

We the undersigned members of the 2013 Charter Review Commission, while agreeing in the main with the proposed suggestions for change in the Weston Charter, take strong exception to the provision requiring a quorum at the Annual Town Budget Meeting (ATBM). We are voting “no” on the proposed Charter, because of the quorum requirement.

Our initial position was that there was not a need for a quorum at the ATBM. The history of our Charter indicates that originally there was a quorum requirement. It was subsequently reduced and then eliminated after a law suit in 1974, which the Town of Weston lost. In clear and unambiguous language, the court ruled as follows:

Judgment : 1974 Gilson v. Town of Weston, Pages 16-17

“The town meeting is a rare privilege in this day and age. It represents true democracy as compared to a representative form of government.

“[Commonwealth v. Town of Hudson, 315 Mass. 355, 52 NE 2nd 566, 572; 56 Am. Jur.2nd Municipal Corporations, Sec. 157.]

“The common law was quite clear in regard to the quorum and vote necessary in order to adopt any matter that came before such meeting. “Following the rule of common law applied to indefinite corporate bodies, where the meeting has been duly warned and called, those who attend and participate in the proceedings, notwithstanding they may be less than a majority of all of the inhabitants legally qualified, have full power to act for and bind the town; the absence of the others is equivalent in law to their consent to any legal action”

“[4 McQuillan: Municipal Corporations, 3rd Ed., Section 13.10; see also Whiting Co. v. City of Burlington, 106 Vt. 446, 1175 A. 35, 41.]”

We reject any contention that the lawsuit and judgment of 1974 are not relevant to the formulation of the 2012 or 2013 Charter. It is imperative that an independent counsel be hired to advise as to whether a quorum at the ATBM is permitted and whether it might open the Town to another lawsuit.

For many years the ATBM operated without incident with no quorum requirement. Furthermore, most of the members of both the 2012 and 2013 Commissions did not have access to the Court decision and hence, were unable to assess its impact on the Weston Charter. The undersigned are concerned about the potential for another lawsuit.

The 2012 Charter Revision Commission inserted a quorum to prevent an unrepresentative minority from seizing control of the ATBM, and unreasonably reducing one or more line items in the Town Budget, an event which has not occurred in the past.

At the two Public Hearings, although lightly attended, a majority of the speakers spoke against having a quorum with lengthy and well reasoned rationale. Their submissions are part of the official record.

In the spirit of compromise, the below signed members participated in extended discussions concerning a quorum, its need and size. The numbers under consideration were 0, 50, 75, 100, 130, and 2% of registered voters. At one point, a vote of 5 to 2 set the quorum size at 100. Then, through an improper procedure, another vote was taken on the same issue. In that vote by 5 to 2 the quorum was set at 130; however, a proper motion to reconsider was not held, hence the second vote was invalid. At the Commission meeting on September 11th, a proper motion to rescind was passed and subsequent motion set the quorum was set at 130 by a vote of 4 to 3.

Our bottom line concern about the quorum is that, if it is not met, the ATBM becomes a meaningless event and attendance will fall as a result. In the last two years the attendance at the ATBM has been 85 and 89. We are also concerned that boredom, as well as, "gaming the system" which occurred in 2013, will effectively discourage attendance at the ATBM.

If an independent counsel in a written opinion confirms the ability to require a quorum, then an additional approach might be to place the Charter on the ballot in November with options concerning the quorum. Perhaps questions such as:

"Should there be a quorum at the ATBM? Yes/No

"If there is to be a quorum what should it be?

50? Yes/No

75? Yes/No

100? Yes/No

130? Yes/No

In summary, assuming that a quorum is allowed, we urge all members of the Commission to support the compromise of a quorum of 100. Although we think that 75 is a more appropriate middle ground, we were willing to move from 0 to 100, whereas, the supporters of a quorum were only asked to move from 2% (136) to 100. Accordingly, we are expressing our disapproval of the quorum section of the final report by voting "no" on the entire report.

We also urge the 2013 Commission be extended so that historical documents relating to the Town budget process can be reviewed by an independent attorney.

Thank you for your consideration.

Woody Bliss,
Co-Chair

Nina Daniel,
Commissioner

John Stripp,
Commissioner