

## 1. Meeting Materials

### Documents:

[NOVEMBER 14, 2017 MEETING MINUTES - APPROVED.PDF](#)

[NOVEMBER 14, 2017 MEETING MINUTES - DRAFT.PDF](#)

[NOVEMBER 14, 2017 SUPPLEMENTAL INFORMATION FROM THE TOWN ATTORNEY.PDF](#)

[NOVEMBER 14, 2017 MEETING AGENDA.PDF](#)

# **Town of Greenwich**

Selectmen's Board of Education Section 66/67 Charter Revision Committee

Meeting 14 November 2017

7:00 p.m.

Central Middle School

## **1. The meeting was called to order at 7:09 p.m, followed by the Pledge of Allegiance.**

Attendance: Committee members: Barry Rickert (Chair), Alexis Voulgaris, William Finger, Peter von Braun, Brian Peldunas (Secretary) – Present.

## **2. Presentation of Committee Charge and Format for Public Forum.**

Mr. Rickert presented the Committee's charge to the audience, and asked that comments be addressed specifically to sections 66 and 67 of the Charter, as opposed to section 38 (the charge to the previous Committee). Mr. Rickert presented the charge as whether the Town Charter should be changed to allow a public referendum on any proposal to change the method of election or structure of the Board of Education, or whether the final decision on such a proposal should remain with the RTM. Mr. Peldunas made a motion to limit comments to three minutes for each presenter. Ms. Voulgaris seconded, voted was 5-0.

## **3. Public Forum**

Forty people presented input on the topic. By count of the secretary, opinions were:

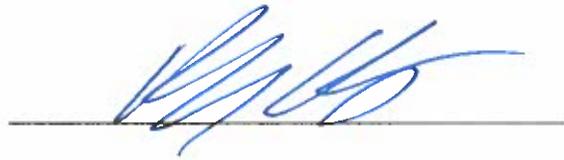
- Section 66 - Remain with the RTM: 33
- Section 66 - Public referendum: 4
- Provide education on current situation and/or proposals: 5
- Comprehensive review of Town Charter: 1
- Change section 67 to allow BOE to initiate change: 4

Does not total to 40 as some individuals expressed multiple recorded opinions.

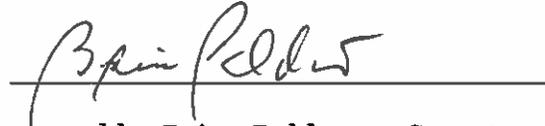
Note: some presenters expressed opinions on section 38 as well as sections 66 and 67. Other points raised were concerns about the cost of a referendum, or the cost of a legal challenge to any change

## **4. Adjourn.**

By motion of Mr. von Braun, seconded by Mr. Finger, the meeting was adjourned at approximately 8:45 PM.



**Barry Rickert, Chair**



**Prepared by Brian Peldunas, Secretary**

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Barry Rickert, Chair

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Prepared by Brian Peldunas, Secretary

DRAFT

BACKGROUND PROVIDED BY TOWN ATTORNEY: As you well know, your predecessor committee which was composed of four of the five sitting members on this committee, issued a report in March of 2017 reviewing a proposal to expand the Board of Education membership from eight to ten members. That concept was submitted to the Board of Selectmen in accordance with the Charter. The Board of Selectmen did not take action on the proposal but raised a separate question. That separate question was whether or not Section 66 and/or Section 67 of the Charter should be amended to provide for a mandatory referendum should there be a proposal that would affect the existence, mode of selection, conception, rights, powers, privileges, or duties of the Board of Education. The Board of Selectmen is seeking a response and a determination on this issue prior to going forward with the earlier proposal.

In light of the fact that this concept would affect the authority and power of the Representative Town Meeting, it has been and continues to be our opinion that this proposed change, in and of itself, would have to go to a referendum. There are various state statutes which relate to and direct the process for the number and term of the members of the Board of Education. In particular, Sections 9-203, 9-204a, 9-204b, 9-205 and 9-206a are all potentially applicable to the issue. I believe we have the authority and am comfortable with a possible change to Section 66 as suggested. I would be concerned and tenuous about a change to Section 67 for the reason there could be a claim that the Town is attempting to modify the applicable section in the state statute.

