

Town of York ~ Charter Commission

Meeting Minutes ~ November 16, 2010

York Public Library

Present: Kinley Gregg, Helen Rollins Lord, Torbert MacDonald, David Marshall,
Leon Moulton, Peter Smith, Wendy Starkey

Absent: Mike Quinn

- Chairman Dave Marshall called the meeting to order at 7:06 p.m.
- Dave welcomed the following members of the York Budget Committee (BC) who attended in order to share their concerns and ideas related to our current charter.
 - ~ Charles Steedman (Charley)
 - ~ Robert Palmer
 - ~ Jonathan Speers (Jon)
 - ~ Dawn Sevigney Watson
 - ~ Fred Weston
- Charley pointed out that the first time he spoke to us his intent was to clarify some misconceptions about the power of the BC vis-à-vis the selectmen, for example. He is happy that the rest of his committee was invited tonight so that they will have a chance to express their thoughts about how the charter affects their work.
- Robert said he believes it's very important to preserve transparency in government and the fact that not only does the BC review all of the budget figures, but department heads come before them in public meetings to explain their budgeting rationale. If the BC didn't exist, he doesn't think anyone else would fulfill that role. He also believes that the BC's activities help to inhibit growth in spending. Department heads have to justify their budgets to the committee, knowing that the public is watching them on TV. This provides an extra layer of oversight.
- Dawn pointed out that, in addition to the exhaustive review of every department's budgets during budget setting season, the BC also assigns liaisons from their committee that meet with each department head monthly to review the ongoing status of their spending against budget and to understand any concerns that might exist relative to the upcoming budget year (new contracts, etc.) Each BC member submits their liaison report, along with any supporting material provided by department heads, during each regular monthly BC meeting.
- Kinley commented that, as a selectman, she was unaware of the monthly liaison reports and would have liked to have the chance to review them at that time.

- Jon stated that he thinks it's a good idea to have as many eyes as possible looking over a budget. The Board of Selectmen (BOS) has a lot on its plate beside budget numbers. He doesn't think it hurts to have a group of seven people elected by the legislative body whose sole purpose it is to provide budgeting oversight.
- Fred shared his understanding from various prior discussions that one of the primary reasons the BOS wanted to form a charter commission was to eliminate the Budget Committee. If that is the case....why? What is the problem?
- Dave answered that the idea that this commission's purpose is to get rid of the BC is definitely an overreaching thought. When the BOS visited us, we asked them directly "what was your motivation in putting the Charter Commission question to the voters?" They answered that their overriding concern was the "angst" towards the BOS that seems to be written into the current charter. As for our commission, we're looking to develop a better balanced charter.
- Wendy said "she's hoping that what the selectmen want and what they get are two different things."
- Dave pointed out that he was appointed by the BOS and no one ever gave him marching orders of any kind. Other members of the commission indicated that they also had no pre-conceived intention to eliminate the BC.
- Torbert stated his concern that the structure of the charter does provide potential for the BC to set a budget figure that isn't anywhere near what anyone else wants. The charter states... "the BC may increase or decrease any proposed amounts" without limit. That's the kind of issue that needs to be addressed and corrected. The function you perform is an excellent one and he doesn't think any one of us intends to take away the scrutiny and guidance that you provide.
- Fred asked "given that, what type of information are you looking for from the BC?"
- Pete responded that he would like to know what concerns they have about the current charter.... how does it affect the work they do?... what's not working?... is there anything missing that would make their job better or easier?
- Dawn pointed out that recent changes in state law have significantly reduced the BC's role as related to the school budget. They now act as external advisors to the school administration, but no longer have authority to raise or lower any line school budget line item. At first she was extremely concerned (as a parent), but now realizes that we are fortunate in our town to have people in the school administration of high integrity.
- Charley commented that he has no serious problem with the change to school budget process. During his three years on the BC, they never changed a single number on the school budget. It is very thoroughly and carefully prepared.
- Torbert asked for a reprise of Charley's comments from previous meeting.
Charley answered from his notes – (see *Meeting Minutes of September 7, 2010, Page 1*)

