

GENERAL BYLAW COMMITTEE MINUTES

April 8, 2021

1. Call The Meeting to Order

Due to the recent Open Meeting Law policy set forth by the Governor during the current State of Emergency the meeting will be held as a virtual meeting.

Selectman Designee Jayne Wellman called the meeting to order at 6:03 P.M. Present at the meeting were Alex Lowder, Clerk, and Dustin Weir. Also in attendance was Town Clerk, Denise Graffeo and Assistant Town Manager, Steve Sadwick. Vice Chair Jason Christian and George Ferdinand were not present.

2. Approval of Minutes

MOTION: Ms. Lowder made a motion to approve the meeting minutes from March 11, 2021 as submitted. The motion was seconded by Mr. Weir, and unanimously voted 3-0.

3. Old Business

Ms. Wellman stated that the committee will go through this document in order and note proposed changes in each section.

A. Title 1 – Discussion

Chapter 1.01 Code Adoption

1.01.010, 1.01.020, 1.01.030: Mr. Weir stated that these three sections all essentially define what the Tewksbury Bylaws are, may be a bit redundant. **Consult Town Counsel.**

1.01.020 Title – Citation Reference: Ms. Wellman noted that there is an additional space in the word “provisions” in the first sentence of this bylaw. It was deemed likely a scrivener’s error.

1.01.070 – Constitutionality: Mr. Sadwick remarked that this section closely resembles the severability clause in the next chapter, under section 1.04.070. **Consult Town Counsel.**

Chapter 1.04 – General Provisions

1.01.060 – Effect of bylaws on past actions and obligations: Mr. Weir wanted to explore the difference between “repeal” vs. “appeal” in this clause. Ms. Wellman noted that it likely has to do with someone’s ability to appeal a decision. It was also noted that the law is not retroactive. **Consult Town Counsel.**

1.04.010 Code Cite – Applicability Amendment and repeal procedure:

A. This was flagged as redundant by Mr. Weir since the name of the document is established in previous sections. Ms. Wellman stated that they define the same thing but are called something different.

C. Ms. Wellman flagged this section is as redundant since it appears in Title 2.

1.04.020 – Definitions E,G: Ms. Wellman asked if the committee found these definitions to be outdated. Mr. Sadwick agreed some are outdated. He also stated that the definitions for “sidewalk” and “street” were called out as not typically relevant in any other part of

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the General Bylaws except for the Zoning Bylaws. These are addressed in the Zoning Bylaw's definitions.

Overall comments related to the "Definitions" section included looking into "common definitions" sections, as recommended by Mr. Sadwick, since this is something that the Zoning Bylaw includes, and Town Counsel should be consulted to determine what kinds of definitions should be included. This would also be an update to the gender and pronoun sections. **Consult Town Counsel.**

The numbering conventions for the overall document was also noted by Ms. Lowder and Mr. Sadwick as something that might be best handled once the entire document has been reviewed for content and overall consistency.

1.04.040 – Computation of Time: Ms. Wellman asked Ms. Graffeo if this provision complied with Open Meeting Law. Ms. Graffeo responded that it does. Ms. Graffeo also stated that this needs to include Saturdays as part of calculation since it is included in calculating things like appeal periods for MGL Chapter 40a. Mr. Sadwick stated that there should also be "unless provision conflicts with MGL in which case MGL prevails."

Ms. Wellman noted that there is a big gap in numbering. Ms. Lowder stated that she had discussed with Mr. Sadwick and that may have been purposeful to leave room to add provisions in at a later date.

Chapter 1.08 – General Penalty

1.08.010 – Violation Penalty:

A. & G. Ms. Lowder stated that these provisions are nearly redundant. Ms. Wellman stated that these should be combined or one should be removed. **Consult Town Counsel.**

B. Ms. Wellman asked whether this amount is outdated. Ms. Graffeo agreed. Mr. Sadwick stated that the committee should inquire about the statutory limits for penalties for general bylaws. Ms. Graffeo noted that the fines for violations of the dog bylaw exceed \$300.00. Ms. Graffeo proposed striking "not exceeding..." from the clause. Mr. Weir noted that the provision also states "unless provided elsewhere..." which would be true for the dog bylaw and others. It would be a backstop for any bylaw that doesn't expressly written dollar amount.

