

**CHARTER REVISION ADVISORY COMMITTEE
REGULAR MEETING
October 10, 2023, at 5:30 pm
Charlestown Town Hall Council Chambers**

FINAL MINUTES

1. Call to Order

The meeting was called to order at 5:30 p.m.

2. Roll Call

Catherine Graziano - Present
Margaret Hogan – Absent
Annee Mulhall – Present
Lorna Persson – Present
Laura Rom - Present
Evelyn Smith – Arrived 5:42 p.m.
Rosemary Sullivan - Present

Amy Weinreich, Town Clerk - Present
Jeffrey Allen, Town Administrator - Present
Deborah Carney, Council Liaison – Present
Peter Ruggiero, Town Solicitor - Present
Shirell Perry, Committee Clerk – Present

3. Discussion and potential action concerning the approval of prior meeting(s) minutes:

a. September 12, 2023

Request from Catherine Graziano to amend Section 5c, second paragraph, first sentence to read:

“Ms. Graziano pointed out that the Amendments relating to Education and Elections might be subject to mandatory ratification or at least review by the General Assembly.”

Motion made to approve the minutes as amended by Laura Rom, seconded by Lorna Persson and approved unanimously.

4. Update, Discussion, and Potential Action regarding Action Items from previous meetings:

a. Amend list to track Committee approved changes to the Charter to include a “Reject/Approve” column – Ms. Hogan

Motion to table this Agenda item until the next meeting when Ms. Hogan is able to attend made by Anne Mulhall and seconded by Laura Rom and approved unanimously.

b. Historic Charter ballot questions and results – Atty. Ruggiero

Ms. Graziano explained that this item had come up because the Committee had been looking at all of the Charter changes over the years and what the implications of those changes were and whether they would need General Assembly approval.

Attorney Ruggiero stated that he had distributed the Home Rule Provision from the Rhode Island Constitution. He pointed out the process of the Adoption of a Charter and an Amendment of a Charter and gave a brief history of how this came to be: Prior to 1951 this state operated under what's called Dillon's Rule, which meant municipalities had no authority. They existed literally at the behest of the General Assembly. So any time a municipality wanted to do anything, they needed to get permission from the General Assembly. In 1951 the first Home Rule provision was made in the Rhode Island Constitution. So after 1951 there was some release of the General Assembly's stranglehold on municipalities and that continued until 1986. The document distributed was from the Constitutional Convention of 1986 that modified Home Rule from the 1951 version. He noted that the 1986 amendment was important because Charlestown made a few amendments to the Charter before 1986 and a few amendments after 1986. It was quite common all the time before 1951 that if a community wanted to do anything, they would get a public law. Some municipalities had a legislative charter, some had no charters. Today every town but Situate has a Town Charter. Everything they do is a Public Law, adopted by the General Assembly. Warwick has a Legislative Charter, they do not have a Home Rule Charter. If they want to change anything, they have to go back to the General Assembly. He noted that these are all nuances of municipal law which makes it difficult as a Commission to know what needs to be done. He also noted that after 1986, any Charter amendment that was made through the required process, a question submitted to the voters at an election passed by a majority, becomes the local law. He noted that these amendments don't need ratification by the General Assembly, because in 1980, the first charter was ratified. He stated that there was a particular nuance with the recent Purcell case in the way this constitutional amendment works is the State of Rhode Island allows municipalities to do two things without any oversight from the General Assembly, choose your form of Government and legislate on local matters. He explained that the Supreme Court has ruled that education is a state function, not a local matter, and anything that a municipality does in that area has to be done with the approval of the General Assembly. Every locality, every school committee, is an agent of the state and anything involving them has to be approved by the General Assembly, so there is a whole line of cases that address that issue. Ms. Carney mentioned that twenty years ago, the voters approved adding the Charlestown School Committee to the Charter, although the withdrawal from Charlestown didn't occur. Atty. Ruggiero stated that if Charlestown should ever decide to do that, the Town should get a General Law to reinforce it. He addressed the idea of getting all Charter amendments ratified, even though it is not necessary; he suggested that if the Town were to send amendments to the General Assembly and they were not ratified, it would create legal uncertainty about what was approved by the voters. He stated that his review of the Charter Amendments that were passed was done correctly. So, they are all legally binding. Ms. Graziano stated that changing Council terms was a local issue; however the form of voting may be a state issue; Atty. Ruggiero stated that it was his opinion that changing Council terms was a local matter. Ms. Graziano inquired about Charter sections addressing the form of voting; Attorney Ruggiero stated that since the Charter is addressing the Financial Town Referendum which was approved through a Charter amendment, it was a local matter.

