

REPORT OF THE EAST GREENWICH CHARTER REVIEW COMMITTEE

DECEMBER 29, 2003

MEMBERS

Judy Assad
Leo DeLisi
Kathy Hall
Beth Hamilton (Vice Chair)
Henry Kates
Eric Nihill
David A. Wollin (Chair)

SECRETARY

Mary Granai

INTRODUCTION

The East Greenwich Charter Review Committee respectfully submits this report setting forth its recommendation to the East Greenwich Town Council concerning changes to the Town Charter on the questions presented to the Committee for consideration. In performance of its charge, the Committee conducted 13 public meetings, including a public hearing on July 31, 2003 with Town residents and a public hearing on August 7, 2003 with members of the Town Council and the School Committee. The Committee held a public meeting with the Town Council on October 21, 2003 in order to obtain clarification of the question concerning the workings of the Financial Town Meeting. The Committee also obtained and evaluated written comments and information from the Town residents as well as research from the Town Manager's office and the former Town Solicitor and through its own efforts.

The questions proposed by the Town Council and the Committee's recommendations are set forth in the succeeding sections of this report. The work in this report reflects the unanimous views of the Committee.

The Committee wishes to acknowledge and thank Mary Granai, who served as the Committee's Secretary, for her tremendous contribution in support of the Committee's work.

QUESTION 1 – THE FINANCIAL TOWN MEETING

The quorum for the Financial Town Meeting was, for a long time, 50 voters. This was changed several years ago to be 5% of the registered voters of the town. Issues surrounding the quorum:

- Should the meeting be allowed to vote on items if the quorum is lost?
- What size should the quorum be?
- One theory is that the quorum of 50 should encourage attendance at the FTM because voters should be concerned a mere 50 people could determine the budget.
- The other theory is that the larger quorum prevents a small number of voters from controlling the setting of the budget.
- Another concern is that the larger quorum is open to manipulation by single-issue groups.

RECOMMENDATION

The Committee recommends the following changes be made to the Charter concerning the Financial Town Meeting and the budget process:

- (1) On or before February 1 of each year, the School Committee shall hold a public hearing on its proposed budget.
- (2) On or before February 15 of each year, all Town departments shall submit their proposed budgets to the Town Manager.
- (3) On or before February 15 of each year, the School Committee shall submit its proposed budget to the Town Manager.
- (4) On or before February 15 of each year, the Town will notify residents by mail, by a newspaper of general circulation and via the Town website or other electronic means that a copy of the proposed Town budget (both municipal and school budget) is available for review at the Town Hall and on the website in a printable format by March 1, 2003.
- (5) On or before March 1 of each year, the Town Manager shall transmit the Town budget to the Town Council.
- (6) On or before April 15 of each year, the Town Council shall hold a public hearing on the recommended budget.
- (7) On or before May 15, the Town Council shall adopt a recommended budget for presentation to the Financial Town Meeting. Any changes following the public hearing on the recommended budget shall be highlighted in the adopted budget. A copy of the adopted budget shall be available for review at the Town Hall and

on the website in a printable format no later than 15 business days prior to the Financial Town Meeting.

- (8) At least ten (10) business days prior to the Town Council's meeting at which the budget will be adopted, any registered voter may present to the Town Council for a vote a petition signed by at least one hundred (100) electors qualified to vote requesting a specific expenditure be made or not be made or, in the case of the School Committee's budget, a specific increase or decrease be made in the total budget. A copy of the petition shall be available for review at the Town Hall and on the website in a printable format. The Town Council shall vote on the petition at the meeting.
- (9) If the Town Council rejects the petition, any registered voter may renew the petition at the Financial Town Meeting so long as the petition is signed by at least four hundred fifty (450) electors qualified to vote and the petition is filed with the Town Clerk at least ten (10) business days prior to the Financial Town Meeting. A copy of the petition shall be available for review at the Town Hall and on the website in a printable format. If there is a quorum, all petitions shall be voted upon at the Financial Town Meeting unless withdrawn. If no petitions are filed, then the only vote taken at the Financial Town Meeting is whether to adopt or reject the budget.
- (10) The Financial Town Meeting shall be held on the second Tuesday in June at 6:30 P.M.
- (11) At least 325 registered voters shall be necessary to constitute a quorum at any Financial Town Meeting.
- (12) Section 2360 should be amended to provide that the Moderator shall recess the Financial Town Meeting by 10:00 p.m., unless extended to 11:00 p.m. by a vote of the majority of the qualified electors present and voting.

