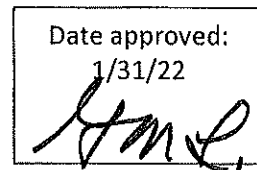


CHARTER REVIEW COMMITTEE
FINAL MINUTES
January 24, 2022
*Virtual meeting convened via Zoom
and recorded
with remote participation*



The meeting of January 24, 2022 was called to order at 5:45 pm by Jon Fuller, Chair, via Zoom. Present by roll call were Mr. Fuller, Mark Berson, Patricia Fallender, Robin Hubbard, Gail Meyers Lavin, Maxine Minkoff, Walter North and Meff Runyon, Select Board Liaison. This was a virtual meeting convened and recorded with remote participation via Zoom.

It was moved by Robin Hubbard, seconded by Mark Berson, to review and approve the Revised Minutes of December 20, 2021 as amended, to correct the date and location of the meeting. It was voted as amended unanimously by roll call – 7-0-0. Gail Meyers Lavin said that she would send the Dec 20th corrected Minutes to the Town Clerk.

It was moved by Patricia Fallender, seconded by Maxine Minkoff to approve the Minutes of January 3, 2022 and voted as amended unanimously by roll call – 7-0-0.

Public Comment: No one was present.

Tracking Sheets: Ms Fallender reported that she had updated the tracking sheets to the Resource Page to include input from the Finance Committee on December 6, 2021 and other input discussed on December 20, 2021 and January 3, 2022, and that the newest Charter Ideas spreadsheet was now available on the CRC website.

Resource Page Update: Ms Lavin said that there were no new recommendations, but that after tonight's meeting, she would want to recommend the Draft Articles proposed for the upcoming Public Hearing following the passage of the Minutes at the January 31st, 2022 meeting.

Review Preliminary Votes Spreadsheet and Other Public Hearing Matters:

Ms Fallender presented a draft Public Hearing advertisement format that she had worked on with Molly Bates, who would send the approved notice to The Cape Codder for publication this Friday. She showed via share screen that the advertisement announced the date and time of the Public Hearing for Friday, February 11th at 5:45 pm via Zoom, and identified the Zoom link at: <https://us02web.zoom.us/j/88943344571>; By Phone: (646) 558-8656; Webinar ID: 889 4334 4571.

She said that, while talking to Molly Bates and working backwards from what the CRC had to do before meeting with the Select Board, she had also spoken to Mia Baumgarten who had said that an additional zoom meeting would be possible on Monday, Feb. 14th at 5:45 pm or Tuesday Feb 15th at 6 pm. Ms Baumgarten confirmed these Zoom times to the Committee. Ms Fallender added that the announcement of the proposed Charter amendments and Rationals for the Public Hearing on Feb 11th would also say that they would be available on the website at <https://www.town.orleans.ma.us/charter-review-committee>, as well as at the Town Administrator/Select Board Office and the Snow Library during normal business hours.

Ms Fallender explained the process used by the last CRC whereby the actual drafted Articles were presented at the Public Hearing after which some minor changes were made, and that she had met with Town Counsel before the Hearing for his assistance. She said that she had arranged with the Town Administrator's office for Michael Ford to see Ms Lavin and her on Feb 1st, the day after the CRC's next meeting, to go over the proposed Articles. She hoped that if the Committee voted on its choice of Articles to move forward at tonight's meeting, Ms Lavin

could update the Screen Share Draft Articles with the updated number of potential Articles and send them to Town Counsel for his review ahead of their Feb 1st meeting.

It was moved by Walter North and seconded by Robin Hubbard to have the Public Hearing on February 11th at 5:45 pm and for the CRC to meet again on February 14th by Zoom at 5:45 pm, as well as on Jan 31st, and voted unanimously by roll call 7-0-0.

It was moved by Mr North, seconded by Ms Lavin, and voted unanimously by roll call 7-0-0 to send the Public Hearing advertisement to Molly Bates, who would send it to the Cape Codder for the January 28, 2022 edition, 7-0-0.

