

**CHARTER REVIEW COMMITTEE  
MINUTES**  
February 14, 2022  
*Virtual meeting convened via Zoom  
and recorded  
with remote participation*

Date approved:  
3/7/22  
*Adm. L.*

The meeting of February 14, 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 and Maxine Minkoff. Walter North joined the meeting at 5:54 pm and participated on and off when his Zoom connection came through. Meff Runyon, Select Board Liaison, was not in attendance. Attending via Zoom were David Lyttle, Town Moderator, and Susan Chandler, resident. **This was a virtual meeting convened and recorded with remote participation via Zoom.**

**Public Comment:** David Lyttle said he thought the changes made to the wording of 2-1-3 (the Quorum section) were "spot on," and he was happy to answer any questions. Patricia Fallender thanked him and said that we had spoken with Town Counsel on the wording, but asked if he could explain again that if, for some reason, Town Meeting did not have a quorum and had to go to another day, and if there were not enough people to close the meeting, what would happen to the Articles previously voted on? Mr Lyttle responded that "It depends." He said that if someone challenged the quorum and there were 5 people who agreed, then the meeting would have to adjourn to a date certain and start all over from the beginning. He added that this was why he thought the zero quorum was so important and gave the example of how it almost happened at the recent Town Meeting at the ball field. He said that if someone challenged the quorum, he would immediately let the entire body know the consequences of the challenge-- and this was why making this change was significant.

Ms Lavin said that she had looked at "Town Meeting Time," the book often used in MA to find answers to such questions and had also had a text exchange with the "Ask the Librarian" at [www.mass.gov](http://www.mass.gov). Ms Lavin said that "Town Meeting Time" Chapter 12, Adjournment and Dissolution, and elsewhere made clear the distinction between those two words because people tend to use the word "adjournment" for both. She said that an "adjournment" was accurately used when it became late and a Moderator continued a meeting to the next day, as Orleans had done on a number of occasions, whereas "dissolution" was the accurate word to use if a quorum were lost; and in that case the whole Meeting would have to start from the beginning. Mr Lyttle said that this was "absolutely right."

Resident Susan Chandler stated that she had lived in Orleans for two years, had gone to 3 Town Meetings, and found something called a zero quorum very confusing. She said that her recommendation would be to split the Article in two parts so that there was a fair chance of the first part passing - to lower the quorum to 100, which seemed reasonable. She said that to her it sounded like the Town could have one person there, continue the business and all kinds of things could pass. Ms Chandler added that, as a regular person not as aware of Massachusetts General Laws and Town Meetings as the CRC, Mr Lyttle and others were who were more involved than she was, she would never have expected that if someone challenged the quorum and it was less than the quorum number, that all the previous articles voted would become void. She recommended having a second article to vote on the quorum becoming zero after Town Meeting had been called to order, so that the first part of a 100 quorum might pass. She stated that she did not think the result of a quorum challenge was a commonsense expectation. She said she understood what the CRC was trying to do, but that this point was not being made clear in the Article nor in the Rationale.

Mr Lyttle asked to respond and said that it is very confusing but noted that the important thing to recognize was that people came to Town Meeting because they were interested. He added that the Town creating a zero quorum after opening the Meeting was just a procedural thing. He said he had never had to go to a second meeting and start from the beginning and felt very fortunate that was the case. But he felt that a zero quorum

provided the Town with a mechanism to move forward in a smooth and orderly process to avoid this, given that Town Meeting could be a "mess!" He noted that his only job was to run it, adding that if he were at the podium and saw that there were only two people in the audience, which he said would never happen, he would adjourn before letting someone call a quorum count. He said that there were a lot of other ways to make a meeting go well, but that other towns' Town Meetings that had voted a zero quorum were working very well in that the disincentive was working, and people, who again really wanted to participate, were not getting up and leaving it to just a few others. He suggested that he and Ms Chandler could choose a better place to discuss this rather than at the CRC meeting, which he would be happy to do, and added that a lot of time had been spent researching this. Ms Chandler commented that she now understood why at one of the Town Meetings she recently attended there was this pleading not to leave which she thought was very odd, and that she now understood what the CRC was trying to do. She thanked the Committee and said that she had just come to explain how she felt the Draft Article as written would be perceived and had offered a suggestion, again noting that the Rationale as written does not explain it in a way that she thought people would be convinced to vote in favor of it. Mr Lyttle said that if it eventually were on the Warrant, he would do his best at the Town Meeting to explain it.

