

October 5, 2011

**Charter Revision Transcription  
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**Patricia Sullivan, Town Attorney-**

Question # 1 Does the Charter provide an appropriate amount of guidance on the role and responsibilities of the Town Attorney? Is there any need for further clarification of the role, do you think that should be done in the Charter or in a separate engagement letter?

Ms. Sullivan said she thought the Charter was sufficient in terms of the appointment of a Town Attorney. You never know what is going to come up. She doesn't think that the Charter provision should be too specific. She asked if there have been suggestions about further clarification. Mr. Edgar said he knew that Mr. Tracey was involved with the review of the Town Counsel and he did not know if he had another thought in mind. Ms. Sullivan said she has been working in Weston for ten years and when questions come up, they are answered and the relationship is a professional one.

Question#2 Section 7.5 of the Charter requires the Town Attorney appear on behalf of the Town in all suits and proceedings. It is our understanding that practice of the Town varies from this provision in certain ways. For example, we understand that other attorneys in your law firm sometime appear in cases in which such other attorneys have particular expertise in the subject matter of that suit, and that if there is an attorney in a different law firm whose specialization is required, that the Town engages such counsel. Do you believe the Charter should be revised in any way to reflect this practice?

Ms. Sullivan said she thinks it is true. Obviously there are so many different things that a Town encounters that it makes sense to have a firm that has people with separate expertise whether it is labor and employment, whether it is tax appeals, whether it is tax foreclosures, P&Z, Land use (etc.). From that prospective you certainly would not expect any one person to have the ability to address every single issue a Town might face or to have the specific expertise to do that. On occasion, outside council is engaged, but it doesn't happen very often. On occasion there is a conflict or on occasion there is something in the past we had not handled - bond counsel being an example. Something that we do now but when we were first engaged, we did not do it. Some of those relationships are long-term and she does not think that the Charter needs to be revised and obviously you have a Town attorney to act as the contact person and to direct, and to get the best person to do that job. She doesn't personally believe that the Charter needs to be changed to address that.

Ms. Moch asked if the retainer letter of the Town Attorney has your law firm and you specifically or is it just you as an individual. Ms. Sullivan said it is a specific appointment by the Board of Selectmen and there is a retainer letter which is updated and basically deals with an occasional change in fees not a change in the relationship. The relationship is one where the Town attorney is responsible for being the point person, the contact person, responsible for what is produced regardless of the actual person that is doing the work.

October 5, 2011

Mr. Edgar said you almost wonder if the Town Attorney is really the law firm. Normally if you were engaging a law firm you would normally engage a law firm and not an individual at the law firm. On the other hand, that is pretty unspecific and means that there is no particular point person. Almost what you're saying is you would have an arrangement where the Town attorney was the law firm and you were identified as the lead partner with regard to this engagement. He has seen other Charters where they say you can appoint a firm or an individual as a Town attorney. It's something we can think about, he doesn't think we need to answer it right now. He asked if she had a view on that.

Ms. Sullivan said that there are different models. There are some Towns that have in house Town counsel, whether it is Greenwich or Norwalk, where they have attorneys on staff. Some Towns have different counsel for different departments: a land use specialist and a labor employment specialist etc. They might have a Town attorney for general advice who was more of a counselor to the First Selectman or the Mayor as opposed to being a general advisor to the Town. Some Towns do appoint Assistant Town Attorneys along with the Town attorney so that you may have a number of other individuals who are actually appointed as opposed to sort of funneling it through one person. She does think it works but it is something that she is happy to discuss. It is not the only way that works.

Ms. Moch said the Charter does not seem to provide designating authority to the Town attorney to have other attorneys come in and act. Mr. Edgar said he did not think that they necessarily need to solve the substance right now. We are just trying to get Ms. Sullivan's view as to what might work and we can have that discussion subsequently.

Question #3 Section 7.5 of the Charter requires that the Town Attorney provide a written opinion to any Town officer or agency upon their request, without any requirement for review or approval of the request by the First Selectman. Have you experienced any inefficiency or other problem as a result of that provision?

Ms. Sullivan said no. She thinks people are pretty good about only asking for opinions that are necessary. We don't have a lot of request for opinions. On occasion, somebody might ask for an opinion that may be duplicative. She doesn't think it is really a problem. Most chairmen take on the responsibility of channeling; you don't get calls from multiple board members that say "Hey I need an opinion on this and I need an opinion on that." If that were to happen, her first reaction would be to say is this a request from the board, is this necessary, where are we going with this, what's the point. She has not seen this as a problem.

