

Town of Greenwich

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

Meeting 24 July 2017

7:00 p.m.

Town Hall – Cone Room

1. The meeting was called to order at 7:04 p.m.

a. Attendance: Committee members: Barry Rickert (Chair), Alexis Voulgaris, William Finger, Brian Peldunas (Secretary) – Present. Peter von Braun – not present

b. Members of the public: Janet McGuigan, Linda Moshier, Irene Dietrich

c. Town of Greenwich: Wayne Fox

2. Discussion with Town of Greenwich Law Department – Answers to questions posed.

Mr. Wayne Fox of the Town of Greenwich Law Department met with the Committee to answer questions posed to the Law Department. The questions were:

1. Does the Town of Greenwich have the authority to add the BOE to Sections 66 and 67 of the Town Charter?
2. If the Town does have authority, what other issues does it need to consider in adding the BOE to these sections?
3. We assume that the pathway to adding the BOE to Section 67 (or 66 and 67) is a proposal by the BOS under Section 67(a) based in part on the findings of this committee, approval by the RTM under Section 67(b), concurrence by the BOS under Section 67(c) if amended by the RTM, and approval by the voters under Section 66. Is that correct? What language would need to be added to Sections 66 and 67?
4. History: Is there any indication why the BoE was excluded from Sections 66 and 67?
5. Timing: is it possible to have a presentation to the RTM in September and (with an affirmative vote) have the item on the November 2017 ballot, or is the six month provision in play?

Mr. Fox prepared written answers (amended to these minutes) to the questions, and also answered the Committees questions. Mr. Fox was still researching some answers, and indicated he would provide those answers when that research was completed.

Mr. Fox indicated that the Town had the authority to amend section 66 of the Town Charter to add the Board of Education to that section. Given that the amendment would change the power of the RTM, such a change (as outlined in the charge to the Committee) would have to be approved via a referendum. However, as explained in his written answers, he was “concerned and tenuous about a change to Section 67” because it could be claimed that the Town was “attempting to modify the applicable section of the state statute.”

Mr. Fox went on to outline the path to such a referendum, as well as the impact of state statutes on the time of the involved events. It was still unclear if the requirement for the time between the approval by the RTM (or the BoS if the RTM amended the BoS recommendation) and the general election needs to be 45 days or 60 days, as two state statutes appear to be in conflict. This could (if it were 60 days) prevent a referendum this November, given the number of days between the September RTM meeting and the election.

3. Further discussion.

The committee discussed the answers. Mr. Finger would like to investigate giving the BoE a say in initiating a change, which would require an amendment to Section 67. Mr. Rickert wanted a plan that would allow for unaffiliated voters to have a say in the adoption or rejection of a change to the Charter. Ms. Voulgaris commented that the perception of the Section 66/67 review would have been different if this proposal had been considered first, rather than the previous Committee's charge. Mr. Peldunas commented that the pressure on the RTM to approve a Section 66 change (for example) would be different than the pressure on the RTM if that change was successful and a change such as recommended by the previous Committee came to the RTM for approval to send the change to a referendum. Ms. Voulgaris questioned whether a referendum during a special or primary election might lead to a less informed electorate.

4. Meeting plan.

The Committee would like to hold a public forum for comment, but is aware of the timing given summer vacation and back to school.

The next meeting is tentatively scheduled for 7:00 PM on Thursday, 10 August 2017. Mr. Peldunas was asked to check with Mr. von Braun on availability.

5. Review of 27 June minutes.

The minutes were not ready for review and will be reviewed at the next meeting.

6. Adjourn.

By motion of Mr. Peldunas, seconded by Mr. Finger, the meeting was adjourned at 7:40 PM.

Barry Rickert, Chair

Prepared by Brian Peldunas, Secretary

DRAFT

From: "Fox, JohnWayne" <JohnWayne.Fox@greenwichct.org>

Date: July 25, 2017 at 8:22:24 AM EDT

To: "barry.rickert.rtm@gmail.com" <barry.rickert.rtm@gmail.com>

Cc: "Ceglio, Patricia" <Patricia.Ceglio@greenwichct.org>

Subject: BOE Charter Revision Committee

I plan to attend the meeting of your committee schedule for Monday, July 24, 2017. In order to respond to the questions proposed, let me attempt to provide some background.

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.

John Wayne Fox, Town Attorney

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