

**Town of Concord  
Town Governance Study Committee**

**Minutes of Meeting June 10, 2014**

**Committee Members Present:** Sally Schnitzer, Chair; Elizabeth Akehurst-Moore, Peggy Briggs, Pam Hill, Paul Horwitz, Ned Perry, Tom Piper, John Stevens, Tom Swaim, Herb Wilkins and Carol Wilson

**Committee Members Absent:** None

**Others Present:** Carmin Reiss, Selectmen Liaison; Tony Logalbo, Finance Director; Anita Tekle, Town Clerk; School Committee Liaison Phil Benincasa; League of Women Voters Member Nancy Cronin; David Allen and Robert Grom

Ms Schnitzer called the meeting to order at 8:15 am in the First Floor Conference Room at 141 Keyes Road.

**Announcements**

None

**Correspondence**

Distributed with packet (included in documents listing at the end of these minutes)

**Review of Minutes**

On a **MOTION** made by Mr. Horwitz and seconded by Ms Wilson, the minutes of May 27, 2014 were unanimously **APPROVED** with the following amendment:

- Page 5, 3<sup>rd</sup> paragraph – delete second sentence (“She viewed...”)

**Possible Additions and Amendments to Committee’s Recommendations**

Ms Schnitzer reminded the Committee and those in attendance that Ms Tekle had, at our previous (May 27) meeting, provided a chart of “outstanding items” that had been raised at the public hearings or in our meeting minutes and correspondence. The Committee had spent time at the May 27 meeting working our way through that list and determining if these items led us to consider any changes, additions, or deletions to our preliminary recommendations. Materials have been included in the packet in response to that conversation. The Committee then took each one up in turn.

At 8:24 am Mr. Allen arrived and began to record the meeting.

**a. Discussion and Vote on “Super Petition” proposal from WG-6**

The group discussed the alternative process for placing binding questions on a local election ballot, brought forth for discussion by WG-6. It was noted that on April 8<sup>th</sup> the Committee voted (7 in favor, 4 opposed) to defer a recommendation on this issue, pending further dis-

cussion. In reviewing the pros and cons of the proposal, Mr. Horwitz suggested that this would be one possible way for more people to get involved in the legislative process; but, he noted that amendments would not be possible at the ballot, while they are possible at town meeting. He suggested that under certain circumstances, the ballot might be a more appropriate place for a decision to be made. Ms Briggs noted that passing this recommendation on to the Selectmen would not necessarily assume that she would support this at town meeting. In response to a question from Mr. Piper, no one was aware of any location in Massachusetts or elsewhere where this practice is currently in place.

Mr. Horwitz suggested that this process would be used in rare situations, on issues when the whole town is affected. Ms Akehurst-Moore noted that residents already have a provision for placing non-binding questions on the ballot. Mr. Wilkins had no objection to sending along this idea to the Selectmen without an endorsement from the Committee. Mr. Stevens is opposed to legislation by initiative petition or referendum. He felt that the Committee should take steps to reinforce town meeting rather than subverting it. Ms Schnitzer noted that many state laws require a town meeting acceptance vote, so a change in state law may be required in order to implement this proposal. Ms Tekle noted that if a bylaw were to pass at the ballot rather than at town meeting, it would still require Attorney General's approval. Mr. Swaim emphasized that the question before the Committee is whether this issue warrants further attention. Mr. Piper expressed concern about the volume of recommendations being forwarded to the Selectmen. Ms Hill expressed concern that the recommendations run the risk of being trivialized if there are too many. However, this particular issue she felt warrants serious consideration. Ms Schnitzer expressed concern of the possibility of unintended consequences when legislation is put directly on the ballot, without an opportunity for discussion, amendments and compromises. Mr. Perry agreed that the Committee should only put forward ideas that would strengthen the Town's governance.

Mr. Perry made the following **MOTION**, which was seconded by Mr. Wilkins:

To not include this proposal concerning a "Super Petition Article" in the recommendations made to the Selectmen.

Mr. Horwitz noted that whether or not we include this recommendation, the final report should include the discussion. All are in agreement that we should improve the outreach efforts to encourage more participation in town meeting. This proposal would provide one more opportunity for citizen discussion on the issue. Ms Akehurst-Moore did not support Mr. Perry's motion, feeling that the public should be provided with an opportunity to discuss this as an alternative to a controversial issue coming up at town meeting.

A **VOTE** was taken on Mr. Perry's motion, which **FAILED TO PASS** (5 voting in favor, 6 opposed).

