

**Longmeadow Charter Commission Minutes**  
**DATE: February 17, 2004 TIME: 7:10-9:42 PM**  
**PLACE: School Committee Room**

This was the 31<sup>st</sup> meeting of the Longmeadow Charter Commission. Present: William Hoff, Arlene C. Miller (Vice Chair), Roger F. Nadeau, Joseph A. Occhiuti, Rebecca M. Townsend (Clerk), and Roger B. Wojcik (Chair). Absent: Kathleen E. Grady, R. Peter Landon. Also present: Thomas Groux. Two members of the public were present.

1. Mr. Wojcik opened the meeting and invited the members of the public an opportunity for comments or questions. Hearing none, Mr. Wojcik closed the **Public Comment** time.
2. Mr. Wojcik opened review of the **minutes of February 3, 2004**. Ms. Miller moved that minutes be accepted as written. Mr. Nadeau seconded, and the vote was 6 in favor. Mr. Hoff abstained due to his absence at that meeting.
3. Mr. Wojcik opened review of the February **public hearings on the Preliminary Charter Report** and referred to Ms. Townsend’s summary of these hearings (please see attached memo “Issues to consider for the Final Charter”, dated 2-17-04). Ms. Miller requested that no decisions be made on those items without all members present. Mr. Wojcik asked the group if there were any additional items. Mr. Hoff added item 7, and Mr. Wojcik added item 8. (Note: These have been added to the attached memo.) To allow for maximum debate on the issues, the Commission agreed to discuss the Attorney General’s letter of review of the Preliminary Charter prior to discussion of the material from the public hearings.
4. Mr. Wojcik distributed copies of the **Attorney General’s letter** (please see attached letter from the Attorney General's office “Re: Preliminary Report of the Longmeadow Charter Commission Case #2813”, dated February 12, 2004). Among other things, the letter states that **Longmeadow’s Preliminary Home Rule Charter “does not conflict with the constitution or laws of the Commonwealth.”**

The letter also offers several suggestions on the content of the draft charter, which are intended to clarify the charter language. The Commission agreed to take the following actions on each of these items... (References are to the Assistant Attorney General’s letter attached)

Re Sec. 2-5(b) – Remove the comma as suggested.

Re Sec. 2-8(a) - References shall be to the town’s official website.

Re Sec.-2-9(b) – This suggestion tabled temporarily.

Re Sec. 2-9(c) – This suggestion tabled temporarily.

Re Sec. 2-9(a)-(f) – This suggestion tabled temporarily.

Re Sec.3-1 – Petitions should be certified by the registrars of voters.

Re Sec. 5-2 – Change “representatives” to “officers.”

5. Mr. Wojcik asked Mr. Groux to distribute a memo regarding his comments on the Preliminary Charter, some of which are based on material from Marilyn Contreas of the Department of Housing and Community Development. (Please see attached letter from Groux and Associates, “Preliminary Charter: Corrections, Clarification, etc”, dated February 16, 2004). The Commission agreed to the following actions on each of these items:

Re #1 – This change will be made.

Re # 2 – This suggestion tabled temporarily.

Re #3 – This suggestion accepted.

Re #4 – This suggestion tabled temporarily.

Re #5 – The suggestion accepted.

Re #6 – This suggestion accepted.

Re #7 – This suggestion accepted.

Re #8 – First suggestion not accepted, second suggestion accepted.

Re #9 – This suggestion accepted.

Re #10 – This suggestion accepted.

Re #11 – This suggestion accepted.

Re#12 – This suggestion accepted.

Re #13 – This suggestion accepted.

Re #14 – This change accepted.

6. Changes recommended by members of the public since issue of the Preliminary Charter (and noted in the attached memo “Issues to consider for the Final Charter”, dated 2-17-04) were considered as follows:

(a) The word “proscribe” in the section on the referendum procedure should be changed to “prescribe.” Suggestion accepted.

(b) Re article 3-2c, a question was raised as to why the phrase “(but not the town clerk)” is used. Mr. Groux explained that the clerk by nature of the office

becomes a registrar of voters, and so cannot be appointed by anyone else as a registrar. No change will be made.

