

Meeting Minutes

By-law and Charter Review Committee

August 22, 2012

7:00 pm at Town Hall

In Attendance:

Committee Members

David Surprenant

Glenn Coulter

Henry Whittier

Louis Ciavarra

Absent:

Richard Hersom

1. Approve Minutes

Minutes of August 1, 2012 unanimously approved.

2. Organization of Committee

The Committee continued this agenda item to the next meeting.

3. Review Articles 1-3 of the Charter

The Committee reviewed and recommended several changes to Articles 1-3. See attachment.

Meeting adjourned at 9:00 pm.

Respectfully submitted,

Laura Caruso

ARTICLE 1

INCORPORATION; SHORT TITLE; POWERS

SECTION 1-1: INCORPORATION

The inhabitants of the Town of Sutton within the corporate limits as established by law shall continue to be a body corporate and politic with perpetual succession under the name "Town of Sutton".

SECTION 1-2: SHORT TITLE

This instrument shall be known and may be cited as the Sutton Home Rule Charter.

SECTION 1-3: POWERS OF THE TOWN

Subject only to express limitations on the exercise of any power or function by a municipality in the constitution or laws of the commonwealth, it is the intent and the purpose of the Voters to secure through the adoption of this charter all of the powers it is possible to secure for a municipal government under the constitution and laws of the commonwealth.

SECTION 1-4: DIVISION OF POWERS

The administration of all of the fiscal, prudential and municipal affairs of the town shall be vested in an executive branch headed by a Board of Selectmen. The legislative powers of the town shall be vested in a Town Meeting open to all Voters.

SECTION 1-5: CONSTRUCTION

The powers of the Town of Sutton under this charter are to be construed liberally in its favor and the specific mention of any particular power is not intended to limit in any way the general powers of the Town of Sutton as stated in section 1-3.

SECTION 1-6: INTERGOVERNMENTAL RELATIONS

Subject to the applicable requirements of any provision of the constitution or statutes of the commonwealth, the Town of Sutton may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract or otherwise, with any one or more states or civil divisions or agencies thereof or the United States government or any one or more agencies thereof.

ARTICLE 2 LEGISLATIVE BRANCH

SECTION 2-1: TOWN MEETING

The legislative powers of the town shall continue to be exercised by a Town Meeting open to all Voters.

SECTION 2-2: PRESIDING OFFICIAL

The *Town* Moderator, ~~elected as provided in section 3-5,~~ shall preside at all Town Meetings. At the commencement of the annual spring Town Meeting the *Town* Moderator shall appoint a Deputy Moderator to serve as acting *Town* Moderator in the event of the temporary absence or disability of the *Town* Moderator. The Deputy Moderator shall serve until a successor is appointed by the *Town* Moderator and ratified by Town Meeting.

The *Town* Moderator, at Town Meetings, shall regulate the proceedings, decide all questions of order, make public declaration of all votes and may exercise such additional powers and duties as may be authorized by the General Laws, by this charter, by by-law or by vote of the Town Meeting. ~~, to the extent not inconsistent with the foregoing.~~

Until such time as the Town Meeting may act, by by-law, to adopt another manual or guide, the Town Meeting shall be governed by the rules of procedure in the most recent edition of "Town Meeting Time, A Handbook of Parliamentary Law", published by the Massachusetts Moderators' Association.

SECTION 2-3: COMMITTEES

(a) In General - Subject to the provisions of this charter and such by-laws or other Town Meeting votes regarding committees the *Town* Moderator shall appoint *terms that may be fixed* ~~for fixed terms~~ the members of such committees of the Town Meeting, special or standing, as may from time to time be established. In addition to such specific powers, duties and responsibilities as may be assigned to a Town Meeting committee by the by-law or vote establishing it, each such committee when acting within the scope of its authority shall have a right to the pertinent records of any town agency and to consult with, at reasonable times, any Town official, employee or agent.

