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## CHARTER REVIEW COMMITTEE

MUNICIPAL OFFICE BUILDING • 127 ELM STREET • MILLBURY, MA 01527-0652

### Minutes, November 19, 2009

**Present:** Donald Gauthier; Kathy Anderson; John Bartosiewicz; Thomas Reilly; Sandra Cristo; Michael O'Connor; Jack Alicandro

**Absent:** Francis King; Leslie Vigneau

The meeting was called to order at 7:05 p.m. in the Town Hall.

D. Gauthier does introduction about Charter Review Committee and describes its role in the Town of Millbury.

The Board of Selectmen brought their comments and concerns. Members present included, E Bernard Plante, Joseph F. Coggans, Jr., Kenneth I. Schold and Brian W. Stowell.

B. Plante mentioned that the requirements for the Town Manager should be broadened. He believes that the screening committee should have more than the 30 day period given to them for the screening process. Also he believes that the Board of Selectmen should have the final say when determining the next Town Manager.

J. Coggans believes that the charter works reasonably well. He believes that the Finance director should be appointed by the Board of Selectmen and not the Town Manager because the Town Manager works with the Board of Selectmen. The qualifications for the Town Manager should be revised because there were a lot of people qualified but could not apply for the job and mentioned the Town of Shrewsbury as an example. Also, he believes that the BOS should have the ultimate power when making big decisions.

K. Schold and B. Stowell agreed with the J. Coggans and B. Plante with the screening committee and the revision of the Town Manager's qualifications.

S. Cristo asked "Elected positions vs. Appointed and Why?"

B. Plante believes that there are both pros and cons to both and that there is a possibility that some positions could be looked at.

J. Coggans mentioned that some positions should be appointed rather than elected because some jobs require specific qualifications.

T. Reilly asked what their opinion was of a personnel board for the town.

B. Plante, B. Stowell, J. Coggans all believed it was a good idea and could benefit the Town Manager by giving him more support.

M. O'Connor asked how a full time human resources officer would be in the town?

B. Plante agreed that it would be beneficial and that most towns our size have one. J. Coggans and B. Stowell both agreed it would also be beneficial but with the budget it would be difficult.

D. Gauthier asked if you had more appointed positions compared to elected positions how would the voter turnout be?

B. Plante said that voter turnout is weak now and not all positions would be appointed.

M. O'Connor mentioned that Section 5 of the charter talks about the administrative code. If we never use it, should we keep it?

B. Stowell believes that it should be kept just in case. J. Coggans mentioned that by keeping this it might bring people to the Town Meeting

Members from the Board of Assessors came to voice their concerns. Members present were Jude Cristo, Dennis Piel and George Valery.

The Board of Assessor's submitted the following on their behalf

Mr. Cristo read: See Addendum 1

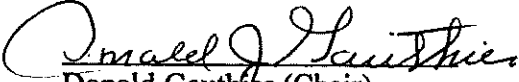
The Board of Assessors then left and Mr. Cristo spoke as a resident of the town and stated his personal concerns with the charter: See Addendum 2.

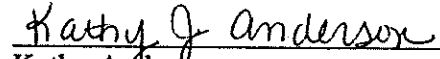
Members reviewed the minutes from the previous meeting, comments and concerns were addressed. A suggestion was made by M. O'Connor to have the Town Manager review the minutes so he could make revisions that he feels necessary.

Motion made by M. O'Connor to adjourn at 8:10 p.m. seconded by T. Reilly. Motion carried unanimously. The next scheduled meeting is on December 3, 2009 at 7:00 p.m. in the Town Hall.

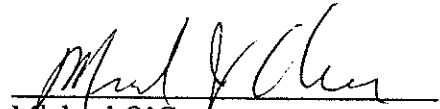
Respectfully submitted,


John Bartosiewicz, Clerk, Charter Review Committee

  
Donald Gauthier (Chair)

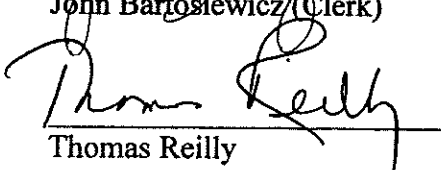
  
Kathy Anderson

  
Jack Alicandro

  
Michael O'Connor

  
John Bartosiewicz (Clerk)

  
Sandra Cristo

  
Thomas Reilly

Good evening and thank you for inviting the Board of Assessors in to discuss the Town Charter. I am here tonight as a member of the Board of Assessors and also as a lifelong resident of the Town of Millbury. First as an Assessor I would like to respond to comments made by Town Manager Spain at last week's meeting of your committee. Our board disagrees with the Town Manager's proposal to eliminate the Board of Assessors and to have only one appointed Assessor to set policy for the Town of Millbury. Under Massachusetts General Law Ch.41, Sec.24, the Town is required to have one, three, five, seven or nine assessors who can either be elected or appointed.

