

## FINAL MINUTES

### CHARTER REVISION COMMISSION

August 28, 2013

Town Hall Meeting Room

A Public Hearing to consider recommendations of the Charter Revision Commission was held on August 28, 2013 in the Weston Town Hall Meeting Room. Present were Dennis Brooks, Nina Daniel, Arne de Keijzer (by phone), Kenneth Edgar, Michael O'Brien and John Stripp. Woody Bliss was absent.

The Public Hearing was called to order at 7:30 PM.

The Commission heard from several members of the public. For the most part the public commented on the Commission's recommendation to continue to require a quorum at the Annual Town Budget Meeting ("ATBM") equal to 2% of Weston's registered voters.

The following members of the public spoke, and where noted below, made written submissions to the Commission:

- **Dana Levin** – supported the quorum requirement, believes the percentage is too low (written submission attached).
- **Margaret Wirtenberg** – commented on the history of the Charter and suggested some changes to the ATBM process (written submission attached).
- **Martha Diamant** – read an editorial from the Weston Forum (attached) and graced the Commission with two original poems. She opposed the imposition of a quorum.
- **Harvey Bellin** - - opposed a quorum requirement (written submission attached).
- **Joy Kory Peshkin** – appeared to oppose a quorum because it would be difficult for both herself and her spouse to attend the ATBM.
- **Frank Billone** – generally opposed a quorum requirement but might consider lowering the required quorum (written submission attached).
- **Peter Shih** – opposed a quorum requirement on the grounds that it addresses a nonexistent need.
- **Irene Gibilisco** – opposed a quorum on the grounds it is unfair to those who do attend the ATBM.
- **Dan Gilbert** – opposed a quorum on the grounds that we should be encouraging people to come to the ATBM and the quorum is undemocratic.
- **Melissa Koller** – supported the quorum requirement. The Town budget is the subject of a rigorous process and the results of that process shouldn't be susceptible to change by a relatively small group of people.

- **Dennis Tracey** – supported the quorum requirement. While it is a difficult question, on balance he favored leaving the Charter as is.
- **Allan Graubard** – favored the quorum requirement; the public can express its views at Public Hearings on the budget.
- **Nancy Cohen** – favored the quorum requirement; disputed the notion that the quorum was being “manipulated.”
- **Bob Machson** – generally supported a quorum but felt the number of voters required for a quorum should probably be reduced (written submission attached).
- **Laura Smits** – supplied the Commission with attendance figures at the ATBM and machine ballot (attached). Generally opposed the quorum requirement.

Co-Chairman Edgar then referred to submissions that he had received from Weston residents who were unable to attend the meeting:

- **Jamie Berger Katz** – supported the current quorum requirement (written submission attached).
- **Sarah Schlechter** – supported the current quorum requirement (written submission attached).
- **Phil Schaefer** – supported the quorum requirement if there is an ATBM, but felt it was too low. Also would mandate that the budget referendum ballot ask voters if the budget is too high or too low (written submission attached)..
- **Susan Moch** – opposed the quorum requirement (written submission attached).

First Selectman Weinstein commented that the ATBM should be held open for further public comment even if there isn't a quorum in attendance.

The meeting adjourned at approximately 9:15.

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Kenneth C. Edgar, Jr., Co- Chair

Charter Revision Commission

Statement by Dana A. Levin 8/28/13

Passing the annual town and education budgets is the year's most important responsibility for residents of Weston. Therefore, the process by which this is done must be the fairest and most democratic system possible. The process should strive to insure that **ALL** who **WANT** to participate be given the opportunity to do so with the confidence that a small, vocal minority will not be able to subjugate the democratic process.

**IF** we are to continue with the current three-step process; Board of Finance Hearing, ATBM, then referendum, I strongly support the requirement of having a quorum before the ATBM can reduce a budget item, though I believe it should be at a higher level than the current 2%. This insures that at minimum, a reasonable number of residents supported the action.

Unfortunately, this past spring there was no quorum and confusion over how to conduct business resulted. I don't know what the solution is, but I urge you **NOT** to approve an open period for allowing a mad-dash to the meeting. This would create a public safety nuisance as folks from all corners of Weston would be speeding down dark roads, anxious to quickly get to the meeting.

Better yet, much as I enjoy the ATBM from a historical perspective, having the ATBM decide the budget that will be voted on at referendum is **NOT** the fairest, most democratic method. Whereas during the colonial era and up to probably about sixty years ago this made sense,

once Weston became the modern commuter bedroom community that it is today, the ATBM became a quaint anachronism. One look at the sparse attendance is proof. Large segments of our residents are unable to make it back to Weston on time to attend are disenfranchised. Others may outright be out of town. And there is no such thing as an absentee ballot for the ATBM.

