

## **Minutes**

### **Amherst Charter Commission meeting of September 14, 2016**

Members Present: Andy Churchill, Tom Fricke, Meg Gage, Nick Grabbe, Mandi Jo Hanneke, Irv Rhodes, Julia Rueschemeyer, Diana Stein, Gerry Weiss. Members Absent: None. Presenters: Bernard Lynch and Lauren Goldberg of KP Law. In attendance: Jackie Churchill, Ted Parker, Irma Gonzalez, Kevin Collins, Larry Kelley, Walter Wolnik, Human Resources Director Deborah Radway.

AGENDA: 1. Call to order, approve agenda, approve minutes (5 minutes) 2. Consultant interview – Bernard Lynch and Lauren Goldberg joint presentation (45 minutes) 3. Members discuss first impressions of consultant choice (30 minutes) 4. Outreach/communications update (15 minutes) 5. Budget and Fall Town Meeting (5 minutes) 6. Public comment (15 minutes) 7. Topics not reasonably anticipated by the Chair 48 hours prior to the meeting 8. Agendas/planning for future meetings (4 min) 9. Key takeaways (1 min) 10. Adjourn .

Churchill convened the meeting at 7:05 p.m. in the Police Station Community Room. He said he thought the outreach effort is going well, and praised the format of the afternoon listening workshop that had taken place only hours earlier. The commission approved the minutes of the Sept. 8 meeting. Gage reminded members that she wants to find a few sentences highlighting parts of meetings to put on the Facebook page.

### **Presentation by KP Law**

Goldberg spoke about her experience in the public records and elections divisions of the Secretary of State's office, working with many municipal officials on issues such as open meeting law, municipal finance, town meeting, conflict of interest and elections. When she joined KP Law, working on charters was a natural, assisting towns in drafting them, as well as with bylaws, special legislation and Town Meeting warrants. All day she works with what works in charters and what doesn't. "We don't think it's easy to pull provisions from another city and drop them in," but it's important to consider their implications. "How they play out elsewhere is not necessarily how it works for you."

She said that if the commission hires KP Law, it will bring Lynch on board. She would do the legal work, with Lynch doing the facilitation and helping to make big decisions. Goldberg said the commission has already done a significant amount of work, and emphasized "diagnostics," or what's working and what's not in town government, and what to work towards. She said she and Lynch complement each other. She has confronted issues such as whether a planning board can do zoning work, and whether an open space committee can do planning.

Lynch spoke of facilitating Amherst's town manager search. He got his degree in public administration and worked in Chelmsford as community development director, then executive secretary. He said he's immersed in different forms of government and has taught political science at UMass/Lowell. He worked with Chelmsford to implement a charter that moved from an open Town Meeting to a representative one, and then was city manager in Lowell, which had a council-manager system. In 2014, he started consulting and has done recruiting in Winchendon as well as Amherst, and helped Wellesley find a new executive director, and has worked on personnel systems and strategic planning in Longmeadow and is now working on a government study in Southampton.

Lynch said he likes to work with communities to facilitate discussions and identify issues and come up with solutions. Every town is different.

Goldberg said she and Lynch have a long history of working together, and the legal and operational issues bleed into each other. We're interested in helping you make decisions you want to make and turn them into a charter. Asked about the scope of work, she spoke about engaging the public in a more active way, especially those who didn't realize they could participate or don't like to come to meetings. She spoke about the decision-making process, majority rules or consensus approaches, and said that a group this size requires structure. Lynch spoke about the level of detail in the charter, and whether to make forms permanent or flexible. He spoke of providing examples of legislative and executive options.

Lynch said he addresses questions such as what the executive branch looks like and what responsibilities it has, how the legislature works and how big it is and how it's selected, and the benefits of district representation vs. at large. A manager in one town could be different from one in another.

