

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**July 30, 2015 5:00PM**

**Quorum noted**

**A. 5:00 PM:** Meeting called to order by Chairman Beckert.

**B. Roll Call:** Mr. Beckert, Mr. Fernald, Mr. Murphy, Ms. Davis and Mr. Pomerleau.

**C.** Meet with Attorney Saucier to resolve language to make referendum-style voting for the municipal budget an element of the proposed Town Charter.

**5:01 PM** Mr. Beckert said that the most important part is to figure out how we put the language in the charter to reference the ordinance.

Mr. Lee agreed, saying we have bids coming in for legal review of the charter and the last missing unknown element is how we give the Charter Commission something to work with that allows them to get that language done and sent out for legal review. He added that if we do it by reference to the ordinance, which we may or may not want to do, we could still then tinker with it and try to do the reading together-type thing, as the attorney has spoken about before.

Mr. Beckert said that it made sense to him to not burden the charter with putting the whole ordinance in the charter; that he thought we would want something in the charter that would reference the ordinance, as an appendix or whatever, so that if we have to change the ordinance down the road, then you aren't going back and changing the charter every time.

**5:02 PM** Attorney Saucier said that he thought what you can do is put part of the referendum in to the charter, the parts that are sort of prescriptive that say we are going to have a referendum-style budget, for example, and the other section would be what would happen if one of the articles does not pass, for example, if there is language in there he would put that in there; that it's not overly long so it wouldn't burden the charter. He added that if you don't want to be tied to those appropriation categories, for example, that list that's in your ordinance, you don't have to list that. He said that he might have to tweak the language, based on the conversation tonight, and get it clean and out to Mr. Lee tomorrow; that you could take that out and just reference an ordinance that would set up those kinds of procedures. He said that what you want in your charter is just very specific about what kind of vote you're having. He added that that's the part that MMA and the court have weighed in on, saying that that has to be in the charter. He said that we can do that and, then, reference an ordinance in terms of what the categories are and that sort of thing, and some of the procedure.

**5:03 PM** Mr. Fernald asked, if we do that, then we are locked in to that and, if the voters change their minds once they go to a referendum, then we have to change the charter.

Attorney Saucier agreed. He clarified that he hasn't been involved in the charter development process and he hasn't been advising the Charter Commission but that he thought there were a couple of pieces, from a policy perspective, and it's really the Charter Commission who needs to decide how they want to go. He said that both the citizen petition and the referendum that passed require a referendum-style budget. He added that he looked at parts of the charter just this week and it seems to be sort of up in the air on what it is and, again, that's a policy decision for the Town to decide; that he thought it could cause some...you're going to have a discussion every year on what to do; that it wasn't completely clear to him on how the process was to decide whether you're going to be doing a Town Meeting or not. He said that, again, he just got this and it could be in there but it was a little unclear to him how you would choose that each year. He suggested tightening that up, if you want to do that, or, as a policy decision, if you just want to go with what was passed last time choose one or the other; that that's what he would recommend, but to make it a little clearer on how that would be triggered. He said that the other one, and he wrote this in his letter, is that the citizen's

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**July 30, 2015 5:30PM (continued)**

petition had a third category of a sort of public meeting that there would somehow be a number associated with each category based on that public meeting; that that's not obviously in the referendum or the charter at this point. He said that the charter will be your new governing documents so you don't have to include that; that that is a decision point, at this point, for the Charter Commission to decide whether it's going to go in there, or not. He added that if it does go in there then he would be very clear because the citizen petition that passed has no guidance on how that process would work. He asked, as an example, if you are going to need a vote at this public hearing and how are you going to have the vote, how you're going to record the vote; that this is an unusual thing; that he has not seen it, personally, but is an unusual thing because it's sort of like a pre-Town Meeting Town Meeting. He said that you're already going to have people voting later, if you will, on the recommendations; but that was something that passed so you have to weight that to decide if you want to do that or not; that this is your chance to decide because, in the charter, we can track language either way.

**5:05 PM** Mr. Murphy asked if that was even legal; is there anything wrong about that.

Attorney Saucier said that it is unusual but he doesn't think it's illegal, especially once you're drafting a charter you really have a lot of discretion on how you want to set up your votes in your budget.

Mr. Murphy said that that isn't in it right now.

**5:06 PM** Mr. Pomerleau said that he would take exception to the fact that you would have to go back in there and revise the charter if you wanted to change them over; that if you included Section 9 in the ordinance "*This ordinance and all of its provisions shall continue and remain in effect until such time as the Board of Selectmen or a citizen's petition calls for a referendum to resume Open Town Meeting or some other form of Town budget approval as may be allowed by law.*", then that would preclude the need to ever change the charter again if the Town decided to revert back to a Town Meeting.

**5:07 PM** Attorney Saucier said that he thinks it depends on how you put it in the charter because, if that language was in the charter, you would have to make sure there was a mechanism in the charter to choose still, one or the other, because once you have a charter it's a much more difficult thing; that you can't just go to a referendum, for example; that you have to have a charter amendment process or a charter revision process, which is outlined by the statute. He said that if something is in your charter and you want to change it, you can't change the charter by referendum.

Mr. Pomerleau said that it doesn't say that, though; that it says the ordinance governing the elections will remain in effect until the Town calls for some sort of a vote to change it; that, if the charter said that we would follow that ordinance in that manner, the Town could then go to a referendum vote and be in compliance with the charter.

**5:08 PM** Attorney Saucier said that Mr. Pomerleau was technically right and that question hasn't reached the law court. He said that if you read the one case he cited, which is the only case 'on point', so far, and it's what the court calls a 'memorandum decision'; that it doesn't have a lot of weight but they published it; that what they said in that decision, essentially, is that the only way you can choose on how you want to vote for your budget is through the charter; that what you are talking about is something that is slightly attenuated; that you have a charter provision but you're saying it's up to the referendum on how we do it. He said that, to him, that is a question the court hasn't grappled with and the court would have to say if that's enough guidance in the charter where you're essentially delegating it to the referendum process, because you are saying in your charter we aren't making a decision.

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**July 30, 2015 5:30PM (continued)**

**5:09 PM** Ms. Davis said that the charter would always refer to the ordinance and the ordinance would govern how we were voting on the budget.