In addition, now with the charter requirement for a referendum, there are two opportunities each cycle for budgets to be reduced. Like double jeopardy under criminal law, this two bites of the apple is one bite too many.

Fairer, and hence more democratic, would be to let the Board of Finance's decision stand on the ballot. They are our democratically elected representatives. It is their job to review budgets and decide what Weston can afford. Board of Finance members have listened to formal presentations by all town departments, have asked the tough questions, and have carefully read the budget documents. Their decision is thus an educated one. Additionally, the Board of Finance hearing is a better-attended forum than the ATBM. Residents are given ample opportunity to voice their opinions and do. Because no voting takes place, commuters can arrive late, the elderly can stay as long (or not) as they feel able, and parents can take turns, yet all can be heard, able to comment on whichever budget item they so please. This is democracy.

Lastly, regarding the referendum process, this must be revised to ensure fairness. Voting hours should be spelled out in the charter. Like all other elections, polls should be open for

one **ENTIRE** 6:00am-8:00pm voting period on a **WEEKDAY**. No Weston resident should be disenfranchised because of the need to go to work or because of religious observance.

Equally as important to the democratic process, the charter now allows those voting down the budget the right to state if they want the figure higher or lower. This would provide guidance to the Board of Finance in the event the budget fails to pass. However, annual discretion as to whether that choice appears on the ballot is given to the Selectmen. There should be **NO** discretion. That decision should **NOT** be at the whim of three people. The choice should **ALWAYS** be on the ballot. Now that would be truly democratic.

TO THE HONORABLE CO-CHAIRS AND MEMBERS OF THE CHARTER REVISION COMMISSION:

Thank you for the opportunity to comment upon your work.

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I moved to Weston in 1980, having just missed the efforts surrounding the 1979 Charter Revision.

I have no direct experience with what that Commission did, except that people only spoke in hushed tones about the fine work it had done. As long as I can remember, no one wanted to "open up the 1979 Charter" again even though there grew to be a number of things about it that became anachronistic.

### **2003 Charter Revision**

The main item that did not age well was the specified starting time of 8:30pm and mandatory end time of 11pm for ATBM. The Annual Town Budget Meeting was to reconvene the next night at 8:30pm if all business had not been completed on the first evening.

The problem: The second night the same composition of voters might not be present and decisions made the first night could be overridden.

This caused the Panel of Moderators (and everyone else) to keep an eye on the time and keep action moving briskly. And Weston made do for many years racing to beat the clock.

Through the years another problem surfaced. That was the ability of one Town Meeting to overrule another. At stake was the construction of the Intermediate School. Could the November 15, 2001 referendum be overturned at an April 23, 2003 referendum?

It wasn't, but was the final straw to make over-the-summer Charter Revision (5 members) recommended changes ready for the ballot that November.

### **2012 Charter Revision**

A total rewrite, so much so that it nearly impossible to do anything but vote "yes" or "no" on the whole document. A quorum of this 2013 Charter Revision Commission sat on that body.

### **2013 Charter Revision**

Why are we doing this again?

Perhaps because ATBM under the new Charter was a fiasco first and a non-event second. And I apologize for contributing to the former.

But my main reasons for going to the mic at ATBM 2013 to question when the quorum would be called were:

1. The new Charter did not indicated precisely when to call for a quorum so I assumed it was up to the Panel of Moderators and Moderator at ATBM to decide;
2. Since the First Selectman and another member of the public present so strongly intimated that the Town Attorney had effectively made a decision for the citizens of Weston, I wanted to know from the Town Attorney personally where it said that the decision was out of the hands of the Moderator.
3. I also wanted to know how come the "quorum" number was a secret - at least I had no idea what the the number of attendees had to be to make ATBM legal. And to that effect, I certainly hope you will change your report to the Selectmen at your very next meeting to recommend including the number required for the quorum at ATBM in the Public Notice published in advance of ATBM, that notice required by C.G.S. If that number of voters (not just "electors") shows up for ATBM there is a meeting.
4. If not, ATBM is only for discussion, and be followed by machine voting "yes" or "no" on the three sections of the budget - Town, School and Capital. However, should it immediately be adjourned to a machine vote, the following is my suggestion for format of the ballot: There should be a "yes" or "no" vote of the Town and also separately the School budgets and an itemized list of capital projects, each having to be voted upon individually "yes" or "no."

