

Principal  
ORLEANS TOWN CLERK  
Juniata Higgin  
2022.12.31 3:05pm

**CHARTER REVIEW COMMITTEE  
REVISED MINUTES**  
June 27, 2022  
Orleans Town Hall Nauset Room and by Zoom

Date approved  
7/11/22  
AS REVISED  
[Signature]

The meeting of June 27, 2022 was called to order at 5:30 pm by Vice-Chair Patricia Fallender. Confirmed present by roll call were Chair Jon Fuller; Clerk Gail Meyers Lavin, Mark Berson, and Robin Hubbard attended via Zoom; Maxine Minkoff in the Nauset Room with Ms Fallender. Walter North was unable to attend and Select Board Liaison Meff Runyon was not in attendance.

**The Minutes of June 6, 2022 were moved by Robin Hubbard, seconded by Jon Fuller, and after several revisions, passed unanimously by roll call 5-0-0.** Mark Berson joined the meeting at 5:34 pm.

**The Minutes of May 16, 2022 were moved by Gail Meyers Lavin, seconded by Mr Berson to re-vote to correct the numbers of ayes, which was unanimously approved by roll call to be 5-0-1.**

**Public Comment:** Susan Small, Gail Levy and Sharon Tracy O'Brien introduced themselves and said that they were formulating the Friends of Orleans Pickleball and were interested in the recreation and well-being of the citizens of the Town. Ms Small explained that they were there to suggest that the Recreation and Parks Departments be joined as a committee to get a better focus and a better match than the Department of Public Works where Recreation currently resides. Ms Levy said that there had been a commitment made by the Recreation Department last year that more and better pickleball courts would be ready by this year, but they were not, which was unfortunate because there was widespread interest in pickleball from all ages as well as other options, and Orleans was lagging behind several other towns as well as in numbers of options available to residents. They added that they wanted to increase more community memberships, and repeated that in general many other towns have more options than Orleans. When asked if they had spoken with the RAC, they replied that they had spoken with the Recreation Director, and Ms Levy explained that they had called but were told to call back, and her multiple phone calls had had no effect, so they thought they would try other ways. Patricia Fallender asked if they were involved with the Recreation Advisory Committee because that Committee had been working to increase pickleball and broader programming. They replied that they were not, except that Ms Small's husband was on the RAC, and Ms Small added that their focus was different - to change the organizational structure away from a Department of Public Works to a Parks and Recreation Department. Ms Fallender suggested again that they look to the Recreation Advisory Committee, thanked them, and said that she really appreciated their input.

**Tracking sheet:** Ms Fallender informed the Committee that she had had no responses from the Committee on the updated spreadsheet she had had sent before the last meeting and reminded members that one of the outstanding questions was whether all regulatory bodies should be in the Charter or not. She commented that some were in bylaws and others in the Charter. Ms Lavin reminded members that the Architectural Advisory Committee had been mentioned before and she thought it could be added as a future agenda item as one of the multi-member bodies to consider.

**Resource Page:** None

**Request to Town Counsel: Use of Town Manager title in upcoming motions and draft Articles:** Ms Fallender reviewed her phone discussion with Michael Ford and said that Town Counsel had advised that if the Attorney General allowed Article 64 of the May Town Meeting, the CRC should use the Town Manager title in its future language to avoid confusion. She then stated that the Town Clerk had just received the letter from the Attorney General finding no conflict "between the proposed amendment and the constitution and laws of the commonwealth."

It was moved by Ms Lavin, seconded by Ms Hubbard that, in view of the Attorney General's approval of Article 64 of the May 2022 Town Meeting to change the title of Town Administrator to Town Manager wherever it appears in the Charter, and on the basis of Town Council's advice, the Committee rescind the vote taken at the June 6<sup>th</sup> meeting regarding the title, and restore the Town Manager title everywhere it has been used in votes taken since the May 2022 Town Meeting. The vote was unanimous by roll call 6-0-0.