Attorney Saucier said right, but the charter has to have an opinion, he guessed is what he was getting at; clarifying that the charter has to say whether you are referendum-style or Town Meeting-style or, perhaps, for both but to trigger it we do A or B; so if it's going to be Town Meeting this year the Board of Selectmen may have to vote or whatever procedure you have. He added that if you just have a provision that says we'll adopt a budget by whatever ordinance is out there – that's never been decided but what the courts have said is that you can't have a process by ordinance; that it's halfway there is how he will put it; that he doesn't think that's been brought to the court before but it would be, at least, questionable to him whether they would uphold that, given the Waterboro Case.

**5:10 PM** Ms. (Rosann) Adams asked if the statement that's now in the charter that the budget process would be guided by, the Town Budget Referendum Ordinance, is not enough because its process started by ordinance rather than in the charter.

Attorney Saucier clarified that your charter needs to say whether you're going to be Town Meeting or referendum vote; that that's the part he is talking about. He added that there is some discretion to refer out to say, okay, into the process we will refer to an ordinance; that, in other words, what the article was going to look like; that he would even argue what the form of the ballot is something you could talk about in an ordinance because the decision point, the court said, is just what you're going to do – are you going to do referendum or Town Meeting – and that's the part the courts have said that needs to be in the charter; that he thought you could do a little bit of both.

Ms. Adams asked if we could say 'the Town will determine its budget by referendum until such time as either a petition or' whatever comes up, rewording that #9, asking if that would be enough.

**5:11 PM** Attorney Saucier said that, normally, what it would say 'until such time as this charter is amended' because you have chosen a Town Meeting, for example, or referendum vote; that amending a charter on purpose is a little more onerous of a process.

Mr. Fisher said that he thought Attorney Saucier ought to know that the two people up there on your right are charter members, Ms. Adams is the secretary, and he is also a member of the charter.

Attorney Saucier said that he appreciated that and that was why he wanted to make clear, and he knows they know this, that the decision point right now is actually with the Charter Commission; that the Charter Commission has the authority to recommend whatever comes out of this process to recommend; that it's not the Board of Selectmen, although they clearly have a role to make some recommendations, reiterating that it is the Charter Commission who has the authority.

**5:12 PM** Mr. Lee said, to help a little bit, the people have spoken rather loudly in passing both the citizen's petition and our competing measure, if you will, for an ordinance, so he doesn't think there is any question that the Charter Commission intends to put in referendum-style budget adoption.

Attorney Saucier said that, as written today, it leaves the question open. Mr. Fernald said that that was his point; that we can decide to put it to referendum in there but we wanted some vehicle in there that allowed the Townspeople to change that, if they wanted to do that.

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**July 30, 2015 5:30PM (continued)**

**5:13 PM** Mr. Lee said that all that it is really, as he understands it, is placeholder language until we could have this meeting; that he thinks the decision to go with referendum-style is a fait accompli. He added that he thought the question beyond that is how much we need to put in the charter to protect that style of budget adoption and how much we can afford to put out in the ordinance in terms of procedural detail – form of ballot, how articles will read, etc.; how much of that can we outsource to an ordinance, that is flexible and, yet, have a piece that says we're not changing it unless we have the Charter Commission back together.

**5:14 PM** Mr. Saucier said that he thought there were three things he read between the two documents that would have to go into the charter. He said that the first would be the public hearing; that both ordinances require some form of public hearing before the ballot is printed; that that needs to find its way in here as a requirement, and he already suggested it in one section he will send to Mr. Lee tomorrow, at least 30 days before the vote. He added that the second was just a clearer standard under §6.6 C. Vote on Budget; to clean up the language a little bit to just be clear that the budget will be adopted through a referendum vote and that is what you were alluding to; that it's not clear today because it says "Town Meeting or Referendum Vote"; that he thinks it says that in another place up above in §6.5 and §6.3. He said that if the policy decision is to go referendum-style, to leave out the Town Meeting part. He added that the third was the provision he saw about what would happen if one of the articles does not pass and he borrowed that from the ordinance, as well; that you already had some language about the overall budget not moving forward but he tried to incorporate as much as he could from between the two ordinances in there, and there was some language about what would happen under each appropriation. He said that the fourth one, and he hasn't been involved enough and this is a policy decision for you to make, is the citizen number on the ballot, whether there will be some sort of vote, if you will, at that public hearing that will make its way on to the ballot; that if you do want to incorporate that, then he thinks we should put a sentence in here (charter) that would make that clear and that you could kind of outsource, then you have it clear that we have a referendum-style budgeting and we have a public hearing and here's what's going to be on the ballot; that you already say that what's going to be on the ballot is the Board of Selectmen's recommendation and the Budget Committee's recommendation. He added that, if you wanted the citizen recommendation, then he would add that, too. He said that what you are going to outsource is the form of the ballot and the specific appropriation lines, which the ordinance does today; that he was a little unclear just how much you wanted to put in there; that in his opinion he didn't think you needed to put that in there; that that would more clutter it and you could more easily change that in the future. He clarified that, if you get rid of an appropriation line, for example, not wanting it in the future, you wouldn't have to go back and change your charter every time you change categories.

**5:17 PM** Mr. Lee said that his biggest concern, and with all due respect to Mr. Pomerleau, are the actual logistics behind trying to do this in a timely fashion; that he kind of wanted to remind folks that, if we start thinking about voting in June, then you need absentee ballots 30 days in advance of that, you need a couple weeks to get the ballots done and delivered to you; that in order to have that meeting you envision, the Board of Selectmen would have had to have completed its budget work and have its recommendations – boom, done, same with the Budget Committee – boom, done; that then we can go into this 'open' Town Meeting before the 'voting' Town Meeting; that all those things would have to be done. He added that we would have to advertise this hearing probably 30 days in advance, if we follow the Open Town Meeting versus Public Hearing forum, so you have to go another 30 days. He said that when he backs this up, from a logistical standpoint, the budget season would probably be November, December, January; that we would not have six months of budget information on which to base projections but, perhaps, 2 to 4 months. He added that he thinks, logistically, it's

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**July 30, 2015 5:30PM (continued)**

very, very complicated; that he knew people would disagree with him; that it's easy, you can do it, no problems – there are problems, but he will leave it there.