- (c) It was suggested that article 2-10(b) be split into two paragraphs. No change will be made as the first part of the paragraph outlines powers and duties of the finance committee and the second part is a listing of those powers and duties.
  - (d) Article 6-6b refers to section 3-3b1, an error; the “1” will be deleted.
  - (e) A question was raised about the potential conflict between town by-laws and the content of the charter, for example, if the by-laws committee proposes changes to the by-laws, what would happen if town meeting rejects them. From state statute, should there be conflict with town by-laws, the town’s charter language would take precedence over the by-laws. The Commission agreed to add the following sentence to article 9 “Transitional Provisions:” “Where the by-laws conflict with the charter, the charter takes precedence (as is provided in Massachusetts General Law).”
7. Mr. Wojcik began discussion on “Issues to consider for the final Charter.” (Again, please see the attached letter as a reference.)
- a. We discussed Issue 5 - Open forums for debate. Mr. Occhiuti referred to the November 19, 2002 Town Meeting article concerning better communication of town issues. He stated that he would like to see more back-and-forth discussion of issues during public meetings and in forums such as budget reviews, but suggested that the matter of further defining the approved article on comment periods is outside of the charter’s purview. The Commission agreed to not include the matter of open forums in the charter.
  - b. Re: Issue 1 - Finance Committee Appointment process. Mr. Occhiuti asked what the purpose was for the use of a three-person committee in the selection of the Finance Committee’s appointment. Mr. Hoff noted that a three-person committee increased the diversity of perspective regards candidate selection and that an end to the one person “closed” process of the appointing of members to such a powerful group was appropriate. Ms. Altman said that she thought the Moderator had no axe to grind with the other boards. Ms. Miller stated that she heard others give reasons including a lack of uniform qualifications and the field of candidates being limited to the Town Moderator’s circle of acquaintances. Ms. Townsend pointed out that her memo proposing an open appointment process (please see the attached memo “Appointment Procedures” dated February 17, 2004) would address the concerns presented at the public hearings regarding the appointment of key town officials, including the Finance Committee. Ms. Miller agreed that the charter should institute an open appointment process. Mr. Wojcik also agreed to an open process and in addition recommended that the Appointing Authority for the Finance Committee be a group. Mr. Occhiuti reaffirmed his strong reservations about having the Select Board and School Committee being part of

that group. Ms. Miller and Ms. Altman concurred. The Commission agreed to continue this discussion at the next meeting.

8. Considering the hour, Mr. Wojcik said that we would also discuss Issues 2, 3, 4, 7, and 8 at the next meeting: Tuesday, February 24 from 9:00am to 11:00pm (location to be determined). Issues 1 and 6 would be addressed on Thursday, March 4, in the School Committee room, from 6:30 to 10:30pm. Mr. Wojcik would post meeting notices.
9. Ms. Altman moved to adjourn meeting. Mr. Hoff seconded. With all in favor, Mr. Wojcik adjourned the meeting at 9:42 pm.

Approved February 24, 2004

Respectfully submitted,

Rebecca M. Townsend, Clerk

Special note: The letters from the Attorney General's office and from Groux and Associates were electronically scanned into the computer to provide addendums to these minutes. They have been proof read and are text-accurate (There is one spelling error if you look carefully) but not necessarily format-accurate.

To: Longmeadow Charter Commission  
From: Rebecca M. Townsend

Date: February 17, 2004

**Memo re: Issues to consider for the Final Charter**

**HEARINGS SUMMARY (February 5 & 7, 2004)**

2-5-04: total “turns” for participants: 24.

2-7-04: total “turns” for participants: 12.

Participation came in 3 general forms:

1. There was much explicit (13) “**applause**” from attendees. (Including 1 lengthy turn overlapping with a concern)
2. General questions of **clarification or requests for explanation**, without any predominant or overwhelming sense of praise or concern: (18) (including 3 lengthy turn developing into overlap with concerns)
3. Overall concerns, **likely objections** raised: 8 (including 4 lengthy concern overlapping with concern or praise)

The Hearings were primarily information-gathering sessions, as demonstrated in the abundance of questions relating to how the charter would work in practice. This is not a surprise, since residents are reading the Preliminary Home Rule Charter for the first time. It is becoming “real” to residents now.

Participants were attempting to learn how the process would work and ensuring that Charter Commission members had reasons for decisions. Overall, more participants expressed approval for the Charter, with some objections. Some concerns need to be further addressed, however.

**Issues to Consider (from my notes and requests from fellow Commissioners)**

1. Finance Committee appointment process
2. Ample time for the Town Manager to review the School Department budget? 15 days enough?
3. Elected versus appointed officials
4. Appointment “process” (removal procedures? Public input?)
5. Open forums for debate
6. Referendum (discussion centered on how it works, whether the numbers are set high enough, and a complaint about people who do not attend Town Meeting using the procedure)
7. Supermajority hiring of superintendent
8. Extended Town Meeting

In the **Overview**, we need to indicate that

“Where the by-laws conflict with the Charter, the Charter is supreme (as is provided in Massachusetts General Law).” (Or something to that effect.)

In the Charter itself:

In the Referendum section, change “proscribe” to “**prescribe**.”

Article 3. 2-c. remove the parenthetical expression “(but not the town clerk).”

Article 2. 10-b separate into two paragraphs before the sentence about jurisdiction over the Reserve Fund.