(b) Finance and Warrant Advisory Committee - There shall be a Finance and Warrant Advisory Committee the members of which shall be appointed by the *Town* Moderator. The number of members, the term of office and any other conditions of appointment or service as may be deemed necessary or desirable shall be established by by-law. The subject matter of all proposals to be submitted to a Town Meeting by warrant articles shall be referred to the Finance and Warrant Advisory Committee by the Board of Selectmen at the earliest practicable time following their receipt by the Board of Selectmen. The Finance and Warrant Advisory Committee shall report its *written* recommendations on every article contained in a Town Meeting warrant, ~~in writing,~~ together with a brief statement of the reasons for each such recommendation. Before preparing its recommendations the Finance and Warrant Advisory Committee shall hold one or more public hearings to permit public discussion of the subject matter of all articles contained in the warrant. The Finance and Warrant

Advisory Committee shall have such additional powers and duties as may be provided by law or by by-law.

SECTION 2-4: TIME OF MEETING

The Town Meeting shall meet in regular session at least twice in each calendar year. The first such meeting, will be held during May or June, on a date fixed by by-law. It shall be primarily concerned with the determination of matters involving the expenditure of Town funds, including, but not limited to, the adoption of an annual operating budget, and for the determination of all other matters to be decided by the Voters. The second such meeting will be held during the last four calendar months, on a date fixed by by-law.

SECTION 2-5: SPECIAL MEETINGS

Special Town Meetings may be held at the call of the Board of Selectmen at such times as they deem necessary, or desirable, in order to transact the legislative business of the town in an orderly manner. Special Town Meetings may also be held on the petition of 200 or more Voters, in the manner provided by law.

SECTION 2-6: WARRANTS

Every Town Meeting shall be called by a warrant issued by the Board of Selectmen which shall state the time and place at which the meeting is to convene and, by separate articles, the subject matter to be acted upon. The publication of the warrant for every Town Meeting shall be in accordance with town by-laws governing such matters.

SECTION 2-7: INITIATION OF WARRANT ARTICLES

(a) Initiation - The Board of Selectmen shall receive at any time all petitions addressed to it and which request the submission of any matter to the Town Meeting and which are filed by (1) any multiple member body acting by a majority of its members, (2) any elected town official not a member of a multiple member body, or (3) any ten Voters for a regular Town Meeting ~~and~~ *or* any 100 Voters for a special Town Meeting.

(b) Inclusion on the Warrant - The Board of Selectmen shall include on the warrant for a regular Town Meeting the subject matter of all petitions which have been received by ~~it~~ *the town clerk* 60 or more days prior to the date ~~filed by by-law for the~~ *of the* Town Meeting ~~to convene~~. Whenever a special Town Meeting is to be called, the Board of Selectmen shall give notice by publication in a local newspaper, and shall notify ~~by mail~~ Town Officials and chairpersons of multiple member bodies *in accordance with by-laws*. The Board of Selectmen shall include in the warrant for such special Town Meeting the subject matter of all petitions which are received at its office on or before five o'clock in the afternoon of the fifth business day following such publication.

(c) Referral - Following the approval of the warrant, the Board of Selectmen shall mail a copy of the signed warrant to the residences of the *Town* Moderator, chairperson of the Finance and Warrant Advisory Committee, and provide copies to be posted in such places as required by by-law.

SECTION 2-8: AVAILABILITY OF TOWN OFFICIALS AT TOWN MEETINGS

Every Town Official, the chairperson of each multiple-member body, the head of each department and the head of each division within the said departments shall attend all sessions of a Town Meeting for the purpose of providing information pertinent to matters appearing in the warrant.

In the event any Town Official, chairperson of a multiple-member body, department head or division head is to be absent due to illness or other reasonable cause, such person shall designate a Deputy to attend to represent the office, multiple-member body, department or division. If any person designated to attend the Town Meeting under this section is not a Voter, such person shall, notwithstanding, have a right to address the meeting for the purpose of compliance with this section.

SECTION 2-9: CLERK OF THE MEETING

The Town Clerk shall serve as clerk of the Town Meeting, give notice of all adjourned sessions thereof, record its proceedings, and perform such additional duties in connection therewith as may be provided by the General Laws, by this charter, by by-law or by other Town Meeting vote.