**5:18 PM**

Mr. Murphy said that he has done the same thing and he agrees with Mr. Lee; that he found himself going back to late February to have this 'open' Town Meeting and that meant that the Board of Selectmen and the Budget Committee would have had to have a complete budget; that the Budget Committee could not wait to use the Selectmen budget to decide their own budget and would have to do that on their own; that both of those would have to be available to the public in time for them to come and, article by article at that meeting, go down and vote on each of those. He said that he believed there would have to be a vote on each of them and the yeas and nays recorded because it would be very important. He said that they would want, on each of these articles, an indication to the public of the yeas and nays that the Selectmen have had and that the Budget Committee has had; that, presumably, we would want the same thing for this unknown group of public citizens; and not to include the Selectmen or the Budget Committee at this Open Town Meeting because you want a separate clear public opinion; and have that influenced by the Budget Committee and Selectmen moving in on it and taking over whatever the public is doing, that's going to ruin it. He added that it has to be entirely those people, asking who are they, how many; that number has to be carefully recorded; if you have to have a divided vote on every question to enable you to have a sure count on either side rather than a show of hands, and double hands, and all that sort of stuff. He said that it would be very complicated and it's going to take a long time. He asked who these people are; have they been elected to make that decision for the Town; that this Board has been elected to do that; this Budget Committee has been elected to do that kind of decision, and here we have unknown citizens come and it would be extremely easy to rig an election down there to get that value. He asked what we were going to do with that value, is it going to be just a possible one of three values out there. He said to suppose there is a tie; two of those values get equal votes. He said that he has proposed in his recommendation that we simply take the average of those two tied and, if all three are tied, you take the average. He reiterated his question regarding who these citizens are and asked why they were there; that there's no fallback about responsibility if an unknown number of people, and we don't know which part of the population are represented there; whereas the Budget Committee is clearly known and the Selectmen are clearly known. He said that's a big problem to him and he, frankly, doesn't like it.

**5:19 PM**

Mr. Pomerleau said that we have two tracks going here and, right now, we're making a lot of presumption that the charter passes; that we do have to consider the possibility that it does not and where that leaves us with the ordinance. He said that, if he understands Attorney Saucier correctly, although not conclusive, prohibitive, or illegal, you would recommend being more comfortable with the language in the charter that required a referendum vote unless it was revised with a charter revision.

Attorney Saucier said yes.

**5:20 PM**

Mr. Pomerleau said that Attorney Saucier would probably recommend that the ordinance contain the same kind of language that it would remain a referendum vote unless done by charter revision.

Attorney Saucier said right.

Mr. Pomerleau said that that would work well if the charter passes; now let's presume it does not and we go back to the ordinance. He added that that raises more complications in terms of what you previously advised is recommended and legal and not legal; so, with the ordinance itself standing alone, how should we form the ballot. He said that the problem is, notwithstanding Mr. Murphy's objections, we've had a legislative body that has told us that's what they want. He

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**July 30, 2015 5:30PM (continued)**

said that Attorney Saucier said that, by law, the Selectmen are not bound by it, which doesn't preclude us from following the legislative body; that just because we aren't bound by it doesn't mean we can't do it, and we've chosen to follow the legislative body.

**5:23 PM** Attorney Saucier said that, in fact, that's where he disagreed slightly with MMA; that if you saw the correspondence MMA's attorney wrote to Mr. Lee, she just thought it was illegal and we take the position that it's not binding, which is different, so it's a recommendation, essentially. He added that he agreed with MMA's position that the only way to make it formal and long-standing is to put it in your charter; that he agrees completely with what Mr. Pomerleau just said; that the legislative body has spoken, the people have spoken, so it's going to be difficult for you to ignore that but, at the end of the day, it is a recommendation. He added that what you have, actually, is not one ordinance, you actually have two ordinances. He said that what we would have to try to do, unless you have an ordinance on the....are you going to have an ordinance on the ballot at the same time as the charter.

**5:24 PM** Mr. Lee said that he didn't know.

Attorney Saucier said that one possibility is that you could have an ordinance on the ballot this fall, taking into account the charter might not pass, that would seek to harmonize those two ordinances and clean up the discrepancies today in case the charter doesn't pass, or, if it does pass, it has the clear procedural language in there. He said that you could have two questions moving forward but we've made sure they are consistent.

Mr. Pomerleau said that the charter is not bound by anything that precedes it so, even though there was a legislative vote for the third option, like everything else that is existing today in the Town the charter will supercede it.

**5:25 PM** Attorney Saucier said that the charter will be supreme; that it's in the constitution.

Mr. Pomerleau said that this isn't a decision for the Selectmen but is a decision for the Charter Commission as to whether or not the third option – the citizen's option, will be included in the charter.

Attorney Saucier said that that is right; that that was what he was alluding to; that under the statute the Charter Commission develops the language. He added that you, as the Board of Selectmen, clearly put your opinion forward, and you have some members on the Board that are on the Charter Commission, so they will be taken seriously; that at the end of the day the Charter Commission is the body that has the authority to draft the proposed charter.

**5:26 PM** Mr. Pomerleau said that he can't speak for the citizens who voted for it or the Charter Commission or the Board of Selectmen but he does agree that third option brings a lot of complications; that whether or not the people who voted for that will be satisfied that, in effect, there is a third option that if neither of the other two pass, it defaults to last year's budget. He reiterated that, in effect, that's a third option that they maybe would be satisfied with because he doesn't believe the third option, in the minds of those voters, was ever going to be a higher amount; that the third option was most likely to be a lower amount than either the Selectmen or the Budget Committee.

**5:27 PM** Several members said that it might not be.

Mr. Murphy said that it depends on who comes and crowds in to that Open Town Meeting.

Mr. Pomerleau said that it's probably been a rare, rare moment in municipal budgets where the citizens have demanded spending more money, so, not likely.

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**July 30, 2015 5:30PM (continued)**

Mr. Lee said one time in 23 years.

Mr. Fernald asked if he was suggesting that amount be shown on the ballot because they're not going to know what the figure is when you say it will go back to last year's budget.