***Chapter 41: Section 24. Number; method of selection; tenure***

*Section 24. There shall be one, three, five, seven or nine assessors in every city and one, three or five assessors in every town. The assessors in every city and town shall be elected or appointed as otherwise provided by law; but as nearly one third of their number as may be shall be elected or appointed annually, each to hold office for three years and thereafter until his successor is duly elected or appointed. As soon as may be after such annual election or appointment, the assessors of every city and town shall organize by choosing one of their number as chairman and another as secretary or clerk of their board. None of the foregoing provisions shall apply to the city of Boston. In no city or town, including Boston, shall an assessor hold the office of collector of taxes or deputy collector of taxes, whether said deputy is appointed under the provisions of section thirty-seven of this chapter or section ninety-two of chapter sixty.*

Historically the Town has had a 3 member Board of Assessors elected by the voters of Millbury who have entrusted the Assessors to make a number of policy decisions as required under Massachusetts General Laws. Over the years the voters have chosen many well qualified candidates to serve on the Board of Assessors. In terms of the present elected members of our board, Mr. Piel has 12 years experience as an Assessor and has served on the Industrial Development Finance Committee. Our newest member Mr. Valery has experience in the field of Deputy Tax Collection and has served on the Planning Board. I have over 30 years experience as a licensed Real Estate professional, and have served on numerous Town boards and committees since 1979. Collectively as a group we make policy decisions which we believe represent the best interests of the community and the voters who have elected us to serve the Town. On any board including ours; experience, diversity, objectivity and accountability are key ingredients to ensure that the best interests of the community as a whole are served. As a Board of Assessors we feel that the voters of this community are well informed, civic minded, and unbiased; which makes the voters the best party suited to determine who should serve on a major policy making board such as the Board of Assessors. If all policy making boards were appointed by a Town Manager or a Board of Selectmen there would be less diversity of opinion and limited debate of the various policy decisions that affect the taxpayers of Millbury. In a true democracy it is the people not any one individual or special interest group, who know what is best for their community, their state, and their country. The electoral process is designed to carry out what our forefathers had in mind when they declared their independence from autocratic rule and created this great democracy and declared "government by the people and for the people". We would hope that the Charter Review Committee will recommend that the voters be allowed to continue to exercise their constitutional right to vote and elect their Board of Assessors.

## ADDENDUM 2

I am also here tonight to express my own personal views in regards to revision of the Charter. I have had the privilege of serving the citizens of Millbury in multiple roles. Civic pride and what's best for the Town of Millbury have been my hallmark since an early age. I was fortunate to be first elected by the voters to serve on the Redevelopment Authority at the age of 20 and then two years later at the age of 22 the voters of this community elected me to serve on the Board of Selectmen an honor and a privilege which I will forever appreciate. I've had over 30 years to participate in Town Government, then watch it, and now participate again. I believe over this time span I have had an opportunity to see what has worked well in our Town Government and what has not. I have also throughout my career had an opportunity to interact with other municipalities and have had an opportunity to look at several other Town Charters. I appreciate this opportunity to appear before you and the Townspeople and I offer the following recommendations:

