

Natick Finance Committee

Pursuant to Chapter 40, Section 3 of the Town of Natick By-Laws, I attest that the attached copy is the approved copy of the minutes for the following Meeting: September 12, 2023

Town of Natick Finance Committee
Meeting Date: September 26, 2023

The minutes were approved through the following action:

Motion:

Made by:

Seconded by:

Vote: 0 – 0 – 0

Date: X, 2023

Respectfully submitted,

Cody Jacobs

Secretary

Natick Finance Committee

Call to Order

The meeting was called to order at 6:35 p.m.

Roll Call

Members present; R-denotes members attending remotely

Leona Bessonova - R
Dirk Coburn (joined at 7pm)
Lawrence Forshner
Garth Gayle
Todd Gillenwater
Cody Jacobs
Grace Keeney - R
Toby Metcalf
Kat Monahan
Richard Pope
Patti Sciarra
Betty Yobaccio
Linda Wollschlager

Call to Order

Announcements

Public Comments

2023 Fall Town Meeting Warrant Articles - Public Hearing

Motion to open the public hearing on the 2023 Fall Town Meeting Warrant by Mr. Gillenwater, seconded by Ms. Sciarra. The motion was approved unanimously (12-0-0).

Article 25: Charter Changes

Paul Griesmer, chair of the Charter and By-law Review Committee, presented Article 25.

Motion A

Mr. Griesmer began by explaining that the committee has decided not to recommend lowering the size of town meeting. For one thing, they determined through statistical analysis that about 120 people do consistently participate in Town Meeting but it's often different people each night. He also believed it would not solve the attendance problem and that attendance was much better when it was all online and before changing the size of town meeting, we should consider how it goes if and when we try to implement hybrid town meeting as well as other efficiencies that the committee is recommending.

Motion B

Mr. Griesmer then turned to motion B, which deals with the filling of Town Meeting vacancies. Mr. Griesmer explained that the idea behind this change is to make sure that an elected official is overseeing the process for appointing people to fill vacant positions in Town Meeting. So this gives the Moderator a role in the process by making that position primarily responsible for making the appointments.

Mr. Pope asked why the phrase “descending order” was added. Mr. Griesmer explained that this just clarifies what has already been the practice which is to make sure that appointments are made in descending order of votes received.

Ms. Bessonova said that she recalled from Town Meeting that one of the reasons the clerk position became appointed was due to the volume of responsibilities. She asked whether by shifting some of the responsibility for this onto the Town Moderator, are we thinking we are alleviating some of that high workload but in doing so are we asking too much of the Town Moderator?

Mr. Griesmer said that the process of appointing Town Meeting Members from the runner up list is relatively infrequent. He said the main reason that we moved to an appointed clerk from an elected was mostly because of the changes to state and federal election laws and the burdens that created for the clerk’s office.

Ms. Bessonova asked what the rationale is for splitting this responsibility if it’s not a super frequent task. Mr. Griesmer explained that the rationale is to make this process independent of the Town Clerk and the Town Administrator.

Ms. Keeney asked whether there was any requirement within which the moderator would need to act under this amendment and what happens if there are still vacancies. Mr. Griesmer answered that it doesn’t, and this doesn’t really make a difference as far as vacancies being filled more consistently but rather it was just to make sure the process was administered fairly.

Ms. Wollschlager asked how this provision accomplishes making the process fairer. Mr. Griesmer said by having two people involved there is a check and balance here. He also added that the involvement of the Moderator was important to provide an independent voice.

[Mr. Coburn entered the meeting at approximately 7:00 p.m.]

Motion C

Mr. Griesmer then addressed motion C. He said the gist of this motion is that the number of vacancies would now impact the quorum, so it would be 50%+1 of the number of seats filled rather than the current rule of 50%+1 of the total number of seats.

Ms. Bessonova asked whether this could discourage participation by making this threshold lower. Mr. Griesmer answered that he thought it would do the opposite because business could start faster because a quorum would be there sooner.

Mr. Pope asked how the quorum requirement would apply in the event of a fraction at 50%+1. Mr. Griesmer answered that the Moderator would likely round up.

