



TOWN COUNCIL
Charter Review Committee
Selectmen's Conference Room

Thursday March 3, 2016
MEETING MINUTES

Councillor Jennifer Cullum **Chair**
Councillor Will Crocker Jr.
Councillor Frederick Chirigotis **Vice Chair**
Councillor Paul Hebert
Councilor James Tinsley

I. BUSINESS

A. Roll Call: Members present:

Chair of Committee Councilor Jennifer Cullum; **Vice Chair** Councilor Fred Chirigotis; Councilor Paul Hebert; Councilor Will Crocker; Peter Hanson, member at large; Donald Lynde, member at large **Also present:** Cynthia Lovell, Administrator to the Town Council; Ruth Weil, Town Attorney **ABSENT:** Councilor James Tinsley;

Chair of Committee Councilor Jennifer Cullum opened the meeting up asking for a motion to accept the meeting minutes of February 11, 2016.

Attorney Ruth Weil stated that she had struggled with the Charter Objection language there is temporal element with some of the language and trying to capture that with regards to sensitivity matters, but it was hard to categorize those and in order to do that was to have the president make the call which created some uncertainty and what we were trying to do is create certainty, the City of Winthrop had some language that limited the time, one of the problems we have faced historically here in our current Charter is there is a provision in it that states the following:

Chapter C. Charter of the Town of Barnstable

PART II. Legislative Branch

Section 2-8. Measures; Emergency Measures; Charter Objection.

(a)

In General. No measure shall be passed finally on the date on which it is introduced, except in cases of special emergency involving the health or safety of the people or their property. Except as otherwise provided by the charter, every adopted measure shall become effective at the expiration of thirty days after adoption or at any later date specified therein. Measures not subject to referendum shall become effective upon adoption. No ordinance shall be amended or repealed except by another ordinance adopted in accordance with the charter, or as provided in the initiative and referendum procedures.

(b)

Emergency Measures. An emergency measure shall be introduced in the form and manner prescribed for measures generally except that it shall be plainly designated as an emergency measure and shall contain statements after the enacting clause declaring that an emergency exists and describing its scope and nature in clear and specific terms. A preamble which declares and defines the emergency shall be separately voted on and shall require the affirmative vote of two-thirds of the town council. An emergency measure may be passed with or without amendment or rejected at the meeting at which it is introduced. No measure making a grant, renewal or extension, whatever its kind or nature, or a franchise or special privilege shall be passed as an emergency measure, and except as provided by the laws of the

Commonwealth, no such grant, renewal or extension shall be made otherwise than by ordinance. After its adoption, an emergency measure shall be published as prescribed for other adopted measures. An emergency measure shall become effective upon adoption or at such later time as it may specify.

(c)

Charter Objection. Except for an emergency measure as defined in section 2-8(b), on the first occasion that the question on adoption of a measure is put to the town council, if a single member objects to the taking of the vote, the vote shall be postponed until the next meeting of the town council whether regular or special. This procedure shall not be used more than once for any matter bearing a single docket number notwithstanding any amendment to the original matter. A charter objection shall have privilege over all motions but must be made at the call for a vote on the measure by the presiding officer and all debate shall cease. [Changed by legislative action dated August 3, 1995]

(d)

Publication of Measures. Notice of every proposed ordinance, appropriation order, or loan authorization, except emergency ordinances provided in section **2-8(b)**, shall be published once in a local newspaper, and in any additional manner as may be provided by ordinance at least ten days before its final passage. Upon final passage, notice of every ordinance, appropriation order, or loan authorization shall be published in a newspaper of general circulation within the town and posted on the town bulletin board. Any such publication notice required shall state the summary of the proposed or finally enacted ordinance or ordinances and the times and places at which copies of such ordinance or ordinances may be obtained or reviewed by the public.