- Charley responded to Torbert’s comment about special budget referenda, where the charter says you can have one if there is a need for emergency funding. In this section it says the BC can approve or disapprove the subject matter of the special referenda, and if it disapproves “the selectmen shall take no further action.” He agrees with Torbert that this wording is pretty drastic and needs to be corrected.
- Charley offered the following thoughts in response to Pete’s earlier questions of “what doesn’t work?...etc. for the BC:
 - ~ Voters complain that the ballot is too long and that you don’t have any real choice (can’t go back to zero).
 - ~ A few zero alternatives do exist, but not for operational or salary expenses, only for such things as new equipment (snowplow, fire truck).
 - ~ If the zero option didn’t exist, once an equipment item is voted in, there would be a perverse motivation for the department head to put in the same expense item the following year. Even if it gets voted down, the department would still get the budget amount from the previous year.
 - ~ The budget format (charter – Section 7, page 5 / Section 26, page 17) contributes to making the ballot too long. The BC should sit down with the Town Manager to try to reduce the length by combining things.
- Dave invited the members of the BC to offer any solutions to these issues and to recommend changes to the charter that would make the town run better.
- Helen suggested that a number of departments in town have “gamed” the system. She believes that when things are combined it reduces transparency. The voters may not know exactly what they are voting on.
- Torbert – the question should be “how can you give voters a fair opportunity to evaluate operating performance of a department, and reward or punish it?” When you have an operating budget combined with enterprise funding it presents potential problems. He doesn’t like the idea of an “enterprise” form of funding within a department. When actual enterprise fees are less than planned, then you are in trouble. The ultimate question is “how do you properly fund a government function?”
- Dawn – (addressing Helen’s comment about voters not knowing what they are voting on) I believe that lack of public comment reflects an affirmation of our work.
- Dave – if voters care to, there are more than enough opportunities to learn what’s going on in town.
- Torbert – we should have a town meeting (plenary session) after all the budget work is done to expose decisions that have been made to everyone. This meeting should occur about two weeks before election and then replayed on TV for those who can’t attend, so everyone can have a chance to be fully informed about the ballot items.
- Fred – a key tool for voters is the preference vote. Even though the school budget appears as one warrant item, I think the warrant should indicate what the BC preference vote was for each of the 11 items on the school budget. It struck me was that not a single question was asked about the 11 items at the school budget town meeting.

- Robert – the process we have now is transparent. If there are powers in the charter that we don't use, I would not be concerned if they go away. Voters depend primarily on the preference vote. I think the reason people don't come out to our committee meetings is they are generally happy with our work.
- Leon – I think the BC and the charter process work well. Power doesn't go away, it just goes somewhere else. If you take some of the powers of the BC away, it won't work properly. In the 19 years that I've watched the system work under the current charter, the BC has not done anything improper.
- Torbert – I respectfully disagree. The voters have no choice if zero isn't an option. I don't see a problem if the voters were to be presented with a BC number, a BOS number, and zero. The voters need to be able to say "no." That won't mean an end to government. Fix the problems and come back with a special election if need be.
- Fred – I'm a big believer in best practices and not reinventing the wheel. We should look at what other towns do. Perhaps there could be a system wherein the BC and the BOS get together to agree on each item.
- Dawn – how do you decide what are critical services that can't be zeroed out and those that can be zeroed out? Dave – we have the same question.
- Torbert – The people decide. The people are sovereign. The charter as it is presents grounds for armed revolution.
- Robert – no one comes to our meetings. If people really cared, they would come to our meetings.
- Torbert – People are unwilling to be punished in the court of public opinion. That's why we have a secret ballot. The right to say no is a requirement of democracy.
- Torbert – the Capital Planning Committee was formed by the BOS so that they could be involved in putting capital items forward rather than leaving all of the authority to the Town Manager as defined by the charter. It is not a "chartered" organization. It's informal and basically a covert operation. The BOS isn't particularly interested in operational budget issues. They just want to be able to put forward capital items with their price tag on them.
- Charley – regarding Helen's question of transparency – before I joined the budget committee, I wondered about the inner workings of the town. After 3 years on the budget committee, I'm greatly assured that there is more than adequate transparency. The charter gives the BC authority to gather enough information to manage the budget. We have all the power we need. Perhaps we should dig deeper into the enterprise accounts and special revenue accounts. If we do our job, then there is adequate transparency.
- Helen asked about social service budget items that allow zero budget decisions. Several members of the BC responded that they thought the current practice was appropriate given that these budgets are not actually part of town operations, but rather they are conveniences that allow voters to approve donations to service agencies from accumulated tax revenue.