Mr. Gayle asked if it is 50%+1 of attendance or 50%+1 of the members. Mr. Griesmer said it was the latter.

Ms. Wollschlager asked who would now maintain the official list of town meeting members. Mr. Griesmer said that per motion B, it would be prepared by the Clerk but “subject to the review” of the Moderator.

Ms. Monahan added that this is consistent with the job description that is currently posted for the Town Clerk.

Mr. Gayle asked whether they looked at any other options besides the 50%+1 for this? Mr. Griesmer said they did not.

Motion D

Mr. Griesmer explained that motion D would clarify that the Select Board must insert citizen petition articles into the warrant rather than just that they should receive them.

Richard Sydney, Select Board Member, explained that this just codifies what the Select Board does in practice—in his experience, they have never failed to put a citizen petition with enough signatures on the warrant.

Mr. Griesmer explained that the second part of this adds to the definition of multi-member bodies to clarify that it only includes (for the purposes of being able to put an article forward) bodies that are created by Town Meeting, by statute, or by charter.

Ms. Monahan asked whether the Select Board in practice submits zoning proposals to the Planning Board. Mr. Griesmer explained that the Select Board is required by law to submit any petition for a zoning change to the Planning Board if there is a motion provided.

Mr. Sydney added that they can't do anything if there is no motion received by the Select Board.

Motion E

Mr. Griesmer explained that this motion would remove the requirement that every town agency have a representative at Town Meeting at all times. This would change it so that instead the Moderator can schedule when certain representatives have to show up or could even have the ability to contact people by phone and other methods if needed.

Ms. Keeney asked why this puts it on Town Meeting to create procedures to allow people to participate remotely as opposed to just explicitly saying that they can. Mr. Griesmer added that this isn't a mandatory requirement and one would hope it happens on its own, but this provision gives Town Meeting the authority to make sure that it happens if the Moderator doesn't take action.

Ms. Keeney asked whether having that line makes it less flexible. Does this assume that you will attend in person unless Town Meeting creates different rules? Mr. Griesmer said it is meant to be liberalizing, not more strict. He said that if this were to pass, Town Meeting could

theoretically pass a dumb by-law on it but the procedures were meant to make it easier to appear remotely potentially.

Mr. Forshner said he thinks this is a slippery slope and every department head should be required to be there.

Mr. Gillenwater added that if a question came up for a department head, the Moderator could answer by phone.

Mr. Pope asked whether the issue was having the right seniority of a person there and whether the enabling of remote participation would allow a more senior person to attend more consistently? Mr. Griesmer explained that actually the complaint they get is that the current system isn't flexible enough for senior department heads.

Mr. Sydney added that this is a major hiring problem because people don't want to have to show up for all 10 nights of Town Meeting.

Mr. Coburn asked whether the CBRC contemplates that this might be addressed at the by-law level after it goes into effect. Mr. Griesmer said he hopes it wouldn't get to that point and that it would be addressed by the Moderator through the procedures at Town Meeting.

Ms. Wollschlager asked whether this would allow the Moderator to require attendance from other people in a department besides department heads since sometimes they have the more precise answers. Mr. Griesmer said theoretically it would, but it is optional.

Mr. Pope pointed out that the first time says "a" representative, not "representatives" and maybe that would be a limitation on the Moderator's power here.

Mr. Gayle asked whether this might be over-solving a simple problem. Could we change the rule to allow them to sit in the meeting virtually rather than just give them an option not to be there at all? Mr. Griesmer explained that right now every single representative has to sit there every time. This proposal would provide more flexibility.

Mr. Jacobs asked whether the Moderator could do what Mr. Gayle was suggesting under the current proposal. Mr. Griesmer said no but suggested it could be edited to leave open that possibility by giving the Moderator the discretion to set the method of attendance for representatives.

Motion F

Mr. Griesmer explained that this deals with preliminary elections. They have struggled with this issue because preliminary elections create problems in terms of costing the town money but more importantly there is maneuvering around who must drop out etc.

They considered eliminating preliminary elections entirely, but the issue with that is that you end up electing people without getting a majority of the vote which opens up a different set of gamesmanship where, for example, one side could make sure that their side's vote is more consolidated.