PROPOSED:

Charter Objection. On the first occasion that the question on adoption of a measure is put to the town council, if a single member objects to the taking of the vote, the vote shall be postponed until the next meeting of the town council whether regular or special. If two members shall object, such postponement shall be until the next regular meeting; but for an emergency measure at least four members, in all, must object. This procedure shall not be used more than once for any matter bearing a single docket number notwithstanding any amendment to the original matter.

Rather than deal with time sensitivity, it removes the objection from emergency measures which by nature are time sensitive, so we have eliminated the language for the Charter Objection for emergency measures and also we have made it so that if one member objects it can be moved to the next regular or special meeting; it diffuses some of the concerns, it was always unclear when a Charter Objection could be used so she has tried to clarify that in the last sentence by saying: **A Charter Objection shall have privilege over all other measures but must be made at the call of the vote by the Presiding Officer, Councilor Fred Chirigotis mentioned that it is at call on the vote of the measure and not the call of moving the question , this has been the issue, Attorney Ruth Weil said it has to say that it has to be on the call of the vote on the measure.** Councilor Paul Hebert asked for clarification on when it should be used, Chair of the Committee explained that sometimes it's used incorrectly and that is when at the point when the entertain a motion is said, you can't use the Charter Objection at that point, you can only use it when the question has been moved for a vote, then you would Charter Object.

The last meeting we had the Council Meeting, when the hotel was asking for the TIF, there was a lot of discussion and a lot of uncomfortableness, and had I been in favor of giving them the exemption and seeing how many councilors had questions, if someone called for a vote he would have called a Charter Objection at that point so a discussion could take place and not have the item go down in flames and never happen. Attorney Ruth Weil stated you would not be able to do a Charter Objection on that particular item because it was not a measure. Charter Objections can only happen on a measure. Councilor Chirigotis mentioned there are other parliamentary procedures you can do to delay a vote. You can ask for a postponement on an item.

Councilor Hebert asked how the current language protects us, Attorney Ruth Weil said you could call a special meeting, keeping in mind that you need 48 hours to post the special meeting. Councilor Hebert asked say that he did an Charter Objection on an item could there be words in here in the case of

a serious item that is going to cost the Towns money, I am going to ask that we reconsider because it could put us in an adverse position. Attorney Ruth Weil said that when a Charter Objection is called you can no longer discuss anything at that point. Councilor Chirigotis said before you call the Charter Objection you could ask questions prior to.

Mr. Lynde said that he likes the language proposed with the exception for an emergency measure and when he reads the section on emergency measure if we were to loose monies tomorrow the only Charter Objection 2-8B does not say anything about financial, there was the golf course issue that cost the town a lot of money, should there not be some language in there to protect the town in a monetary way. Attorney Ruth Weil answered that only measures can be Charter Objected. Chair of the Committee said this committee has kicked this around for so many meetings this language and she feels that currently the language proposed is not going to cover every scenario that happens. Attorney Ruth Weil will look again at some other Charters to see if there are any financial languages anywhere that may benefit. Chair of the Committee stated the committee has asked Ruth to look at other town's because those that still have Charters like to have the same conformity as other communities, so she has done that and came back to us with no language could be found in any other Communities that deal with a financial measure.

Attorney Ruth Weil stated in the January 7, 2016 meeting we discussed this very paragraph:

(Below is the old language)

Before taking a vote on any measure the town council president or councilor acting as the presiding officer shall ask if there is a charter objection to the measure. A charter objection shall have privilege over all motions but must be at the call for a vote by the presiding officer and all debate shall cease. Where the presiding officer rules that a postponement as a result of a charter objection would defeat the measure, the charter objection shall be deemed out of order. [Changed by legislative action dated August 3, 1995]

Councilor Will Crocker made the following suggestion after this discussion:

If the Charter Objection would interfere with the timely execution of the measure, then it would be deemed out of order.

The problem with that is the President would have to make that determination. Chair of the Committee said also it would also depend on whether the person making that determination is on the favorable side or the non-favorable side.

Chair of the Committee Councilor Jennifer Cullum said we need the process to be open enough so that both sides are represented equally. She understands that all will not be captured in the language, but hopefully the language we have is a little bit more structured.

