bill Bowles motioned that the wording for Section 8.14 (a) be revised to read “The Board of Selectmen shall be responsible for the hiring and termination of all Town employees. On a case by case basis, the Board of Selectmen may delegate these responsibilities to the First Selectman. The First Selectman shall be responsible for the review, evaluation and discipline of all Town employees.” Wayne Ruty second. Motion carried unanimously.

Employees - 8.14 (b) - pages 23-24 – Reword to read – “The Board of Selectmen shall establish wage rates, salaries, job descriptions and working hours for all Town employees, except when the terms and conditions of employment of a Town employee are governed by a collective bargaining agreement and the Town’s obligations under applicable law.” – Mr. McGarry stated this was brought to the attention of the BOS by the labor attorney. The current wording doesn't include the wording “collective bargaining agreement” so it's in violation of the Municipal Employees Relations Act (MERA). Mr. McGarry stated even within the Charter there cannot be language which contradicts the negotiated language. The additional language is “except when the terms and conditions of employment of a Town employee are governed by a collective bargaining agreement and the Town’s obligations under applicable law.”

MOTION: Wayne Ruty motioned to approve the language for Section 8.14 (a) – “The Board of Selectmen shall establish wage, salaries, job descriptions and working hours for all Town employees, except when the terms and conditions of employment of a Town employee are governed by a collective bargaining agreement and the Town’s obligations under applicable law.” – as recommended by the Board of Selectmen. Bill Bowles second. Motion carried unanimously.

Powers and Duties of the Board of Finance with Respect to the Management and Monitoring of the Budget for the Current Fiscal Year - 9.4 (c) (2) – pages 26-27 – Mr. McGarry noted this is the section Mr. Schwing made public comment on. Mr. McGarry stated this wording was not in the previous revisions of the Charter and it makes it quite cumbersome for the departments. Mr. McGarry explained how transfers are to be handled within a department – so long as over expenditures do not exceed the total department budget the manager is relatively free to transfer money from line item to line item within the department; whereas, transfers between departments require BOF approval and if large enough, require town meeting approval. Mr. McGarry also explained the current wording has generated a lot of paperwork.

Mr. Bowles asked about increasing the \$1,000 to potentially \$2,500. Mr. McGarry stated if increased, at a certain point, the transfers will be under that making it workable. Mr. Fernandes asked if there is any history as to why the Committee came to that conclusion (of \$1,000). Mr. Ruty asked Mr. McGarry what he would recommend for an amount. Mr. McGarry stated if talking about an interdepartmental transfer, he would recommend leaving the wording out as expenditure amounts and overages will be reflected in

the monthly financial reports. Mr. Ruty questioned why the \$1,000 was put in there. Mr. McGarry stated when he asked those members who were on the 2017 Committee, no one could provide a rationale for it. Mr. Ruty stated he believes it's a figure former First Selectman Lizz Milardo had recommended, but did not know the rationale behind it. Mr. Fernandes again asked if there were any notes as to where this came from.

MOTION: Wayne Ruty motioned to delete the last sentence in Section 9.4 (c) (2) – “Transfers within agencies of amounts exceeding \$1,000.00 shall require Board of Finance approval.” – as recommended by the Board of Selectmen. Kate Anderson second. **TABLED.**

After the motion was made, discussion followed at length. Mr. Bowles stated there is a point in having the ability to have some form of checks and balances within a department's budget. Ms. Anderson stated this was discussed at a BOS meeting and the BOF reviews transfer at the first meeting of every month. Mr. Moriarty stated they did discuss this and as long as the line was an interdepartmental transfer there wasn't much concern as it appeared to be an oversight.

Mr. McGarry reminded everyone to state their name before speaking so those who are participating in the meeting or listen to the audio later will know who is speaking.

Mr. Fernandes again asked if the Committee came up with this language previously, are there any notes about the conversation the Committee had. Mr. Bowles and Mr. Ruty stated there may be notes, but do not know their location. Mrs. Batzner stated there is probably something within the minutes, and believes Joe Centofanti, BOF Chairman, recommended the sentence in question. Mr. McGarry stated last year Barbara Bertrand, Finance Director, noted the Charter requires BOF approval for all transfers and Mr. Centofanti made no indication that it was something that should be taking place and appeared to be surprised as everyone. Ms. Anderson asked if this language specifically refers to transfers within line items under a budget and what the process to transfer monies between departments is. Mr. McGarry stated a transfer between departments would require an approval from the BOS and then the BOF; and if a large enough request, approval through a town meeting.

Mr. Battistoni stated in reviewing Mr. Schwing's email, and it sounds like he was on the 2002 Committee, and that all transfers within a department have to have approval. Mr. Battistoni stated it sounds like adding the \$1,000 actually liberalized it in theory; and perhaps that's what the 2017 Committee did. Mr. McGarry stated after reading Mr. Schwing's letter, that may have been what the practice was and \$1,000 would be liberalizing the practice; however, there is nothing within the last Charter that specifically says that's what has to be done.