With respect to ranked choice voting, Mr. Griesmer expressed concern that including that would slow the whole special act down because it is politically controversial.

So, the proposal here is to add a provision that, if ranked choice voting is adopted by the town in the future because it is allowed by state law, we would eliminate the preliminary election.

Ms. Sciarra asked whether this would require us to adopt ranked choice voting if the state allows it. Mr. Griesmer said that in the event that ranked choice voting is ever adopted by the state, we wouldn't need preliminary elections.

Motion G

Mr. Griesmer explained that the Charter currently gives the Select Board and the Town Administrator the ability to call any town officer, excluding the Moderator, for consultation. Mr. Griesmer said that this would change that so that the Select Board and Town Administrator wouldn't be able to do that with respect to persons appointed by the Moderator, such as Finance Committee members, so that they couldn't get "bossed around" by the executive branch of government.

Ms. Wollschlager asked if this has come up before. Mr. Griesmer said that the Moderator had relayed that these issues have occurred.

Frank Foss, Town Moderator said that this had happened to him where he was called to a private meeting and told to run things at Town Meeting a certain way and that this makes it clear that you can't do that.

Mr. Gayle asked whether this would still allow the Select Board to ask these excluded people to come forward for a discussion. Mr. Griesmer said this would still allow the Select Board or Town Administrator to make that request but it would no longer be required.

Ms. Wollschlager asked whether the CBRC's opinion about this motion would change if Motion J does not pass which deals with the Select Board. Mr. Griesmer said it would not.

Motion H

Mr. Griesmer explained that historically, Natick had a recreation commission elected by the voters, followed by other successor offices elected by the voters. Eventually, the recreation and parks director's responsibilities were moved to be under the Town Administrator, subject to the oversight of the Select Board. This provision clarifies that the recreation and parks commission will also advise the Select Board directly on policies and practices related to parks and recreation.

Mr. Pope asked whether the change to the terminology "town manager" should be part of this motion. Mr. Griesmer explained that it can be taken out and just dealt with in a separate motion.

Mr. Coburn asked whether consideration had been given to getting rid of this commission entirely. Mr. Griesmer said no because they still do a lot of important work.

Motion I

Mr. Griesmer said that this would create the office of deputy moderator, which would be appointed by the Town Moderator. This would allow this person to take over in the event that the Moderator has to step aside for any reason. The committee discussed whether it would be an elected or appointed position, but they decided on the latter since the two people have to work closely together.

Mr. Coburn asked whether the Moderator should be compensated given the scope of the Moderator's work and whether the committee had considered that. Mr. Griesmer said that the authority is already there to compensate elected officials at each Town Meeting appropriation.

Ms. Keeney asked whether this provision would allow the Deputy Moderator to be able to help call on people under this even if the Moderator was present. Mr. Griesmer said he believed there was nothing that stops the Moderator from doing that under this provision.

Mr. Foss explained that there are assistant moderators allowed under current law. The Moderator has this authority and that he has used that authority in the past when they did Zoom Town Meeting during the pandemic. Mr. Foss said, however, that an assistant moderator cannot step into the Moderator's role and assume the Moderator's authority. Mr. Foss confirmed that the Deputy Moderator could fill both roles.

Ms. Bessonova asked whether, because the Moderator is an elected office, if there are legal requirements that the person would need to be equally elected through a similar process. Mr. Griesmer answered that they would not.

Mr. Jacobs asked whether it should specify that the Deputy Town Administrator must be a resident of the town. Mr. Griesmer said it could but they haven't had that feedback.

Mr. Sydney added that they have had the Town Counsel do this in the past and she is not a town resident.

Ms. Sciarra asked, if it doesn't have to be a Natick resident, why don't we keep it as the Town Clerk? Mr. Griesmer said his understanding was that the reason they didn't want the Town Clerk to do this wasn't because of residency, it was because of concerns about independence.

Mr. Pope asked whether the appointed term could be shorter than the rest of the Moderator's term. Mr. Griesmer said yes.

Mr. Foss added that a very qualified person could be appointed if necessary who wasn't a resident and cited the story of a community where they had another town's moderator fill in.