**Finalize Summer Meeting Schedule:** Mr Fuller advised the Committee that July 11<sup>th</sup>, 18<sup>th</sup> and tentatively the 25<sup>th</sup> were available by the Town for the CRC to meet, followed by the regular Aug 1<sup>st</sup> meeting, and that he would check on August 8<sup>th</sup>. He confirmed that the Select Board had announced the Special Town Meeting for October 17<sup>th</sup> and that the CRC had to work back from that date to fit in both the Public Hearing and a meeting with the Select Board before the Warrant goes to press. It was noted that the Public Hearing could take place on one of the CRC's Mondays this time. Mr Fuller also stated that it was necessary for the Committee to firm up which and how many articles it would want to bring forward probably by the end of July and he would check for a terminal date from the Town Manager. He said that he thought that the exact language would not be necessary immediately, but he would get the actual dates and report back. He said he thought the articles should be announced at the meeting with the Select Board after confirming the necessary dates, but the important thing was that if the work was done, the CRC would not have to meet every week.

**Mr Fuller: Attorney General's ruling:** Mr Fuller confirmed that he had received the June 21, 2022 Attorney General's letter stated that there was no conflict in any of the CRC articles and noted that the letter suggested the Committee should discuss several issues with Town Counsel. Ms Lavin suggested that, regarding a definition for "news outlet" in Article 53, it could be considered as an addition to the Chapter 1 definitions which would be on the agenda for July 11<sup>th</sup>. Ms Fallender agreed to include it in her discussion of moving Chapter 10 to Chapter 1. Mr Berson said that he had sent a draft definition in an email to Mr Fuller, which Mr Fuller said that he had only just received, and reminded Mr Berson that drafts to be discussed for later deliberation should be sent to all members, but asked him to read his suggestion to members:

*"A News Outlet is any entity which regularly provides, produces, and/or publishes notices, information, and stories to the public of Orleans, by way of newspapers, magazines, social media, internet, television, radio, or other broadcasting channels."*

Mr Fuller stated that if this was an acceptable definition, the Committee could vote it. Ms Minkoff said she did not think it should include Orleans, but Mr Berson responded that he thought it was important to include it to ensure that the news outlets chosen serviced Orleans. Ms Lavin and Ms Hubbard asked if the vote could be postponed until members had seen the text. Mr Fuller informed all that the Attorney General's letter was available from the Town Clerk for citizens to review.

**Mr Fuller: Final Review of Chapter VIII:** Ms Fallender introduced the Finance Committee members in the audience – Lynn Bruneau, Chair; Nicholas Athanassiou, Vice-Chair; and Elaine Baird and turned the meeting over to Mr Fuller, who said that the Committee had started to discuss their recommendations and then the Finance Director and Town Manager had had some comments, so the CRC did not really do a lot of overview at that time, and wanted to give them the opportunity to review their particular views on Chapter 8 again and the CRC would discuss them.

Lynn Bruneau opened by referring to the document she had sent in December on behalf of the Finance Committee and noted that 8-1-6 had already been voted upon by the CRC in January and at Town Meeting. She said that one of the suggestions had been to switch the population of the Finance Committee so that the current nine members would be reduced to seven members with two associate members. She told the CRC that the Select Board had been discussing, and the FinCom supported, the value of associate members because of the steep learning curve in several committees, of which the FinCom is one. She said that the use of associate members to be a training ground and being able to elevate them at an appropriate time was an effective practice. Ms Bruneau then read the following language recommended to replace Sections 8-1-1 and 8-1-2:

*"The Finance Committee, appointed by the Town Moderator, shall consist of seven regular members and two associate members appointed for three-year overlapping terms, arranged so that the terms of at least three*

*members shall expire at the end of the day on July 15<sup>th</sup> of each year, provided that no more than one associate member's term expires in any given year."*

Ms Bruneau explained that after the fiscal year ends on June 30<sup>th</sup>, there were another two weeks before the books were finally closed, during which time the Select Board and Finance Committee had some additional work to do to make any necessary budget adjustments. She said that the change would allow outgoing members on the Cttee to make informed decisions without having to worry about any "rookies" being decision-makers during the first weeks of their term.