As to the specific question whether the voters at the Financial Town Meeting should be allowed to vote on items if a quorum is lost, the Committee concluded, based on the prior Town Solicitor's opinion and its own independent research, that a vote cannot occur once a quorum is lost.

COMMENTS

The Committee extensively debated the issues raised concerning the Financial Town Meeting. In assessing what, if any, changes were necessary, the Committee considered, among other issues, the extreme importance of the budget responsibility, the often conflicting visions of how the residents' money should be spent, the function of the Financial Town Meeting in the Town structure, the recent history of a lack of quorums to conduct business, the feeling of disenfranchisement among some residents who attend the

Meeting when there is no quorum, and the opposing view that the Financial Town Meeting works adequately and a quorum should not be set so low as to allow a minority of residents to control the budget process.

The proposed changes the Committee is recommending will achieve the following:

- The Town residents will have greater knowledge of, and input in, the budget process at an earlier time period.
- The residents will be informed of a proposed budget well in advance of the budget hearings and the Financial Town Meeting.
- The petition process allows residents to present their views to the Town Council and the Financial Town Meeting and to obtain a specific vote on those issues. At the same time, the petition process prevents changes that only arise at the last minute at the Financial Town Meeting without the necessary prior knowledge and adequate consideration by the Town Council or the residents attending the Financial Town Meeting.
- While no quorum requirement will satisfy everyone, the quorum of 325 was chosen for two reasons. First, the Committee believed the quorum number should be specific, not a percentage that changed every year, so all residents know what is needed to be achieved. Second, the number of 325, which approximates 5% of the actual voters in Town over the last three general elections, attempts to address the lack of a quorum in recent years (and the corresponding feeling of disenfranchisement felt by some) while at the same time ensuring that the quorum is not set so low as to allow a minority of residents to control the budget process.
- The date and time of the Financial Town Meeting, on the second Tuesday in June at 6:30 P.M., was chosen to encourage the greatest number of people to attend the Meeting. The proposed change that the Moderator shall recess the Financial Town Meeting by no later than 10:00 p.m., unless extended by majority vote to 11:00 p.m., is to ensure the Meeting ends at a reasonable hour.

The Committee has the following additional comments concerning the foregoing recommendations:

- It is the Committee's belief that a quorum of 325 registered voters is appropriate only if the other provisions discussed above are adopted as well. The Committee is not recommending a quorum of 325 registered voters if the other provisions are rejected.
- The Committee believes that the Town needs to educate residents about the entire budget process and the importance of the Financial Town Meeting and encourage their participation. This can be achieved by dissemination of the appropriate

educational information through the media, the Town newsletter, the website and elsewhere.

- The foregoing proposed changes will require amendments to the following Charter provisions, among others: Sections 1490, 1491, 1492, 2310, 2315, 2314 and 2360.

QUESTION 2 – TERM LIMITS FOR BOARDS, COMMISSIONS, TOWN COUNCIL AND SCHOOL COMMITTEE

Should the Charter specify term limits for members of boards, commissions, Town Council and School Committee or any other bodies?

RECOMMENDATION

The Committee recommends the following concerning term limits:

Elected Officials

Effective January 1, 2005, an elected official can only serve 12 consecutive years as an East Greenwich elected official after which he/she cannot seek elected office for two years. This will apply to all officer-holders in office as of January 1, 2005 and will take into account their past service as an elected official.

Boards, Commissions, Etc.

Every Board, Commission, Etc. should have a defined term in the Charter that is not less than three years.

Every Board, Commission, Etc. shall have rules providing for election of Chair, Vice-Chair and Secretary such as term of position and when election should occur (such as beginning of town fiscal year).

A person may serve on any Board, Commission, Etc. for two consecutive terms (even if two different Boards, Commissions, Etc.) after which he/she cannot serve on any Board, Commission, Etc. for two years. For instance, a person can serve one term on the Planning Board and then another term on the Zoning Board, without a two-year hiatus, after which he/she cannot serve on any Board, Commission, Etc. for two years.

However, effective January 1, 2005, every current member of a Board, Commission, Etc. may be reappointed to one more term, regardless of years of service.