D. Mr. Sadwick suggested checking MGL Section 40, 21D because it is likely already updated to include the Acts of 1990. Ms. Wellman recommended striking "in the manner provided by..." **Consult Town Counsel.**

B. Title 2 - Discussion

Chapter 2.04 – Town Meeting

2.04.010 – Schedule Established:

Ms. Wellman noted that Special Town Meeting is not included in the Bylaws. Ms. Graffeo stated that Special Town Meeting is called by the Board of Selectmen and is specifically not in the Bylaws to allow for flexibility. Ms. Wellman asked if this could be moved from October. Ms. Graffeo stated that it falls between elections.

A. Ms. Lowder asked about changing the rules for Town Election to not have it be dependent on Easter Sunday. Ms. Wellman stated that a lot of people who observe Easter

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and plan their weekend around it. Ms. Graffeo stated it could be considered changing elections from Saturday to Tuesday, addressing low voter turnout, costs associated with paying staff overtime, and dates changing due to Easter holiday. A town-wide survey was suggested to see if voters want to change Town Election day of the week. **Survey Feedback.**

B. Ms. Wellman proposed changing start time for Town Meeting from 7:30 PM to 7:00 PM.

Mr. Sadwick noted that it is worthy of discussion whether to keep the continuation of Town Meeting to the Wednesday or remove the Town Election as Article I of Annual Town Warrant since it is accomplished outside of actually convening for the governing body. Ms. Wellman noted that this is not taken as a vote at Town Meeting anyway. Ms. Wellman suggested bringing these types of question to a resident survey. **Survey Feedback.** Mr. Sadwick recommended involving Town Counsel as well. **Consult Town Counsel.** Ms. Graffeo noted this would allow the voter registration deadline to extend closer to Town Meeting rather than using the Town Election deadline for all when they're a month apart.

Ms. Wellman brought up the issue of Town Meeting reconvening for zoning articles on Wednesday when there is still time to start on Monday. Mr. Sadwick said there are pros and cons to it, one of them being if someone is only interested in zoning, they know to only show up on Wednesday night and not Monday night. He also noted that that does not necessarily promote full participation in government. Ms. Wellman stated that some folks already find Town Meeting confusing. Mr. Sadwick suggested surveying residents about this. **Survey Feedback.**

2.04.015 – Consent Calendar: Ms. Lowder noted that this provision does not account for people with disabilities to be able to make their presence known when necessary. Ms. Wellman responded that it is typically the moderator's responsibility to set the rules for how to recognize a hold but that the way it is written here is ableist. Mr. Sadwick reiterated that this is the moderator's role to set the ground rules. Ms. Wellman said that the language here is important. Mr. Sadwick noted that the distinction between "shall" and "may" is important with how the consent calendar is laid out.

2.04.020 – Article Submission: Ms. Wellman stated that this section is really hard to follow. She also stated that the articles aren't really discussed by the Board of Selectmen until the Finance Committee hears them, and a lot of the facilitation happens by staff. Mr. Sadwick stated that the articles that come from appointed boards and committees are submitted to the Selectmen. Mr. Weir said that functionally it works, but the wording could be improved. Mr. Sadwick suggested that this section be broken out into parts to make it clearer how to submit an article for Town Meeting. It is hard to follow as it is currently written.