SECTION 2-10: RULES OF PROCEDURE

The Town Meeting may, by by-law, establish and from time to time amend, revise, or repeal rules to govern the conduct of Town Meetings.

ARTICLE 3 ELECTED OFFICIALS

SECTION 3-1: IN GENERAL

(a) **Elective Offices** - The offices to be filled by the Voters shall be a Board of Selectmen, a School Committee, three members of a Planning Board, a Board of Library Trustees, and a Town Moderator. In addition, four members of a Housing Authority and such other officials or representatives to regional authorities or districts as may be established by by-law or by inter-local agreement may also be filled by ballot at town elections.

(b) **Eligibility** - Any Voter shall be eligible to hold any elective town office, provided however, no person shall simultaneously hold more than one elected town office as defined in this section.

(c) **Town Election** - The annual election of Town Officials and the determination of all questions to be provided by by-law.

(d) **Compensation** - Elected Town Officials shall receive such compensation for their services as may be appropriated, annually, for such purpose.

(e) Availability - Notwithstanding their election by the Voters, the Town Officials named in this section shall be subject to the call of the Board of Selectmen or of the Town Administrator, at all reasonable times, for consultation, conference and discussion on any matter relating to their respective offices.

(f) Filling of Vacancies

(1) Multiple-member Body - If there is a vacancy in a board consisting of two or more members, other than the Board of Selectmen the remaining members shall forthwith give written notice to the Board of Selectmen of the existence of any such vacancy. After seven days public notice of the date on which the vote shall be taken, the Board of Selectmen, with the remaining members or member of such board shall fill such vacancy by a joint roll call vote. If the multiple-member body does not give such notice to the Board of Selectmen within 30 days following the date on which said vacancy occurs, the Board of Selectmen shall, after seven day's public notice, fill such vacancy without participation by the remaining members or member of the multiple-member body.

(2) Board of Selectmen - If there is a failure to elect, or if a vacancy occurs in the office of Selectmen and six months or more will elapse before the next annual town election, the remaining Selectmen shall, forthwith, call a special election to fill the vacancy. If a vacancy occurs in the office of selectman and more than three but less than six months will elapse before the next annual town election, the remaining Selectmen may call a special election to fill the vacancy or, upon the written request of not less than 200 registered Voters of the town, the Board of Selectmen shall forthwith call such special election.

(g) Recall of Elected Officials

(1) Application - Any person who holds an elected town office, with more than six months remaining of the term of office, may be recalled from the office by the Voters in the manner provided in this section.

(2) Recall Petitions - A recall affidavit, signed by at least 50 Voters in each of the precincts into which the town is divided, may be filed with the Town Clerk containing the name of the official whose recall is sought and a statement of the grounds for recall. The Board of Registrars of Voters shall certify such petitions with regard to the sufficiency and validity of the signatures of Voters *within seven days of such filing*. The Town Clerk, within seven days following such ~~filing~~ *certification*, shall deliver to the ten persons first named on such petitions, petition blanks demanding said recall. The Town Clerk shall keep available printed petition forms. They shall be addressed to the Board of Selectmen, contain the typewritten names of the ten persons to whom they are issued and the grounds for recall as stated in the affidavit. The petitions shall demand the election of a successor to the office; they shall be dated and signed by the Town Clerk. A copy of the petitions shall be entered into the record book to be kept in the office of the Town Clerk.

The recall petitions shall be returned to the office of the Town Clerk within 14 days following the date they are issued, signed by at least 50 percent of the total number of persons who voted at the most recent annual town election.

The Town Clerk shall, within ~~one~~ *five* days following such filing, submit the petitions to the Board of Registrars of Voters who shall, within five days, thereafter, certify thereon the number of signatures which are the names of Voters.

