

TOWN COUNCIL MEETING
July 26, 2010
6:00 P.M. Town Council Chambers

Present: President Raymond Spear, Vice-President Laura Flanagan, Glen Shibley,
Kenneth Cloutier, Frank Hyde

Town Manager Thomas Hoover

Review of Emergency Evacuation Plan

President Spear opened meeting, commenting that on each question there will first be legal review, then discussion among Town Council, followed by public comment and finally Town Council action.

Below are questions and explanations drafted by Attorney Joseph Larisa per the recommendations of the Charter Review Commission.

Questions and explanations as originally discussed appear at beginning of minutes; final revisions of questions and explanations at the end.

Question #1 - Council Approval of Collective Bargaining Agreements

Shall Article III, Section 3.14 of the Town Charter be amended to provide that no collective bargaining agreement between the Town, including the School Committee, and any labor organization shall become effective unless and until ratified by the majority vote of the Town Council?

Explanation: This amendment would require Town Council approval of all collective bargaining agreements, including those negotiated by the School Committee. Over 50% of the Town budget is allocated to paying for collective bargaining agreements negotiated by the School Committee. Presently, the Council approves all collective bargaining agreements, except those negotiated by the School Committee. The Council sets the tax rate necessary, however, to support all contracts and town spending. A vote to approve would provide the Council with authority to ratify School Committee collective bargaining agreements. A vote to reject would deny that power.

Councilman Shibley spoke in favor of the question as it would allow the Town the accountability for all departments, especially since the school department is at least 50% or more of the town's total budget.

Councilwoman Flanagan agreed, adding that there should be dialog between the Council and the School Committee when so much of the budget is dedicated to salaries and benefits on the school side. It doesn't seem appropriate any longer for us to just be handed the bill. President Spear also endorses this recommendation.

Joel Johnson, Chairman of the Charter Review Commission, commented that Mr. Larisa's draft is consistent with the intent of the Charter Review Commission.

Kevin Hitt, 26 Sugar Maple Drive asked if this would put the Town Council in a position to serve as the negotiating body with the union? President Spear replied that the School

Committee will still negotiate, but make recommendations to the Town Council. Currently the Town Council sets the budget for the school department.

Kathy Patenaude, Chairwoman of the School Committee, 38 Fieldstone Drive, is not in favor of the amendment and believes that State Law is specific in saying that School Committees are elected and serve in the role of negotiating contracts on the school side. There should be autonomy on the school side. What the Council is saying is that the School Committee is not capable. I can't imagine how the Council could judge what the school contract is about. It's not always about money; concessions are made with collective bargaining. Basically you are slapping the School Committee in the face and I find this very insulting. Mrs. Patenaude believes the law is on the side of the School Committee and Council can take them to court and could see litigation.

Atty. Larisa remarked the School Committee has full authority to negotiate, but this is about the authority to bind the municipality.

Vice-President Flanagan asked Mrs. Patenaude if she would not honor the vote of the people on this question if they vote yes and Mrs. Patenaude replied that she believes this is against the law, therefore, would not honor it.

Ted Jendzjec, Coventry Drive, and David Florio, 153 Princeton Avenue agree with Ms. Patenaude that this question should be rejected.

William Wolfe, 46 Cantaberry Lane, member of CRC. Whether I agree or disagree, the Charter Review Commission decided that this would be the amendment and it wouldn't be right for Ms. Patenaude to defy the people of Coventry. If the Town Council refuses to ratify a contract, she can take it to court. That is her right.

Councilman Hyde remarked that this would be heading down the wrong path and will only create bad blood.

Councilman Shibley feels the question should be put before the voters.

Vice-President Flanagan agrees with Councilman Shibley. Right now the School Committee negotiates and binds the contract, handing the Town Council the bill. The Council oversees the budget with the manager and we know how much we can afford, yet at this point we have no ability to weigh in on a contract that has been negotiated. Every year I hear that we're hurting the kids. If we truly want to protect children, we need to give the Council the ability to look at the budget and to say either we can do this or we can't. If we say no, it's because we are trying to preserve money for children's services, books, and programs, not for teacher contracts.