Article A - Warrant Sections: Ms Fallender began to review the 8-page **Draft Articles to Screen Share for Jan 24th CRC Meeting** document, noting that she and Ms Lavin had attempted to “bunch” the sections that were related into one Article, as she had done for Article A, which included 6 sections that allowed for a more flexible timeline for the opening and closing of the Warrant. She said that the Rationale also added the words “on the Town website” to facilitate its dissemination to residents and inform them where printed copies of the Warrant would be available.

Members questioned the order presented, and whether the Committee should vote the order while going through the Articles. Ms Lavin explained that she and Ms Fallender had done them in their own order of priority and placed their second priorities on the last two pages for discussion by the full CRC. She noted that they had ordered them as a suggestion that it might keep people’s interest rather than put the ones that might take more dialogue at the beginning; but the idea for this meeting was to get the language as close to Warrant-ready as possible first in view of the tight time constraints, and then ask the Committee to select the order for the Hearing.

She and Ms Fallender also explained that the ones on their second priority list were those they had questions to review with the Committee. Ms Lavin said that with regard to changing the title of Town Administrator to Town Manager, she believed it would be necessary to find and list every place the term was used in order to change it, but others felt that it might not. After other members said that such a change was no different than the change from Board of Selectmen to Select Board, Mr North suggested that Town Counsel be asked. Mr Runyon noted that there was a time lag after passing an article at Town Meeting and sending it to the Attorney General to confirm its acceptance, and Ms Lavin agreed, adding that even now the Town website still had “Board of Selectmen” throughout, despite the change to Select Board having had the ballot vote in June 2020. Mr Berson remarked that the language could read something like “in each and every place the term Town Administrator appears, it shall become Town Manager” and that should be enough. Mr Fuller said that he would ask at Town Hall on Tuesday, and Ms Fallender added that it can also be confirmed on Feb 1st.

It was moved by Ms Fallender, seconded by Ms Lavin, to approve Article A and bring it forward to the Public Hearing, and voted unanimously by roll call 7-0-0.

Article B - Preamble: Ms Lavin suggested that the Committee had collectively drafted the proposed update of the Preamble, and in reviewing it she felt that it was easier to replace the existing language with completely new statement rather than delete and insert throughout it, which she thought interrupted the flow. **It was moved by Ms Lavin, seconded by Mr North, and voted unanimously by roll call to accept the Preamble language voted previously, and bring it forward to the Public Hearing. 7-0-0.**

Article C – Associate Members: Ms Lavin explained that the details for when associate members were entitled to vote had not been spelled out consistently in the Charter, and reminded members that John Jannell, Conservation Agent, had requested for the Conservation Commission that after the words “to sit,” the words “and vote” be added, to remove any doubt about the legality of any vote taken by an associate member. Ms

Lavin said that as she researched what other municipalities had done, noting that such a change could only be done through a Charter or Special Act, she had learned that "conflict of interest" had also been added as a reason a regular member might have to step down or recuse him/herself. She requested that this additional language be added, which had not been previously voted by the CRC, and that if the process for allowing associate members were made explicit in 6-1-11, the sections including sentences beginning "Regarding associate members, ...," appearing in the ConsCom and Planning Board sections, were redundant and could be removed.

It was moved by Mr North, seconded by Ms Minkoff, to accept the Preliminary vote and those changes not previously voted, and to move Article C forward to the Public Hearing. This was voted unanimously by roll call 7-0-0.

Article D – Add "by flier distributed on the floor of Town Meeting..." Ms Fallender explained that in an effort to provide an option for the Select Board and Finance Committee to inform voters in writing of votes taken after the Warrant had been printed, these two sections had been inserted to make them consistent with language that already exists in 8-3-3. **It was moved by Mr North, seconded by Ms Lavin and voted to accept Article D and move it forward to the Public Hearing unanimously by roll call 7-0-0.**