Mr. Pomerleau agreed you could show it.

Mr. Murphy said that he assumed that last year's budget would be shown and the current value in the reserve account, and so forth.

Mr. Lee said that what we would have, then, is the Selectmen's recommendation, the Budget Committee's recommendation and, if neither of these pass with a majority, then last year's appropriation of 'blank' will be the default appropriation.

**5:28 PM**

Attorney Saucier agreed that you could; that it's not drafted that way, right now, to do it that way; that it's more of a rule that it would happen but none of the language has that line on there, at this point, so, if you wanted to do that, that would have to be added in the charter.

Mr. Pomerleau said that he wasn't advocating actually making that a third choice; that you're just saying a footnote to last year's budget and what the amount was so that they could see.

Mr. Fisher said that when he sold the petition to the people that signed it, and other people that were with him, he didn't intend to do away with Town Meeting; that he intended the Town Meeting to be moved from June to the first of March, which has been done for hundreds of years prior to this time. He explained that the only reason we moved it to June was to make it coincide with the election for the school department, so that they would all terminate at the same time. He said that what he had planned was that everyone would go to the meeting, if they want to, and participate in the meeting in March, just like it was a Town Meeting, the Budget Committee and Selectmen would have their budgets all ready and printed out but, when the citizens make their decision and want to change the amount in a particular item, then they would make an amendment to the money that the Selectmen or Budget Committee had put together and that would be the third option, which would be in the book. He added that they would have to see how many people did that but it would be referenced to the other two budgets and part of the referendum difference. He said that, then, we were supposed to have the regular meeting, but with voting record and time certain, which would be sometime in June like we always do, anyways, now; that that was what his intention was at the time. He said that the other one that some of the Selectmen decided would be good – 'none of the above'; that he had no objection to that but it definitely wasn't exactly what he had planned.

**5:30 PM**

Ms. Davis said that she would like to include, no matter how many choices are on there, what you're saying is that you would put the Board of Selectmen and Budget Committee and, then, if people don't vote for either one, it defaults to last year; that she thought it would be clearer to put 'none of the above' on there because, then, you're going in and not liking any of them and checking that box; that you have nothing to do in that case; that it would actually be good to come in and vote against both budgets.

Attorney Saucier said that in that case, if 'none of the above' passed, then that's when it would trigger last year's appropriation. He added that that number doesn't have to be on the ballot but he guessed you could, if you wanted to say last year's number was 'X' so people knew what that was.

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**July 30, 2015 5:30PM (continued)**

**5:31 PM** Mr. Pomerleau said that that format raises a little bit further of a complication; that you took out the plurality language but you would have to say clearly that the winning vote must win by a majority of the votes cast because, then, you would have votes split three ways as opposed to only offering two options and defaulting; that there would have to be a majority winner. He added that if you put a 'none of the above' that would dilute the votes and you would have to state that you must win by a majority of the votes cast.

Attorney Saucier agreed; that if you're going to have three options he thought that was a very good suggestion because it would complicate it and you want to make sure your budgets are passing by a majority. He added that we weighed in on the sewer bond issue and the analogy there is that you want to have a majority because, when you are bonding as an example, you are going out to market and you need to give certainty to the bonding company that it really is that majority of the Town behind that vote; that if you only have a 35% vote that does raise some uncertainty that, maybe, it could be undone. He reiterated that if there are three choices he would say a majority should pass and, if you don't get a majority that would trigger the prior year's appropriation. He said it depends on whether you want to include that third option, or not, but he agrees, if you do, let's put some language in there to make that clear.

**5:33 PM** Ms. Davis asked if only putting the two on and, then, telling people not to vote for either one be the same thing as saying 'none of the above'; that it's so much more passive, it's like you're going in to not vote. She added that if you put the 'none of the above' on there at least people are positively stating what they want; that it's a vote for something.

Attorney Saucier said that his original recommendation when he edited your ballot was to not have two choices; that it was to have a 'yes' or a 'no' and to put underneath it what the recommendations were, like a lot of communities do; that you could either do a dollar amount or a 'yes' or 'no' – Selectmen, say 'yes', Selectmen, say 'no' – because then you have 'yes' and 'no' broken into...you're going to have to have 51%. He said that that's the way the State statute is written – the default; that, obviously, with a charter you can do something different, which is what you've chosen to do, but the purpose of that is the certainty and that is why the State balloting still uses that on the State questions, for example.

**5:34 PM** Ms. Davis asked if that deprived people of the alternative, though, because then they are only either voting the Selectmen's number up or down and they no longer have a choice of the Budget Committee's number, or any other number. She asked if we didn't do that when we vote for candidates, if we have four candidates for one position.

Attorney Saucier said yes, it does happen for candidates; that referendums have been treated differently, for whatever reasons, but in the statutes they are treated differently and choose 'yes' or choose 'no' is what he thinks it says, specifically and, so, that's when the default is set up. He added that you can change that but the risk, obviously, is that you may get a 35% 'yes'; that it would still pass if you say a plurality passes or it wouldn't pass if you say a majority passes; that it just dilutes, if you will, the budget process, which is generally put forward by the Selectmen or a budget committee, he would say, in a majority of communities. He added that there is one number and, then, you say 'yes' or 'no' but the way there is an opinion there is on the ballot or at the Town Meeting warrant it would say that the Budget Committee didn't like 'that', for example, and they don't recommend 'that', or they recommended less; that you could vote it down and you would have to go back to Special Town Meeting and that would force the question. He added that that is usually what happens is that it's forced to be lowered so you can pass something or, if it's in a charter, for example, you could have a provision that just kicks in so it would be last year's. He said that he understands but the way he looks at it is a pure legal view in where you are going

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**July 30, 2015 5:30PM (continued)**

to get your certainty in the question; that he's very neutral on what you decide to do; that whatever you decide to do we can draft the language.

