

Minutes Government Study Committee
January 11, 2005

Present: George Bailey, Anne Carney, Andy Nebenzahl, Gloria Rose, Pat Zlotin

The draft of the annual report was discussed and modest changes were made.

Anne clarified that a charter commission is required to change the form of government.

Anne reported that the MMA strongly recommends that a recommendation to change the form of government is made only if the selectmen are in favor of a charter commission.

A brief discussion was held regarding what a charter does. A charter codifies the roles and responsibilities of the boards and committees in a town.

It was decided that we should invite Mike Curran and Marilyn Contreas to speak to us regarding the mechanics of a charter commission.

A brief statistical note: the number of communities with charters under the home rule legislations is: 12 cities, 52 with open town meeting, 25 with council managers and representative town meeting for a total of 89 out of 351 cities and towns in MA. Since 1966, 84 communities have adopted a charter.

The draft of the annual report should be submitted to Kathy Bryne by January 24.

A discussion was held about the format and content for the meeting with the selectmen on January 13. The purpose of the meeting, which will be held at the high school library, is to inform other boards and committees about the process as well as our recommendation that the town form a charter commission, hopefully leading to a recommendation by that commission of a council manager form of government for Sharon. We will have 2 handouts (attached): one describing the charter commission process and the other our annual report.

Moved: The Government Study Committee recommends the town of Sharon form a charter commission. *Unanimous.*

The GSC will plan a facilitated workshop to discuss a charter commission and the council form or government for the community.

It was decided that at the meeting on January 13 we would focus on the charter commission as that is the first step. It is an independent body that can recommend a change if they feel it is appropriate.

The Government Study Committee (GSC) unanimously recommends the formation of a Charter Commission to write a charter for the Town of Sharon. The Charter Commission should also be charged with making a recommendation as to the form of government most appropriate for the Town.

The regulations surrounding the creation and role of a Charter Commission are specified by the Home Rule Amendment to the State Constitution and Ch 43B., the Home Rule Procedures Act; they are summarized below.

Why a Charter Commission?

The town currently operates based on a set of by-laws. A charter would codify the roles and responsibilities of the town boards and commissions. Only a charter commission can propose a change in the form of government to the electorate. While the Government Study Committee has recommended consideration of the Council-Manager form of government, the Charter Commission is not bound by this action.

How is it formed?

A petition is circulated and must be signed by 15% of the voters to place the question on the ballot. Another method is use of a petition to the legislature by the Town Meeting, wherein a charter is drawn up by a Government Study Committee, approved at a meeting and subsequently submitted to the voters for acceptance at an annual town election.¹

How does a Commission operate?

It is an independent commission that creates a charter defining the board and committee structure, which can include a change in the form of government. The charter must be approved by the voters at an election.

Who would be on a charter commission?

Members of the commission are elected at the same election that creates the commission; there must be 9 members. To run, a candidate must have 50 voters sign their petition.

When does the commission get formed and when must they complete their work?

The commission's members are notified of their election within 10 days of the election and must produce a preliminary report within 16 months. A final report must be completed within 18 months.

Who receives the report?

The preliminary report must be published in a general circulation newspaper as well as delivered to the Attorney General (AG) and the Department of Housing and Community Development (DHCD). The final report is submitted to the Board of Selectmen and submitted also to the AG and DHCD. The report must be placed on the ballot at the next regular municipal election to be accepted.

What are the next steps?

The GSC will hold a workshop to explain and elicit input from the Town regarding the rationale for the formation of a charter commission.

¹ This procedure is not the norm. This document's data refers to a charter commission formed at a town election.

2004 ANNUAL REPORT GOVERNMENT STUDY COMMITTEE

Executive Summary: The Committee recommended many changes as to how town meeting functions, which have been adopted. The Committee studied different forms of government and recommends a Council-Manager form for Sharon. The formation of a Charter Commission, which would make that determination, is a critical first step, is recommended by the Committee.

Since April 2001, the Government Study Committee (the Committee) has been working to develop recommendations to streamline Sharon's government and make it more effective. The Committee first focused on Town meeting itself, often cited as the principal concern of the voters. After numerous public hearings, interviews with various town Boards and Committees, review of changes made in the procedures of other towns, and considerable discussion, the Committee submitted a list of recommendations to the Selectmen and to the Moderator in the spring of 2003, many of which have been implemented.