Atty. Ruggiero noted that he also distributed model questions to provide an illustration of what the questions could look like. He suggested that a backup document could be created with the underline and strike out of the specific Charter questions to show how the language changes would occur. Ms. Carney suggested that the description of the Charter questions could be included in the Pipeline. Ms. Smith suggested having the full language posted at the polling place. Atty. Ruggiero offered to work with the Committee to help draft the questions however the Committee wanted to present them at the public hearing. Discussion ensued concerning the timing of the public hearings relative to the deadline for local questions to be submitted for ballot placement.

Atty. Ruggiero suggested that in an area that's questionable, the Town could pursue a public law. The Council would have to pass a resolution requesting the General Assembly delegation to pass special legislation. The Town could then have a referendum vote on the passage of that legislation, to validate that the community is in favor.

Atty. Ruggiero suggested that the Committee keep a running list of Charter amendment questions without voting on it. He could work with Ms. Weinreich to draft questions based on the list. The Committee consented to this method of action.

c. Draft proposed language for C-18, Public Highways not owned in fee simple absolute – Ms. Hogan

Motion to table this Agenda item until the next meeting when Ms. Hogan is able to attend was made by Ms. Smith, seconded by Ms. Persson and approved unanimously.

d. Research Financial Town Meeting statutes as to their applicability to Charlestown – Ms. Graziano

Ms. Graziano noted this item pertained to the previous discussion concerning Financial Town Meeting statutes. Atty. Ruggiero suggested that the Committee draft proposed language. The Committee consented that Ms. Graziano would be drafting the language. Ms. Graziano asked that the chart drafted by Ms. Hogan concerning the Committee's work to date be forwarded to her and Atty. Ruggiero in Word.

5. Discussion and potential action of the Charter and any further proposed additions/changes/revisions

a. Proposed amendments concerning Term limits and term lengths for elected Town officials (C-19) (C-172)

Atty. Ruggiero confirmed that this matter should be addressed separately from the Planning Commission's term. He cautioned against posing questions on the ballot that would be in conflict with each other.

The Committee discussed the mechanics of implementing staggered terms. Ms. Graziano requested that Atty. Ruggiero draft some language concerning this matter for consideration by the Committee.

Concerning the Planning Commission, Atty. Ruggiero suggested that the ballot question could ask if the Commission should continue as elected or if they should be appointed. He stated that the staggered terms should be addressed in a separate question.

6. Review, discussion, and potential action concerning charter sections C-1 through C-209, as needed.

Mr. Allen expressed the Police Chief's concern that the Charter(C-151) did not specify who the Animal Control Officer should report to administratively. He noted that the ACO has an enforcement component, could issue citations, and send people to court; he also noted that the Officer reported to the Police Department for budget purposes and to request purchase orders. Mr. Allen proposed the addition of the following language:

The Animal Control Officer shall report functionally and administratively to the Chief of Police.

The Committee discussed details of the Officer's duties and employment contract.

Ms. Graziano suggested that C-151 be amended as follows:

A. There shall be an Animal Control Officer appointed by the Administrator, who shall report functionally and administratively to the Chief of Police.

Ms. Graziano noted that the Charter contained requirements for the Probate Judge, but not for the Municipal Court Judge.

Action: Ms. Graziano will draft language for consideration at the next meeting to add a provision in the Charter for the Municipal Court, potentially in the same section as the Probate Court.

Ms. Graziano noted that she and Ms. Mulhall had talked very briefly concerning an office or job duties to deal with senior services. The Committee discussed the existence of the Public Service Director and the Senior Center Director and their potential overlap in addressing this matter. (See ARTICLE XLIV – Department of Public Assistance – C-155 and C-156)

Ms. Mullhall requested language that was elderly specific, perhaps as a liaison to the office on Healthy Aging, as a local contact person. Mr. Allen stated that he would look into the responsibilities of the Senior Center Director; he noted that she was currently part-time and there was discussion about making her full-time.

It was noted that the next meeting would be held on November 14, 2023.

Action: Ms. Graziano to email Atty. Ruggiero a reminder/request to attend.

7. Public Comment - None.

8. Adjournment

Motion made by Evelyn Smith, seconded by Laura Rom, and approved unanimously to adjourn. Adjournment took place at 6:49 p.m.

ATTEST:

Shirell G. Perry, Committee Clerk