Thanks again for all the time you put in this summer, sincerely,

Margaret Wirtenberg  
15 Wilson Road  
August 28, 2013

## EDITORIAL: Quorum questions

Kimberly Donnelly | The Weston Forum | August 27, 2013

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When it comes to the Annual Town Budget Meeting quorum question, there should be more than one — question, that is.

There are many questions about the new this year charter requirement that a quorum — a minimum number of people — be present at the ATBM in order for the legislative body to vote on the town and school budgets before sending them to referendum: How many should it be? How is it calculated? When is it calculated? When are people counted? What happens if people come late to the ATBM? What happens if there is not a quorum?

**The Charter Revision Commission**, in its review of the town charter that was adopted last year, answered these questions and came up with recommendations that — for the most part — make sense. But they **did not satisfactorily answer the most important question of all: Why require a quorum?**

Voting is a right Americans hold dear. Some choose to exercise that right whenever possible, others sometimes choose to stay home. **To tell those that may want to try to lower a line item in the town or capital budget or the entire school budget that they can't do so because other people decided not to come to the ATBM just seems undemocratic and wrong.**

There is much disagreement about this. There are those who believe a small number of people should not be able to change the budget at the ATBM because voters can still do so at the referendum by voting no. However, at that point, only the budgets as a whole can be rejected, not line items in the town or capital budgets, like they can be at the ATBM. At the referendum, voters may be reluctant to vote down an entire budget, even if they disagree with a few things in it, for fear things they want to keep in the budget may be eliminated if the budget goes down.

But, the fact that there is a disagreement about the need for or wisdom of a quorum is what is significant. In this instance, the voters should have a choice.

The Charter Revision Commission is recommending the quorum requirement stay in the charter with some clarifications made to answer the more technical questions about how and when to calculate the number. But it's up to the Board of Selectmen to decide how to word the question on the ballot.

**The selectmen should** take into account the fact that there are differing opinions about whether to have a quorum requirement at all. Rather than just asking voters if the clarifications should be made, they should **include a question on the ballot that asks simply if a quorum should be required at the ATBM.**

The public has its chance to speak up about this and other recommended charter changes at a public hearing next Wednesday, Aug. 28, at 7:30 p.m. in the town hall Meeting Room.

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TO: Weston 2013 Charter Revision Commission • DATE: Aug. 28, 2013  
FROM: Harvey F. Bellin | 7 Maple Street, Weston, CT 06883 | 203.544.0018



## Zombie Attacks, Sharknados & the ATBM Quorum Rule

Government's first responsibility is defending citizens from peril. So, should Weston mandate security cameras in cemeteries to detect the apparently ubiquitous zombie uprisings? Or mandate netting over our town to deter a *Sharknado* torrent of ravenous sharks as depicted on Syfy network? No! These perils never have and never will happen.

Similarly, Weston's well-designed 2012 revised Town Charter included one equally dubious provision to guard against a peril that never has and never will happen – the Annual Town Budget Meeting (ATBM) quorum rule, requiring a quorum of 2% of eligible residents to vote for any budget reductions.

What's the stated reason for this new rule? To prevent ATBM budget cuts enacted by "a small, potentially unrepresentative minority of voters."

But an unrepresentative minority of budget-cutting voters never has and never can hijack ATBM voting. ATBM attendance is always dominated by a well-organized lobby devoted to suppressing any cuts to our costliest budget line item – school spending.

Furthermore, Weston's disastrous 2013 ATBM clearly demonstrated the new ATBM quorum rule's unintended consequences. As evidenced in written testimony to this Commission and my own eyewitness observations, the spending lobby shrewdly gamed the new quorum rule. They ordered their cadres to stay home and thereby prevented a quorum and any voting on budget reductions.

Their scheme succeeded. Our 2013 ATBM was DOA, furthering the spending lobby's stated intention of killing the ATBM and citizens' right to debate any budget cuts.

Retaining the ATBM quorum rule can result in future gaming and eventual demise of our traditional New England ATBM, a key component of our participatory democracy.

Despite the 2013 ATBM fiasco, the 2013 Charter Revision Commission decided to retain the ATBM quorum rule by a narrow 4-3 vote.

Upgrading only one commissioner's vote can drive a stake through the heart of this unnecessary, ill-advised, easily-gamed real threat to Weston's participatory democracy.

Hopefully, this distinguished Commission has the right stuff to do the right thing regarding all imaginary perils, including but not limited to, zombie uprisings, *Sharknados* and any need for an ATBM quorum rule.

