

ORLEANS TOWN CLERK
23 MAR 21 8:34 AM

**CHARTER REVIEW COMMITTEE
MINUTES**

February 6, 2023

Orleans Town Hall Nauset Room and by Zoom

Date approved:
Feb 27, 2023
3/20/23
[Signature]

Chair Jon Fuller called the Charter Review Committee to order at 5:30 pm. Vice-Chair Patricia Fallender and Members Mark Berson, Robin Hubbard, and Walter North were present. Clerk Gail Meyers Lavin and Select Board Liaison Michael Herman were present via Zoom. Maxine Minkoff was unable to attend.

The Minutes of January 30, 2023 as revised were moved by Robin Hubbard, seconded by Patricia Fallender, and voted unanimously by roll call 6-0-0.

Public Comment: None

Tracking Sheet: Patricia Fallender said that she had updated the spreadsheet to add the recommendations for the CPC, the insertions of positions in Chapter 4, and the addition of another Town Constable, and sent a copy to members and to Mia Baumgarten to add to the website. She also requested that the CRC agree by consensus to remove the earlier spreadsheets since this final one included all the previous suggestions received.

Resource Folder: Gail Meyers Lavin said she had added Maxine Minkoff's documents on multi-member bodies that the CRC had forwarded to the Select Board at the end of 2021 and would like permission to put up the Public Hearing notice once it is posted and the Draft Articles after voted tonight with the Rationales.

Mr Fuller asked if any members had read through the Model Charter that Mr White had sent, which had apparently only been sent to him; he said that he would forward it to the group.

DRAFT ARTICLES A, B and C FOR TOWN MEETING:

Draft Article A: Ms Lavin explained that she had sent members a corrected draft Article A, confirming all the "by" changes to "of" as reflected in the original statute language. Ms Fallender added that she and Ms Lavin had also moved the term "serving three-year overlapping terms" in the first line and moving it to the second line after "Select Board," to make clear that it is only the Select Board appointments that are for three-year terms, not the multi-member body appointments, as follows:

"6-11-1: A Community Preservation Committee of nine members ~~serving three-year overlapping terms~~ shall be appointed as follows: three members by the Select Board, serving three-year overlapping terms; one member ~~by of~~ of the Park Commissioners as designated annually by the Park Commissioners; one member ~~by of~~ of the Planning Board as designated annually by the Planning Board; one member ~~by of~~ of the Conservation Commission as designated annually by the Conservation Commission; one member ~~by of~~ of the Historical Commission as designated annually by the Historical Commission; one member ~~by of~~ of the Housing Authority as designated annually by the Housing Authority; and one member ~~by of~~ of the Open Space Committee as designated annually by the Open Space Committee. [Amended 5-13-2019 ATM, Art. 59, approved 6-23-2020 Annual Town Election, Question 5].

Summary: *The amendment would clean up and update existing language to make this section more consistent with the bylaw enacted when the Town accepted General Law Chapter 44B, §§ 3 through 7 at Town Meeting and the subsequent Ballot to establish the Community Preservation Committee in 2001.*

It was moved by Walter North, seconded by Mark Berson to make the changes proposed for Amendment A, which was passed unanimously 6-0-0.

Draft Article B: Ms Lavin reviewed the language of 4-4-1 and the draft Summary as follows:

"4-4-1: Subject to the approval of the Select Board, the Town Manager shall appoint and, on the basis of merit and fitness alone, and except as otherwise is provided by general law, Charter, or personnel By-laws, may suspend or remove: a Town Clerk, ~~who need not be a Town resident~~; a Town Treasurer/Collector; a full-time professional Assessor who shall not be a member of the Board of Assessors; a Director of Planning and Community Development; a Conservation Agent who shall not be a member of the Conservation Commission;

and a Director of Public Works and Natural Resources. The Town Manager may also appoint other positions, subject to the availability of funds.

SUMMARY: *This amendment would delete the requirement for the Town Clerk to be a resident since, due to a Special Act passed by the State Legislature, the requirement is no longer needed. It would also update the title of a position and insert two existing positions omitted from the current version of the Charter."*

It was moved by Ms Fallender, seconded by Robin Hubbard to make the changes proposed for Draft Article B as read and approve the Summary, and was passed unanimously 6-0-0.

Draft Article C: Ms Lavin said that she had checked with the Town Clerk on the rationale for requesting a third Constable in the Summary, which she read with the article:

"5-10-1: There shall be ~~two~~ three Constables. Constables shall be elected to terms of three years.

Summary: *The amendment would provide a third Town Constable to be available when needed to spread the workload and to ensure that there can be two Constables present at the Town's Elections at any given time."*

It was moved by Mr Berson, seconded by Mr North, to increase the number of Constables from two to three and to approve the language and Summary as read, and passed unanimously 6-0-0.

Town Counsel: Ms Lavin reported that she had not received any comments yet, but he has confirmed he had received the revised copy she sent. She suggested that, since the Committee would not meet again until the Public Hearing, if Mr Ford emailed with any problems on the Articles, a quick vote could be taken at the beginning of the meeting as had been done at a previous Public Hearing last year.