**Memo: Appointment Procedures**

**To: Longmeadow Charter Commission**

**From: Rebecca M. Townsend (Charter Commission Clerk)**

**Date: February 17, 2004**

The following procedures should be considered to assuage concerns about a fair process for the appointment of town officials (committee members). They ensure that openness and opportunity for comment are integrated into the selection process. These are ideas for consideration, and there may be an easier way to accomplish the same result.

1. The Appointing Authority must set merit and qualifications criteria for selecting appointees to any committee.  
Such criteria might include skills, training, or relevant experience.
2. The position opening and solicitation for letters of interest and resumes must be posted in Town Hall and published in a newspaper.
3. All resumes should undergo a “blind review” and be ranked according to how well they fit the criteria.
4. The Appointing Authority must conduct open/public interviews with preferably three (3) finalist candidates for each open position on the committee. The public must have a period of 10 days after the interview and prior to the appointment, in which to comment on the finalists.

I also strongly advise that the Charter Commission set in place a version of the above procedures as standards for appointment, for the Rules Committee and for Select Board-appointed positions. No one should vote on applications for relatives or a person with whom a business relationship exists. The appointing authority member who may have a conflict of interest should excuse himself or herself from a final vote on the applicant.

Rebecca M. Townsend

Page two of this memo details the set of procedures the Town of Framingham uses.

The Town of Framingham’s provides the following policies and procedures for appointments. (I’ve emphasized items that should receive special consideration) (Board of Selectmen of Framingham’s “Policies and Procedures”3-4):

“The Board shall make its annual appointments of volunteer positions no later than its last regular meeting in May. Appointments shall have terms beginning on July 1 and expiring on June 30 and shall be for three (3) year terms or as required by state statute or Town by-law. In addition, as the need arises, the Board may make appointments throughout the year for terms to take immediate effect, with expiration dates of June 30. Incumbents shall continue to serve in office until a successor shall be appointed.

?? A complete listing of all officials appointed by the Board is provided in Article I of the Town by-laws, and a regular updated listing of the current status of all officials is provided by the Town Clerk. **Appointments shall be based on merit and qualifications. Where possible the Board will seek variety in backgrounds, interest, ages, genders, and geographic areas of residents, so that Town boards, committees and departments will reflect a true cross-section of the community.**

?? **In order to attract qualified and interested persons, vacancies will be publicly advertised as far in advance of the appointment as practicable, with description of responsibilities and actions, and request for cover letters and resumes shall be given.**

All applicants should submit a letter of interest and a resume. Notification of receipt and outcome will be sent to the applicant. The Selectmen’s Office shall maintain a file of interested applicants.

#### Elected and Appointed Positions

The Town Manager will ensure that the Chair of the board on which a vacancy occurs is advised of the vacancy, and will seek nomination recommendations of a majority of the relevant committee. **In the case of an incumbent seeking reappointment, the Chair of the committee shall provide an attendance history of the incumbent. Reappointment shall not be considered automatic, but shall be based on an evaluation of the appointee’s past contribution to the board or committee.** There is no limit to the number of terms which an appointee may serve, but **all interested applicants will be considered for vacancies** as they occur. To facilitate this process, the Selectmen’s Office will maintain a listing of the Town residents who have expressed an interest in Town service, and the Board will be provided the names of all who have expressed interest in serving on a board, committee or commission before it votes to make the appointment to the Board. Town residents interested in serving must submit a letter of interest to the Selectmen.

Upon notification of a vacancy on an elected Town board, the Board and the remaining members of the elected board shall appoint a replacement, on a majority roll call vote of the combined boards, subject to MGL c.39 and Town by-laws. The new appointee shall be a registered voter in the Town of Framingham and shall serve only until the next annual Town election.”

**Ad-hoc committees report to the Selectmen, and the Selectmen receive copies of all agendas and minutes.**

(RT: I believe minutes are required as per state law, but it is a wise idea for all ad-hoc groups to submit their minutes to the Select Board as well as the Clerk’s office.)

February 16, 2004

TO: Charter Commission  
FROM: T. Groux  
SUBJ: Preliminary Charter: Corrections, Clarifications, etc.

Following are some comments and observations on the Preliminary Charter that should be made or considered before the Final Charter is voted by the Commission.