(3) **Recall Elections** - If the petitions are certified by the Registrars of Voters, the Town Clerk shall forthwith submit the same with a certificate to the Board of Selectmen. Upon its receipt of the certified petition, the Board of Selectmen shall forthwith give notice, in writing, of said petition to the official whose recall is sought. If said official does not resign from office within five days following delivery of the said notice, the Board of Selectmen shall order a special election. This special election shall be held not less than 60 nor more than 90 days after the date of the certification of the Town Clerk that the petition is sufficient. If a regular annual town election is to be held within 90 days following the date of said certificate the recall election shall be held in conjunction therewith and not at a special election. If a vacancy occurs in the position from which the official is being recalled after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

(4) **Nomination of Candidates** - An official whose recall is sought will be a candidate to succeed to the same office. Unless the official requests otherwise in writing, the Town Clerk shall place the name of the official on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election, and the conduct of the election shall all be in conformity with the provisions of law relating to town elections generally, unless otherwise provided in this section.

(5) **Propositions on the Ballot** -

(a) Ballots used at the recall election shall state the proposition in the order indicated:

For the recall of (name of official)

Against the recall of (name of official)

Adjacent to each proposition shall be a place to vote for either of said propositions. If a majority of the votes cast is in favor of the recall, and provided at least 25 per cent of the total number of registered voters as of the date of the most recent town election have participated at such recall election, the official shall be deemed to be recalled.

(b) After the said proposition shall appear the word "candidates" and the names arranged alphabetically. If the official is recalled, the ballots for candidates shall then be counted, and the candidate receiving the highest number of votes shall be declared elected.

(6) **Officeholder** - The incumbent shall continue to hold office and perform the duties until the recall election. If not then recalled, the official shall continue in office for the remainder of the unexpired term, subject to recall as provided in paragraph (7).

If the official is recalled, the office shall be deemed vacant upon the certification of the election results. The candidate who receives the highest number of votes shall serve for the balance of the unexpired term.

(7) Repeat of Recall Petition - No recall shall be filed:

(a) against an official within six months after taking office,

(b) or in the case of an official subjected to a recall election and not recalled thereby, until at least six months after the election at which the recall was submitted to the Voters.

SECTION 3-2: BOARD OF SELECTMEN

(a) **Composition, Term of Office** - There shall be a Board of Selectmen consisting of five members elected for terms of three years each, so arranged that the terms of as nearly an equal number of members as is possible shall expire each year.

(b) **Powers and Duties** - The executive powers of the town shall be vested in the Board of Selectmen which shall be the chief executive office. The Board of Selectmen shall have all of the executive powers it is possible for a Board of Selectmen to have and to exercise. The Board of Selectmen shall serve as the chief policy making agency. It shall be responsible for the issuance of policy directives and guidelines to be followed by all town agencies serving under it. The Board of Selectmen shall work in conjunction with other Town Officials to develop and to promulgate policy guidelines designed to bring all agencies of the town into harmony; provided, however, that nothing in this section shall be construed to authorize any member of the Board of Selectmen, nor a majority of them, to become involved in the day-to-day administration of any town agency. It is the intention of this provision that the Board of Selectmen shall act only through the adoption of broad policy guidelines which are to be implemented by officials and employees appointed by or under its authority.

The Board of Selectmen shall cause a record of all its official acts to be kept. To aid in the performance of its duties, the Board of Selectmen shall appoint a Town Administrator as provided in Article 4.

Except as otherwise provided by the General Laws, this charter, or specified by by-law, or expressly voted by Town Meeting, no member of the Board of Selectmen shall be a member of any other town board or committee.

(c) **Appointment Powers** - The Board of Selectmen shall appoint a Town Administrator. The Board of Selectmen shall appoint such other Town Officials and members of multiple-member bodies, the primary responsibilities of which are policy making and not administrative and such other positions as may be provided by by-law.

(d) **Licensing Authority** - The Board of Selectmen shall be the licensing board for the town and shall have power to issue licenses authorized by law. It shall also make all necessary rules and regulations regarding the issuance of such licenses and attach conditions and impose restrictions on any such license as it deems to be in the public interest, and enforce all laws relating to all businesses for which it issues any licenses.