Ms Hubbard asked if there would be an issue during the transition of the change from 9 to 7. Ms Bruneau said that because of the time it took before such a process would be finally approved, there would be time to manage the transition. There was a brief discussion about the quorum, which would become four members, and how Town Counsel had told all Town multi-member bodies to ensure that they avoided a quorum issue. Ms Bruneau described that the Finance Committee, for example, occasionally had two or three members meet, but instead of calling them a sub-committee, which Mr Ford had advised against, they called them "huddles." On the other hand, she said that the Finance Committee had not always been fully populated, so thanks to the COVID rules, they had been able to use Zoom to meet their quorum when necessary.

Mr Fuller stated that the proposed changes were two valid points and said that he would like to have the Committee discuss it but not vote it tonight. He said that it was necessary for there to be exact draft language to vote in the Charter article format. Ms Lavin mentioned the probable lack of need for 8-1-2, which she planned to review with the Committee at the next meeting and recommend its deletion. She also said that she believed that there was some language somewhere that stated that existing Committee members on all multi-member bodies stayed in place until the next person was sworn in. The change of date and end of term to July 15<sup>th</sup> or 16<sup>th</sup> was discussed with varying views of whether new members could wait to be sworn in until the retiring members work was completed. Members were not sure it needed to be in the Charter, but in any case, Mr Fuller reiterated that any suggested change needed to have Charter language drafted before it could be presented for a vote. Ms Fallender said that she thought it was a good move to re-organize in this way, and if Mr Fuller agreed, she would be happy to work with Ms Bruneau to draft the language.

Ms Bruneau read the Finance Committee's suggestion to remove the last part of the sentence of 8-1-4 since she had understood that the swearing-in was apparently going to be addressed by a consolidated article to be discussed at a later CRC meeting, in which case the last sentence as written could be deleted:

*8-1-4 "Any person appointed to fill out an unexpired term shall take up the duties immediately., ~~provided that the person first shall have been sworn to the faithful performance of the person's duties by the Town Clerk.~~*

She continued that although 8-1-6 had already been voted to remain unchanged, the Finance Committee would like to recommend moving it to the beginning of Chapter 8 to 8-1-1. She said that she recognized it would require a bit of re-numbering, but it made better logical sense.

**8-2 – Submission of Budget and Budget Message:** Ms Bruneau recalled to the CRC that the Finance Committee had studied a long list of materials, which had been cited in her cover email last year, and wanted the CRC to be aware that the words in red as shown were derived from other Charters, the Massachusetts Municipal Association and other sources, and read the sections as follows:

**"8-2-9** The budget message shall explain the budget both in fiscal terms and in terms of what specific projects are contemplated in the year ahead linking those projects to Select Board and departmental goals and Town priorities. It shall: (a) outline the proposed financial policies of the Town for the ensuing fiscal year and the impact of those policies on future years; (b) describe the important features of the budget; (c) indicate any major changes from the current year in financial policies, expenditures, and revenues, together with the reasons for such changes; (d) summarize the Town's debt position, including the ability to raise resources through the issuance of debt; and (e) include such other material as the Town Administrator may deem appropriate."

**8-2-10** The budget shall provide a complete financial plan for all Town funds and activities and shall be in such format as the Town Administrator, after consultation with the Finance Committee, may

suggest, provided that the format is compatible with the standards recommended by the Commonwealth's Director of Accounts and/or the State Association of Finance Committees. The budget shall indicate estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for both current operations and capital projects during the ensuing fiscal year, detailed by departments, offices, multi-member bodies, and specific purposes and projects."

Ms Bruneau commented that theoretically 8-2-10 states that the Town Manager should be "in consultation" with the Finance Committee, but in her tenure during which she was just finishing her sixth year, the FinCom had never been consulted. Therefore, she said that the FinCom recommended replacing the word "in" with "after." She noted that the additions to the last sentence were already there, but the FinCom thought that putting them in the Charter would ensure that they stayed there, could not get lost, and clarified the intent.

Mr Fuller remarked that he thought the language for 8-2-9 and 8-2-10 was already pretty close to what it needed to be, but he said it merited discussion, again asking for the draft language, to which Ms Bruneau responded that she felt that each of the changes had been presented them in that way.

**8-3-3** – Ms Bruneau said that this section had already been amended at the May Town Meeting, but said that the Finance Committee had hoped to add the phrase "at any time during the year" following the sentence:

*"In preparing its recommendations, the Committee may require the Town (Manager), any Town department, office, or multi-member body to furnish it with appropriate financial reports and budgetary information at any time during the year.*

She stated that the Committee did not want to be restricted to only the run up to Town Meeting and wanted access and information at any time during the year.