Councilor Paul Hebert asked if there was any way to incorporate any of Councilor Crocker's suggestion.

Councilor Paul Hebert made a motion to accept the emergency measure as is in section 2-8B On the first occasion that the question on adoption of a measure is put to the town council, if a single member objects to the taking of the vote, the vote shall be postponed until the next meeting of the town council whether regular or special. If two members shall object, such postponement shall be until the next regular meeting; but for an emergency measure at least four members, in all, must object. This procedure shall not be used more than once for any matter bearing a single docket number notwithstanding any amendment to the original matter. A Charter Objection shall have privilege over all other measures but must be made at the call on the vote of the measure by the Presiding Officer,

All members present voted in favor of this language. Attorney Ruth Weil will draft the document for our next meeting.

Term limit language:

Attorney Ruth Weil stated she is not completely satisfied with this language; however she is going to speak to it. (See handout)

SECTION 2-1 Composition, Eligibility; Election and Term (current language)

Composition There shall be a town council which shall exercise the legislative powers of the town. One councilor shall be elected from each precinct.

[Amended by Town Council item 93-074A on 2/18/93; confirmed by a majority of voters on 5/18/93; amendment passed by Act of State Legislature June 1993]

(b)

Eligibility. Only voters who at all times during their term of office shall be and remain residents of the town shall be eligible to hold the office of councilor. A member of the town council who shall remove from one precinct to another during the term for which such councilor was elected shall cease to be a member of the town council, provided however, a councilor with six months or less remaining on the term for which such councilor was elected, notwithstanding removal from one precinct to another, shall continue to serve and to perform all official duties during such term of office.

(c)

Election and Term. The term of office of all members of the Town Council shall be for four years beginning on the second Monday following election and continuing until their successors are qualified. Councilors shall serve four year overlapping terms so arranged that the terms of as nearly half of the councilors as may be shall expire at each biennial town election.

[Amended by Town Council item 93-074A on 2/18/93; confirmed by majority of voters 5/18/93; amendment passed by Act of State Legislature June 1993; further amended by Town Council vote in Dec. 1993 and passed by Act of State Legislature, May 31, 1994]

SECTION 2-11 PROHIBITIONS

No councilor shall, while a member of the town council, hold any other compensated town office or position. No former councilor shall hold any compensated appointive town office or town employment until one year after the expiration of his service on the town council. This provision shall not prevent a town officer or employee who has taken a leave of absence from such duties in order to serve as a member of the town council from returning to such office or employment following service as a member of the town council. No person elected to serve as a town councilor may serve more than three consecutive terms of office.

PROPOSED:

SECTION 2-1 Composition, Eligibility; Election and Term (current language)

Composition There shall be a town council which shall exercise the legislative powers of the town. One councilor shall be elected from each precinct.

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Councilors shall serve four year overlapping terms so arranged that the terms of as nearly half of the councilors as may be shall expire at each biennial town election. PROPOSED: *No person elected to serve as a town councilor may serve more than three consecutive terms or twelve consecutive years, whichever is greater.*

**PROPOSED:
SECTION 2-11 PROHIBITIONS**

No councilor shall, while a member of the town council, hold any other compensated town office or position. No former councilor shall hold any compensated appointive town office or town employment until one year after the expiration of his service on the town council. This provision shall not prevent a town officer or employee who has taken a leave of absence from such duties in order to serve as a member of the town council from returning to such office or employment following service as a member of the town council. ~~No person elected to serve as a town councilor may serve more than three consecutive terms of office.~~

Attorney Ruth Weil stated this town is unique because our terms stagger; most communities only have a two year term not a two and a 4.