1. Changes implemented include holding a Special Town meeting regularly in the fall to supplement the annual May meeting; limiting the number of Town meeting sessions to two per week; beginning the meetings an hour earlier (7 PM); and holding the election of town officers following the annual meeting rather than immediately before.
2. Options considered: Limiting the time for debate -- tried and abandoned for reasons that met agreement on the part of the Committee. Arranging the warrant article sequence by like topics or by session were deemed unworkable.
3. Citizen suggestions included voting on the entire warrant by secret ballot so as to replace the open meeting; or voting in real time through use of the Internet in conjunction with a locally televised meeting; both options being determined to be outside the scope of the General Laws governing local government.
4. Use of secret ballot to meet the objections of Town Meeting voters who did not wish to receive approbation from those who disagreed with their vote was tried and will continue to be available. However, rather than hold a secret ballot to decide on the use of the secret ballot -- a two step procedure -- it was decided by the Moderator that a voice or standing vote would be acceptable to decide on a secret ballot since the request to hold a secret ballot could be made by any 10 voters and would thus prolong meetings.
4. The Committee also recommended that voters receive notice of Finance Committee nominations in the warrant or in the newspaper well before the town meeting. Eligibility to vote would remain limited to those in attendance at the first annual meeting.
5. For certain articles, the Committee has also considered having an explanation of an article by the proponent be included in the warrant along with the Finance Committee recommendation.

Future Actions:

Massachusetts laws require that any change in the form of government be proposed by a Charter Commission. Sharon does not have a charter and currently operates based on a set of by-laws. Although the Committee examined the three types of government available, no further progress can be made without the creation of a Charter Commission. Therefore, regardless of the question of the ultimate composition of the Town's legislative body (Open Town Meeting, Representative

Town Meeting or Council), it is the strong recommendation of the Committee that the town establish a Charter Commission. The purpose of such a commission would be to undertake a comprehensive analysis of the existing make-up of boards and committees in Sharon, which have limited policy development functions, and design, through a newly formed charter, a composition which is better equipped to address governmental issues the town will confront in the 21st century.

The Committee recognized early on that success in achieving a reasonable statistical sample of voters at an open Town meeting would be a failure as far as effective government was concerned since a 50% turnout -- the norm for most democratic assemblies -- could not be housed in any form that would allow reasonable debate. A public meeting was held January 22, 2004 and three forms were outlined and compared: Open TM, Representative, and Town Council. Among those attending most favored continuing the Open Form. However, the Committee notes, that the majority of those in attendance were "regulars" at Town Meeting or Town Officials.

Sharon currently has an Open Town Meeting (OTM) form of government, which means that the business of the Town, including budgets, zoning, and general by-laws, is brought before the voters on an annual basis for discussion and decisions. The town's most important issues are finally enacted at the Town Meeting and yet only a tiny fraction of the town's voters participate. Time constraints often limit the ability of town boards to effectively review the most complex articles adequately in just two meetings per year. The town also operates without a Charter (a complete and concise set of rules of government) and must rely on By-laws and state enabling laws governing municipalities. The Committee compared the two forms of Town Meeting operative in Massachusetts:

The attributes of an OTM include:

- 1 Open to all voters (although few avail themselves of this opportunity)
- 2 Citizens interested in a specific issue can bring supporters with them to vote on the issue
- 3 In use, primarily in New England, since before the Revolutionary War.
- 4 Diffuses responsibility for executive action to various boards -- from Selectmen and School Committee to Finance Committee, joint committees, and separately elected bodies -- yet with ultimate responsibility falling to the Town Meeting.
- 5 Changes to warrant articles and, often, actual final drafts are available only to those who show up at the night of the meeting.

An alternative form of government is a Representative Town Meeting (RTM) - first devised in the early 20th Century when the Town of Brookline realized that the open form was unmanageable. In the RTM voters elect 100 to 250 Town Meeting Representatives, usually by Precinct, who then are the only citizens allowed to vote at a town meeting. Nonvoting citizens and special visitors may address the meeting with the permission of the moderator.

The attributes of a RTM are:

- 1 Representatives are responsible for informing themselves on the issues, thus likely to make more well-informed choices when voting.
- 2 More difficult for special interests to dominate an issue - a quorum of 50% of the elected membership must be present
- 3 Representatives run from precincts or districts (Note: each precinct in Sharon represents about 2400 voters). Representatives known to their districts have the best probability of being elected.

