

TOWN OF ORLEANS

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BOARD OF
SELECTMEN

TOWN
ADMINISTRATOR

To: Board of Selectmen
Finance Committee

cc: Town Counsel
Town Moderator

From: John F. Kelly, Town Administrator *JFK*

Re: Roles and Responsibilities of the Board of Selectmen, Town Administrator and Finance Committee

Date: July 27, 2010

This memo is a follow up to a recent meeting that I had with the Town Moderator, Chairman and Vice Chairman of the Finance Committee to discuss roles and responsibilities, communications, and the affect of the new Charter provision on the Finance Committee.

Outlined below for your information and review are the applicable sections of the Orleans Home Rule Charter that define the various roles and responsibilities of the Board of Selectmen, Town Administrator and Finance Committee; an analysis of the recent Charter amendment regarding the Finance Committee; and my findings and recommendations.

APPLICABLE CHARTER PROVISIONS

CHAPTER 3 BOARD OF SELECTMEN

Section 2 Policy Leadership

3-2-1 The Board shall serve as the Chief Executive goal-setting and policymaking agency of the Town. The Board shall cause the policies of the Town to be regularly published, and copies shall be made available to those requesting them.

3-2-2 In addition to the power of adopting policies for the Town, the Board shall have the power to enact rules and regulations establishing Town policies, not otherwise governed by general law, Charter, or By-law...

3-2-3 The Board shall issue policy statements setting the outer limits of possible budget expenditures, as provided in clause 8-2-5.

Section 3 Executive Powers

3-3-3 The Board shall cause the Charter, By-laws, and rules and regulations for the government of the Town to be enforced and shall cause an up-to-date record of all its official acts to be kept.

Section 4 Administration

3-4-1 The Board shall delegate the responsibility for the administration of the Town's business to the Town Administrator. As such, the Board shall not administer the day-to-day affairs of the Town.

Section 5 Powers in Intergovernmental Relations

3-5-1 The Board shall be responsible for the development and implementation of intermunicipal and regional cooperation with one or more other towns, civil divisions, subdivisions or agencies of the Commonwealth or the United States government.

CHAPTER 4 THE TOWN ADMINISTRATOR

Section 3 Duties

4-3-1 The Town Administrator shall be the chief administrative officer of the Town and shall be responsible for administering and coordinating all employees, activities and departments placed by general law, or Charter or By-law under the control of the Board of Selectmen or the Town Administrator.

4-3-2 ...The Town Administrator shall:

- b) Assemble, prepare and present to the Board of Selectmen all annual operating and capital budgets of the Town and be responsible for the development and annual revision of the capital improvements plan.

- c) Administer during the fiscal year the annual operating budget and capital outlay appropriations as voted by the Town to assure all such funds are expended or committed in accordance with General Laws, Charter, Bylaws, and the Town Meeting votes relating thereto.

Section 6 Responsibilities for Administrative Reorganization

4-6-1 With the approval of the Board of Selectmen, the Town Administrator may establish, reorganize, consolidate or abolish any department or position placed by this Charter under his or her direction and supervision, except as otherwise provided by General Law or this Charter.

CHAPTER 8 FINANCIAL PROVISIONS AND PROCEDURES

Section 1 Finance Committee

8-1-6 It is the responsibility of the Finance Committee to independently examine and analyze the Town's financial affairs, including proposed budgets, the Capital Improvements Plan, and all other proposals which would have a financial impact; and to inform the citizens of the Town of its findings and recommendations.

Section 2 Submission of Budget and Budget Message

8-2-6 On or before the first day of November of each year, the Board of Selectmen, after consulting with the Town Administrator, shall issue its policy statement relating to the budget for the ensuing fiscal year. The statement shall establish the general guidelines of the next budget for the Town, in accordance with the board's responsibility under section 3-2-3.

Section 3 Action on Proposed Budget

8-3-3 The Finance Committee shall issue printed recommendations on all articles having financial implications in the Finance Committee report within the warrant, by flier distributed on the floor of Town Meeting, or by announcement during Town Meeting. In preparing its recommendations, the Committee may require the Town Administrator, any town department, office, or multi-member body to furnish it with appropriate financial reports and budgetary information.

8-3-4 The Board of Selectmen shall be responsible for presenting the budget to the Town Meeting.

EFFECT OF CHARTER AMENDMENT – FINANCE COMMITTEE

With respect to the recent Charter change and the responsibility of the Finance Committee, I have reviewed the 2008 Annual Town Meeting Warrant where the following amendment language was presented and approved by the voters:

Article 47. Amend Home Rule Charter Chapter 8 Financial Provisions and Procedures, New 8-1-6 Finance Committee Responsibilities; Other Procedural Amendments

Add a new clause 8-1-6 as follows:

8-1-6 It is the responsibility of the Finance Committee to independently examine and analyze the Town's financial affairs, including proposed budgets, the Capital Improvements Plan, and all other proposals which would have a financial impact; and to inform the citizens of the Town of its findings and recommendations.

SUMMARY

This article adds clause 8-1-6 which explains the role of the Finance Committee and its responsibilities to the citizens. The other changes clarify Finance Committee and Board of Selectmen Joint Hearing responsibilities; the submittal of Budget and Capital Plans to the Board of Selectmen and Finance Committee; and the Capital Improvements Plan based on Board of Selectmen policy.