Mr. Coburn asked if they considered making this subject to Town Meeting approval. Mr. Griesmer said the committee discussed this but they decided not to go that route, mainly due to efficiency.

Ms. Wollschlager asked whether the last sentence was necessary. Mr. Griesmer said that they added that to clarify that this does not limit the Moderator's other appointment powers.

Motion J

Mr. Griesmer explained that this motion would clarify that the Select Board is responsible for making administrative policies of the town. It also eliminates an unusual sentence that makes it where the Select Board can only adopt "broad policy guidelines." Mr. Griesmer explained that this provision hobbles the Select Board's policy making authority.

Ms. Wollschlager asked what the Select Board thinks of this.

Mr. Sydney answered that this encodes what their practice has already been in terms of making policies. This codifies their existing practice as well as what they already have the right to do under state law. He added that everything in these motions has been heard by the Select Board, though they haven't had a vote as a group, the Board has been involved and is behind all of these.

Kathryn Coughlin, member of the Select Board, added that this additional verbiage is helpful but doesn't change anything because the Select Board already has this authority under state law.

Mr. Pope asked whether there was a mechanism in the charter to have the town and the schools have their accounting functions in harmony.

Mr. Sydney answered that the schools and the town both use MUNIS for their accounting but legally under the state law, the School Committee is a completely independent legislature and essentially just happens to get some funding from the town tax base. Mr. Griesmer added that the language in here about them working in "harmony" is from the original charter.

Motion K

Mr. Griesmer explained that this motion would change it to where the Select Board could remove the town administrator with a majority vote rather than only a $\frac{2}{3}$ vote and would only require notice to all board members rather than requiring all members to be present. Mr. Griesmer said that the original charter had a 3 person Select Board so this was essentially a majority until we changed to a five member board in the 90s. This would bring it back to just being a simple majority and would get rid of the requirement that all Select Board members attend the meeting.

Mr. Coburn asked whether the committee considered having a different attendance requirement. Mr. Griesmer said no because again, that was the concern, that people not attending the meeting could essentially veto it and make it more than a majority requirement.

Ms. Coughlin explained that she at first preferred requiring a full board present because removing a Town Administrator is one of the most impactful things a Select Board member can do. But she has been convinced it is a little unreasonable and she would support the current proposal as a reasonable compromise because it does provide notice to all members.

Mr. Sydney added that this language does contemplate the possibility of a vacancy on the board so that the requirement is a majority of the seated members.

Ms. Wollschlager asked what is required to remove the superintendent. Mr. Coburn answered, as a former School Committee member, that it is a majority vote.

Mr. Gillenwater asked if it is a majority of School Committee members in the room, total seats, or seats filled. Mr. Coburn said he believed it is a majority of the committee. Dr. Donna Mckenzie, former School Committee member, also agreed.

Ms. Wollschlager asked whether the proposed section saying that no review or lack of review could be an impediment to this process was fair. Mr. Griesmer said that you cannot invoke this at all without good cause. He added that the reviews, because they are matters of public records, are not always toughly worded even if the administrator isn't doing a good job. Mr. Griesmer said this was designed to avoid there being a technicality that causes the Select Board to be unable to act.

Mr. Jacobs asked whether this provision existed in other communities. Mr. Griesmer said he didn't know but could try to find that out.

Mr. Coburn asked whether the committee struggled with balance between fairness to the employee (the Town Administrator) and fairness to the public. Mr. Griesmer said that it was and the idea here was to empower to Select Board.

Mr. Pope asked if there was a contentious issue would that allow the Board to fire the administrator over that disagreement. Mr. Griesmer thought no as long as the administrator was following Select Board policies etc.

Motion L

Mr. Griesmer explained that the Town Administrator had a couple of comments on this one. He explained that one of the things this does is provide more flexibility for how long the Town Administrator can be appointed. However, it does cap the length of appointments at three years instead of five since that hasn't been our practice anyway and it seems odd when Select Board terms are three years.