**5:36 PM** Mr. Pomerleau said that he is supporting the option that Ms. Davis is suggesting with the checkoff of 'none of the above' for simplicity; that if you go with two, you have to put 'yes', 'no', 'yes', 'no'; otherwise you aren't counting the 'no's'. He said that if someone goes in and chooses not to vote for either when they don't have both 'yes' and 'no', you aren't counting the 'no' votes; that you've got to be able to count the total votes to get a majority of the votes cast. He said that you aren't actually registering people who chose not to vote for either one; that that, to him, is a little more complicated than just listing three, pick one, one of them is 'none of the above', you count the 'no' votes, a majority has to be found with whatever the winner is – much cleaner, much simpler.

Attorney Saucier agreed. He said that, if you want to have that third option, whether it's the citizen one or the 'none of the above', we should make that clear.

**5:37 PM** Mr. Pomerleau said that the only reason we were inclined to be listing 'yes', 'no', 'yes', 'no' was the attorneys were saying it's the language you're supposed to have there. He added that he doesn't think that was ever designed with multiple options in mind nor did he ever see any defense of that with a definition of the word 'recommendation' in the law; that there would have to be a very narrow interpretation of the word 'recommendation' to be simply 'yes' or 'no'.

Attorney Saucier said that he thinks he brought a copy of that statute; that it just says that it "must include the recommendation of the budget committee" but it says underneath "a yes or no". He added that MMA shows an example in their book, which shows 'yes' or 'no'; that he takes a slightly broader view and you can also put a number, if you're going to go with the traditional; that you could also say, instead of 'budget committee says yes', 'budget committee recommends' 'why', the actual number so you would know the number you are voting.

Mr. Pomerleau said that further in that statute it makes reference to making sure voters have choices; that a choice is not a 'yes' or a 'no', a choice is an alternate number.

**5:38 PM** Ms. Adams said that she didn't want to speak for the Town Clerk; but that she knew that the Town Clerk was very concerned that what's on the ballot is clear to the voters because you can confuse them; that she thought a 'yes' 'no', 'yes' 'no' is very confusing to voters. She added that there needs to be an explanation and she thinks the best way to go is that you choose – you choose 'this', 'this', 'this', or 'none-of-the-above', or three if that's what you go with but you don't use a 'yes' 'no', it's very confusing to voters and it can be stated right at the top that you choose one, otherwise, it's invalid; just like when you're voting for candidates and you can only choose so many; that she thought that is clearer to the voters. She said that she would hate for them to be so confused that they might end up not understanding what they are voting for.

**5:39 PM** Attorney Saucier said that, when you say 'yes' 'no', 'yes' 'no', you are talking about you would eventually have a 'yes' 'no' on each recommendation.

Mr. Lee said yes – Board of Selectmen's dollar amount you can go 'yes', Budget Committee you can say 'yes', 'none-of-the-above'...

Attorney Saucier said that he would strongly recommend against that; that he was missing that point and when he is saying 'yes' 'no', he's saying 'yes' 'no' on a single number, which is the way it is traditionally set up – the proposed is X for the recreation department, 'yes' or 'no', budget committee recommends 'yes'; that's what he meant. He added that, if you are going to do the 'yes' 'no' on each recommendation, that's a mess in a non-legal term because you're going to get all

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**July 30, 2015 5:30PM (continued)**

kinds of different percentages, there, and you're not going to know exactly what passed. He suggested, if you are going to have multiple choices, just list them out and say 'you choose the one you want'.

**5:40 PM** Mr. Lee said that, by way of example, just recently we tried to say to the voters to choose the citizen's petition or the ordinance; that we labeled it as a competing measure; that one of these, or both, the voters should have shot down but they passed them both, almost with identical numbers. He added his concern for what the vote would look like with 'yes' 'no', 'yes' 'no'.

Mr. Fernald asked if we know exactly what we're going to have as wording for the charter to make this work; that that's pretty much our concern.

Mr. Lee said that the idea is, tomorrow, after tonight's discussion, deliberations, etc., he has four things written down that would have to go in the charter – public hearing from our ordinance would go in; 6.6.C budget will be adopted by referendum vote, that would have to be in your charter; what happens if it fails would have to be in the charter and all the rest of it, from what he heard from Attorney Saucier, could be delegated off to an ordinance, which would include the article appropriation categories and so forth. He added that Attorney Saucier would be sending to him language reflective of tonight's discussion, whatever they may choose; that that's what we are trying to get down to. He said that he has three things that probably should go in the charter right now he thinks we're all in fair agreement about; that he thinks the next one becomes the form of the ballot because we can pick our own form of the ballot in the charter, we just want to make sure we pick one people understand and is meaningful and we don't have a winner, you know, by 28%.

**5:42 PM** Mr. Fernald added that question of what we do if LD1 passes.

Mr. Lee agreed this is another question; that voters could say 'yes' to that cap on spending and, then, go down through a vote a number, accumulatively, exceeds that.

Mr. Pomerleau said that that's no different than it is today.

Attorney Saucier agreed that would trigger the same provisions.

Mr. Fernald said that it would come back to the Selectmen and the Selectmen would go through the budget, itself, and reduce it.

**5:43 PM** Attorney Saucier agreed, saying that that would go back out for a vote; that that's the way it works today.

Mr. Lee said that that doesn't need to be specified, then, because that's how it works today.

Mr. Fernald asked if that needed to be in the charter.

Attorney Saucier said that he didn't think so; that he'll think about that tonight but that's in State law already; that it would be required of the Town to do it that way.

Mr. Pomerleau said that, in §7, both recommending this to be in the ordinance, where it says, "In the event a previously approved appropriation article is not approved..." you should have by majority vote in there to make it absolutely clear.

Mr. Lee confirmed that we need §7 in there with Attorney Saucier.

Attorney Saucier said yes and that he had already added that.

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**July 30, 2015 5:30PM (continued)**

**5:44 PM** Ms. Adams asked what "In the event a previously approved appropriation article is not approved..." meant.

Attorney Saucier said that he struggled with that, too; that he thinks what it means is last year's budget, the approved budget line, essentially.

Mr. Fisher said that the school department does that.

Mr. Pomerleau said that if there is no prior budget and this is a brand new item then no appropriation is made.

Attorney Saucier said that that's how you get to there because if you keep reading it talks about that.

**5:45 PM** Ms. Davis said, regarding the timeline, she recalled seeing something in the charter that budgets would be ready by January 1<sup>st</sup>.