Article E – Delete 3-5-3 Intermunicipal Agreement: It was moved by Ms Fallender, seconded by Mr Berson to accept Article E including re-numbering 3-5-4 to 3-5-3, and to move it forward to the Public Hearing. In discussion Ms Fallender reminded the Committee that the Town Administrator and Select Board had recommended this deletion to provide the Town with more flexibility, and if deleted, it would require a change of numbering. Mr North questioned the Rationale and suggested modifying it to ensure that it did not appear to be avoiding oversight. Members discussed being informed at the joint Select Board/CRC meeting that the Town had lost out on grant opportunities and the acceptance of funds because of the signing requirement, which required waiting until a Town Meeting vote. It was noted that the original article had been brought to Town Meeting after a perceived inequity for Orleans in the Intermunicipal Agreement for the Tri-Town Treatment Plant with Eastham and Brewster. Mr Fuller recalled that more recently, despite the plant having become obsolete, Orleans had not been able to formally end the Tri-Town agreement when the other two towns were ready until Town Meeting had voted its agreement. Mr Runyon pointed out that no money could be appropriated without Town Meeting approval in any case – and this section referred only to a signing agreement. Ms Fallender concurred, adding that this section followed 3-5-2 which set out the parameters for the Select Board to weigh all factors before signing. **The members agreed by consensus and Ms Fallender and Mr Berson withdrew their motion in order to work on rewording the Rationale and bring it forward for a vote at the next meeting.**

Article F – Removal of obsolete language: Ms Lavin said that while looking at other sections, she noticed that the language in 3-10-1, referring to multi-member bodies stated, "as may be in existence on the effective date of this Charter...", which no longer had relevance. **It was moved by Ms Lavin, seconded by Mr Berson, and amended by Mr Fuller to change "Board of Selectmen" to "Select Board," to accept Article F as amended and bring it forward to the Public Hearing – 7-0-0 unanimously by roll call.**

Article G – Change "shall" to "may:" Ms Fallender reminded members that George Meservey, Director of Planning and Community Development, had asked if, in the second sentence stating that the "Planning Board shall present a report to the Annual Town Meeting..." the word "shall" could be changed to "may" in an effort to streamline Town Meeting by not requiring a report every year if not needed. She added that the Rationale referred to the Consent Calendar, which provided the opportunity for any multi-member body to bring a report forward in any case. **It was moved by Ms Lavin, seconded by Mr Berson to confirm the preliminary vote and bring Article G forward to the Public Hearing – unanimously 7-0-0 by roll call.**

Article H – 3-9-1, 6-8-2, 6-8-3: Board of Water and Sewer Commissioners: Ms Fallender explained that the sections relating to this Board were placed together in order to make these changes:

1. Increase the number of Commissioners appointed by the Select Board from three to five, plus two associate members, in 3-9-1 and 6-8-2, as recommended by its previous Chair Richard Hartmann at an earlier CRC meeting.
2. Clean up old language in 6-8-1 not previously discussed, but when Ms Lavin reviewed it, she realized that the old language referred to terminating the old Board of Water Commissioners once a Wastewater Management Plan had been passed, which was no longer relevant.

Mr North asked why 3-9-1 did not include the change in the composition of the Community Preservation Committee, and Ms Lavin explained that although it had been discussed with the CRC Chair and the Select Board, there had never been a formal recommendation from the CPC or the Select Board. Ms Fallender added that she and Ms Lavin felt that the Board of Water and Sewer Commissioners was an urgent one to do now, and that there was time to add the CPC in the Fall. **It was moved by Mr North, seconded by Ms Hubbard to approve Article H at this time, and bring it forward to the Public Hearing.** Mr Fuller said that his understanding was that the CRC had received a lot of input to add the appointment from the Recreation Advisory Committee to the CPC now. Ms Fallender responded that there had still been no answer from Town Counsel on how the Charter should deal with a Town Meeting - established body, and she and Ms Lavin felt that this had to be resolved before proceeding. Mr Runyon added that the Select Board was unanimously supportive of having an RAC member on the CPC, and certainly intended to keep putting a Recreation Advisory Committee member on, asking whether there was the possibility of adding an additional member to the Community Preservation Committee so that the Select Board could keep their three appointments. Mr North explained that nine is the statutory number. Ms Fallender again recommended waiting until the Fall **and the motion to vote Article H as written and to bring it to the Public Hearing was voted 6-0-1 by roll call with Mr Fuller abstaining.**