2.04.030 – Posting Requirements: Ms. Lowder suggested the idea of removing the requirement for mailing a copy of the warrant to each dwelling. Ms. Wellman said that this was originally by citizen petition a few years ago to encourage more people to attend Town Meeting. She also stated that what gets people to Town Meeting more is a controversial article. Ms. Wellman and Ms. Graffeo noted the costs associated are tracked in the Town Manager's office as well as an opt-in mailing list which should be shared

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with the committee. Ms. Graffeo has the statistics and will share the voter turnout before and after the mailing requirement was changed. Ms. Wellman stated this would be a good candidate for a resident survey. Mr. Weir proposed the idea of sending out a one-page flier in the mail for Town Meeting instead of the whole warrant. This allows people to be informed without wasting time and resources. **Survey Feedback.**

Ms. Wellman and Mr. Weir are going to propose revised language for Sections 2.04.020 and 2.04.030, respectively, before the next meeting.

2.04.090 – Opening prayer: Ms. Lowder stated that she was not aware this was done at every Town Meeting, and thought that naming it something less religious or replacing it with the Pledge of Allegiance might be better. Ms. Wellman noted that the moderator always calls for a member of the clergy to speak, and it is usually something quick and general, not necessarily part of any one religion. It was suggested that the committee survey residents to see if this is something people still want and maybe it can be called something different. Ms. Wellman noted other language modifications proposed could be replacing “shall” with “may” and “clergyman” with “member of the clergy of any faith.”

Survey Feedback.

2.04.120 – Final action when expenditure exceeds five hundred dollars: Ms. Lowder noted that was a low threshold. Ms. Wellman stated that this may be able to be struck entirely. **Consult Town Manager.**

2.04.130 – Proceedings governed by Town Meeting Time, Second Edition, 1984, with the additions and as amended: Ms. Wellman noted that there is likely a newer edition and that “several” is a scrivener’s error. Ms. Lowder stated that the third edition was published in 2001. Mr. Sadwick suggested adding “as amended” instead of having to update the year periodically. **Consult Town Counsel.**

2.04.140 – Town Clerk’s duty to notify members when: Ms. Wellman said the Town Clerk only swears in elected and appointed officials. Mr. Sadwick said it is unclear what the intention of this bylaw is. Ms. Wellman said it may be a product of its time when a Town Clerk was an elected individual. Mr. Weir asked if it is meant for the Town Clerk to inform a board or committee that they have new responsibilities as a result of Town Meeting. Ms. Graffeo stated that this was not part of the regular activities of the Town Clerk’s office. **Consult Town Counsel.**

2.04.150 – Procedure for voting on appropriations: Ms. Wellman noted that this might be able to be struck in its entirety. Ms. Graffeo stated that this bylaw contradicts itself and has required Town Counsel input in the past. **Consult Town Manager.**

2.04.180 – Emergency meeting: Ms. Wellman stated that the requirement for mailing a warrant in the event of an emergency meeting should be struck as it is not practical.

2.04.200 – Amendment to personnel By-Laws: Ms. Wellman stated that the Town Manager thinks this can be struck because salaries, etc are not handled this way anymore. Mr. Sadwick said this is rendered unnecessary after a significant revision of the personnel bylaw with Town Counsel and the Town Manager.

2.04.210 – Amendment to By-Laws: Ms. Wellman stated that this should be removed as redundant. It is elsewhere in the bylaw.

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Ms. Lowder noted that “bylaw” is written three different ways throughout the document. Ms. Lowder and Ms. Graffeo propose having it as “Bylaw” throughout the whole thing. Mr. Weir noted consistency is necessary.

Adjournment

Ms. Lowder noted that, in the interest of time and full group participation, perhaps the committee should table the remaining agenda items until the next meeting which is noted as Title 2, on page 21. Ms. Wellman stated that includes Building Commissioner, Boards, Committees, and Commissions, Council on Aging, Finance Committee, Records and Documents, as well as Contracts by Town Officers.

MOTION: Ms. Lowder made a motion to adjourn the meeting at 7:43 PM. The motion was seconded by Mr. Weir and unanimously voted 3-0.

The next meeting will be held on Thursday, May 13 at 6:00 PM.

Approved on: May 13, 2021