

Charter Review Committee
December 2, 2024
Meeting Minutes

In attendance, Brian Boyle, Vice Chair; David Bannard, Clerk; Fred Fehlau, Christopher Rocca, Chris Lucy. Missing: Chair Michael Cohen. Also in attendance: Town Moderator Paul Wisotsky, Michael Forgione, Town Manager Darrin Tangeman, Selectboard Chair Sue Areson, Selectboard liaison Nancy Medoff.

Vice Chair Boyle opened the meeting at 5:02 pm. Vice Chair Boyle read the instructions for joining the meeting remotely.

1. Public Comment - none
2. Approval of Meeting Minutes – No minutes have been submitted (taken at last meeting by C. Lucy). Deferred until next meeting.
3. Town Meeting dates – Charter language.

Joined by Paul Wizotsky, Town Moderator. Moderator Wizotsky stated that he is a “bystander” regarding this issue. He believes that the Town Meeting date is an issue for Town staff & the Selectboard. The date in the Charter is prescriptive and, in light of Town’s space issue, creates a challenge. Mass. General Laws (MGL) allows the Selectboard to adjust the Town Meeting date, regardless of the Charter’s provisions. Mr. Wizotsky recommended that the CRC consider parameters, e.g., not before A or not after B.

Fred Fehlau – last year, agenda spilled into Sunday. Does volume of articles affect date?

Susan Areson – decision on Town Meeting date must be made before warrant is finalized, so the volume of articles does not affect the date. Town Counsel has advised the Selectboard that it can change the date of Town Meeting under the MGL. But Selectboard Chair Areson would prefer to amend the Charter as well. She noted that many towns do not specify a day of the week for the Town Meeting.

Moderator Wizotsky stated that some town charters specify that the bylaws provide the date of the Town Meeting (bylaws are easier to change). (Mr. Wizotsky provided a chart with relevant provisions from a number of Massachusetts towns’ charters and bylaws.)

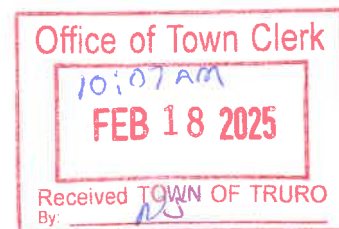
Vice Chair Boyle clarified that the desire is generally to move Town Meeting later (not earlier). He recommended bringing the Charter in line with MGL. The CRC must balance the timing of Town Meeting with fiscal requirements of having a budget in place by the start of the new fiscal year (on July 1).

David Bannard suggested that the CRC ask the Selectboard and Town Manager for an outside date for Town Meeting, given constraints. He suggests generic language.

Mr. Fehlau suggested providing that the date of Town Meeting would be as determined by the Selectboard not later than a specified date in early June.

Vice Chair Boyle noted that the date needs to coordinate with Town election which must be held before the end of the fiscal year.

Selectboard liaison Nancy Madoff asked whether anyone has asked Town staff what they would like to see?



Town Manager Tangeman noted that the date of Town Meeting has many impacts. He appreciates this discussion. He would like to come back to the CRC with a recommendation.

Ms. Madoff asked what would be a reasonable time for Mr. Tangeman's response?

Mr. Tangeman replied that before Christmas break would be reasonable. He would also like to bring in Town Counsel Lauren Goldberg re: election requirements.

Vice Chair Boyle suggested as a placeholder amending the date in the Charter to not later than the Tuesday before Memorial Day weekend. He suggested that this provision be taken back to Town staff & the Selectboard.

Chris Lucy also noted that we will also need to change mandatory date of the Town election.

4. Charter availability online – Update

Town Manager Tangeman stated that he will invite Mr. Fehlau and Mr. Rocca to the first meeting of the committee working on incorporating legislation on the new Town website. He is asking Town Communications and Marketing Coordinator Katie Riconda to take the lead.

Mr. Fehlau asked how much interaction is there between design of website & content?

Mr. Tangeman responded that there is not much; this is a separate module.

Mr. Fehlau stated that he will reach out to Ms. Riconda.

Vice Chair Boyle suggested adding titles to the sections of the Charter for on-line access.

Mr. Bannard noted that in that case, there would need to be a disclaimer added stating that the titles are not part of the Charter.

Mr. Tangeman clarified that there is no need for Mr. Fehlau to contact Ms. Riconda, he is coordinating through Chair Cohen.

5. Charter Section 5-5-4

This issue was discussed last meeting with Town Counsel John Giorgio.

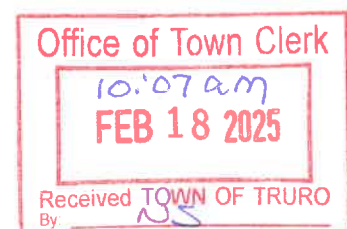
Michael Forgione joined for public comment. He indicated that he heard a lot of useful information at the last CRC meeting from Town Counsel & the Assistant Town Manager. Mr. Forgione sent his thoughts after last meeting in an email to Chair Cohen. In essence, he believes that there is no ambiguity in Section 5-5-4. He stated that in his opinion Town voters have a role to play. He interprets "funding" to include funding through revenues and expenses. Mr. Forgione wants a more explicit discussion as part of the budget presentation at Town Meeting. Specifically, Mr. Forgione wants to add to Section 5-5-4 regarding creation of any new Town staff position by adding at the end "by inclusion as an explicit line item in the omnibus expense budget or an override article."