Should your committee recommend a change to Section 66, or for that matter Section 67, then the matter would be returned to the Board of Selectmen. If, in fact, the matter received approval by the majority vote of selectmen, the matter would be transmitted to the Town clerk and then would be included in the call of the next RTM meeting. The RTM could then adopt or amend the proposal by an affirmative vote of the majority of the entire RTM. Should the RTM amend such proposal, it cannot become affective until the initiating board, the Board of Selectmen, shall have concurred in the amendment by the same vote as required for initiation.

While I cannot be sure, due to the lack of legislative history, I think it is a far assumption that the Board of Selectmen, BET and RTM were considered the backbone of Town government. The Board of Education was looked upon as kind of an anomaly that was effectively an arm of the state and controlled by various state statutes.

I have exchanged voice messages with Attorney Bromley of the Secretary of State's Office. It is my opinion that Section 9-369a requires that a statement be submitted setting forth the designation of the question as it is to appear on the ballot of the election be submitted to the office of the Secretary of State at least 45 days prior to the election. In addition, Section 9-370 states that a local question approved for submission to electors must be approved 60 days prior to the election.

ADDITIONAL COMMUNICATION FROM COMMITTEE TO TOWN ATTORNEY: Following up on our meeting in late July, our committee wanted to see if you were able to gain some clarity on some of the open questions that were raised. Please see below:

COMMITTEE QUESTION 1. Were you able to speak with Attorney Bromley regarding the timing of putting a proposed charter change on the ballot? In particular, were you able to reconcile the interplay between sections 9-369a and 9-370?

TOWN ATTORNEY RESPONSE: I have in fact spoken with Atty. Bromley with respect to the applicability of 9 – 369 a and 9 – 370. He has indicated to me that they are both applicable . The first statute, 9 – 369 a, outlines the 45 day requirement for the town clerk to submit the proposed question to the Secretary of State. If for example one was talking about the upcoming election the deadline for that to be submitted be September 22. The 2<sup>nd</sup> statute that they 9 – 370 limits the time by which a local question can be submitted to the electors. Again using as a standard the upcoming election, that date would be September 7. In his opinion both statutes would be applicable.

COMMITTEE QUESTION 2. What is included in the definition of an election for purposes of the relevant statutes? Does a primary count as a special election? Municipal or general? Can it be a special election with 1 item on the ballot?

TOWN ATTORNEY RESPONSE: With respect to your 2<sup>nd</sup> question, a primary would not be applicable because a primary would deal with an election or a voting process for only one party. Other than that a special election, for example, would be counted for purposes of the statutes.

COMMITTEE QUESTION 3. Let's assume that the charter change under consideration is approved, thereby adding the Board of Education to Section 66. Hypothetically speaking, if the CT general assembly passed a measure allowing for non-partisan BOEs and Greenwich wanted to adopt such provision, would it need to be approved by a referendum or RTM?

TOWN ATTORNEY RESPONSE: As you can imagine, lawyers do not like to answer hypothetical questions. This would be especially true when they have not seen the amended statute. Be that as it may, let me give me the benefit of my thoughts.

The section of our charter that would be applicable is still section 66. That section still provides that if we are to take home rule action which among other things would affect the mode of selection, composition and rights of the Board of Education (assuming the current proposed charter change passes), it would still appear to me that because of the action we are taking the issue would still have to go to a referendum. If in fact the Legislature adopted a statute which contained a provision “not withstanding any special act or charter provision” then I think an argument could be made that a referendum could be avoided. For example the statute could provide that notwithstanding our charter the legislative body could adopt an ordinance etc etc. We would really need to see what they said and how they said it.

I realize this is probably not the precise answer that you wished but is the way I interpret question.



# TOWN OF GREENWICH

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Peter J. Tesei  
*First Selectman*

## **Board of Selectmen Board of Education Section 66/67 Charter Revision Committee**

Tuesday, November 14, 2017  
Public Forum - 7:00 p.m.  
Central Middle School

### **AGENDA**

- 1. Welcome and Pledge of Allegiance.**
- 2. Presentation of Committee Charge and Format for Public Forum.**
- 3. Public Forum**
- 4. Adjourn**

This certificate received on file

On OCT 20 2017

At 10:40 am

  
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Town Clerk