Motion made by Laura Flanagan seconded by Ken Cloutier to approve question pertaining to Council Approval of Collective Bargaining Agreements. Vote taken: 4 in favor-1 opposed (Councilman Hyde opposes). Motion passes.

Question 2 – All day referendum/concurrent Budget Approval

Shall Article VIII, Section 8.18 of the Town Charter be amended to provide that an all day referendum shall be required when any changes to the capital improvement or operating budget at the Financial Town Meeting exceed \$180,000; and Section 8.10 be amended to provide that

the capital improvement program and capital budget be approved by the Town Council concurrent with the operating budget?

Explanation: This amendment would make any *change* to the capital improvement or operating budgets that total \$180,000 or more subject to an all day referendum. Presently, only additions or subtractions that net to this amount are subject to referendum. The amendment would also allow the capital improvement program and budget to be approved adopted at the same time as the Town operating budget, not thirty (30) days prior as presently provided. A vote to approve would make these changes. A vote to reject would not.

Atty. Larisa added that language is changed to “any changes” rather than increase, decrease, add or subtract. Also, getting rid of the word “net”.

Councilman Cloutier agrees that this needs to be changed, especially the capital improvement budget to be approved concurrently with the operating budget. Councilman Shibley, Councilwoman Flanagan and President Spear all agree that this would be the proper way.

Joel Johnson commented that this is consistent with the intent of the Charter Review Commission.

Ted Jendzjec, 92 Coventry Drive, agrees and suggested putting in the cost of an all day referendum on the ballot. Nancy Sprengelmeyer, 26 Taft Street, doesn't see the harm in adding the price of referendum to the charter.

After discussion of putting the cost of a referendum in the charter, on the ballot or whether it would appear in a voter handbook, Vice-President Flanagan suggested an informational flyer, but not on the ballot.

Greg Laboissonniere, 131 Colvintown Road, asked how increases regarding the CPI will be addressed. Mrs. Flanagan responded that has been discussed at length with Atty. Larisa and the figure has been adjusted up until today, so that \$180,000 figure will go into the amendment.

President Spear suggested letting the voters know at the FTM that any change over the \$180,000 would go to all day referendum.

Motion made by Laura Flanagan seconded by Glen Shibley to approve question. All voted aye.

Question 3 Non-Partisan Elections/Council Terms/Appointment Power

Shall Article II of the Charter be amended to provide nonpartisan elections for all local offices; Article III, Section 3.01 of the Charter be amended to provide for staggered four (4) year terms for Council members, as presently served by School Committee members; and Article XVIII be amended to eliminate Town Council appointments between general election day and the seating of new Council members commencing a new term?

Explanation: This proposed amendment would, commencing in 2012, establish nonpartisan elections where all candidates on the ballot for local offices appear without party designation and provide staggered four (4) year terms for Council members, also commencing in 2012. The staggered four (4) year terms for Council members would **match** the present staggered four (4)

year terms for School Committee members. The amendment would also eliminate Council appointments in the period between the general election and the seating of newly-elected members of the Council. Presently local elections are partisan (meaning that party designation accompanies all candidates on the local ballot), each Council member is elected for a two (2) year term, and there are no limits on the timing of Council appointments. A vote to approve means you support the proposed changes. A vote to reject means you oppose them.

Atty. Larisa stressed that there would be no party designation on the ballot, but you can campaign or put up signs with a party designation.

Councilman Hyde doesn't think the system is broken now, so why try to fix it.

Councilman Cloutier and President Spear support question.

Manager Hoover made suggestion to change the word "match" on the fourth line of explanation, as what you really want to say is that staggered four year terms would be opposite the districts that the school committee was running in. Atty. Larisa agreed that "match" will be changed to "compliment".

CRC Chairman Joel Johnson concurs, but thinks that if all three components (nonpartisan elections, council terms and appointment power) are in one question, and if a voter is against one part of the question, then the whole thing will be voted down.