In addition to the warrant article, I also reviewed the Charter Review Committee (CRC) files and the CRC held a public hearing in January 2008 at which time the following information was presented concerning the intent of clause 8-1-6:

Proposed Amendments

- **CHAPTER 7: RECALL OF ELECTED OFFICERS**
 - 7.8 Simplify/Clarify Recall provisions
(No change in meaning)
- **CHAPTER 8: FINANCIAL PROVISIONS**
 - 8.1.6 Spells out FinCom responsibilities
(No change of prior intent)
 - 8.7.1 Add sentence to allow previous year CIP project a two-thirds vote if does not exceed estimated cost by more than 25%.

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Based on the information presented to the voters at town meeting and during the public hearing, it is clear that the CRC only intended clause 8-1-6 to be informative and not substantive and this interpretation is supported by both the article summary “...which explains the role of the Fin Com and its responsibilities to the citizens” and by the information presented at the public hearing “...Spells out Fin Com responsibilities (No change of prior intent)”.

As a result, the added phrase “to independently examine and analyze the Town’s financial affairs” does not extend beyond Fin Com’s prior responsibilities as outlined in the Charter which included a review of proposed budgets, the CIP, and all other proposals that have financial implications for reporting to the voters in the town meeting warrant.

FINDINGS AND RECOMMENDATIONS

In reviewing the above information in its entirety, the Finance Committee’s role and responsibilities under the Charter are limited to the following areas:

- Review of the proposed budgets (operating and capital)
- Review of the Capital Improvements Plan
- Review of proposals that have financial implication
- Report their recommendations to the voters at town meeting

Accordingly, until the FY12 budget process begins in September, or a revised CIP has been submitted for review by the Town Administrator, there should be nothing for the Fin Com to review at this time. However, it appears that the Fin Com is engaged in other areas based on a review of their June 10, 2010 meeting:

- Reviewed an outline for achieving a sustainable budget in FY12, including where members believe staffing levels and resources should be placed.
- Continued discussion on comparison of town’s organization to other towns including privatization in other towns.

- Planned review of all town capital project account balances with Finance Director.
- Planned review of Ambulance Reserve Account, including member concerns about collection rates, account balances, and future use of funds.
- Distributed a draft five page position paper “An Alternative to the 2012-2016 Capital Improvement Plan”.

The timing and subject matter of the recent Fin Com meeting needs to be balanced against the Charter defined roles and responsibilities of the Board of Selectmen and Town Administrator which include the following:

- Board of Selectmen is responsible for establishing the annual budget policy; initiating and developing intermunicipal agreements and regional cooperative efforts.
- Town Administrator is responsible for developing and administering annual operating budgets and capital outlay appropriations, revising the CIP, administering the town’s day to day business affairs and initiating administrative reorganizations.

Going forward it would be important for my office, outside of the traditional Fin Com areas of review as outlined above, to follow the previously established protocol and be contacted by the Chairman of the Finance Committee for requests involving either staff time or information.

In addition it would be my recommendation that, with the assistance of the Town Counsel and Town Moderator, we develop a Finance Committee Handbook that would be specific to Orleans that will serve as a guide for both new and existing members as to roles and responsibilities, timelines for undertaking and completing committee reviews, and procedures for obtaining information and interacting with the Town Administration and Department Managers. A guide of this type could be beneficial and helpful in fostering a positive working relationship that in the long run is in the best interest of the Town.

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MICHAEL D. FORD
JEFFREY M. FORD

July 27, 2010

John Kelly
Town Administrator
Town of Orleans Town Hall
19 School Road
Orleans, MA 02653

Re: Home Rule Charter Change – Finance Committee, Section 8.1.6

Dear Mr. Kelly:

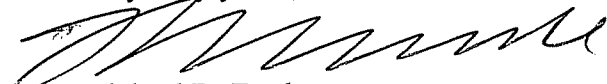
I have read your synopsis of the most recent change to the Orleans Home Rule Charter, specifically the addition in Clause 8-1-6, of the phrase, “to independently examine and analyze the Town’s financial affairs” relating to the responsibilities of the Finance Committee.

I agree with your conclusion that the addition of that phrase did not expand the Finance Committee’s prior responsibilities under the Home Rule Charter, but merely was offered to clarify the same.

I note also that GL, ch. 39, §16, which provides in pertinent that finance committees “...shall consider any and all municipal questions for the purpose of making reports or recommendations to the town.” Section 16 further provides that, in every town having a finance committee appointed under Section 16, such committee or the selectmen shall submit a budget at the annual town meeting. In Orleans the voters have chosen, under the Home Rule Charter, to bestow the responsibility for preparation of the annual budget to the Board of Selectmen, which sets budget policy, and the Town Administrator, who is responsible for developing and administering the budget and capital outlay plan. Accordingly, Section 16, which confers statutory authority on the finance committees to submit a budget, does not have application in the case of Orleans.

If you have any further questions in this regard, please do not hesitate to contact me.

Very truly yours,



Michael D. Ford

cc: Board of Selectmen