On a **MOTION** made by Mr. Horwitz, seconded by Ms Hill, the following was **VOTED** (with 6 voting in favor, and 5 opposed):

That the Board of Selectmen discuss the possibility of a Special Act (which will require a vote of Town Meeting and a vote of the Legislature) to create a new, binding ballot vote procedure as an alternative to the current non-binding petition procedure and the current citizen petition article at Town Meeting. This “Super-petition Article” would require 1,000 signatures to place a matter on the ballot at the next regularly scheduled town election for a binding vote. Specific language outlining the procedures and criteria for implementation for the Special Act would need to be developed for Town Meeting consideration.

**b. Discussion and Review of Draft Letter to School Committee—Referring Items for Consideration**

Ms. Schnitzer noted that we had received a number of citizen comments relative to School practices and procedures. At the last meeting, we agreed that some of these were not within the Committee’s charge and that we might forward them to the School Committee. Ms. Schnitzer had prepared a draft letter for the Committee’s consideration. Mr. Perry noted that there had been a wide variety of ideas related to the School Department that came out of the hearings and correspondence, not all of which the Committee is recommending. He favored forwarding to the School Committee only the ideas which the TGSC feels are worthwhile for further consideration. Ms Briggs expressed concern about including in the letter the issues of public records requests and legal fees, concerned that they are current concerns raised by a few individuals. She preferred distinguishing in the letter the issues recommended by the Committee vs. the issues brought up by citizens that are not being recommended. Mr. Stevens supported including in the letter the issue of Public Records requests, but recommended deleting the sections on Committee procedures, the practice of combining CPS and CCRHS meetings, and legal fees. Mr. Horwitz felt that the issue about legal fees should not be included as a recommendation.

Ms Wilson expressed concern that the letter as drafted does not include a call to action. She felt that there should be an opportunity for the School Committee to respond. Ms Akehurst-Moore noted the diplomatic tone of the letter, suggesting that more could be said without being offensive. Ms Hill agreed that the legal fees issue is interesting, but outside the scope of the Committee’s charge. Mr. Horwitz felt that the Town and School responses to public records requests should be aligned. Mr. Swaim felt that the draft letter was well done, and did not support asking for a response. He noted that the TGSC is not in a position to tell the Board of Selectmen or School Committee what to do. He liked the separation of the issues into two groups—here’s what we’re recommending, and here’s what we’ve heard from residents.

Mr. Piper agreed that there should not be an expectation of a written response from the School Committee. He felt that the response that they make with their follow up action will

be more significant. It was noted that Mr. Benincasa was in the audience and representing the School Committee. Ms Schnitzer agreed to take all of the comments made into consideration in a redraft of the letter, which will be brought back to the next meeting.

**c. Discussion and Review of Draft Letter to Town Moderator and Selectmen Relative to Town Meeting Issues**

Mr. Perry suggested deleting several items about which the TGSC is not making a positive recommendation. He further suggested that the topics be delineated into those that are supported by the TGSC as recommendations, and those that may have merit that are not inconsistent with the TGSC recommendations. Mr. Swaim suggested that a list of items that were brought up at the hearings be included, as long as it is clear that the Committee is not necessarily recommending them favorably. Ms Schnitzer agreed to redraft the letter and bring it back to the next meeting.

**d. Discussion and Vote on Whether to Recommend that the BOS Develop a Policy Regarding Privatization of Public Spaces/Functions and Public-Private Collaboration**

The League of Women Voters had asked the TGSC to consider this issue, and shared a position paper on the subject prepared by the National Board of the League in June 2012. Ms Schnitzer noted the number of projects in Concord that had been created with public-private partnerships, including the Library, the Beede Center, Thoreau Birthplace, FOPAC, Emerson Umbrella, farmland lease agreements, turf fields at high school, Concord Children's Center, etc. Ms Briggs expressed concern about private non-profit groups developing public projects, without being subject to the open meeting law. The normal level of public scrutiny is missing. Concern was expressed that this issue was brought up late in the process and did not receive a full review of the TGSC. The suggestion was made that the issue be deferred to the League of Women Voters and the Selectmen. Mr. Horwitz felt that the issue would carry more momentum if it received the support of the TGSC for further discussion. Ms Hill felt that the issue gets to the foundations of basic government, and we need to be mindful that gifts to the government can enable undue influence.

On a **MOTION** made by Mr. Wilkins and seconded by Mr. Perry, the following was **UNANIMOUSLY VOTED**:

That the Board of Selectmen consider developing a policy regarding public-private collaboration.

**e. Discussion and Vote on Whether to Recommend that BOS Implement a Biennial Review of Concord's Long Range Plan**

Ms Reiss commented that the Selectmen and Town Manager look at the recommendations of the Long Range Plan when developing annual goals. State law requires some long-range plan updates every ten years. Mr. Piper, Mr. Perry and Mr. Stevens all preferred a review at five-year intervals.