Wayne Asselin, Charter Review Commission, thinks non partisan elections will work, other states do this and it encourages people to practice their democracy. A four year term for Town Council puts them on equal footing with the School Committee.

President Spear clarified that with non-partisan elections the two highest vote getters would run against each other in the general election in November, with the most votes being elected.

Ted Jendzejec disagrees and questions why you would have a primary for non-partisan elections? A primary is held when, for example, a Democrat runs against a Democrat. Four years is a long time for Council; two years doesn't allow people to become complacent. Don't want to see this take place and hope you vote this down.

Harold Trafford, 15 Centre Street, without a primary, if you have ten people running for office, and you put them on the regular ballot, the person who gets elected may get elected with less than 50% of the vote, that's why we thought you should take those ten people and take the top two vote getters for the general election. Also think that question #3 will be defeated if posed to the public the way it is now and should be separated.

Atty. Larisa stated that the intent of the primary is to narrow the field. East Providence has had non-partisan elections since 1954. If ten people are running, there is a primary and they take the top two vote getters.

David Florio, Princeton Avenue, commented that people want to know if you are Democrat, Republican, Independent and what you stand for.

Vice-President Flanagan, Councilmen Shibley and Cloutier agree the question should be split, with non-partisan elections separate from the other two questions.

Lisa Tomasso, 40 York Drive, commented that people should vote for a person and not a party.

Glen Gustafson, 26 Alvero Road, asked for clarification with regard to non-partisan elections and doesn't believe there is a need to do this. Atty. Larisa responded that a person can still be endorsed by a party, have literature, put signs up, with Democrat or Republican on the sign, but the ballot has no party designation, no master level voting.

Nancy Sprengelmeyer thinks there is a benefit for four year terms for council in that there will be people who remain and are familiar situations.

Motion made by Laura Flanagan seconded by Ken Cloutier to separate the non-partisan election question as an individual item. Vote 4 -1 (Councilman Hyde votes no) Motion passes.

With regard to four year council terms and limit on appointment power, Vice-President Flanagan made motion seconded by Councilman Shibley to approve a new Question 4 which will ask the voters for staggered four year council terms as presently served by school committee members and the elimination of Town Council appointments between general election day and the seating of new Council; the word "match" will be changed to "compliment" in the explanation paragraph. Vote taken 4-1. Motion passes. (Mr. Hyde votes no.)

Question 4 Town Manager Qualifications/Acting Manager

Shall Article V of the Charter be amended to raise the minimum qualifications for serving as Town Manager to a master's degree in certain fields, five (5) years of actual experience as manager or assistant manager of a municipality, and residence within the Town within six months of appointment; and shall any person serving as an interim Town Manager not meeting these requirements be eligible to serve no more than (60) days?

Explanation – This amendment would increase the minimum qualifications necessary for an individual to be eligible for appointment as Town Manager by the Council. It would also prohibit an appointment of an interim Town Manager not meeting these requirements from exceeding sixty (60) days. Presently the Charter contains lesser qualifications for Town Manager and does not deal with the length of time an interim Town Manager may serve. A vote to approve means that you support the proposed changes to the Charter. A vote to reject means you do not support these changes.

After discussion, Council agreed that it would be best to extend Interim Town Manager length of service from 60 days to 180 days.

Mr. Florio pointed out that sometimes experience is more beneficial than qualifications. If you have a good person in there running the town on an interim basis, you don't want to have to replace them.

Mrs. Patenaude does not think there should be a six month residency requirement, as you would narrow the application pool too much. A Rhode Island candidate might not want to move his family into town.

Ted Jendzejec, 92 Coventry Dr, suggested leaving this "as is". The higher you set the qualifications, the more you have tied your hands finding a town manager.

Greg Laboissonniere is in favor of leaving high qualifications, but agree with moving interim time to six months because it does take a while to find someone new.

Councilman Hyde believes should stay as is.

Councilman Cloutier feels 180 days makes more sense and Councilman Shibley agrees on 180 interim days, but should leave high standards in place for Town Manager.