**Tracking sheet:** Robin Hubbard reported on the letter sent from Kevin Galligan that members had been forwarded thanking the CRC for its hard work and supporting the Draft Articles but suggested an amendment to Draft Article A to change the word "newspapers" to "news outlets." She reported on an email she sent late from Mary Mador which was far less complimentary, saying that the Town should go to a Mayor/City Council form of government and that the CRC had not achieved very much. Patricia Fallender said that she had also heard from someone wanting to incorporate terms limits, but she had responded to say that the Committee was preparing for its meeting with the Select Board on March 2<sup>nd</sup> on its proposed Draft Articles, but that it would let her know when it would be taken up.

**Resource Page:** Ms Lavin raised a question of procedure - whether it was necessary for all correspondence to be read into the Minutes and mentioned that Lynn Bruneau had followed up her comments at the Public Hearing with an email addressing what she had said and enclosed a spreadsheet. Mr Fuller responded that all correspondence received should be attached to today's Minutes. Ms Lavin said there was nothing for the Resource Page this week.

**Review Input from Public Hearing:** Mr Fuller asked the Committee about Mr Galligan's recommendation. It was moved by Ms Lavin, seconded by Maxine Minkoff to accept the recommendation from Kevin Galligan and change from "newspapers of general circulation" to "news outlets of general circulation" in each of the places where it appeared. Ms Fallender raised concerns about Massachusetts General Laws Chapter 40a which said that public hearings must be "in a newspaper of general circulation." She also referred to Chapter 4 Section 13 where she said that legal notices are required to be published in newspapers and electronically, including a statewide website to put them on, so that if something was published in a newspaper it was supposed to go on this statewide website.

Ms Minkoff asked if newspapers were not a form of a news outlet? Mr Berson said that we must first understand that this was about notice, and in terms of information, newspapers were traditionally the way to get information to the public other than the old habit of nailing it on a Town Hall door. He added that he thought Mr Galligan was trying to get more progressive, since newspapers were an ephemeral form of communication, but MGL still had places "stuck" with the use of the word "newspapers." Nonetheless, he said, many newspapers are becoming e-newspapers, including Newsweek, and suggested that instead of "news outlets," it could read, "*any publication which provides public and/or legal notice by any distributive channel.*" Members responded that they wanted to ensure that the Charter had language clear enough for "ordinary people," which "news outlets" did, that a newspaper fit into the definition of an "outlet" and Mr Berson added that the intent was to create an omnibus definition that looked both forward and back.

Ms Lavin said that a couple of meetings ago she had brought up the Attorney General's page where towns can sign up to use their websites as their primary public notice place – and that Orleans had been approved on their list since 2010. <https://www.mass.gov/service-details/official-notice-posting-locations-for-public-bodies>. She felt that this may be a situation where all MGL sections had not yet been updated, but she could not confirm that legal notices fit that definition. She said that she would still recommend changing the term to “news outlets,” and Mr Fuller agreed, saying that if this language were not changed, the Attorney General would not have the opportunity to give the Town a final ruling. Members raised further concerns about definitions. (Ms Minkoff left the meeting at 6:10 pm.) Mr North suggested “news outlets, including newspapers.” Members also discussed what was “news” – and the danger of vague terms not unlike the Charter's current use of “appropriate local media,” which Mr Berson said that he disliked as an example of words providing solid ambiguities. Ms Lavin remarked that this was what had led the Committee to change the Preamble's “customary and traditional liberties.” After further discussion of the differences between “legal” and “public” notices, the distinction was made between the CRC trying to craft a definition that accounted for more technology in the future and the notices relating to Zoning and Planning Board hearings, which must be crucially accurate, as Mr Berson said, to avoid any error that could cause a whole notice to be thrown out. Ms Hubbard noted again that the latter were different than Town Meeting notifications, and the term “news outlets” included radio, tv, papers. etc., all understandable by the general public. Ms Lavin commented that this was also why the Conservation Commission wanted to avoid a dispute over the meaning of “sit” for Associate Members and to add “and vote” to remove any ambiguity in 6-1-11. **The motion to change “newspapers” to “news outlets,” as moved and seconded above, was voted by roll call 4-0-1, with Mr Berson abstaining.**