Members and Ms Bruneau discussed what reporting was or should be included in the Warrant, how it was determined, how to ensure it remained, and whether the decisions were more policy decisions. It was noted that the Town Meeting Bylaws were included in the Warrant and Ms Bruneau said that most of what was in the Warrant was in the Charter and vice versa. Mr Fuller commented that Town Counsel had advised the CRC not to get too specific in the Charter.

#### **§ 5 Capital Improvements Plan.**

Ms Bruneau said that in this section the Finance Committee was suggesting that it should have a lot more to do with the Capital Improvements Plan than currently, and made the following suggestions for amendment in red below:

*"8-5-1 Working with the Finance Committee and the Capital Planning Committee, the Town Administrator shall prepare a five-year Capital Improvements Plan (CIP) and an annual Capital Budget which shall be designed to deal with unmet long range needs of the Town and to implement the goals and objectives of both long-term capital planning efforts as well as the Orleans Comprehensive Plan as they may be amended from time to time. The CIP shall include land acquisitions, buildings and improvements, machinery and equipment, vehicles, and infrastructure including roads, water mains, storm drainage and other publicly owned utilities. The Board of Selectmen may establish more detailed policies relating to the refinement and implementation of both the long-term capital plan and the 5-year CIP."*

Mr Fuller remarked that he thought the CIP was the responsibility of the Town Manager not the FinCom.

**8-5-3** – Ms Bruneau explained that in addition to the language already there, the Finance Committee recommended adding the following as a general point, not just for the FinCom:

*"The CIP should also include commentary on how the plan addresses the sustainability of the Town and regional planning efforts, and it should also include methods to measure the outcomes and performance of the capital plan related to the long-term goals of the Town."*

Ms Lavin said that the Committee had been told that the Select Board and Town Manager were looking very carefully at extending the Plan for up to ten or fifteen years, which Ms Bruneau said she thought it would be

brought up this summer. Mr Berson expressed his concern about the perceived lack of cohesion between the Finance Committee and the Town Manager and would like to know how to fix it. Ms Bruneau answered that they were working on it separate from the Charter and Mr Fuller added that, as had been said before, it was all about cooperative communication – across all committees.

§ 8: 8-8-1 Ms Bruneau stated that the last issue was that there was not a requirement that the independent audit of the Town's finances be reported out to the Select Board, and the Finance Committee would like to recommend that it should be reported publicly in a joint meeting of the Select Board and Finance Committee. She said that the FinCom was pleased to have been invited this year to attend such a meeting and being present had enabled FinCom members to find several errors that had led to a revised audit report.

Mr Berson asked Ms Bruneau how often in her view the Finance Committee should meet with the Town Manager and Fiscal Director. She replied that she was highly envious of Eastham and Brewster in that Eastham's Town Administrator and Finance Director participated in every FinCom meeting and in Brewster they met with them regularly. She said she understood that it was pretty busy during budget seasons to expect them to meet – even monthly might be too much, but it would help to have at least quarterly meetings. She commented that the Finance Committee was eagerly awaiting online financial reporting, which had already been budgeted for, and which she hoped would be similar to what Chatham was already providing. She also said that although they receive monthly financial reports, there would be more information provided through the online reporting system. She noted that the FinCom asks to meet with the FD and TA in the runup to TM to better understand the Warrant articles. Mr Berson asked if the Moderator was part of this communication, but Ms Bruneau replied that he was not operationally. He asked what reasonable operative time might be enough to meet the Finance Committee's functions. She replied that it was not a question of time, instead an ease of communication that the Committee was looking for. Mr Fuller thanked the members for attending and said that it was important to move away from the past and forward to improved and better communication.