Goldberg said that with each option, there are varying roles of authority and responsibility, for appointments and delegation, that define what we're looking for. She suggested working on concepts first, words later. She described some examples of decisions, such as having a council doesn't necessarily mean that there will be a council president. Will there be a confirmation requirement? Lynch said how the budget process works can be in the charter; some towns like strict words, while others prefer bylaws.

Goldberg said a charter can be an "aspirational document" or can be a working document people have to comply with. She spoke of problems such as not being flexible—you don't want to hamstring the executive in a charter such as requiring a manager to prepare a budget by a certain date--or by putting personnel in the charter. Leaving the charter looser might be better.

Rueschemeyer said commission members may have nine different opinions, and asked whether it makes sense to try to reach consensus on each decision. Lynch said it's not impossible, but sometimes you just have to move on. "I like coming to consensus." Goldberg related her work in Plymouth, where the commission members had very divergent opinions; the debate was respectful but in the end there was a minority report. Decisions can always be revisited.

Churchill spoke about the range of perspectives on the commission, representing the breadth of opinion in town. The commission has not jumped into debate over Town Meeting and the executive but has stepped back and done outreach to seek to learn what residents value. Initially, the most agreed-upon value has been citizen participation. He asked how to plug such values into the charter.

Lynch said what's important in local government is to respond to the wishes and needs of the town, lay out goals, weave in structure and process. Citizen participation could be embedded in the legislative and executive decisions, since after 1966 towns can develop their own charters within certain parameters.

Goldberg said it's important to make a list of what we want the legislative and executive bodies to do, and look at which we're trying to accomplish: what works and what doesn't, what we want to replicate. It's like a jigsaw puzzle, how things fit together. Do we want a chief executive without checks, or answerable to a council or Town Meeting? An aggressive or weak recall provision? Is there too much oversight or not enough? Are there too many hands in the pie? There's no perfect way.

Weiss asked how to define "works," saying a lot of that is a matter of opinion. Lynch said having different opinions is in the nature of government. Our challenge is to create the best form of government we can and put it to the voters. Should we search for the perfect government based on our opinions or craft a document that tries to address all the issues people see? Some people love Town Meeting because it provides control on official actions, while others think it puts a stop on things. The question to ask is: What form addresses everyone's concerns? and debate that. "It makes my head burst," said Weiss.

Goldberg said there are tools to help us. If the decision is to make Town Meeting more efficient, we could draft provisions to require subcommittees to analyze issues beforehand, for example. By reaching out for feedback, we're making our decisions less in a vacuum. Are we looking for a "dream charter" or one that can get passed? Do we want to fight until everyone is on board, or say this is a piece I'm comfortable with. In terms of disagreeing with each other, we have to sound it out ourselves before we can get the community to sound it out.

Gage said some opinions received from the public have not addressed government structure, but topics such as poor communication between departments and with the public, and confusion about priorities. Lynch talked about a transition provision in the charter, such as an ethics bylaw. Goldberg said she's seen charter commissions put planning and land use together under a director of operations, but who's answerable to whom may be a structural issue.

Stein asked about surveys. She saw flaws in the Fall River survey, and asked what input consultants could have. Lynch said he could help. She noted that a survey by the Donahue Institute would be too expensive. Goldberg said they could look for a sub-consultant, adding that there's value to hearing from people who are not usually heard from. But you also need to make sure you ask questions that will get you good information, she said. There are also ways to avoid spending a lot of money. She suggested high school students looking for credit going door to door to get a higher percentage of responses than mail, noting that in an election year there's lots of interest in politics.

Churchill asked about rates. Lynch said KP Law will be in the lead and he will act as a consultant to them. Goldberg said the commission would get a detailed bill every month and be able to see what time they spent and what they did. Some towns spend as little as \$10,000, others as much as \$25,000. She said she would take calls from the chair and participate in half-hour phone conferences.

Goldberg said she would send updated drafts to the commission well before a meeting, but she likes to be there in person for important decisions. "If you spend the budget too quickly, we'll deal with it," as their goal is a good reputation, which will provide work in the future. "We want you to be happy."