ARTICLE I – Add the words “and fees” after “rates:” Ms Fallender explained that when Mr Hartmann had been there, he and the Committee had discussed how the upcoming wastewater systems financing would be structured. She said that when the Board was established, only rates were mentioned, with other means to be considered at a later time, and that there were now other options available. Further discussion was held on the wording of the Rationale to mention how this would give the Board more flexibility as the new system is rolled out. **It was moved by Ms Lavin, seconded by Mr North and preliminarily voted to accept Article I, subject to an edited Rationale to be voted on at the next meeting with a view to bringing it forward to the Public Hearing, and voted 7-0-0 unanimously by roll call.**

ARTICLE J – Replace the initial cap of five minutes to speak from the audience except in certain circumstances to two minutes: It was moved by Ms Lavin, seconded by Mr North, and voted to change the length of time a person shall speak, except in certain circumstances, from 5 minutes to 2 minutes, and to bring Article J forward to the Preliminary Hearing – **7-0-0 unanimously by roll call.**

DRAFT ARTICLE K – QUORUM: Ms Fallender reported that she had edited the text since the last meeting and hoped that she had made it clearer. **It was moved by Ms Fallender, seconded by Ms Minkoff, and voted to accept the language as written and to forward Article K to the Public Hearing by roll call 6-0-1, Mr Berson abstaining.**

DRAFT ARTICLE L – Ms Lavin explained that Chapter 7 had not yet been considered by the CRC, but in reviewing the updates to add “on the Town website” in various places, she thought it made sense to bring these forward at the same time to make the language consistent throughout. She suggested merging the one sentence of Section 7-1-3 into 7-1-2 as its last sentence to make it cleaner, which would require re-numbering 7-1-4 to 7-1-3. She noted that 7-2-1 and 2 had added “on the Town website and in several places” for public notices. She said that she had also included 8-6-1, which referred to the Capital Improvements Plan’s notification.

Ms Lavin informed the Committee that she had discovered on the Attorney General’s website a section stating that municipalities had a choice of using either a newspaper OR their website as long as the appropriate Division was notified. She said that when she reviewed the Massachusetts government’s spreadsheet

(<https://www.mass.gov/service-details/official-notice-posting-locations-for-public-bodies>), she had learned that the Town of Orleans website www.town.orleans.us.ma had been sent to them as its official notice posting location site in 2010. She concluded that since it was what the Attorney General was already using, it would be the right choice now. Mr Berson commented that he saw no reason to keep the last sentence in 7-1-1 or any reasons for the Town to keep using language about publishing in the newspaper at all. He added that this Charter language could simply say "and is complying with state law at this time." Ms Lavin agreed and Mr Runyon reminded members that to not have to publish in a newspaper would relieve an unnecessary expense. **It was moved by Mr North, seconded by Ms Minkoff to vote these sections and bring Article L forward to the Public Hearing. It was voted unanimously by roll call 7-0-0.**

Merging Chapter 10 into chapter 1: Ms Lavin explained that Ms Fallender had not received an answer from Town Counsel about three of the sections in Chapter 1 which might no longer be needed; so they wanted to wait for those answers before proceeding with the changes to re-distribute Chapter 10's sections in Chapter 1. She reminded members that quite a few residents had suggested that it would be more useful to place the Definitions at the beginning of the Charter than at the end, which the Committee had previously supported. **Members agreed by consensus to wait.**

Section 1-5-1: Ms Lavin said that this change had raised a lot of questions that needed further discussion, and she and MMS Fallender felt that it should wait to be brought forward. **Members agreed by consensus to wait.**

Code of Conduct: Ms Lavin said that there had been two versions suggested, which she had included, and the Committee had preliminarily voted the more explicit one. She mentioned that some members of the Select Board at the joint meeting had raised questions about whether the wording should be more general; and she noted that the yellow highlight was her own recommendation to change wording to "multi-member bodies and citizens," to keep the "multi-member bodies" language consistent with the rest of the Charter. Members noted that Codes of Conduct had come to be considered a best practice in many other towns, and felt it was a necessary addition to the Charter now. **It was moved by Mr Fuller, seconded by Ms Minkoff to accept the language of the preliminary vote, amended to read "multi-member bodies and citizens," and voted unanimously by roll call 7-0-0. (Add as ARTICLE M)**