- 1 page 5: Section 2-5(b). (rules) In second sentence reverse order of “by-law amendments” to read **“amendments to the by-laws”**
- 2 page 6,7: Section 2-9 (referendums) consider implications of present wording that may be too broad and therefore allow referendums even on votes that failed to carry at town meeting. (May be addressed by Attorney Ritchie’s letter?)
- 3 page 7: Section 3-1(c) (petitions) insert in first sentence, second line **“and certified by the Registrars of Voters”**
- 4 page 7: Section 2-9(f) (petitions) may not be permissible, but if it is, should probably specify that this applies only to referendums described in Section 2-9
- 5 page 10: Section 4-1 (Historic) strike last six words “...and as further defined by by-law.”
- 6 page 12: 5-2(b) (appointments) change “representatives” to **“officers”**
- 7 page 13: 5-2(o) (negotiate contracts for select board) consider adding to sentence an additional phrase **“...and when authorized by the select board, may negotiate any contract within the jurisdiction of the select board.”**
- 8 page 14: 5-4 (acting town manager) consider adding **“, and may remove,”** after the words “the select board shall appoint...” and also add after the words “as acting town manager...” the words **“to exercise the powers and perform the duties of the town manager,”**
- 9 page 16: Section 6-1 (order vs. code) change word “order” to **“code”** throughout paragraph.
- 10 page 18: Section 6-6 (superintendent as CAO) consider deleting “chief administrative officer” term as it is at odds with C.4, S.7 of general law and may confuse.

- 11 page 21: Section 7-7(b) consider re-wording last part of sentence (2) as follows  
***“...with supporting documentation, in such form as the town manager shall prescribe, describing the need for each project”***
- 12 page 21: Section 7-9 (audit committee) consider specific role of committee in “overseeing implementation” of recommendations. Possibly phrase it to read ***“and review independent auditor’s management recommendations;”***
- 13 page 25: Section 9-5(a) (special election for selectmen) in first sentence delete “be empowered to hold” to read ***“conduct”***
- 14 page 25: Section 9-5(b) (early vacating of offices) add after last phrase the following ***“... and should there be a sooner vacating of their office, their successors shall be appointed.”***



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February 12, 2004

Roger B. Wojcik, Chairman  
Longmeadow Charter Commission  
20 Williams Street  
Longmeadow, MA 01106

RE: Preliminary Report of the Longmeadow Charter Commission Case 2813

Dear Mr. Wojcik:

Pursuant to the provisions of General Laws Chapter 43B, Section 9, I have reviewed the Preliminary Report of the Commission accompanying your letter to me dated January 16, 2004, and received by this Office on January 16, 2004. Pursuant to that section, and within four weeks after receipt, the Attorney General is required to furnish the Commission with a written opinion setting forth any conflict between the proposed charter or charter revision and the constitution and laws of the Commonwealth. I find that the proposed charter does not conflict with the constitution or laws of the Commonwealth.

I offer the following comments on the draft submitted to us for review.

Sec. 2-5(b) - In the second sentence, the words "...may propose, by-law, amendments..." are probably intended to mean "...may propose by-law amendments..." I suspect the commas in the proposed draft conflict with the intended sense of the section.

Sec. 2-8(a) - In your final draft you may wish to be more explicit about which "electronic means of distribution" qualify for this section. For example, location on the town's website, electronic mail, etc...

Sec. 2-9(b) - I construe votes that are "non-final" in the sense of this section to be "unfavorable action," and that "deemed to be rejected" has the same meaning.

Sec. 2-9(c) -. I am not entirely clear what is meant by the words in the first sentence "any question, not yet operative." You might wish to clarify what is meant by this.

Sec. 2-9 (a)-(f) — This entire section deals generally with "Referendum Procedures

on Town Meeting Votes” (Emphasis added.) It does not expressly state that the “votes” in question are measures “adopted by” Town Meeting or measures “acted upon favorably” by Town Meeting, leading the reader perhaps to conclude that the scope of this Section includes measures rejected by Town Meeting or upon which Town Meeting has acted unfavorably. The section makes reference to “any question,” and to the “reversal” of any “action of the town meeting,” and to “any question” being placed upon the ballot in substantially the same language and form as acted upon by Town Meeting. Again, this could lead one to believe that votes that fail to achieve the quantum for adoption - e.g., two thirds vote for zoning by-law amendments - could somehow be re-presented to the voters who could then adopt the measure that Town Meeting rejected. In my conversations with ~he Commission’s consultant I have come to understand that the Report’s intent is that this section be applicable only to measures “adopted” by Town Meeting, whose reversal on referendum would have the effect of reversing or cancelling the affirmative measures adopted by Town Meeting. Our opinion that the proposed charter is not inconsistent with state law should be understood to mean that this section has application to affirmatively adopted Town Meeting measures only. I would strongly urge the Commission to clarify this in your Final Report.

Sec. 3-1 - In your Final Report you may wish to clarify how the provisions of subsection (c), prescribing the number of signatures required to place the name of a candidate on the ballot, apply to an elective office included in subsection (a) that is established not by statute but rather “by inter-local agreement or otherwise.” There simply may not be a general law to guide the Town in such cases.

Sec. 5-2 - I concur in the earlier suggestion offered by Marilyn Contreas that the Final Report make reference to either “state officers” or “state representatives” consistently, as these terms are used throughout the Report.

Very truly yours,

THOMAS F. REILLY

ATTORNEY GENERAL



by \_\_\_\_\_

General

by: Robert W. Ritchie, Assistant Attorney  
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enc.

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