Churchill said the commission is meeting every week and plans to have a preliminary draft by the end of July, so it's "heading into some urgency." Lynch said consultants need not be at every meeting. Goldberg said she would look at the calendar and plan when to be at meetings. She said debating the final draft should take at least a month and we should "build in time for indecision."

Rhodes noted that the hourly rates for Goldberg are \$175 and for Lynch \$135, and that the commission should consider a fixed sum. He doesn't like seeing "the clock going for an attorney." Goldberg said she would need to know how much the commission plans to spend, and how frequently her presence would be required. Lynch estimated the total cost at \$25,000.

Churchill asked about visiting comparable towns. Lynch said he could "bring people here" or groups of members could visit other towns. Goldberg spoke about observing different styles of governments, going to council meetings, meeting with managers. "There are ways to bring that knowledge back here." Officials are generally happy to talk about their towns' government.

After Goldberg and Lynch left, Churchill suggested holding off on discussing the two options until the commission gets additional information, such as the costs of going with the Collins Center. Gage said because Goldberg is part of the law firm the town currently has on retainer, some of her work could be done through that, to save money. Rueschemeyer said that should be up to the town manager. Stein suggested saying to both groups, "This is what we have to spend, what would you do with that?"

Rueschemeyer said the commission should “tell them what we want.” Hanneke said what we want triggers different decisions on who is best able to provide that. Churchill said the commission needs a more detailed scope of services. Weiss calculated that \$25,000 would pay for 75 hours of Goldberg's time and 90 hours of Lynch's, and said that's a lot. Rhodes reiterated that he prefers a fixed cost. Rueschemeyer said she wouldn't want to have to say we don't want their help because we don't want to pay for extra hours. Grabbe worried that the process of choosing a consultant is taking too long.

Rueschemeyer suggested a straw vote. Weiss said that Goldberg has a better feel of what Amherst is. Gage said she and Lynch bring complementary skills, know the town, and seemed comfortable with each other. Stein said they know Amherst better. Grabbe noted that Lynch got good reviews during the town manager search.

Churchill said their experience is not as extensive as the Collins Center, which has a “deeper bench.” Rueschemeyer said she'd be happy with either, but the Collins Center has done more of this work and knows what other towns do. Fricke said either would be OK. Hanneke said she is unsure, but said KP alleviated some of her concerns; and their approach to drafting the document and the decision-making process seems logical for Amherst, but is unsure how much assistance the commission would actually get and whether they have enough experience. Rhodes said he has a bias against hybrid organizations, and said he is more comfortable with the Collins Center.

It was decided to get three references from each and ask the Collins Center for a fee structure. Stein asked who exactly at the Collins Center would work with the commission. Rhodes said the commission should say, “Here's the scope of work, here's what we're willing to pay; can you do it for this price?”

## **Outreach**

Rueschemeyer spoke about the next night's block party, and the following Tuesday's listening workshop at the middle school. She talked about hiring college student Jacob Livingston as a communication assistant at \$15.47 an hour, up to \$2,500, to manage discussion group on the web site, follow up on media contacts, and prepare content for the Facebook page, listserv, discussion groups, etc. He is a marketing major at Skidmore College who's taking a year off. Rhodes asked if Rueschemeyer and Hanneke are confident in his reliability and they said they are. The commission voted unanimously to hire him.

Grabbe said he and Stein had discussed the questions being asked at the outreach groups and concluded that they were too vague, though specific questions about forms of government aren't appropriate, either. He suggested a middle course, such as “If you could change one thing about town government, what would it be?” Weiss said a lot of people don't think about government much, but do think about what it's like to live in Amherst. Fricke said the word “government” should be in the questions. Gage said she would look into it.

In the public comment period, Wolnick said he thought the Collins Center is a better choice.

The meeting adjourned at 9:25 p.m.

Respectfully Submitted,  
Nick Grabbe, Clerk

Documents Distributed:  
Proposal from KP Law  
Itemization of expenses by the last charter commission, 2002-03  
Scope of work for communication assistant