Mr. Lentz said that that was correct.

Mr. Lee clarified that, when you say the budgets will be ready, his Town Manager budget will go out by January 1<sup>st</sup>, and then the process begins for review by the Selectmen and the Budget Committee.

Ms. Davis said that, given the fact that a lot of time was spent by Mr. Lee and the Finance Director last year to start to put this together in a standardized format, that means that the following year is going to be a lot easier; that it means that we could potentially have a lot of discussion during January and even February and arrive at some final numbers by March; that we could have that Town Meeting by March 31<sup>st</sup>. She said that she thought the warrants went in by April 21<sup>st</sup> so, if we had a vote by the people and decided that that's what they really wanted, we could have that Town Meeting on March 31<sup>st</sup>; that we'd have three weeks after that to tie up the loose ends and still have plenty of time to get it submitted.

**5:46 PM** Mr. Beckert said that this extra meeting, and he expressed his concern during our workshop, to him is nothing more than an additional Town Meeting. He added that it's not a public hearing; that if you're taking a vote that's going to be put on a ballot, it is a Town Meeting. He asked how you get it on the ballot, how do you lead up to that additional Town Meeting; that you have to do it by statute by the same way that got you to the June one or the March one that we used to have before we changed the fiscal year, which was changed to align with the school department's budget. He said that, in this Board member's opinion, this additional Town Meeting is a farce; that it's just an additional thing that doesn't need to be there. He added that, if we're going to do that, then we might as well stick with the Open Floor Town Meeting where the people get to change the amount and make the recommendation right there.

**5:48 PM** Mr. Fisher said that, contrary to what Mr. Beckert thinks, in the meeting in March, for example, there is no voting going on; that the Board already has their position, the Budget Committee has their position, and the residents, with whatever amendments they want to make to those, would show up; that that would not be a vote.

Mr. Beckert asked how the residents would get their number on the ballot.

Mr. Fisher said that's the way it's supposed to work; that even at Town Meeting we do exactly that; that you don't vote at Town Meeting, only to make recommendations of which article you want to go on, but with this one, you wouldn't vote on anybody but vote on secret ballot in June; that that's the only time you vote on it.

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**July 30, 2015 5:30PM (continued)**

**5:49 PM** Mr. Beckert asked Attorney Saucier how you get a citizen's number, article by article, on an official ballot, how does it get there.

Mr. Fisher said that all they have to do is make the amendment.

Mr. Beckert disagreed, saying that that's Open Floor Town Meeting.

Attorney Saucier said that, as you know, it's not laid out in the ordinance that passed, so it's completely new. He added that the only way to do it, in his recommendation, is to put those standards directly in your charter today, if that's what you want to do, and come up with them. He agreed with Mr. Beckert that you can't get it on there without some mechanism either through an ordinance as a recommendation or the charter because, otherwise, it would be this ethereal number and you wouldn't have the authority...that you want authority, to provide that authority so, whether it's through an ordinance or a charter, you could say how it works. He recommended setting out a process for it; that you would have to register, how the number gets on the ballot; that where the number comes from is what's missing for him that he's having a hard time understanding how to implement. He asked if there is a proposal mechanism for each proposed citizen number; that it's not just that they agree or disagree, it's that there is an actual number; that there needs to be a motion on the floor for each number, he thinks. He added that that gets to the issue that, if you want to adopt that he thinks you should outline that as you want to have some certainty behind that number.

**5:50 PM** Mr. Beckert said that that's what has bothered him from the beginning on this so-called public hearing; that you'd have to set it up just like a Town Meeting; that in his mind, with the way the State statutes are set up, it would be nothing more than a pre-Town Meeting Town Meeting.

Mr. Pomerleau agreed, saying he actually agreed with both of them. He said that Mr. Fisher is right in that you aren't voting for the budget, you are voting on a recommendation for the budget; that he also agrees with Mr. Beckert that that process would have to be no different than voting on the budget; that you would have to have the registered voters, have motions, etc.

Several Board members agreed.

Mr. Fernald said that, with that, Board of Selectmen and Budget Committee members can vote as citizens on the vote.

Mr. Murphy said that that's where he disagrees; that this should be a separate body of citizens, not dilute it...

**5:51 PM** Mr. Lee posed the question, "How can you take away a person's right to vote?"

Mr. Fernald said that we vote at Town Meeting.

Mr. Murphy said that that was for the final thing.

Mr. Lee said that he wanted to go back to logistics. He said that he hopes it's an easier process and he hopes that it is easier on staff to get it out quickly and it is easier to interpret because it looks just like last year and the comparatives are easier, etc. Mr. Lee added that, that said, we've had trouble even getting it into the Town Report on time in the last two years. He said that maybe that was because we were changing to gross budgeting, we had some flip-flopping, and that stuff; that maybe a two-month window would be adequate for the Board and Committee to do their work; that he would like to believe that because he is an optimist. He added that he would have to say to Mr. Fisher that, if we were to try to do that, he really thought we would end up more like April. In addition, if Mr. Fisher agreed

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**July 30, 2015 5:30PM (continued)**

with some Board members that you would have to have a warrant, registered voters, etc., he doesn't know that April gets that done in time to put their recommendations on this thing to print the ballot, to program the equipment; that he really thinks it's going to get awfully cumbersome awfully fast and, if we miss a deadline, we're doomed.

**5:53 PM** Mr. Beckert said that he thinks what we've done in this whole process, whether it be the citizen's petition or whatever drove this extra meeting, is convoluted the whole idea of going from Open Floor Town Meeting to a referendum; that it was supposed to be either 'this' or 'this'; that you didn't want Open Floor so you go to 'this'; that you do it the same way but you put it on the ballot, in his opinion.

Mr. Lee said that there has been one other idea floated in that the Town of Rye was mentioned to him; that they put out something in advance and he thought that would serve what Mr. Pomerleau is after – putting out something from the Budget Committee and the Selectmen with their numbers, explaining what it's funding, and so forth, and getting that to every voter through The Sentinel, or some other relatively inexpensive means. He added that he thought that would probably be our best bet to get informed voters versus maybe a handful people; that he had the same concern Mr. Murphy had of having stacked voting.