Chapter 9 – Ms Minkoff reported that she had not received any other feedback after last time and was not sure if the Committee had to take final votes at this meeting. She reviewed changing the order of titles in 9-1-3 and members went through the other votes taken with her - 9-2-4, 9-2-5, 9-2-6, and the change back from Town Administrator to Town Manager. The CRC noted that the only thing left to do for this Chapter was to develop definitions for physical, environmental and economic development for Chapter 1. Ms Lavin said she had researched a little and found that Orleans was part of the Cape Cod Commission Economic Development Plan process as one of fifteen members known as the Barnstable County Economic Development Council. She read out the definition of the organization's Mission, and said it might be useful to consider using part of it as a definition:

*“The BCEDC is an advisory board to Barnstable County established to guide economic development policy in a manner that will improve the quality of life for all, foster a healthy economy offering a range of employment opportunities at livable wages for year-round residents, and protect the region's natural and built assets today and in the future.”*

Ms Fallender again asked for members to send her any definitions in time for her to present Chapters 10 and 11 on July 11<sup>th</sup>.

**Code of Conduct:** After some confusion over section numbers, a final vote was taken on a previous draft as preliminarily voted on February 1, 2022. It was moved by Ms Lavin, seconded by Mr Berson to confirm the previous draft as preliminarily voted on Feb 1<sup>st</sup>, 2022.

**3-2-4 NEW SECTION The Select Board shall issue a Code of Conduct policy for all Town Officers, members of Multi-Member Bodies, and citizens as defined by law and/or regulation relating to the practices, procedures, and behavior for conducting Town business. It shall include, but not be limited to, the use of electronic mail or communication, internet, social media, and use of Town property or facilities.**

**The policy shall be reviewed annually by the Select Board at the beginning of each fiscal year, published on the Town website, and presented to Multi-Member Bodies in accordance with Section 6-1-4 of this Charter. It was voted unanimously by roll call 6-0-0.**

**Future Agenda Items:**

**July 11:**

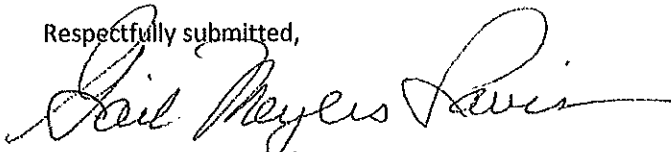
- a. **Ms Fallender:** Chapter 10 - Chapter 1 – Send her draft definitions for economic, environmental, physical, others and any others ahead of time.
- b. **Ms Lavin:** Review redundancies in 7-7-1, 6-1-8, 8-1-2 and consider consolidating.
- c. **Mr Berson:** **Vote on Town Manager**
- d. **Every other item to review**
- e. **Check on any other regulatory things that need to be in the Charter**
- f. **Mr Fuller will determine any other items to review**

Mr Fuller noted that the only things the Committee needed to address are the Town Manager’s qualifications, etc. and nothing to do with his/her actual job. Ms Fallender warned that the Committee needed to figure out how to present Chapter 4, mentioning re-numbering and other language related to other chapters.

Ms Lavin asked for clarification on where tonight’s guests thought Recreation should go. Mr Berson responded that the issue was that the pickleball court was under the Department of Public Works and was not being given the same level of priority as other department interests. There was discussion regarding what the CRC could do to help, whether in fact Recreation could practically go under the Park Commission which was the Select Board members with its other hat on to get out from under the DPW, which is what the Recreation Advisory Committee asked for over a year ago, or whether the guests were combining two separate things – paid department employees and volunteer multi-member bodies. It was noted that it was the Town Manager’s responsibility to consolidate departments and the Select Board’s responsibility to consolidate multi-member bodies if it chose to. Ms Hubbard stated that the CRC needed to get one or both groups back, and Mr Berson added that the residents were demonstrating a clear need, feeling like they were being short-changed, and the CRC had been hearing not only organizational frustrations but that other towns were serving their residents better than Orleans. Mr Fuller said that getting involved was something not in the Charter Review Committee’s purview. He added that the Town Manager should have a role in where each department lands, and a Town Manager was not going to let a committee meddle in the affairs of one of his/her departments.

**It was moved by Mr Fuller, seconded by Ms Hubbard, and voted unanimously by roll call 6-0-0 to adjourn the meeting at 6:58 pm.**

Respectfully submitted,



Gail Meyers Lavin, Clerk

The next CRC Meeting will be held in the Nauset Room and as a hybrid meeting (via Zoom) on MONDAY, July 11, 2022, at 5:30 pm.