Motion made by Vice-President Flanagan seconded by Councilman Shibley to approve the question as written, rename it to Question 5, and move interim time period to 180 days. Vote taken. 4-1 (Mr. Hyde votes no) Motion passes.

Question 5 Departmental Functions/Technical Changes/Voting Districts

Shall Article XII of the Charter be amended to update titles and functions; Article XIII amended to provide for consistency review of the capital improvement program; Article II be amended to delete local district apportionment by voters rather than population; and should the charter be amended with punctuation and grammar corrections and to achieve gender neutral terminology?

Explanation: This amendment would update the titles and functions within the Department of Safety and Welfare; provide the Planning Commission with responsibility for ensuring consistency of the Town's capital improvement program with the comprehensive community plan; delete apportionment of voting districts for Council and School Committee by the number of voters in favor of apportionment based upon population. The amendment would also make technical, punctuation and grammatical changes throughout the Charter as well as employ gender neutral terminology. A vote to approve means you support the proposed changes. A vote to reject means you oppose them.

Atty. Larisa stated that the Town could probably accomplish this without a public vote. It really just cleans up titles and functions, punctuation and grammar, technical changes.

Joel Johnson concurs with Atty. Larisa.

Ted Jendzejec suggested question 5 be in three parts since you are amending three sections.

Atty. Larisa will change the word "voters" to "population".

David Florio doesn't think people are going to understand the question as it is now.

Motion made by Laura Flanagan seconded by Glen Shibley to approve question as presented. All voted aye.

- Items considered by the Charter Review Commission but not included in questions:
 1. Eliminate or Retain FTM
 2. Investment of Retirement funds
 3. Elimination of Personnel Board
 4. Restrictions on eligibility for fringe benefits
 5. Inclusion of Municipal Court in Charter

Joel Johnson asked Town Council to reconsider Municipal Court issue. Let the voters decide if it should be in the Charter. The State of RI encouraged municipal courts in order to unclog the system. It's by ordinance now, would like to do this so that a future Town Council couldn't abolish the court.

Vice-President Flanagan does not support a recommendation to add Municipal Court. It's not out of the realm of possibility that the State could soon require a larger percentage of fines from our municipal court.

Glen Gustafson asked if Mrs. Flanagan is saying that it must be profitable to exist, and she replied that if the State should decide to take 75% of our ticket profits and it's costing more for the taxpayers, becoming a drain on them, we can send everything to the Traffic Tribunal. Not every town has a Municipal Court.

Council agreed to include a question recognizing that the Municipal Court's jurisdiction and operation is governed by ordinance, but that if the Court revenue does not sustain operations, the Council has the power to abolish the Court.

Question 7 MUNICIPAL COURT

Shall the Charter be amended to provide for Municipal Court, with its jurisdiction and operation governed by ordinance; provided, however, that if Court revenue does not sustain operation of the Court; the Council shall possess the power to abolish the Court?

Explanation: This amendment would place the existence of the municipal court in the Charter. Presently the Court is created by ordinance, as are the rules governing its jurisdiction and operation. This amendment also allows the Council to abolish the Court should its revenue not sustain its operation.

Motion made by Laura Flanagan seconded by Frank Hyde to adopt as read. All voted aye.

Motion made by Frank Hyde seconded by Laura Flanagan to adjourn meeting. All voted aye.

Final Revised Questions with Explanations

Question #1 - Council Approval of Collective Bargaining Agreements

Shall Article III, Section 3.14 of the Town Charter be amended to provide that no collective bargaining agreement between the Town, including the School Committee, and any labor organization shall become effective unless and until ratified by the majority vote of the Town Council?

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however, to support all contracts and town spending. A vote to approve would provide the Council with authority to ratify School Committee collective bargaining agreements. A vote to reject would deny that power.