**5:54 PM** Mr. Pomerleau said that we have a citizen's petition that says they want this; that now it seems what we are going to decide is either we're going to follow that citizen's position and work it out, or we're not. He added that that's got to be the first decision and the process is a whole other matter. He agreed that he didn't think it necessarily called for a warrant but you have to call for a meeting; that you don't know that the citizens are going to propose anything. He said that someone might have heartburn on a particular budget but he didn't believe that was going to happen on every single budget item. He reiterated that the question for this Board is whether we are going to follow the citizen's petition, or not, and if we are, then we need to work out the details.

Mr. Lee said the citizen's position or the ordinance because they both passed.

**5:55 PM** Mr. Pomerleau said that he was fine with the ordinance and that both essentially wanted a vote by referendum and both wanted options; that the only big difference between them was that the citizen's petition called for a third recommendation of the public. He added that he doesn't have any problem understanding why citizen's passed them both; that one of them offered something that the other didn't and the other offered more comprehensive, thorough details than did the petition.

**5:56 PM** Ms. Adams said that she doesn't know how we made it for 140 years with Town Meeting in March voting on all those appropriations. She added that she doesn't think there's a problem with having the budget ready in March and there being a meeting in March. She added that she thinks the citizen's petition calls it an annual budget meeting and that's where we listen to both; that if the citizens say they want to make an amendment, and it's really just like you have at Town Meeting where Mr. So-and-So gets up and says, "I want to appropriate for General Assistance this amount, instead." and everybody votes on it; that you can do that three or four times but only one is going to get on the ballot; that then she, as a citizen, gets to look at that and decide if she likes that better than what's being proposed, or not. She added that that gives one more voice and it might have gone through eight or nine different motions before it gets to that one thing that everybody agreed to put on the ballot. She said that she thinks it can be done; that she doesn't know if the Selectmen want that to be done but it's not an extra meeting; that it takes the place of the one that goes after the referendum because that won't be necessary but it's not an extra meeting, it's just in a different place.

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**July 30, 2015 5:30PM (continued)**

**5:58 PM** Mr. Lee said that he was fine with that and, if everybody ends on the deadline, then it could work. He asked the question, "If the Selectmen have not arrived at their numbers, they have not been able to agree, and they do not have recommendations, as of the appointed deadline when it must be done in order to accommodate the citizen meeting, or the Budget Committee has not completed their work and do not have recommendations what happens. Which group should I not include as having recommendations?" He said that he's not trying to be cute but he sees where this could happen where he is standing toe-to-toe with either the Select Chair or the Budget Committee Chair saying there is no more time and you have no recommendations.

**5:59 PM** Ms. Adams asked Mr. Lee how he does it now.

Mr. Lee said that the deadlines don't get met; that he usually has nine days in his head he lies about because he knows they are going to need the extra time; that it's happened twice. He emphasized that a deadline is going to have to matter and, thus far, we've struggled with deadlines.

Mr. Murphy said that Ms. Adams said that seven or eight or nine times this group of people could go back and forth to decide and, then, they all get together; that they probably won't all get together because there will be nineteen people there and ten votes for and nine votes against so, once again, it's going to be a plurality decision on whatever they're doing.

Ms. Adams agreed, saying that would be shown on the vote count – that there were so many people at that meeting and this is the vote count – and she could say if that was valid or not valid.

**6:00 PM** Mr. Murphy said that we'll have to take down the yeas and nays and publish those; that it's going to get very, very complicated.

Ms. Davis said that, if there are only twelve people there, it won't.

Mr. Murphy added not counting the Budget Committee and Board of Selectmen, obviously. He asked if the Budget Committee can really come forward; that it seems to him, in recent years, one has to admit that it's the Budget Committee has not been the one getting their budget ready and, sometimes, they never get it ready at the time everything gets published.

Mr. Beckert said that the citizen's petition calls for a meeting and a number and he doesn't have a problem with that; that it's how we get that number on the ballot legally; that that is a Town Meeting where you have to sign the people in, have to take a motion and vote, etc.; that nobody in this room is going to convince him otherwise that it can be done otherwise.

**6:01 PM** Ms. Adams suggested we do it that way.

Mr. Beckert said that that is an additional Town Meeting.

Ms. Adams said that it was not because we aren't doing the Saturday after Tuesday.

Mr. Beckert said that you are only doing this for the budget; that any other item is going to be on Open Floor so it could be an additional meeting. He added that his point is that you have to set it up like you do a normal Town Meeting where you vote; that you still have to have the timeframe from that meeting, backwards, to get everything out; that you still have to afford people the opportunity to have an absentee ballot.

**6:02 PM** Mr. Fisher disagreed.

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**July 30, 2015 5:30PM (continued)**

Mr. Beckert said that Mr. Fisher was trying to make a mongrel-type of vote.

Mr. Fisher said that, on that special meeting, you're not voting on anything.

Ms. Davis said that you are not voting on a final number.

Mr. Beckert said that you are if you want a final number on the ballot.

Ms. Davis said that you are voting on a recommendation.

Mr. Beckert said that it still has to get on the ballot, somehow, whether you want to call it a recommendation or a formal number.

Mr. Fisher said that in June you would get it on the ballot; that that's when you vote; that you don't vote on the special meeting.

Mr. Beckert asked Mr. Fisher how he was going to get it on the ballot.

Mr. Fisher said that the Selectmen are going to put it on the ballot.

Mr. Beckert said that we are not the ones coming up with the number.

Mr. Fisher said that the Selectmen have got to come up with the number; that you've done that in March for 150 years.

Mr. Beckert agreed, saying that the Selectmen would still do that; that it's the people's number that you want, that's what we are discussing.

**6:03 PM** Mr. Fisher said that if someone gets up at Town Meeting and makes a motion that they want to increase something like what Ms. Adams said.

Mr. Beckert said that's Town Meeting.

Mr. Fisher said only if you call it a Town Meeting; that other than that they're just going to make that motion and an amount and go on the record; that whatever numbers come out it is what will go on the ballot.

Mr. Beckert asked Attorney Saucier if he could see Mr. Beckert's issue.