Mr. Bannard asked that Mr. Forgione's memo be circulated to the members of the CRC and specific language considered at the next CRC meeting.

Ms. Medoff asked what if there is no financial impact if a new position is created? (E.g., terminate one position and create another with no fiscal change.)

Mr. Tangeman stated that the Town Manager has no jurisdiction over fees. This is an example of the fundamental division of responsibilities among Town entities. The Selectboard has the ability to set fees. He believes that this is a much more complex issue than simply notification.

Mr. Bannard stated that he would like to consider this proposal at the next CRC meeting. He stated that it is a serious issue to amend the Charter.



Vice Chair Boyle said that he will suggest that Chair Cohen circulate all materials in advance of the next CRC meeting.

6. Revisit Charter Sections 4-5-2 & 6-2-12.

Vice Chair Boyle stated that at the last CRC meeting, the committee discussed a suggested nuance of limiting discussion to department heads; he would like input from department heads on this suggestion.

Mr. Tangeman stated that Town Counsel John Giorgio recommends setting up an opportunity for CRC to meet with Dept. Heads and Town Counsel. He believes that there must be a robust discussion re: protection if this question is to be brought up. Mr. Tangeman would like to know what the reason is for this change – what is broken? The great majority of Towns nationally have these provisions in their charters.

Mr. Fehlau asked if he has examples?

Mr. Tangeman provided general examples.

Vice Chair Boyle suggested seeking one on one feedback between CRC members and Department heads?

Mr. Tangeman said he would be happy to organize that.

Mr. Boyle said that the CRC's concern was that the language "deal with" is ambiguous.

Mr. Tangeman said that may be precisely why that language is used.

Mr. Bannard summarized his research: All but one Outer Cape towns have a similar or the same provision. One variation is substituting "communicate with" vs. "deal with". Only Provincetown has external charter enforcement; other towns delegate enforcement to the Selectboard.

Mr. Lucy explained his suggested edits to these sections. They are intended to allow the direct ability for the Selectboard or the chairs of adjudicatory or regulatory Town boards to discuss matters directly with department heads. He stated that the other big issue is the evaluation process for the Town Manager.

Mr. Tangeman responded to Mr. Lucy. The Selectboard already has the ability to develop a process for the full Selectboard to engage with Town staff for evaluation of the Town Manager.

Mr. Lucy stated that this proposed amendment is not a personal issue, he has noted this as an issue for at least 20 years with respect to the evaluation process.

Mr. Boyle said that he sees 2 different issues – communications with staff on routine matters and Town Manager evaluations.

Mr. Lucy indicted that he believes the issue on the table is getting staff input on this suggested amendment.

Mr. Tangeman said that he can discuss this with staff. He asked whether the CRC would prefer an in person meeting with Town staff, including Town Counsel Giorgio?

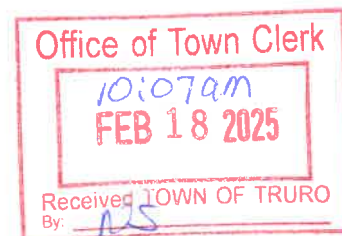
Mr. Bannard suggested that it might be useful to have standard questions to pose to Town staff.

Mr. Boyle asked if Mr. Bannard would compile a list of questions from those submitted by members of the CRC?

Mr. Bannard said he would be happy to compile such a list of questions and asked the members of the CRC to send him any questions they have.

7. New Business.

There was none



8. Next meeting

In Chair Cohen's absence, it was suggested that the next meeting be scheduled via email or a doodle poll.

Ms. Madoff noted that she sent around warrant deadlines to Chair Cohen.
Mr. Bannard said he would send the CRC members the pro forma schedule.

Mr. Bannard moved to adjourn the meeting. The motion was seconded and passed unanimously.
The meeting was adjourned at 6:36 pm.



Noelle Scoullar

From: Michael Cohen <duckytours@aol.com>
Sent: Tuesday, February 18, 2025 8:48 AM
To: Noelle Scoullar
Subject: Fw: Charter Review Committee - Section 5-5-4

Noelle - This email from Mr. Forgione should be included in the posted meeting minutes for the Charter Review Committee meeting on 12/02/2024.

Sincerely,
MC

----- Forwarded Message -----

From: Michael Forgione <michael.forgione@comcast.net>
To: Christopher Rocca <rocca.christopher@gmail.com>; "homely1@comcast.net" <homely1@comcast.net>; "fred.fehlau@gmail.com" <fred.fehlau@gmail.com>; "beboyle@gmail.com" <beboyle@gmail.com>; "duckytours@aol.com" <duckytours@aol.com>
Sent: Wednesday, January 22, 2025, 03:18:36 PM EST
Subject: Fwd: Charter Review Committee - Section 5-5-4

I do not know if the packet for today's meeting included my Email. I have taken the liberty to send it just in case.