Ms Lavin said that she had corrections to what Ms Bruneau had said at the Hearing and in the spreadsheet she had sent with her follow up email. Ms Lavin explained that Ms Bruneau's spreadsheet had mis-identified in the third column (Voters), calling them “the number of voters at the beginning of the meeting.” Ms Lavin said that the column “Voters” in the Annual Report “Doings” Ms Bruneau said she had taken them from were a count of the number of voting cards distributed at the Town Meeting from beginning to end by the Town Clerk. She added that the Town Moderator had clarified that Town Meeting can “adjourn” to a second night as a continuation of the first night, and Mr Fuller added that the only thing that cannot occur on the second night of an adjourned meeting would be a motion to reconsider a vote of the previous night (2-1-4); but if Town Meeting were to not reach a quorum on the second night, the previous night's articles would be invalid, and a new Warrant for Town Meeting would have to be drawn up with those articles and started over again.

Mr Berson questioned whether the Rationale should state that it was to avoid five people sabotaging the meeting rather than zero people being allowed to vote for the whole community - in other words so that five people could not throw a monkey wrench into the legislative process. Mr Fuller pointed out that having the Moderator, Select Board and others in attendance was a built-in safeguard. Ms Fallender asked if she could flesh out the Rationale to explain why the CRC was promoting a zero quorum a little better, and present it to Town Counsel, but noting that the Draft Articles packet needed to be amended and sent to the Select Board for the joint meeting on March 2nd before the CRC met again. Ms Lavin added that it was the Article rather than the Rationale that would be in the Warrant and the Summaries probably written by someone else – maybe Town Counsel's office.

Ms Hubbard suggested adding to section 2-1-4 to state that five people had to support a Quorum count by saying that a majority of those present would decide – or by changing the quorum number to twenty, recalling when at a long-ago Town Meeting protesting a noise ordinance, five people were found to vote to end the meeting. Ms Lavin noted that Town Counsel needed to let the Committee know if, with the changed language, 2-1-4 would become moot altogether. Mr Fuller determined that the CRC should go with what it had and see what the Select Board said. Ms Lavin and Ms Hubbard commented that maybe splitting the two sentences as Ms Chandler had recommended might make sense, since there were already two quorum sections currently in the Charter. Mr Fuller said that if the Committee needed to work on the wording a little more, there was time, and Ms Fallender added that the Select Board could decide to split them up as well; but she reminded the

Committee that it had been studied and reviewed with a lot with positive results, Town Counsel had helped with the wording, and she would rather go with what there is, making the Rationale clearer, which might be enough.

Ms Fallender and Mr Fuller reviewed the planning for the upcoming Select Board meeting, confirming that the wording would change from "newspapers" to "news outlets" in 4-2-1, 2-4-7 and 8-6-1, that Ms Lavin would get the corrected pdf copy for the Select Board packet to Mr Kelly, and that the CRC would use the same Power Point presentation corrected (in pdf) for the home audience. Ms Hubbard and Mia Baumgarten were both thanked by Ms Lavin for their help with the technology, and all agreed that they appreciated Mr Fuller's letter of thanks to John Kelly for Ms Baumgarten's assistance. Ms Baumgarten thanked the Committee and said that the new equipment may be online by Mar 2 in which case the joint meeting could be live, which would make the presentation on a big screen from the podium even easier.

**Future Agenda Items:**

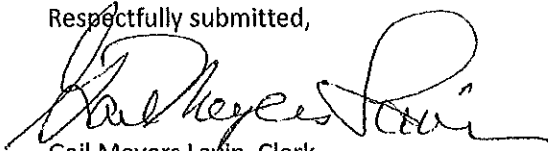
Mar 2<sup>nd</sup> WEDNESDAY: Joint Meeting with the Select Board, time to be decided

Mar 7<sup>th</sup> MONDAY: Review Select Board meeting and the Minutes of Feb. 7<sup>th</sup>, 11<sup>th</sup>, and 14<sup>th</sup>  
Recommendation regarding Term limits

Mar 21<sup>st</sup> MONDAY: Review of joint Select Board meeting and any action

**It was moved by Patricia Fallender, seconded by Gail Meyers Lavin, to adjourn the meeting and voted unanimously by roll call 6-0-0 at 6:42 pm.**

Respectfully submitted,



Gail Meyers Lavin, Clerk

The CRC – Select Board Meeting will be held in the Nauset Room or via Zoom on WEDNESDAY, March 2, 2022 at 6:30 pm.

The next CRC Meeting will be held as a hybrid or Zoom on MONDAY, March 7, 2022 at 5:30 pm.