Charter Commission Meeting  
August 28, 2013

My name is Frank Billone. I live on Curiosity Lane

I would like my comments to be included in the minutes of this meeting

As you may know from my speaking at forums like this, I am in favor of Weston growing by ensuring that we have lower tax increases than our neighboring towns. Weston has done that over the past several years. As a result, our declining school enrollment may be reversing its course as demonstrated by this year's student enrollment increase. I look forward to our housing values climbing as well, although this has yet to happen.

In the spirit of full disclosure, I was one of the champions of the Referendum and feel, like many others in Town, that it has had a strikingly positive and lasting impact on the budget approach taken by both the Selectman and the Board of Education.

With that as a backdrop, it appears that there at least two negative unintended consequences of the Commission's decision to pose a 2% Quorum at the ATBM. First, this past spring, voters like me who took the time to attend the ATBM were disenfranchised when a Quorum was not reached. In effect, we attended a non-meeting and lost our ability to speak to any line item on the Operating as well as Capital Budgets. Second, if several years go by with no Quorum being reached at the ATBM, the ATBM itself may very well fall by the wayside and be deemed no longer needed. This is not about lowering the School Budget as some may be thinking but rather it's about all the line items that constitute our annual spend.

At the ATBM each individual line item is open for discussion and actionable but not when it reaches the Referendum ballot. Hence I have an issue with a Quorum count that may not be reachable in these times of very low budget increases. From 1979 until this year, that's over 30 years, there was no Quorum requirement and things went along pretty well albeit the Referendum has added an opportunity for many more voters to vote in privacy.

I fear the only way to overcome the Quorum requirement is to include each individual line item on the Ballot. Frankly, I doubt this approach is either practical or realistic and may confuse some people and result in additional unintended consequences. Unfortunately, if I don't have the ability to speak-out and vote on a specific line item at the ATBM, I need a way to be heard and expanding the Referendum Ballot to include all the line items is the only way I can think of to be heard.

Let me expand on my concern of not meeting the Quorum requirement. As an example, let's assume at next year's ATBM the Quorum requirement is not met, again. Let's assume also that one department in the Town is looking for a significant increase for something that is somewhat controversial. Absent the ability to discuss and vote on that one department line item, the only place to share dissatisfaction is the ballot box. In this example, the Town budget is voted down. Since the Town Officials are not exactly sure what caused the dissatisfaction, they may not understand where and by how much to

cut the Budget. This is another unintended consequence of an unworkable Quorum requirement.

From what I have heard and seen, the Commission has worked well together and has generally reached a middle ground on all of the topics but this one. The Quorum issue is a tough call. You are currently split 4 -3. There are clearly differing opinions. Today I stand with the 3 members who want to see a Quorum solution that works for people like me. At the risk of repeating myself, the ATBM is the only place to discuss and act on each individual line item. It has served us well for over 30 years without a Quorum requirement.

Absent finding a way to resolve the Quorum issue in a manner satisfactory to all of your committee members, maybe a compromise is to tell the Selectman that the Quorum issue is too important to let a 4-3 vote determine its outcome and recommend a set of alternatives be added to this year's ballot. I would recommend the ballot offer three options to the voters; a 2% Quorum, a 50 person Quorum and no Quorum.

Why not take the high road and let the voters help you resolve this very critical and somewhat controversial issue.

Thank you.

Comments by Robert Machson before the Charter Commission, August 28, 2013

Like anybody drafting a constitution a set of rules or bylaws that will codify the rules of governance your purpose is twofold: to create the practical rules of governance that are both fair and logical and to do what can be done to encourage the participation of its citizens.

You have spent a great deal of your time focusing on the mechanism by which the town would approve the annual budget. But it is important not to overlook the reality of how money is appropriated, and how large sums of money, frequently far greater than are in controversy during the budgeting process, are approved and spent.

Over the last decade I have been one of the better-known and more frequently heard -- for better or worse -- budget hawks. And over these years I have become familiar with the process by which the town has approved and spent money and the people who are most likely to be responsible for doing so. It has concerned me over this time that money can be spent outside of the formal budget process and the way in which it is done can be inconsistent and undemocratic.

I can cite three examples. The first was when the town decided in 2008 that it would land more than \$500,000 for the purpose of a booster barn and bleachers. This it did without a town meeting and outside of the budget process. It was able to do so because of the provision in section 9.9 (b) which permits the Board of finance to wear appropriate up to 2% of the current tax levy without any approval of the voter. A short time later a group of citizens wanted to spend \$30,000 to investigate the feasibility of a cemetery and though this amount would have been within the discretion of the board of selectmen under 9.9 (a), they decided instead to submit the question to a secret ballot. Most recently a town meeting was called in which the question was whether or not the town should purchase at a price of \$750,000 and a likely cost to the town of \$1 million in the first year the property at the corner of Weston Road. A meeting was required presumably because the question involved the purchase of real estate but million or so dollars would nevertheless have been spent regardless of the number of voters present.