Public Hearing Notice: Mr Fuller asked for a motion to approve the Public Hearing Notice he had forwarded to Molly Evans and the Power Point of the Draft Articles that Ms Lavin had forwarded before the meeting. **It was moved by Ms Fallender, seconded by Ms Hubbard to approve the Public Hearing Notice, the Draft Articles and the Summaries as read, and passed unanimously 6-0-0.** Ms Lavin asked, now that the articles have been approved, for consensus to put the Draft Articles on the webpage and an announcement on the calendar and on the website, which was agreed.

Future Agenda Items - Discussion:

2/27/23 Monday: Public Hearing on Draft Articles for Town Meeting

3/1/23 Wednesday, Mar 1: Meet with Select Board on the three Draft Articles. Use PowerPoint to present.

3/6/23 Monday: Decide on how to ask the Chronicle to do an updated CRC article. Also develop PR for Ballot questions. Talk about Final Report and Ms Fallender being on the report team. Think about what should be in final report. Ms Lavin suggested that one way to think about it would be to use the Charge, and structure the comments and recommendations through those 1-9 items. Reminder to include recommendation for no 3-year term! Mr Fuller asked each member to send something to Ms Lavin to compile for review on March 6. Mr North suggested a draft table of contents and noted that the Committee had already told the Select Board what the Committee thought, but it should be written down. Members mentioned that in the Final Report there should be a compilation of the CRC's work, successes and difficulties, and recommendations.

Mr Fuller commented that some of the time when the CRC was doing its work, it got siloed, had had a couple of surprises, frankly did not get a lot of support from the Select Board on proposed articles for Town Meeting, and found that a bit of a drawback. He felt that the quick change of a consultant from one job to another without notice last August was inconsiderate. He added that he particularly liked the Search Committee consultant's answer to the CRC when asked how he was going to move the Select Board along with him, and he made it quite clear that part of his job was to do precisely that, which can only be beneficial to the Town going into the future.

Members again reviewed the difficulties experienced at the October Special Town Meeting and the disappointment all expressed that Town Counsel did not get up to address the claim of unconstitutionality made by a member of the Finance Committee of the Code of Conduct to enable the Select Board to develop a policy for one when the that committee itself had developed its own.

Mr Fuller stated that the Committee took its job very seriously, had a lot of meetings, did a lot of research, and made the Minutes available so quickly that anyone who wanted to find out what the CRC was doing could find out right away.

Ms Fallender added that she would like to encourage anyone who did not see the meeting last week (January 30, 2023), now approved, to go to those Minutes on the website where they would be found and read them. She remarked that the whole message the Consultant was trying to put across to the community was in those Minutes, and she was very impressed, saying that she thought he was the right person for the job and would like the community to hear what he had to say. Mr Fuller expressed his disappointment that, in all fairness, when certain things happen, things can change very quickly, but that did not relieve the people in charge of their responsibility to make sure that everybody else involved were made aware of it and understood it.

Final Report Discussion: Ms Lavin suggested that part of the CRC 2022 Annual Report was a good beginning to review, and she will send copies before March 6, but she personally wanted to go back to number 1 and discuss the missing introduction and the fact that putting it back was positive, so that future CRCs would not have to re-invent the wheel. She emphasized that the Introduction is where the goals for the Charter are identified and, in her opinion, where future CRC's review must start. Mr Fuller added that he felt the CRC was short-changed at the end by the rapidly changing events and really needed to know about the change when it happened, but the Town could not pick anyone better than Rick White as the Search Committee consultant because he clearly understood the issues shared and what he had to do.

Ms Lavin said she agreed about the changes that caused the administrative study to be overtaken by the Town Administrator's leaving and the need to find a new Town Manager; but she had to say that in fairness to Michael Herman, whose first liaison meeting was in July just after his election, he did go back to the Board on several occasions at the CRC's request to say that the CRC was waiting to hear when the administrative study was going to start. She added that the Select Board Chair had also told the Committee in July that the Board was soon to hire a consultant for the administrative study and the Chair and Committee should have been informed as soon as that changed. She closed by saying that Mr Herman had reported to the Committee in October that the administrative study had been postponed because of John Kelly's retirement, which was reflected in the Minutes of October 5, 2022.

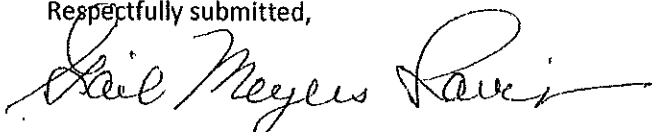
Monday, May 8: Annual Town Meeting

Tuesday, May 16: Annual Election

Monday, May 22: Vote on Final Report

Mr Fuller asked for a motion to adjourn, moved by Mr Berson, seconded by Mr North, and voted unanimously by roll call 6-0-0 at 6:07 pm.

Respectfully submitted,



Gail Meyers Lavin, Clerk

The CRC will meet next in the Nauset Room and via Zoom on Feb 27 for the CHARTER REVIEW PUBLIC HEARING at 5:30 pm.