Please do not respond to this email. I do not want to cause an open meeting law violation.

Mike

Begin forwarded message:

From: MICHAEL FORGIONE <michael.forgione@comcast.net>
Date: December 3, 2024 at 12:34:40 PM EST
To: Michael Cohen <duckytours@aol.com>, Brian Boyle <beboyle@gmail.com>, dtangeman@truro-ma.gov
Cc: Kelly Clark <ksclark@truro-ma.gov>
Subject: Charter Review Committee - Section 5-5-4

I've attached the Email I sent to CRC....

If you have any questions, feel free to let me know. If there is no conflict, I would like to read the Attorney's letter/advice.

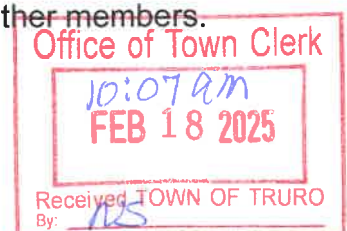
Thanks,

mike

On 11/26/2024 3:27 PM EST MICHAEL FORGIONE <michael.forgione@comcast.net> wrote:

Below you will find my response to section 5-5-4. Please share with other members.

To: Charter Review Committee Members,



During our Charter review meeting, our town lawyer opined (Charter review Committee meeting on 11/20/2024, 41:17 into the meeting video) *"Charter 5-5-4 is envisioned to work as follows, that the town manager proposes the creation of a new position. The select board has to approve that within this Charter provision and the last. The sentence merely says it doesn't take effect until it's funded. The town manager included the funding in the budget and that was approved at the town meeting. So I don't understand what the problem is here. Seems pretty straightforward. To me."*

Our assistant Town Manager reinforced the message by stating (Charter review Meeting on 11/24/2024, 42:36 into the meeting) *"Actually it was in the planning budget, which you know is part of the budget like it's presented to town meeting and so. It was approved. In article one of the annual town meeting. FY2025 omnibus budget appropriate."*

Our Town Lawyer and the Assistant Town Manager settled the Role of Town Meeting in a new position. The Voters have a ROLE.

The remaining question is about transparency. The lack of Transparency and misinformation undermined the Voters' role in the process.

During the Select Board meeting on March 19, 2024, the Town Manager presented the need for this new position. He stated (Select Board Meeting 3/9/2024 48:20 into the meeting) *"...One of them being the housing coordinator position, the intent for tonight is that with the increase in fees that the select board recommended a couple weeks ago where we went from \$225 for a fee to \$450. ... we feel this can fund this position."*

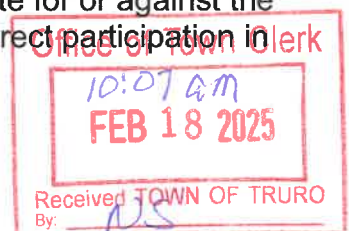
This planted the seed. Funding this position with NO impact to voter's taxes.

During Pre-Town, a voter asked if the position was voted down last year. The Select Board Chair, Kristen Reed stated (Pre-Town Meeting on 4/24/2024, 26:56 into the meeting) *"So the reason that it has returned is it is a select board policy initiative that we are giving because of the need in the Community. We're giving it another shot, but we found another funding mechanism for it where it doesn't impact the tax rate."*

Lastly, the FY2025 Town Warrant has NO reference for this new position.

For me, the above demonstrates:

- **Lack of Transparency-** The information provided to voters about the new position was piecemeal, misleading, and lacked a clear articulation of its funding source and approval process. The absence of a dedicated line item in the FY2025 warrant is a major flaw. Voters were led to believe the funding came from increased short-term rental fees, implying no tax impact, but the connection wasn't explicitly stated, and the actual approval mechanism remained obscure.
- **Circumvention of voter role** – While the Town Meeting approved the budget, the lack of a specific line item or comment about the new position masked its creation. The voters weren't given a direct opportunity to vote for or against the new position itself, only the new budget. This dilutes their direct participation in a significant event.



- **Charter ambiguity** – The Charter section 5-5-4 lacks clarity on the notification requirements for new positions and how they should be presented to the voters.

To resolve this, I propose the following change to the charter. My change is in Red.

*The Town Manager may, with the approval of the Select Board, establish, reorganize, consolidate, or abolish any positions which are subject to the direction and supervision of the Town Manager, except as otherwise provided by General Law or By-law. The creation of any new position under this section shall not become effective until the position has been funded by Town Meeting **by inclusion as an explicit line item in the omnibus expense budget, or a dedicated override article.***

In closing, the Voters' role in establishing a new town position needs to be respected and made clear in the Town Warrant. This was not the case with the FY2025 warrant. I fear that the same issue will arise in the future.

Thank you for considering this,

Michael Forgione
Town Resident

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