Another change here would be to require the Select Board's review of the town administrator to consider the review to be on behalf of the town overall, including other elected officials etc. The idea here was to make the review more holistic to encompass those officials' work with the Town Administrator. However, the Town Administrator had expressed concerns about whether this would require or allow other bodies to evaluate the Town Administrator. Mr. Griesmer is working on language to clarify that it wouldn't do that.

Mr. Gillenwater asked whether, given the enhanced removal process considered by some of these changes, there might be a reduced concern about a five year term, which he could see certain advantages of. Mr. Griesmer said the idea of capping the terms at three years came from the special counsel and that it is still difficult to remove a Town Administrator because of the just cause requirement.

Ms. Coughlin said that the police and fire chief are both five year contracts and she wonders about the impact on recruitment and she feels that five years is much more attractive for recruitment.

Mr. Sydney said the Select Board hasn't had a chance to discuss this three versus five topic. In earlier discussions the Select Board did suggest five as the cap, but the Select Board would be hearing the issue tomorrow night.

Mr. Jacobs asked if the committee had considered allowing contracts between three and five years but with a supermajority requirement for the vote of the Select Board on contracts of that length. Mr. Griesmer said he had just written down that idea and that the committee would consider it.

Mr. Jacobs asked whether the provision about considering the Town Administrator's work with other elected officials and bodies was purely aspirational or had any operational effect. Mr. Griesmer answered that it was the former—a "noble reminder."

Motion M

Mr. Griesmer explained that motion M might get divided into M1 and M2, but that this motion would delete all the references to "he" when talking about the Town Administrator. He also said that this would allow the Town Administrator to sign certain contracts without having to go to the Select Board. This would allow the town to do that by by-law (in other words, to set a dollar amount up to which the Town Administrator could approve contracts without Select Board review).

It would also make the personnel board advisory and allow the Town Administrator to make certain appointments currently made by the Select Board subject to the approval by the Select Board.

Finally, it would make it clear that the Administrator no longer has to account for de minimis inventory items with general accounting principals.

Mr. Coburn asked, with respect to appointments, who could appoint an acting employee while Select Board approval is being awaited. Mr. Griesmer explained that this topic came up, but that they were not worried about it because logically the Select Board would be involved in the process so this wouldn't likely happen. Mr. Griesmer added that he thinks the Town Administrator would have the authority to ask an employee to serve on an interim basis in some of these capacities and that this has happened in the past.

Mr. Sydney stated that the Select Board already does this and that the authority to do that wouldn't change if the appointing authority changed.

Ms. Wollschlager asked why we are saying "affirmative vote approval" here instead of confirmed, which is a term that we used in the Town Clerk change we recently made. Mr. Griesmer said they are going to propose changing that language as well to be consistent so that throughout it says "affirmative vote approval."

Mr. Sydney said that there was a concern in the working group on this that if they left the word "confirmation" it would allow a "pocket confirmation" which they didn't want.

Motion N

Mr. Griesmer explained that one of the things the Select Board wanted was the ability for the Town Administrator to re-organize town agencies without going to Town Meeting. Mr. Griesmer explained that they didn't want this to be a completely unchecked power so they added a provision that a by-law change would take precedence over a reorganization approved by only the Select Board.

Mr. Sydney said this was to allow the Town Administrator to make reasonable, minor changes without having to go to Town Meeting.

Mr. Gillenwater asked if the Town Administrator was going to abolish a position within a department, does that mean they must have authority over that position? Mr. Griesmer said yes. This specifies that they can't act in violation of the other by-laws that give them that appointing authority.

Mr. Jacobs asked what counts as a reorganization. Mr. Griesmer explained that it was combining or eliminating a department or changing the positions in the department to eliminate or create them.

Motion O

Mr. Griesmer said this motion would eliminate some position descriptions that are in the charter but that really should be in a by-law rather than the charter.

Ms. Sciarra clarified that we were taking this out of a charter and into a by-law. Mr. Griesmer said yes.

Ms. Sciarra asked if this was consistent with the treatment of other positions like the Police Chief. Mr. Griesmer said yes.

Ms. Pope asked if this was the deletion of those roles in the charter or just the descriptions. Mr. Griesmer confirmed that it was just the descriptions.