### Recommended Changes

1. I believe that the key management and public safety officials in our Town Government should walk our sidewalks and drive our streets on a daily basis, pay local property and excise tax, send their children and grandchildren to our schools, utilize our services, shop here and be civically vested in our community on a 24/7 basis. To that end I propose that going forward in the future, individuals appointed to the following positions should become Millbury residents within one year of their appointment: Town Manager, Chief Financial Officer or Finance Director, Superintendent of Schools, School Business Manager, Police Chief, Fire Chief, and Town Engineer or DPW Head.
2. In order to ensure that proper financial checks and balances are in place so that we can avert the type of financial controversy that occurred several years ago, I propose that the in lieu of restoring the elected position of Town Auditor or Accountant, the CFO or Finance Director be appointed by and report to the Board of Selectmen and not a Town Manager. I believe Town Government has a fiduciary responsibility to the taxpayers to ensure that accountability and proper internal control procedures are in place.
3. In Massachusetts the Chief Elections Officer is the Secretary of State who is elected by the voters. A fair and equitable electoral process is critical to the fundamental voting rights of all citizens and therefore I strongly believe that the position of Town Clerk be restored back to an elective office filled by the voters of Millbury. The Chief Elections Officer and Keeper of the Records of our community should be an independently elected officer who is not accountable to any one person or group but to the electorate as a whole.
4. As a past member of the Redevelopment Authority, I would propose that the Redevelopment Authority be abolished. Historically Redevelopment Authorities were established for urban renewal purposes and to reclaim blighted areas in cities. Very few towns have Redevelopment

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Authorities and there is very little that Redevelopment Authorities can do without federal funds obtained from grants.

5. I believe that the job of a Town Manager is to manage the day to day business affairs of the Town and that policy making boards are entrusted to develop, set up, and interpret the policies that impact all of the citizens of the community. Therefore, I propose that the following policy making boards be filled by the voters at the annual Town Election: Board of Sewer Commissioners, Planning Board, Board of Assessors, Housing Authority, and Library Trustees. In addition to setting policy that impacts all of the citizens, I believe that having additional elective offices will allow for more spirited debate of the issues and allow the voters to make choices and provide a cross section of opinion, whereas appointment of these policy making decisions by a Town Manager or a Board of Selectmen could result in some degree of control of these board's ability to make independent policy decisions. Finally, if we limit our Town Elections to just the Board of Selectmen, School Committee, Housing Authority and Town Moderator, the voters may just as well stay home and their only voice in our Town Government will be at Town Meeting. I personally feel that we have done a great job promoting Town Government to our youth through our excellent Student Government day activities including mock elections. I feel that this exposes our youth to the electoral process and their 1<sup>st</sup> attempt at exercising their right to vote may come at an Annual Town Election versus State & National Elections which are only held every 2 or 4 years. If we want our youth to participate in the Democratic process then we need to provide them with more than a few elective choices. Furthermore if we want our youths to be our civic leaders of tomorrow we need to encourage them to seek public office by offering them the diverse opportunities that open elections for other offices will provide.
6. To make our Town Elections more competitive and to standardize our Charter I would recommend that all 5 member boards, including the Board of Selectmen, the School Committee, and Planning Board be elected as the Housing Authority is elected in accordance with Section 3-5 (a) of the Charter which states in part as follows: ... shall consist of five members serving for terms of five years each so arranged that the term of one member shall expire each year.... I believe that this would make each year's Annual Town Election more competitive in that it is very difficult and sometimes intimidating for challengers to run against two incumbents in years when there are two seats to be filled on these boards, especially for first time candidates.
7. I believe that our Charter should include a provision for the establishment of both a code of ethics and standards of conduct for all municipal employees and officials as an adjunct to M.G.L. Chapter 268A, the conflict of interest law. With these codes in place, any violations of the public trust can be dealt with appropriately, effectively, and swiftly by the respective appointing authority. Public service of any type is not an entitlement program, it's a privilege that is earned through professional behavior and those who we choose to serve our community should be held to the highest ethical standards of conduct.
8. In Millbury we have had 3 Town Administrators and 3 Town Managers since I retired from the Board of Selectmen in 1997. I concur with the comments made by our current Town Manager

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last week regarding changing the qualifications. In Millbury we have made the selection criteria so rigid that it is difficult to attract candidates, instead we have been forced to choose from those who have served in other communities and whose tenure in multiple communities may have been short term. We need to make the requirements flexible or changeable so that candidates from a myriad of backgrounds, educational levels and with significant public and/or private sector experiences can apply. I am confident that the current and future Boards of Selectmen can make the right decisions if given the flexibility to choose from a large array of candidates.

9. In terms of the position of Acting Town Manager when it becomes necessary to fill the position, I feel that the restriction of appointing only a town administrative officer or employee to an interim or temporary position severely limits the Board of Selectmen's ability to find a temporary replacement. In addition the initial temporary appointment period of 3 months and a second 3 months should be increased to 6 months and 6 months respectively, to provide ample time for both the screening committee and the Board of Selectmen to find the best candidate for the position of Town Manager.