Torbert – regarding the issue of transferring money between line item accounts. My understanding is that state law prohibits doing so. A recent example is a where money for a York Beach drainage project was transferred to another York Beach drainage project (account). The town attorney ruled that it was appropriate because they were both impacting York Beach. In my opinion, that’s totally illegal. How would the BC deal with that?

Fred answered that he would defer to state law.

Kinley noted that most towns allow transfers within a specific controlled process.

Jon pointed out that Ogunquit has a provision to transfer between accounts.

- Robert – I believe that the charter doesn’t allow money to be transferred between warrant articles, but can be moved within a given warrant article. I like that constraint, but I think the creative part is how you lump things together within a warrant article.
- Dave – We have created a very inflexible system. I wish we could come up with a way to provide some flexibility, so that when town department heads put together their budget, they won’t feel forced to come up with a number that they absolutely know they won’t go over. The current method doesn’t build in any incentive to be more efficient because it’s illegal in this town to run over budget. I wish there was some mechanism that would provide “fail-safe” relief for a department budget that had been prudently set but then exceeded for a “reasonable” reason.
- Torbert – we had an example of this need during a recent flooding emergency when operational budgets were “ransacked” on the premise of future FEMA reimbursement. Technically, there is no ability according to the charter to access emergency funds beyond the “contingency fund” which is somewhat limited.
- Robert – regarding transparency, I think it would be helpful for voters to be able to see some of the documents that we use in support of our deliberations. It was suggested that something might be accomplished using the town site.
- Dave thanked the BC members for their attendance and active participation and then moved the meeting to discuss current commission work activity. In particular, he expressed his appreciation for the effort that Kinley put into “rearranging” our current charter document and “inserting” information from other charters and state statutes for us to consider. ****see attached proposed outline below**
- The group discussed next steps, alternative approaches, potential for extension of our schedule, potential for sub-committees, meeting frequency, identification of threshold issues and development of a “work plan” based on the desired direction that results from decisions on the issues listed at the beginning of this sentence.
- Next meeting scheduled for Tuesday, November 23rd in the Town Meeting Room.
- Meeting adjourned at 9:24pm.

Respectfully submitted,

Peter Smith, Secretary

I. Grants of Powers to the Town

Boilerplate. I haven't looked into whether the boilerplate needs to be updated or adjusted.

II. Town Meetings

I removed everything related to budget preparation to a separate article, leaving only the "when" and "why" of referenda under this heading.

III. Board of Selectmen

I have spliced in enumerations of power from several other towns as a starting point.

IV. Budget Committee

Provisions relocated from the Town Meetings article of our current Charter. I have also spliced in the land management statute cited by both Torbert and Steve Burns in relation to capital planning. Obviously content will provide much fodder for future agendas.

School Board

I've included statute on the filling of School Board vacancies, because that came up as a concern. It's merely an FYI, as we don't have to follow the state dictates.

VI. Administrative Organization

Addresses Town Manager, appointed boards and committees, that sort of thing.

VII. Nominations & Elections

This should be boilerplate, but it's not. Needs work.

VIII Petition & Recall

Garbled and inconsistent in our current Charter. I have included statute and a lengthy excerpt from town of Poland that seems to cover all the bases.

IX. General Provisions

Haven't touched. This is where ethics would be addressed, which I know is of interest.

X. Transitional Provisions

The end. Boilerplate, I presume.

??? Ordinances in General

And then, the orphan of reorganization – ordinances. The subject is presently treated in the Town Meetings article, and after I pulled out the much more voluminous financial provisions, wasn't sure what to do with ordinances. Perhaps it belongs in Administrative Organization, but as Torbert had brought up the subject as needing attention, I thought I'd just leave it marooned until the Commission had discussed and come to some consensus on the subject. Maybe clarification on the process of ordinance creation will lend clarity to where it belongs in the Charter.