SECTION 3-3: SCHOOL COMMITTEE

(a) **Composition, Term of Office** - There shall be a School Committee consisting of five members elected for terms of three years each so arranged that the terms of as nearly an equal number of members as is possible shall expire each year.

(b) **Powers and Duties** - The School Committee shall have all of the powers and duties which are given to School Committees by General Laws and it shall have such additional powers and duties as may be authorized by this charter, or by by-law, or by Town Meeting vote.

SECTION 3-4: LIBRARY TRUSTEES

(a) **Composition, Term of Office** - There shall be a Board of Library Trustees of three members, elected for terms of three years each and arranged such that the terms of one member shall expire each year.

(b) **Powers and Duties** - The Board of Library Trustees shall be responsible for the management and supervision of the free public libraries of the town. The Board of Library Trustees shall have all other powers and duties which are given to library trustees by the General Laws and shall have such additional powers and duties as are provided by charter, or by by-law or by Town Meeting vote. ~~as well as any powers, duties and responsibilities as may be imposed by the terms of any applicable trust.~~

SECTION 3-5: TOWN MODERATOR

(a) **Term of Office** - There shall be a Town Moderator elected for a term of three years.

(b) **Powers and Duties** - The Town Moderator shall be the presiding official of the Town Meeting, as provided in section 2-2, regulate its proceedings and perform such other duties as may be provided by the General Laws, by charter, by by-law or by Town Meeting vote.

The *Town* Moderator shall appoint the Finance and Warrant Advisory Committee and shall appoint the members of all committees established by vote of the Town Meeting unless otherwise provided.

SECTION 3-6: PLANNING BOARD

(a) **Composition, Term of Office** - There shall be a Planning Board consisting of five members of whom three shall be elected for terms of three years each, so arranged that the term of one member shall expire each year and the remaining two members shall be appointed by the Board of Selectmen for terms of three years each, so arranged that the terms expire in different years.

(b) **Powers and Duties** - The Planning Board shall make careful studies of the resources, possibilities and needs of the town and shall make plans for the development of the town. The board shall make a comprehensive or master plan, setting forth in graphic and textual form policies to govern the future growth and development of the entire town. The board shall regulate the subdivision of land within the town by adoption of rules and regulations governing such development and the administration of such rules and regulations. The Planning Board shall make recommendations to the Town Meeting on all matters affecting land use and development, including the zoning by-law of the town. The Planning Board shall recommend to the Town Administrator the appointment of a ~~Town Planner~~ *Planning Director*, and shall supervise the duties of the ~~Town Planner~~ *Planning Director*.

The Planning Board shall make an annual report, giving information regarding the condition of the town and any plans or proposals for its development and estimates of their costs. The Planning Board shall have all of the other powers and duties as provided by the General Laws.

SECTION 3-7: SUTTON HOUSING AUTHORITY

(a) **Composition, Term of Office** - There shall be a Housing Authority which shall consist of five members serving for terms of five years each, so arranged that the term of one member shall expire each year. Four of these members shall be elected by the Voters, and the fifth member shall be appointed by the department of housing and community development of the commonwealth, or as may otherwise be provided by law.

(b) **Powers and Duties** - The Housing Authority shall make studies of the housing needs of the community and shall provide programs to make available housing for families of low income and for elderly persons of low income. The Housing Authority shall have such other powers and duties as are assigned to housing authorities by the General Laws.

SECTION 3-8: BLACKSTONE VALLEY REGIONAL VOCATIONAL SCHOOL DISTRICT COMMITTEE (SUTTON REPRESENTATIVE)

(a) **Composition, Term of Office** - The Voters shall elect such members of the Blackstone Valley Regional Vocational School Committee for such terms as may be provided under the agreement and laws establishing the same.

(b) **Powers and Duties** - The members of the Blackstone Valley Regional Vocational School Committee shall, along with members of the committee from other municipalities participating therein, be responsible for the management and supervision of the said school according to the agreement and laws governing the same.