Chair of the Committee asked why can't we change it to a two year term only, Councilor Fred Chirigotis said that it was done this way so that we did not have half the Council leaving. Cahir of the Committee also mentioned that there are huge issues in this town that need to be addressed and the residents of this town expect us to solve the issues, but most of us if not all of us have full time jobs outside of here, and the amount of hours spent doing this sometimes becomes exhausting, so she would like to see at large membership on this type of committee to have the residents look at the policies that govern us in the Charter and also look at the two year term idea. If everyone else in the Commonwealth is at a two year term why aren't we? There are a lot of issues here that need to be tackled and sometimes being a Councilor id a full time job and I feel like this should be maybe an \$80, 000 dollars a year job, she works tireless hours and to manage all that and have a life is impossible. Mr. Lynde said what you currently get paid now is a disgrace and there are too many people lining up to run for vacant offices either. Attorney Ruth Weil said you really do not need the term limits. Councilor Jen Cullum said however who would run forever doing this job it is very demanding. At large membership you need a different voting area, you need more people and votes for at large membership, as a Councilor you getting votes in your precinct. Councilor Hebert mentioned that he also attends meeting after meeting as well and finds it difficult to do. Councilor Hebert would like to form a citizens group having to do with the Charter Commission.

Attorney Ruth Weil handed out the next document having to do with

A.

Composition and authority. There shall be 13 members of the Barnstable Town Council, one Councilor elected from each precinct. The Barnstable Town Council shall exercise all of the legislative powers of the Town.

[Amended 9-28-1993 by Order No. 93-130; 9-8-2005 by Order No. 2005-126]

B.

Eligibility. Only voters of the Town of Barnstable, who at all times during their term of office shall be and remain residents of the Town shall be eligible to hold the office of Councilor. A member of the Town Council who moves from one precinct to another during the term for which the Councilor was elected shall cease to be a member of the Town Council; provided, however, that a Councilor with six months or less remaining on the term for which the Councilor was elected, notwithstanding removal from one precinct to another, shall continue to serve and to perform all official duties during the term of office.

C.

Council organization. After the Councilors-elect have been sworn, the Town Council shall be called together by the Council President for the purpose of conducting an election in December among Council members for the office of Town Council President and Vice President to serve at the pleasure of the Town Council. In nonelection years, the Town Council shall conduct a reorganization election each December. The President presides at all meetings of the Town Council, and performs such other functions as may be assigned by the Barnstable Town Charter, by ordinance or by vote of the Town Council. The Vice President presides at meetings of the Town Council during the absence or disability of the President.

D.

General powers and duties. Except as otherwise provided by law or by the Barnstable Town Charter, specifically Section [1-4](#) (Powers of the Town), Section [1-5](#) (Interpretation of Powers), and Section 2-3 (General Powers and Duties), all powers of the Town of Barnstable shall be vested in the Town Council which shall provide for their exercise and for the performance of all duties and obligation imposed on the Town by law.

E.

Filling of Town Council vacancies. If a vacancy in the office of Councilor occurs during the first 44 months of a term, it shall be filled by a precinct election. If a regular Town election is scheduled to be held within 120 days, but more than 50 days, after the date vacancy occurs, it shall be filled by a special election within that regular election; otherwise, the Council shall schedule a special election to be held as soon as is practical to fill the vacancy for the balance of the unexpired term. The provisions of the Charter governing regular elections shall, so far as they are apt, apply to said special election, provided no preliminary election shall be held.^[1]

[Amended 9-23-2003 by Order No. 93-130]

[\[1\]](#)

Editor's Note: See Part VII of the Charter, § 7-1 et seq.

F.

Exercise of powers. Except as otherwise provided by the laws of the commonwealth or the Barnstable Town Charter, the legislative powers of the Town Council may be exercised in a manner determined by the Town Council.

G.

Interrelationships. The Barnstable Town Council interacts with all elective officers of the Town, all multiple-member appointive boards, and the administrative organization of the Town. A description of said interactions appears as part of the Administrative Code under each appropriate part and section that describe the officers and agencies of the Town.

Attorney Ruth Weil will incorporate all of the ideas into a document and present to the Committee on March 31, 2016 at 5:30pm

NEXT MEETING: March 31, 2016 5:30pm

ADJOURNED: 6:55pm