CHARTER REVIEW COMMITTEE VOTED MINUTES
Monday June 24, 2019 – 4:00 p.m.
Old Water Department Meeting Room – Town Hall
59 Town Hall Square, Falmouth MA 02540

Members Present: H. Carter Hunt; Daniel H. Shearer; Flannery du Rivage Rogers; David
Garrison; Judith Fenwick; Daniel Shearer; Charles McCaffrey Frank Duffy, Esq., ex-officio
Members Absent: Peter Clark
Also Present: Michael Palmer

A. Open Meeting
At 4:02 Vice Chair Judy Fenwick called the meeting to order.

B. Hear General Public Comment
None offered.

C. Discuss and Act on Minutes from June 13:
David Garrison moved to approve with correction. Daniel Shearer seconded. All in favor
except Charles McCaffery abstained; motion passed.
Minutes from June 17, 2019: David Garrison moved to approve. Carter Hunt seconded.
All in favor; motion passed.

D. Review New Committee Emails and Documents
Done later in the meeting.

E. Discuss and Act on Final Recommendations to Board of Selectmen,
based on Review of Thirty Preliminary Recommendations presented
at June 13 Public Forum

Items 15, 24, 26, 27 and 28 will be held for Peter Clark’s return.

The CRC questioned whether C1-6 was fully voted.
Judy Fenwick moved to accept the definition of Local Comprehensive Plan and the word
usage in section B of C1-6, Item #3. David Garrison seconded. All in favor; motion passed.

Regarding C3-6, Item #13:
Charles McCaffery moved to accept the draft language proposed by Frank Duffy. Carter
Hunt seconded. All in favor; motion passed.

Article III: The Board of Selectmen
C3-3: Policy Leadership
B. The Board shall, before the start of each calendar year, publish a schedule and shall hold public meetings, jointly with such other governmental bodies as it deems necessary, for the consideration of the Local Comprehensive Plan and other local planning and policy initiatives.

Regarding C3-6, Item #14:
Typo and edits discussed.
David Garrison moved to accept as amended. Daniel Shearer seconded. All in favor; motion passed.

C3-6: Powers of Appointment
C. The Board shall also have the power to appoint other governmental bodies ad hoc committees and to multi member bodies and define their duties, set the limits for the scope of their responsibilities and the terms of their existence. Any such committee having a planning function shall coordinate its activities with the Planning Board at least once a year.

Regarding C3-7H, Item #16:
Charles McCaffery moved to accept the proposed new section C3-7H language as drafted by Frank Duffy. Carter Hunt seconded. All in favor; motion passed.

C3-7: Specific powers, administrative duties and responsibilities
H: The Board shall have the power and authority to adopt rules and regulations for the conducting of town business, the use of town real and personal property and other matters within its jurisdiction and set the penalties for violations thereof, after public hearing and publication.

Regarding C4-6B, Item #17:
A discussion included the following:
• The Committee discussed the concerns raised by Town Manager Julian Suso regarding the use of the term “significant” when describing “public improvements relating to the physical, environmental, or economic development of the town”.
• The proposal would provide the Planning Board with the opportunity to comment on a wide variety of town projects.
• Departments such as the DPW would need to have all “significant” projects reviewed by the Board.
• Some Committee members felt it was important for the Planning Board to be able to advise the Board of Selectmen on the impact of proposed projects of major consequence on the town’s comprehensive plan.
Charles McCaffery moved to approve as proposed. Flannery du Rivage Rogers seconded. The vote was 5 yes, 1 no (Carter Hunt) and the motion passed.

Article IV. Other Elected Town Boards and Officers
C4-6: The Planning Board
B. The Board shall make recommendations as it deems necessary on all matters concerning the physical, economic and environmental development of the town to the Board of Selectmen and to the parties directly involved through the Town Planner, who acts as the Board’s Administrator. **At the request of the Planning Board any town agency dealing with significant public improvements relating to the physical, environmental, or economic development of the town, shall report the status of such plans or developments to the Planning Board so as to be evaluated for consistency with the Local Comprehensive Plan.**

Regarding Item #18, C4-6D  
**Carter Hunt moved to approve as proposed. Charles McCaffery seconded. All in favor; motion passed.**

C4-6D. Whenever the Planning Board shall recommends proposed amendments to the Zoning Bylaw, it and shall provide detailed written explanations of its recommendations and the extent to which such recommendations are consistent with the Master Plan.

Regarding C4-6E, Item #19:  
**David Garrison moved to approve as proposed. Carter Hunt seconded. All in favor; motion passed.**

C4-6E. The Planning Board shall possess and exercise all powers given to it under the Constitution and Laws of the Commonwealth and shall have and exercise such additional powers and duties as may be authorized by the Charter, bylaw or vote of the Town Meeting. It shall also  
(2) Meet with the Board of Selectmen as scheduled under C3-3B at least twice a year.