- 4 Serving as Town Meeting members is often a way of creating a reservoir of able and informed candidates for elected and appointive town positions
- 5 Meetings are slightly more easily scheduled because cost constraints are not as great.
- 6 Unless specifically required, voice votes are not recorded and thus true constituent accountability is impossible. Accountability would remain difficult even if recorded (as in Open TM form) because of the dispersed nature of a body numbering in the 100's.
- 7 Citizens are usually allowed to address the assembly but only representatives may vote
- 8 Governmental authority is also dispersed as in the Open TM form.

The Committee determined that confining our comparison of governmental forms to Open Town Meeting and Representative Town Meeting limits the options for real reform. There are several other alternatives available -- if voters can overcome the inertia favoring the New England predilection for Town Meeting in one form or another. They are: Mayor and Council; and Town Council and Manager.

City government with an elected Mayor-CEO was not deemed appropriate. For example within the 101 governments in the Boston Metro region one city government stands out as a model: Cambridge -- where the mayor is elected from within a Council to preside over a Council elected by a unique system known as Proportional Representation, and the city's day to day operations are managed by a strong City Manager. The "mayor" in Cambridge bridges the gap between School Committee by being the "ex officio" chair of the School Committee but is otherwise a Councilman.

The strong mayor form has an inherent flaw for smaller communities because it is based on finding a suitable executive from within the limited pool of local citizens. On-the-job training limits the efficiency of an elected mayor who must make knowledgeable and responsible decisions in the face of an imminent election. The City Manager unlike the mayor, need not be a resident, and if not rehired is eligible to put his newly acquired "expertise" to use elsewhere.

Therefore, Town Council-Manager form has been selected by five towns in Massachusetts: Watertown, Barnstable, Franklin, Southboro and in 2004, Palmer. It is the preferred option because 1) it relies on a strong professional manager 2) provides accountability through actions of a council of 9 to 15 councilors meeting twice a month. 3) Uses a time-tested form in common use throughout the rest of the United States and Europe.

Each "city known as the Town of - - -" has a council that is elected at two year intervals, usually at November elections in the "odd" years. Some have a council that is solely geographically represented, with Watertown combining the two. Watertown, like Cambridge, makes one Councilor a member, ex-officio, of the School Committee. All meet at least twice a month, and make or review appointments to all board, committees, or commissions but have no voice in the appointment of paid employees who are, therefore, accountable to the Town Manager. While some, if not all, give an annual stipend to the Councilors, meeting costs are obviously minimal. The Town Clerk in Barnstable is responsible for the records of the council in that town. Zoning changes are subject to the same notice requirements as in towns and require a 2/3 majority for approval. However, an additional provision mandates a 3/4 vote if petitioned by citizens. All the requirements mandated by Prop 2 1/2 remain the same-- no increase requiring an override can be adopted without a referendum.

The principal advantages of this form of government are:

- Clear lines of authority

- Ability to act or react to needs of the citizenry rather than delay to await the schedule of Town Meetings.
- Accountability of councilors -- all votes on budgets, appointments, etc. are recorded.
- A time-tested form that is similar to one used in local governments around the world and in the US outside of New England.
- Effective debate is possible with a legislative body of manageable size.

The Town Council form's principal disadvantages:

- The need for obtaining from 9 to 13 committed individuals willing to attend and be informed about local governance issues for not only 25 public meetings per year but subcommittee meetings on Budget, Economic Development, Planning, Transportation, and Housing. (Sharon's hard working Selectmen, School and Finance Committees have at least as heavy a schedule)
- Voter apathy could result in poor representation, although not a problem in the existing Town Council towns.

Ultimately, the form of government that is best for Sharon is up to the citizens after thoroughly reviewing the options on an informed basis. Citizens need to make a decision based on issues facing the community today, and in the future, and decide what form of governance best addresses those issues.

***Summary:** Although the changes made to the current Open Town Meeting (OTM) process address some of the logistical issues surrounding that body, the Committee feels that the OTM form of government no longer meets the needs of the Town and recommends the formation of a Charter Commission with the hope that it will lead to a council-manager form of government.*

Submitted January 13, 2005