Mr. Bliss said when they get to talk about this he has a lot to say because there is a huge difference between the theoretical as it is written in the Charter and the practical. What he thinks as Ms. Sullivan has indicated is the system works extremely well and we have very good controls on legal expenses which he will talk about at another time.

October 5, 2011

Mr. de Keijzer asked how she interpreted the word “agencies”. Does that include Boards and Commissions? Do you get calls from individual boards and commissions? Ms. Sullivan said that there is a definition in the Charter of “agency” which does include boards and commissions and certainly, yes. There could very well be an occasion where ZBA, P&Z, Conservation Commission says “Hey we are supposed to interpret this statute, can you give us some guidance on that or what do you think this means or is there legislative history out there, is there some legal help that you can give us.”

Mr. de Keijzer asked if she cleared that with the First Selectman before she engaged with a board or commission directly. Ms. Sullivan said that generally that is the way it happens and as Mr. Bliss said, sort of a practical response that you don’t want multiply requests or personal requests that they are vetted as being necessary and the smart thing to do to produce an opinion. She thinks the board and administration have generally worked well together in terms of being able to manage that. It has not been a problem.

Question #4 Does Section 8 of the Charter regarding the Annual Town Budget Process provide sufficient guidance to you, as the Town Attorney, regarding the budget process?

Ms. Sullivan said that the budget process could probably be improved. Mr. Edgar said as you were consulted on Section 8 in the budget process, in general, did you find that it was ambiguous and difficult to interpret or cumbersome. Ms. Sullivan said that she thought that it could be clearer. She said ambiguity is a good word to use in terms of what are the rules. Rules are easy enough to follow if it is clear what they are. That Section could use some attention.

Question #5 Are there any provisions of the Charter that you believe are unclear or ambiguous that we should consider clarifying?

Ms. Sullivan said that nothing was coming to mind. In another Section of the Charter she sees the Commission is addressing the issues about whether you have petitions and ballots and voting. She assumes that is on their list and she does not mean to bring that to their attention. Other than that the Charter is a pretty standard basic document. The thing about a Charter is you never know what the issue is that is going to come up then you sort of have to fit the issue into the Charter. If you could write it in hindsight or retrospect you might write it differently but you don’t know that until the issue comes up. The collective efforts of the board can be to look at each thing and say, oh yeah I remember when that happened let’s see if we can’t address that by making some adjustment to the Charter.

Ms. Sullivan said she really did not come to the meeting with any comments. She has read the Charter a number of times and some sections more than others. She thinks revisiting it every few decades at a minimum is a good idea. Some of the stuff just gets outdated. She noticed that there were a few things in there where it talks about books. For example you are going to adopt a building code so you are going to have two copies of the building code in the Town Clerks office. In this day and age it is probably going to be online. You may want to pull out some of that wording or make it possible that it is not necessarily a hard copy that is going to control things just from a practical prospective.

October 5, 2011

Mr. Edgar said to broaden that question out, are you aware whether the State law has been modernized so that for example things State law used to provide that had to be in the newspaper could be possibly online. Ms. Sullivan said that that was an excellent question because people are struggling with that right now. It is not universal that you could substitute an online notice which is probably available to as many if not more people. Even a newspaper notice is going to exclude some. Newspapers of general circulation in Weston would be the Weston Forum or Norwalk Hour and that may not be accessible to everyone.

Knowing that you are still going to do your posting in Town Hall, it certainly would make sense from a Charter prospective to at least make the option available. You would obviously want to recognize that there was a need to conform with State law but to also say that the Charter is not going to stand in the way by requiring some written or a newspaper notice.

An amendment to a Charter should not stand in the way of there being a substituted electronic notice. The newspaper notices are very expensive and that is a cost that you would prefer not to incur. It is probably more accessible for people to have access by computer than to have to come in to pick up something in hard copy at the Town Hall. She would sweep the Charter to see where in there you could at least make the Charter not be in the way of those kinds of changes.

Mr. Edgar said in reading through the Charter and looking at the statutory language he is wondering whether when you have a machine ballot, standard language in the Charter which seems to parrot the language in the law is between seven and fourteen days after and yet you have Wilton that holds an immediate ballot right after the meeting. Has she ever looked at the question of whether that is really sanctioned by the State law and whether we have the flexibility to go there?

Ms. Sullivan said the tricky part of that is when you are trying to formulate the question. The way they do it in Wilton, there is voting right after the meeting and there is voting the next Saturday. You do not have to be at the meeting in order to know what the question is and you don't have to be at the meeting in order to vote. What you get is a question that is perhaps more generally worded or has as amended at the Town meeting which would be the meeting that is right before that vote because you can't frame the question because it may change at the meeting.