3-3-4 Emergency Planning & Preparedness Team: Ms Lavin noted that this section included two other versions suggested after the Preliminary vote had been taken on 9/20/21 and reminded members that at the joint meeting with the Select Board, concerns were expressed that it was already known that the Fire Chief was the head of the Emergency Team, and the existing language was enough. Members responded at the joint meeting and again that the new section would provide more information to residents and that the use of the term "publicize" rather than "publish" provided more transparency and information about how the Town would respond on their behalf. CRC members also remarked that the Police and Fire Chiefs had told us they felt it was important to make the Team's responsiveness and process clear in the Charter. Ms Fallender noted that the Police Department had recently held a table-top exercise involving the team, and Ms Minkoff added that there needed to be a comprehensive plan that everyone understood and that was regularly updated. **It was moved by Mr North, seconded by Mr Berson to accept the Preliminary vote and to move the Emergency Plan article forward to the Public Hearing unanimously 7-0-0 by roll call. (Add as ARTICLE N)**

Chapter 4: It was agreed that Mr Fuller would get clarification from Town Hall on whether the Town Administrator Title could be changed wherever it appeared to Town Manager in one Article and advise, and **the Committee agreed by consensus to consider this at the Jan 31st meeting. (Add as ARTICLE O)**

4-10-1 – Lessen the time to fill a vacancy for a Town Administrator/Manager from 6 months to four months: Ms Lavin explained that this had been a vote taken on Dec 20th, and since other Chapter 4 sections were still being reviewed, she asked Mr Fuller if it should be taken up now, to which he agreed. **Mr Fuller moved, seconded by Ms Lavin, to vote this section and bring it forward to the Public Hearing, and it was voted unanimously 7-0-0 by roll call. (Add as ARTICLE P)**

4-9-4 – Removal of Town Administrator - and 5-3-1 (d): Ms Fallender and Ms Lavin reported that the Committee had unanimously passed a Preliminary vote on Jan 3rd at Mr Berson's recommendation to provide an option for the Town Moderator, who was the named presiding officer in a hearing in sections 4-9-4 and 5-3-1 (d), the former regarding the removal of a Town Administrator. The option would state that the Moderator could designate a neutral hearing officer to act in his or her stead. Ms Fallender and Ms Lavin felt that, as a courtesy, the current Town Moderator should be asked for his thoughts before it was brought forward to the Public Hearing. **Members agreed by consensus.**

The Committee reviewed the alphabetized Articles A through L to confirm the votes taken and to be reviewed again at the next meeting. It was moved by Mr North, seconded by Mr Berson to accept Article E, section 3-5-3, and bring it forward to the Public Hearing, subject to the acceptance of a revised Rationale to be brought to the next meeting, and voted unanimously 7-0-0. (Add as ARTICLE Q)

Future Meetings:

Jan 31 MONDAY, Zoom, 5:45 pm. Vote Article E, Article I, Chapter 4

Feb 1 – TUESDAY, Ms Fallender and Ms Lavin with Town Counsel

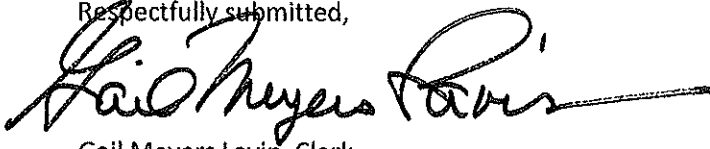
Feb 11 - FRIDAY, Zoom, 5:45 pm Public Hearing

Feb 14 – MONDAY, Zoom, 5:45 pm

Mar 2 – WEDNESDAY – Joint Meeting with the Select Board. Materials due by Jan 18th.

A motion to adjourn was moved by Mr Berson, seconded by Ms Lavin and voted unanimously 7-0-0 by roll call at 7:35 pm.

Respectfully submitted,



Gail Meyers Lavin, Clerk

The next meeting will be held via Zoom at 5:45 pm on January 31st, 2022.