On a **MOTION** made by Mr. Perry and seconded by Mr. Piper, the following was **UNANIMOUSLY VOTED**:

That the TGSC recommends that the Board of Selectmen consider establishing a review of Concord's Long Range Plan at least every five years, to determine whether the underlying assumptions, goals, and objectives are still valid; and whether any additional recommendations should be addressed.

The Committee acknowledged that a review of the status of the recommendations of the 2005 Long Range Plan was recently completed by the Planning Department staff.

**f. Discussion and Vote on Whether to Recommend Additional Elected Officials**

The Committee reviewed a revised chart that was prepared by Ms Tekle, taking a further look at the communities identified by Lee Ann Kay as possible comparisons of the number of elected vs. appointed municipal officials. It was noted that the form of government had not been taken into consideration in Ms Kay's comparison, which was based on population. Ms Tekle noted that there is a direct correlation between the form of government and the number of elected officials. Concord had lots of elected officials prior to the adoption of the charter in 1956, but moving to a Strong Town Manager form by definition has most of the committees and officials appointed. Of the 22 towns included on Ms Kay's chart, only one has a similar form of government (Holden). Ms Tekle prepared a second chart comparing Concord with those communities in the general geographic area with a strong town manager form of government. The number of elected officials in these communities is more consistent with Concord.

Ms Briggs noted that some of the elected officials in other communities are historic holdovers. She noted that elected Planning Boards have the potential of being troublesome, with members often running on single-issue platforms. It is important to retain diversity in age, geography, skills, experience, etc. On a **MOTION** made by Ms Briggs and seconded by Mr. Swaim, the following was **UNANIMOUSLY VOTED**:

To retain Concord's 15 elected officials

**g. Discussion on Whether to Add Some Version of Chart Proposed by Mr. Piper to the Report, with Recommendations and Current Practices that Support the Pillars of Government**

Mr. Piper reported that he is comfortable with where the Committee is at in relation to its review of the Town Charter, but was not sure that the review of governance in general was as comprehensive. He had organized the 56 recommendations around the five pillars. In addition, Ms Tekle compiled a preliminary list of policies and practices that are already part of town governance that support the pillars. Mr. Piper felt that the exercise was helpful in assessing the adequacy of the governance system. For example, the accountability processes seem quite complete when the Committee's recommendations are considered in combina-

tion with the processes and practices already in place. Several members suggested incorporating the pillars into the Final Report, as one means of organizing and presenting the recommendations.

### **Citizen Comments**

Mr. Grom urged the Committee to transmit any comments that were received to the appropriate board or department for consideration. He expressed support for requiring all public/private partnerships to be subject to the Open Meeting Law. Ms Reiss appreciated the information compiled by Ms Tekle on the number of elected officials in communities comparable to Concord. She suggested that knowing how many of these elections in other communities are unopposed would be helpful.

Mr. Allen commented that with the increased use of technology, more people will have an opportunity to make decisions. He suggested that providing the opportunity for engagement is not as relevant as to whether citizens have the motivation and take action to participate. Mr. Benincasa noted that the issue of public/private partnership will be on the agenda for a school committee meeting over the summer, in an effort to generate a school policy on the matter. He noted that the School Committee is fully aware of its responsibility to the community.

On a **MOTION** made by Mr. Horwitz and seconded by Ms Wilson, it was **VOTED** to adjourn the meeting at 10:08 am.

Respectfully submitted,

Edward N. Perry  
Clerk

**Documents consulted or reviewed at meeting:**

- List of Possible Motions for Votes to be taken at the TGSC meeting (6.10.2014)
- WG-6 Town Meeting Proposal – Alternative Process for Placing Binding Questions on a Local Election Ballot (4.16.2014)
- Background on “Super Petition” Proposal from WG-6 (Paul Horwitz, dated 4.16.2014)
- Draft Letter to School Committee Chairs (Sally Schnitzer, dated 6.5.2014)
- Draft Letter to Town Moderator (Sally Schnitzer, dated 6.5.2014)
- Chart 1 – Further Look at Communities Identified by Mrs. Kay as Possible Comparisons of Elected vs Appointed Municipal Officials (A. Tekle, dated 6.3.2014)
- Chart 2 – Towns in Concord’s Comparable Group—with Strong Town Manager Form of Government (A. Tekle, dated 6.3.2014)
- League of Women Voters Privatization Position Paper (dated June 2012)
- Correspondence received from Robert Grom (dated 6.4.2014)
- Article on the Pitfalls & Corresponding Best Practices of Online Civic Engagement by Peak Democracy, Inc. (dated 5.20.2014)
- Memo from Bob Kusik on “Technology Enabled Governance Lab” (dated 5.21.2014)
- Correspondence from Miguel Echavarri (dated 6.8.2014)
- Document on Pillars prepared by Tom Piper (dated 6.8.2014)
- “Distributing TGSC Recommendations Into Pillars” (T. Piper & A. Tekle, dated 6.9.2014)