Upcoming openings/vacancies/reappointments shall be advertised 180 days in advance in a newspaper of general circulation and on the website or through other electronic means, and the Town Council must fill the opening/vacancy or make a reappointment 30 days in advance of end of the term.

If no one applies for the position, the term limit of the member does not apply for one additional term and person can be reappointed.

The foregoing does not apply to alternates or to ad hoc Boards, Committees.

The Town Council shall meet with each Board, Commission, Etc. at least once per year to perform oversight function. The Board, Commission, Etc. shall provide quarterly reports to the Town Council summarizing their activities the past quarter and setting forth if there are expected to be any expiration of terms or vacancies in the next two quarters of the year.

COMMENTS

The equally difficult issue the Committee addressed was the issue of term limits. In assessing whether term limits were appropriate, the Committee considered, among other things, the conflicting views that terms limits are never appropriate, that such limits are only appropriate for non-elected officials, that terms are needed to bring “new blood” into Town governance, and that term limits could deprive the Town of the experience of those who are already serving.

With these views in mind, the Committee believed that limited term limits for elected and non-elected officials would benefit the Town and encourage “new blood” in Town governance while ensuring that valuable experience was not lost.

- Elected officials, effective January 1, 2005, can only serve 12 consecutive years as an East Greenwich elected official after which he/she cannot seek elected office for two years. This will apply to all officer-holders in office as of January 1, 2005 and will take into account their past service as an elected official. Twelve consecutive years was considered sufficient to provide the balance between ensuring that an elected official gains experience and uses that experience in governance of the Town and preventing that person from becoming entrenched in that position to the potential detriment of the introduction of new ideas in governance. A two-year hiatus was deemed sufficient to allow others to seek that position while enabling the elected official to run for office at a later date.
- Non-elected officials who serve on any Board, Commission, Etc. may do so for two consecutive terms (even if two different Boards, Commissions, Etc.), after which he/she cannot serve on any Board, Commission, Etc. for two years. The two-year hiatus serves the same purpose as for elected officials.
- However, in order to ensure these new term limits do not immediately cause disruption, effective January 1, 2005, the Town Council may reappoint every current member of a Board, Commission, Etc. to one more term, regardless of years of service.
- The proposed changes also are designed to encourage Town residents who have not heretofore participated in Town government to learn about openings in Boards

and Committees. Specifically, upcoming openings/vacancies/reappointments shall be advertised 180 days in advance in the Link, a Town newspaper of general circulation and on the website.

- In addition, the Town Council cannot allow “hold-overs” and thus must fill the opening/vacancy or make a reappointment 30 days in advance of end of the term. If no one applies for the position, however, the term limit of the member does not apply for one additional term and person can be reappointed.
- The foregoing changes were thought to be impractical for, and thus do not apply to, alternates or to ad hoc Boards and Committees.
- Finally, the Committee believed there must be a structure in place to ensure proper oversight of Board and Committee functions given their importance in Town governance. Thus, the Town Council must meet with each Board, Commission, Etc. at least once per year to perform this oversight function. To aid the Town Council, the Board, Commission, Etc. shall provide quarterly reports to the Town Council summarizing their activities the past quarter and setting forth if there are expected to be any expiration of terms or vacancies in the next two quarters of the year.

QUESTION 3 – VACANCIES FOR SCHOOL COMMITTEE

The Charter currently states that the Town Council will appoint to fill a vacancy on the School Committee. The appointment is until the next regular election. The question arises as to how someone running for election to that specific position is identified at the next election. Should that person be specifically identified on the ballot? Should the position be filled by the next highest vote-getter after the regular positions have been filled?

RECOMMENDATION

The Committee recommends the following concerning the filling of vacancies on the School Committee:

Charter Section 6112 should be amended as follows: If a vacancy in the membership of the School Committee shall occur when there is one year or more remaining in the term of that member, the Town Council shall within 30 days after the vacancy occurs call a special election for the purpose of filling such vacancy. However, if there is less than one year remaining in the term, the Committee recommends to the Town Council that it consider choosing one of two options: (1) appoint someone to finish the term, or (2) revert back to election results for that member's position several years earlier and appoint the next highest vote-getter.

COMMENTS

The Committee believed that the mechanism for filling a vacancy on the School Committee should depend on the amount of time remaining in the four-year term.