From a practical prospective it allows people to come to the meeting and then vote and not have to come back on Saturday. It's a matter of practicality and convenience. She is not aware of a bar to such. Would she prefer that the question could be perfect? Sure, but given the practicalities of it and given the attempt to embrace as many people as possible and to get as many people as possible out voting and to still allow there be input at the Town meeting for a change the process can be very cumbersome.

October 5, 2011

Mr. Bochinski said a little later in this meeting they are going to look at sections 2.7 and this is what was changed in the Charter revision a few years ago that allows voters, a sufficient percentage to petition for a Special Town Meeting. What was added was the Selectmen could reject it if it is materially the same as a matter that's previously been voted on. Is that additional phrase that gives the Selectman that authority, is that sufficiently defined when you say materially the same? There has been a suggestion by the chairman to consider the question of adding a time limit here so that if something has been voted on in one generation and is petitioned again in terms of counseling the safest route to take, what would she recommend.

Ms. Sullivan said it is an interesting question. She thinks the reason to say not exact but materially the same is that otherwise somebody comes in and they change one or two words and then it is no longer exact and so you don't have the wiggle room that you do saying "materially the same". She said you could put a time limit on the question but what would that be.

Take ZBA - they are not required to hear any application that is materially the same within six months. That avoids the problem of someone coming back in and back in. They can entertain it but they are not required to. Sometimes what happens is that multiplies law suits, a strain on the entire system from an application prospective, from a litigation prospective, because a particular application or particular person is really pushing an issue. It would be interesting to say what the time frame would be but the Charter should not preclude a reasonable request just because it was asked ten years ago if that is how it is being interpreted. She supposed that the other part of the wiggly room is that the Selectmen have the discretion to allow it. If it had been five years or if the tide had turned and became something that people thought was reasonable you have that check in there which is the discretion of the Board of Selectman.

You have to rely on the fact that there are people that are going to make a reasonable decision about whether or not that should be revisited. It seems sufficient; she does see what the issue would be and if you had a long enough time period, if its ten years that wouldn't be a burden on any of the system but is it really necessary. We already have the discretion of the Board of Selectman to allow it to go forward.

Mr. Edgar said it is really the discretion of the Board of Selectmen to block. Let's say the Board of Selectmen is adamantly opposed to a this legitimate request and you have 5% of the people in this Town who think that that is a legitimate request and the Board of Selectmen just says "I'm sorry. This clause says I don't have to listen to you." It doesn't seem right on an unlimited basis. Clearly she's right that they don't have to exercise that but we don't want to get into discussion so much as get her views.

Ms. Sullivan said you might say that it applies to ordinances and doesn't apply to petitions. You don't have to give them discretion. You could say that 5% of the people, however many people that is. You have to realize that that number is either very easy to achieve or not very easy to achieve. Make it too high and it is just impossible to get enough people at the same time voting on the same issue. If a reasonable percentage of

October 5, 2011

the Townspeople want something to be heard, it should be heard. You make the number too high you're placing a burden that is just going to make it impossible. If you put the number to low, then you have to come to some reasonable conclusion. She said Mr. Edgar was right, you do have a situation where the Board of Selectmen could just say "No we're not going to hear it" and you would not have any recourse there. The petitioning idea is the recourse for the Board of Selectmen for the stream to be flowing in the wrong direction. It wouldn't bother her to have that changed but she thinks that practically most of the time it works.

Mr. Edgar said when they get to the point where they have drafted the Charter, they would like Ms. Sullivan to walk through it, get another pair of eyes on it and make sure that she is comfortable. She said that they have done them for other Towns and they have no problem doing them.

Ms. Moch asked if Ms. Sullivan had any Charters that she had reviewed that she thought were particularly good Charters. Ms. Sullivan said Charters are personal to Towns and they would be willing to share Charters with us but she couldn't give us one and say this would really work well for Weston. You do not want to destroy your history. If we asked her for specific examples she could probably come up with some but she doesn't have a Charter that she is "wow let me peddle this". They are all put together in a unique way.

Mr. de Keijzer asked if she saw something in this Charter that she feels doesn't need to be there or have you seen something in other Charters that you feel is missing from our Charter. Ms. Sullivan said she did not think so. It is interesting because most of the time what happens in Charters is there is a history and something is put in for a reason so while I can read this and go wow that looks a little different than I've seen in other Charters, most of the time it is in there for a reason and some of the people that have been around longer than she has can address that. She said it an organic document; it's personal to the town. Nothing comes glaringly to her and says that's good or that's not good. In a generally sense it's the same as everyone's and in a specific sense particular to Weston.

Ms. Sullivan said if they have other questions or they want her to come back let her know and she would be happy to do that.

The committee thanked Pat Sullivan.