Regarding Item #20, C4-7:  
The Committee remarked that this got no feedback at the Public Forum.  
**David Garrison moved to approve as proposed. Charles McCaffery seconded. All in favor; motion passed.**

C4-7 Housing Authority  
A Housing Authority shall be established consisting of five (5) members. Four (4) members shall be elected by and from the voters at large, and the fifth member shall be appointed to be selected in accordance with the laws by the Secretary of Communities and Development of the Commonwealth. All members shall serve five-year overlapping terms.

Regarding C5-5, Item #21:
The Committee discussed its proposal to give the Town Manager the authority to create and fill positions without prior approval by Town Meeting outside the normal Finance Committee and Town Meeting review of the town’s budget.

- David Garrison noted that at last week’s CRC meeting, the discussion of this item with Frank Duffy led to a possible conclusion that the Committee’s proposed change to C5-5 of dropping reference to “subject to Town Meeting vote” would not accomplish the Committee’s purpose. Mr. Duffy pointed out that, notwithstanding the existing Charter language, the Town Meeting does not in practice receive and vote on the Town’s “salary and pay plan” as called for in C5-5. Moreover, the creation of new positions and the filling of such positions is not accomplished through the salary and pay plan.

- It may turn out that the constraint on the Town Manager’s authority in this area flows from a bylaw and not from the charter. A Committee member noted that in prior discussions of areas where there were both charter and bylaw provisions that the CRC had said that it was not appropriate to alter the Charter on the grounds that it needed to be consistent with a bylaw.

- Committee members said that many Town Meeting members would, however, see this proposal as expanding the Town Manager’s authority on personnel matters and would oppose the change on those grounds.

- Members expressed the desire to be able to consult further with Frank Duffy before taking action on this proposal.

The Committee decided to table the issue and resume discussion of it at the next meeting when Frank Duffy was present. Issue was tabled.

Item #22 was tabled.

Regarding C6-9, Item #23:

David Garrison moved to approve as proposed. Charles McCaffery seconded. All in favor; motion passed.

Article VI Citizen Participation: Elections and Recall
C6-9 Referendum

C. The Town Clerk shall, within one (1) working day of receipt of said petition, submit the petition to the Board of Registrars of Voters in the town, and the Board of Registrars shall within fourteen (14) working days certify thereon the signatures which are names of registered voters. If the petition shall be found and certified by the Board of Registrars of Voters to be sufficient, the Town Clerk shall within one (1) working day submit same with a certificate so stating to the Board of Selectmen. The Selectmen shall within seven (7) working days order a special election to be held on a date fixed by them, which shall not be less than sixty (60) nor more than eighty (80) days after the date of the Town Clerk’s certificate that a sufficient petition has been filed.

Regarding C7-2, Item # 25:
Carter Hunt moved to approve the proposed language addressing the process for determining how unexcused absences are certified. Daniel Shearer seconded. All in favor; motion passed.

Article VII Appointed Town Boards
C7-2 General Provisions
G. The unexcused absence, without prior good cause, of a member from one-half (1/2) of the total number of meetings during any twelve-month period or from four (4) or more consecutive meetings of any such board shall serve to vacate the office, as determined by the chairperson and confirmed by a vote of the body. When such a vacancy has been created, it shall be filled within thirty (30) days or in accordance with General Law.

Regarding C8-6A, Item #29:
The CRC discussed the proposed revision to C8-6 Capital Improvements plan. Committee members expressed concerns about language calling for “each” project to be analyzed by the Town Manager. Members wondered if language consistent with the Committee’s earlier use of the term “significant” might help clarify the proposal and limit its scope to major undertakings. Charles McCaffery will draft revised language.

Regarding C9-9, Item #30: The Committee discussed the proposal to change the Charter requirement regarding how and how frequently the Town’s bylaws need to be reviewed. Carter Hunt moved to approve the current proposal. David Garrison seconded. All in favor; motion passed.

Article IX. General and Transitional Provisions
C9-9 Revision of bylaws
The Board of Selectmen shall ensure that the town bylaws are reviewed, periodically, in whole or in part, and prepared for any necessary revision or amendment at least every five (5) years.

F. Discuss and Act on Committee Procedures: Meeting Schedule and Other
Next meeting to be held on Wednesday, 7/10 at 6:30

G. Discuss New Business
Judy Fenwick explained that there were 4 items to revisit at the request of Peter Clark at the next meeting.
The Committee had a brief discussion about whether and how the Board of Selectmen charge town boards and committees as to their need to report regularly to the Board on their activities. Concern was expressed that the Board may not give such charges to report on activities to boards and committees in all or even some cases. This may be a topic for inclusion in the Committee’s “bucket two” package.
NEXT MEETING:
• Monday July 8; 4:00 PM

At 6:06 David Garrison moved to adjourn. Charles McCaffery seconded. Approved by voice vote.

Relevant Documents:
Minutes of 6/13, 6/17
30 Proposed Charter Amendments
Julian Suso email
Charamend6.21.19 attachment