Motion P

Mr. Griesmer explained that this moves certain appointments from the Select Board to the Town Administrator (subject to Select Board approval).

Mr. Jacobs asked whether there were concerns about not having an elected body involved in these position searches. Mr. Sydney said they did consider that and that this was a balance to allow elected officials to still be involved while not putting a burden on the volunteer Select Board.

Mr. Gayle asked whether this new process would mean that if someone isn't approved by the Select Board, the process would have to start again. Mr. Griesmer confirmed that it would.

Mr. Coburn noted that if the concern is professional versus volunteer in terms of depth of knowledge in the hiring process, that the existing system has neither because the screening committees are appointed by the Select Board, so not elected, but also not professional.

Motion Q

Mr. Griesmer explained that motion Q would allow by-laws to authorize standing counsel to be hired to advise specific elected officials and/or departments.

Mr. Gillenwater asked, with respect to the current situation, whether that is consistent across all boards and committees right now? Mr. Griesmer explained that the Select Board is the only one who can hire special counsel at the moment.

Mr. Forshner asked whether special counsel could assist sponsors of articles. Mr. Griesmer said that was not necessarily contemplated.

Ms. Wollschlager asked what the rationale was behind identifying just these four positions to have that authority. Mr. Griesmer answered that it was just because those are elected positions.

Motion R

Mr. Griesmer said this was to make sure all genders are included. Christine Weithman, member of the CBRC, explained that this is consistent with guidance from counsel about how the legislature likes special acts.

Motion S

Mr. Griesmer stated that this would change notice requirements to get rid of the requirement of a notification being published in a local newspaper. It would replace it with a whole list of means of notification that are reasonably capable of informing the citizens.

Motion T

Mr. Griesmer stated that this allows meetings of multiple member bodies to be called by someone other than the chair: $\frac{1}{3}$ of a committee or someone else authorized by the body to call meetings. This would also allow either of those ($\frac{1}{3}$ of a committee or an authorized person) to call a meeting for something the chair won't put on the agenda.

Mr. Sydney said they are in this position with the audit advisory committee where the chair is no longer in office so they can't call a meeting, so this change is very needed.

Ms. Wollschlager asked whether the $\frac{1}{3}$ requirement would create a risk of serial discussions under the Open Meeting Law. Mr. Griesmer said no.

Mr. Coburn said there needs to be a way to legitimately keep a body going that needs to keep going.

Mr. Pope asked whether it was $\frac{1}{3}$ of the potential members or $\frac{1}{3}$ of the current members. Mr. Griesmer said it was the latter.

Ms. Wollschlager explained that she was concerned that this could create OML violations with

serial discussion when 1/3 of members wanted to call a meeting.

Motion U

Mr. Griesmer said that this motion would clarify issues around vacancies. Mr. Griesmer said this would clarify that, for volunteer positions, the expiration of a term triggers a notice requirement but that this doesn't apply to compensated positions unless there is an anticipation that the position will not be reappointed.

Mr. Coburn asked whether a maximum advanced posting was discussed. Mr. Griesmer said they did not consider that idea and he's not sure it is a good idea.

Mr. Pope asked whether the shorter terms in the Town Administrator would cause an anticipated vacancy. Mr. Griesmer explained that they would need to formally resign since it is a compensated position (or give notice of their impending resignation).

Article 26: Bylaw Changes

Ms. Wollschlager decided to save the by-law discussion for next time given the late hour.

Ms. Sciarra moved, seconded by Mr. Gillenwater to close the public hearing. The committee voted unanimously to approve the motion (13-0-0).

Meeting Minutes

The minutes for 4/6/23 and 9/12/23 were discussed.

Mr. Gillenwater, seconded by Mr. Jacobs, moved to approve the minutes above. The committee voted unanimously to approve the minutes (13-0-0).

Committee and Sub-Committee Scheduling

Scheduling discussion was held among the committee.

Committee Discussion (for items not on the agenda)

None.

Adjourn

Motion by Ms. Sciarra to adjourn, seconded by Mr. Metcalf. The motion was approved unanimously (13-0-0). The meeting was adjourned at 10:54 p.m.