- If a vacancy occurs when there is one year or more remaining in the four-year term, the Committee believed a special election was appropriate to fill the position. Thus, the Committee recommends that, within 30 days after the vacancy occurs, the Town Council call a special election for the purpose of filling the vacancy.
- If the vacancy occurs when there is less than one year remaining in the term, the Committee recommends to the Town Council that it consider choosing one of two options: (1) appoint someone to finish the term, or (2) revert back to election results for that member's position several years earlier and appoint the next highest vote-getter. The second-highest vote-getter perhaps reflects the next best choice given the election results. However, it is important to note that, since the election would have occurred at least three years earlier, the second option may not be viable if the next highest vote-getter is no longer a Town resident.

QUESTION 4 – NON-RESIDENT SERVICE ON BOARDS AND COMMISSIONS

Should non-residents be allowed to serve on ad-hoc boards or commissions? For example, a business-person could be asked to serve on an ad-hoc commission appointed to investigate and recommend what the Town could do to stimulate economic development.

RECOMMENDATION

The Committee recommends that Charter Section 1231 entitled Residence of Members of Boards, Commissions and Committees should not be amended but should be retained so as not to allow a non-resident to serve.

COMMENTS

The Committee concluded that Charter Section 1231 should not be changed for the following reasons.

- Town residents have the greatest stake in Town governance and thus should be the dominant, if not the sole, force on any Boards, Commissions or Committees.
- Although business owners too have a stake in Town governance, it was felt that non-resident business owners had many avenues to make their views known to Town officials in lieu of committee membership such as appearances before, and submissions to, Town officials and Boards, Commissions and Committees.
- The Committee also relied, in part, on the results of a prior referendum vote on the question, “Shall the Charter be amended to permit a non-resident taxpayer to serve on any ad hoc committee?” The voters soundly answered this question in the negative.

QUESTION 5 – CODE OF ETHICS

Should the Charter contain a statement of ethical principles or code of ethics for all Town officials and employees and provide guidance for the implications and repercussions for unethical (and criminal) behavior? For example, under what conditions would the Town Council be justified to remove a member from an appointed board?

RECOMMENDATION

The Committee recommends that the Charter be amended to contain a statement of ethical principles or code of ethics for all Town officials and employees and provide guidance for the implications and repercussions for unethical (and criminal) behavior. The Committee recommends that the Town Council appoint a committee to draft ethical standards or code of ethics and a mechanism for enforcement to be presented to the Town Council for adoption within six months of the committee's appointment.

COMMENTS

The Committee believed that the Town Charter should have a statement of ethical principles or code of ethics beyond what may be contained in Section 1250, the Charter's Conflict of Interest, provision, for the following reasons:

- Town officials should know what set of explicit ethical principles governs their conduct so they can comply accordingly.
- A code of ethics encourages Town officials to conduct the business of the Town in an ethical, objective manner and with fairness and equality. It also serves as a message to those seeking to do business with the Town that certain high principles will govern the parties' conduct.
- A code of ethics or statement of ethical principles has recently been implemented by Governor Carcieri for Executive Branch officials and in several cities and towns.
- The Committee also believed that a code of ethics or statement of ethical principles would be a hollow gesture if there were no mechanism for assessing potential violations and for enforcement or punishment. Thus, the Committee recommends that the committee appointed to draft ethical standards or code of ethics should include a mechanism for assessing violations and for enforcement and punishment. Due process must be given to the rights of any Town official accusing of any such violations.
- The Committee believes that six months should be sufficient time to draft the appropriate code.

QUESTION 6 – SCOPE OF POSITION REQUIREMENTS

Should there be any changes to the scope of position requirements?

RECOMMENDATION

The Committee recommends that the restriction on attorneys serving on the Juvenile Hearing Board be eliminated.

The Committee also recommends that the Municipal Court Judge and the Probate Judge positions be two-year appointments to run in conjunction with the Town Council term.

COMMENTS

The Committee reviewed the Charter positions and several positions created by ordinance and concluded that only the following changes were needed at the present time.

- The Committee recommends that the restriction on attorneys serving on the Juvenile Hearing Board be eliminated because no justification was ever found or communicated for this limitation.
- The Committee also recommends that the Municipal Court Judge and the Probate Judge positions be two-year appointments to run in conjunction with the Town Council term. The Committee believed that these judicial positions – which are subject to the Rhode Island Code of Judicial Conduct – should have a measure of independence from the Town Council which appointed it. Thus, the term for these judgeship positions should be for two years, rather than at the pleasure of the Town Council.