All of this suggests an imbalance in the way material amounts of money are spent and the degree to which any quorum is required beforehand.

**Therefore I would propose that section 9.9 (c) be amended to reduce the limit from 2% to 1% of the current tax live levy and thereby reduce the likelihood that extraordinary expenditures be made without approval of the voters. In the alternative the word emergency could be inserted between the words "supplemental" and "appropriations" on the second line of the paragraph.**

As for the question of a quorum requirement the issue is twofold. First why there should not be a requirement that a quorum always be present for the approval of any town budget or the diminution of any proposed town budget? Why should it be that only those who suggest that the

budget be reduced be required to turn up when those who want to affirm a budget do not bear the same responsibility?

As it now stands if no one shows up the proposed budget is affirmed. And oddly in such a case the current charter would still require a secret ballot to take place. Thus, in the name of maximizing participation, the Town is forced to go through the time and expense of voting on a budget that not the smallest handful of voters wanted to approve?

**I would suggest that under all circumstances the town budget meeting not be held until a quorum was present. If the town has no interest in its budget than an interim budget will serve as set forth in section 9.7(c). This would make the annual town budget meeting not only relevant but a civic duty. Thus, if you want to spend more money, you need to show up; if you want to spend less money you need to show up.**

I do not agree with my friends who argue that there should be no quorum requirement for those seeking to reduce a draft budget. While two percent is probably, and sadly, too high, it seems that if, after the entire budget process, the enthusiasm for a reduction in the budget is so slim that not even 50 people can be convinced to attend, then the argument may be no more than a trifle.

The argument that those supporting the budget as drafted would "game" the system by running out of the room the moment it might appear that their votes were insufficient seems not only speculative but almost paranoid. In a what's-good-for-the-goose-is-good-for-the-gander system -- where a quorum is required to approve or reduce the budget -- those seeking to reduce the budget should be able to get their supporters to attend. **A quorum should be determined at the beginning of the meeting and once determined any vote of the body is dispositive.** At that point the total vote count would be irrelevant. In other words whoever wants to leave the room after the quorum is established may leave the room.

As for what should constitute a quorum, that is obviously an arbitrary number. The more cynical suggest the lower number or perhaps not a number at all. The overly optimistic might suggest a number that is unworkable. My arbitrary number would require at least 75 voters to attend.

To summarize, my experience over the last decade is that the budget process is frequently undermined by the exceptions to the town meeting rule. A greater limit should be placed on the amount that can be appropriated without a town meeting or an emergency qualification installed.

If we are to continue having an annual town budget meeting there should be a quorum before it may proceed. The quorum should be determined at the beginning of the meeting and any vote taken thereafter should be effective. The size of the quorum should be based upon your experience.

# TOWN OF WESTON

## ATBM ATTENDANCE/TOTAL VOTERS COUNTS – 2006-2013

YEAR	ACTUAL TOWN MEETING/WHIS	MACHINE VOTES
2013	Votes by machine – 82 voters (machine available that night)	ATBM Machine 207= total 289
2012	Night of Town Meeting – 89 voters	ATBM Machine 364
2011	Night of Town Meeting – 170 voters	ATBM Machine 885
2010	Night of Town Meeting – 155 voters (only 76 voted in standing count)	ATBM Machine 1118
2009	Night of Town Meeting – 171 voters	No referendum on budget
2008	Data unavailable	Data unavailable
2007	Night of Town Meeting – 75 voters	No referendum on budget
2006	Night of Town Meeting – 168 voters	No referendum on budget

From: **Jamie Berger Katz** <[jbkatz@gmail.com](mailto:jbkatz@gmail.com)>  
Date: Wed, Aug 28, 2013 at 6:43 PM  
Subject: Quorum Requirement  
To: "Gayle M. Weinstein" <[gweinstein@westonct.gov](mailto:gweinstein@westonct.gov)>  
Cc: [simick54@gmail.com](mailto:simick54@gmail.com), Gary Katz <[Gkatz109@gmail.com](mailto:Gkatz109@gmail.com)>

Hi Gayle,

I hope you are well and had a nice summer. I am writing on behalf of Gary & myself to let you know we are both in favor of the quorum requirement that will be discussed at tonight's meeting-that a minimum number, a quorum, be present to vote at the Annual Town Budget Meeting. We are unable to attend tonight's meeting but want you to know how we feel about this issue.

Best,

Jamie

~Jamie Berger Katz

203-454-1004