Ms. Anderson stated it sounds like the next step is whether or not the Committee wants to increase the amount or to strike the existing dollar amount. Mr. Ruty stated he doesn't believe it's necessary at all. Mr. Bowles stated the fact that it wasn't there in 2002 leads him to believe it was being strictly interpreted that if there was a transfer that was necessary within a particular agency's budget that that transfer had to automatically go before the BOF; and as Mr. Battistoni put it, the \$1,000 liberalized it. Mr. Bowles stated it may be best to increase the amount if people are thinking the amount is low rather than removing the language entirely. Mr. Battistoni asked Mr. McGarry if there was a number where there was a group of transfer requests within a specific dollar range; and if it went above that number it would take away the administrative burden, but keeps the spirit of the control. Mr. McGarry stated he can come up with a reasonable recommendation and this would allow the Committee time to review their minutes.

Mr. Battistoni asked Mr. Ruty if he was willing to table the motion. Mr. Ruty agreed. Mr. Bowles, Mr. Ruty, and Mr. Battistoni will review their notes.

6. Finalize Recommendation Back to BOS on Town Manager Concept

Mr. Battistoni stated he's willing to write the recommendation letter to the BOS informing them that the Committee does not feel that they are in a position to recommend that the town adopt or pursue a path

towards a town manager's position. Mr. Battistoni asked if the Committee agreed with his comment. The Committee was in agreement.

7. Next Meeting Date and Content

Mr. Battistoni stated it appears one more meeting will be required and he will try to get the changes in some readable form.

Mr. Battistoni asked Mr. McGarry to review the final process with the Committee. Mr. McGarry stated it would be good to have a final recommendation before the BOS by their June meeting (second Monday, 8 June 2020), but definitely by the July meeting. Discussion followed in regard to the next steps: revisions need to receive BOS approval, Committee needs to hold a public hearing, and if it passes, it goes to a town meeting.

Discussion followed as to whether the next meeting would be in person or virtual. Mr. McGarry stated virtual. Mr. Bowles suggested Tuesday, 26 May 2020, 7:00 p.m. Ms. Anderson noted due to Memorial Day, everything would need to be posted by Friday, 22 May 2020.

Mr. Battistoni stated it would be a simple agenda – Finalize Recommendations and Review Language.

8. Review Steps to Complete Revision Process

Powers and Duties of the Board of Finance with Respect to the Management and Monitoring of the Budget for the Current Fiscal Year - Section 9.4 (c) (1) – pages 26-27 - Mr. Battistoni stated the Committee will need to come back to review Section 9.4 (c) (1) as his notes indicate there was an open tie off from a public comment from Mr. Schwing specifically about whether or not the one third of one percent (0.3333%) could be used. Mr. Battistoni asked Mr. McGarry if a legal opinion had been obtained and if not, the Committee probably should get one. Mr. Battistoni stated the question is whether it's appropriate to use of a percentage of the budget or whether it had to be a number. Mr. Battistoni noted the Committee changed it to a percentage during the last revision. Mr. Ruty stated it was reviewed by the town attorney. Mr. Bowles agreed with Mr. Ruty. Mr. Battistoni asked that the notes be reviewed for this as well.

Mr. McGarry stated Melissa Schlag commented on this at a BOS meeting during discussion regarding the proposed revisions. Mr. McGarry stated he believes Ms. Schlag stated it should be a solid number rather than a member of the public trying to do the math with a percent. Mr. McGarry stated he understands her rationale, but with a solid number it may call for future revisions. Mr. Battistoni stated his concern is the Committee being compliant with the state statutes.

Ms. Anderson stated Mr. Schwing left a note in the Chat Box, that by state statute it would be \$20,000 maximum. Mr. McGarry asked Mr. Schwing to send him the statute, because what you find in the statutes is there are some that apply to towns, unless you have a Charter, that outlines the process the statute is referring to and there are other statutes that say whether you have a Charter or not, here are the rules. Mr. McGarry stated most of the financial ones and most of the court cases dealing with the financial ones have been the towns are free to set their own financial process. With a Charter the town is exempt from that statute, but would need to have the town attorney review it.

Mr. Bowles stated his recollection of this is Joe Centofanti recommended this change. Mr. Bowles stated Mr. Centofanti had represented that this type of approach was used in many other towns that he represents. Mr. Bowles stated he also believes Mr. Ruty is right that this was reviewed by the town attorney at least twice.

9. Adjournment

MOTION: Wayne Ruty motioned to adjourn the meeting. John Fernandes second. Motion carried unanimously.

The meeting adjourned at 7:53 p.m.

Respectfully submitted,

Bunny Hall Batzner

Bunny Hall Batzner
Recording Clerk

The next meeting is scheduled for Tuesday, 26 May 2020, at 7:00 p.m.