Question #2 – All day referendum/concurrent Budget Approval

Shall Article VIII, Section 8.18 of the Town Charter be amended to provide that an all day referendum shall be required when any changes to the capital improvement or operating budget at the Financial Town Meeting exceed \$180,000; and Section 8.10 be amended to provide that the capital improvement program and capital budget be approved by the Town Council concurrent with the operating budget?

Explanation: This amendment would make any change to the capital improvement or operating budgets that total \$180,000 or more subject to an all day referendum. Presently, only additions or subtractions alone or that net to this amount are subject to referendum. The amendment would also allow the capital improvement program and budget to be approved adopted at the same time as the Town operating budget, not thirty (30) days prior as presently provided. A vote to approve would make these changes. A vote to reject would not.

Question #3 - Shall Article II of the Charter be amended to provide nonpartisan elections for all local offices?

Explanation: Proposed amendment would, commencing in 2012, establish nonpartisan elections, where all candidates on the ballot for local offices appear without party designation. Presently, local elections are partisan – meaning that party designation accompanies all candidates on the local ballot. Parties remain free to endorse candidates and candidates may use party labels. A vote to approve means you support nonpartisan election of local officeholders. A vote to reject means you oppose this change.

Question #4 – Four Year Council Terms/Limit on Appointment Power

Shall Article III, Section 3.01 of the Charter be amended to provide for staggered four (4) year terms for Council members, as presently served by School Committee members; and Article XVIII amended to eliminate Town Council appointments between general election day and the seating of new Council members commencing a new term?

Explanation: This proposed amendment would provide staggered four (4) years terms for Council members commencing in 2012. The staggered four (4) years terms for Council members would compliment the present staggered four (4) year terms for School Committee members. The amendment would also eliminate Council appointments in the period between the general election and the seating of newly-elected members of the Council. Presently each Council member is elected for a two (2) year term, and there are no limits on the timing of Council appointments.

Question #5 - Town Manager Qualifications/Acting Manager

Shall Article V of the Charter be amended to raise the minimum qualifications for serving as Town Manager to a master's degree in certain fields, five (5) years of actual experience as manager or assistant manager of a municipality, and residence within the Town within six months of appointment; and shall any person serving as an interim Town Manager not meeting these requirements be eligible to serve no more than one hundred and eighty (180) days?

Explanation – This amendment would increase the minimum qualifications necessary for an individual to be eligible for appointment as Town Manager by the Council. It would also prohibit an appointment of an interim Town Manager not meeting these requirements from exceeding one hundred and eighty (180) days. Presently the Charter contains lesser qualifications for Town Manager and does not deal with the length of time an interim Town Manager may serve. A vote to approve means that you support the proposed changes to the Charter. A vote to reject means you do not support these changes.

Question #6 - Departmental Functions/Technical Changes/Voting Districts

Shall Article XII of the Charter be amended to update titles and functions; Article XIII amended to provide for consistency review of the capital improvement program; Article II be amended to delete local district apportionment by voters rather than population; and should the charter be amended with punctuation and grammar corrections and to achieve gender neutral terminology?

Explanation: This amendment would update the titles and functions within the Department of Safety and Welfare; provide the planning Commission with responsibility for ensuring consistency of the Town’s capital improvement program with the comprehensive community plan; delete apportionment of voting districts for Council and School Committee by the number of voters in favor of apportionment based upon population. The amendment would also make technical, punctuation and grammatical changes throughout the Charter as well as employ gender neutral terminology. A vote to Approve means you support the proposed changes. A vote to reject means you oppose them.

Question #7- MUNICIPAL COURT

Shall the Charter be amended to provide for Municipal Court, with its jurisdiction and operation governed by ordinance; provided, however, that if Court revenue does not sustain operation of the Court; the Council shall possess the power to abolish the Court?

Explanation: This amendment would place the existence of the municipal court in the Charter. It would allow the Council to abolish the Court only if the Court was not self-sustaining. Presently, the Court is established by ordinance. This amendment would not place the jurisdiction and operation of the Court in the Charter. Those matters are presently governed by ordinance and this amendment would not change that. A vote to approve would adopt this change. A vote to reject would not.

Town Clerk