Attorney Saucier said that he could but he sees both. He said that if you choose to go with the citizen number on the ballot then he would recommend outlining what that process is, whether it's a formal Town Meeting-style where you are going to adopt those or it's something else. He added that, by analogy, you can see that there is, even though it's a much smaller group, a process as to how the Board of Selectmen get their number on the ballot and how the Budget Committee gets their number on the ballot; that if you're going to have a citizen number there should be a process in 'here'.

**6:04 PM** Mr. Fernald agreed, asking what the process is.

Attorney Saucier said that we'd have to come up with one; that there isn't one. He added that he doesn't think there's anything like this in the State of Maine. He said that he thought we could come up with one but you would have to make sure you knew what the process was – when does the notice go out for this meeting, 14 days before or 7 days before; what happens when you get to the meeting; how are the motions made, who selects the moderator. He reiterated that that had to be made clear because the whole point of having a process like this is that people feel comfortable in the process and they were arrived at a fair way.

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**July 30, 2015 5:30PM (continued)**

**6:05 PM** Mr. Beckert asked what happened to the person who couldn't be there the night you post the meeting and wants to do it by absentee ballot.

Mr. Pomerleau said that there's nothing to vote on until someone makes a recommendation.

Mr. Beckert said that that person may have a recommendation they want on the ballot.

Mr. Pomerleau said that then they would have to be here.

Ms. Davis said that if someone can't make it to Town Meeting they don't get one, either.

Mr. Lee said that there is no absentee ballot for Open Floor Town Meeting.

Mr. Beckert agreed, adding that there was for referendum.

Mr. Lee agreed, adding that that's not Open.

Mr. Beckert reiterated that this is a mongrel.

Attorney Saucier said that one of the things he picked up on during the back-and-forth was that, sometimes, maybe there isn't a recommendation; that he hadn't thought about that possibility; that we would have to have a sentence in here regarding what happens if there was not; that if there was no recommendation then the ballot would only have two numbers, for example, for that question. He said that we want to make it clear, because it says today you have to have three, but they didn't come up with a third one so, he would make it clear that if they don't have a recommendation for one appropriation that you would only have two lines for that appropriation, for example. He added that those are the kinds of things we would want to work out; that if you want to put that third one, you can do that; that he is neutral on that; that it's just that we want to make sure we have a process and how does it work and how's it going to be fair and, then, how is it delivered to either the Clerk or the Board that would then put it on the ballot.

**6:06 PM** Mr. Lee said that that process, if we are to develop it, is going to have to be done by the Charter Commission in their deliberations, which they have precious little time left to do, and he's not sure how the Charter Commission would want to approach that. He added that he really wished that type of stuff had been in the citizen's petition - that this will take place in March, you'll have to be a registered voter, etc. had been delineated in that citizen's petition because, at this point, we're trying to write the rules after-the-fact that get us to what the outcome sought. He added that, at this late date, at least for the Charter Commission, it's going to fall to them to actually do those things.

**6:07 PM** Mr. Fernald asked if the process had to be in the charter.

Attorney Saucier said that he would have at least the basics of that in the charter.

Mr. Fernald asked if it couldn't be referenced as the process.

Attorney Saucier said that he wouldn't recommend that. He added that if we're going to have that third line, we should at least have, for example, that there will be the citizen's initiative number on the ballot, which will be held at a hearing.

Mr. Fernald asked about the process to get there.

Attorney Saucier said that you could defer some of that out but you would want to be prescriptive, as he said at the beginning of the meeting, that you are going to

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**July 30, 2015 5:30PM (continued)**

have this and here's the basics, essentially, in the charter so that you know that that's the rule going forward, that's the standard.

**6:08 PM** Mr. Murphy said that it would be an option, not a requirement, for any given value, as they may not come up with anything.

Attorney Saucier said yes; that if they don't come up with a number then it won't be included for that particular appropriation.

Mr. Murphy said that we could call this meeting and, in fact, nobody makes any suggestions about any of them and all of it is blank; that that's a possibility.

Attorney Saucier agreed.

Mr. Pomerleau said that he really didn't see that all that complicated; that you have some fundamental requirements in the law to make the vote valid that you would follow, as it is today; that you would have to make sure they were registered voters, have to pass the vote, some identification of the meeting time, so, the question is could you have the language ready by tomorrow night.

**6:09 PM** Attorney Saucier said that, if you wanted to do that, we could certainly come up with language; that it's new so, even though this language exists, it doesn't anticipate this type of recommended vote; that we'd have to borrow from different statutes, like the Town Meeting statutes, perhaps, or the regular voting referendum statutes or the Town Clerk statutes, that sort of thing. He added that the thing he would want them to give him direction on, and why he doesn't have a full draft tonight because he isn't the policy maker, is if you are going to go in that direction, he is still having a hard time figuring out how you get to a number; that he means practically as he is being neutral on whether you do it. He added, for example, the Board comes up with a number because Mr. Lee gives you one to start with; that the Budget Committee reviews that information and comes up with a different number and, then, you (citizens) would do the same thing, he would assume because this is not in the ordinance and he wanted to clarify; that you would start, he assumed, with either the recommended number that came out of the committee process or the Town Manager's budget and, then, you would have to allow open motions on the floor for specific numbers, he guessed was the way you would have to do it, based on a general sense of what the number is instead of the line items that would be like what the Budget Committee is looking at, for example, which is what goes in to that number. As an example, he discussed the recreation department as having a number, but you know it's because the building cost was 'this' and the program was 'that' and those different things; that you're weighing that number to get there.

**6:11 PM** Mr. Fernald said that we do the same thing at Open Floor Town Meeting. Attorney Saucier said that he guessed that is what it would be; that that's where you'd come back to the Town Meeting. He said that what he was missing from the language of the ordinance was the number you were starting with; that that wasn't clear to him. He said that maybe it would be the number that comes out of the Budget Committee.

Ms. Davis said that we put the budget information on the website so residents have access to the Town Manager and Budget Committee deliberations; that they would be starting off with some information and, then, there would be discussion; that then someone would make a motion to recommend some alternate number other than Selectmen and Budget Committee.

**6:12 PM** Ms. Adams said exactly; that at that annual meeting both the Budget Committee and Selectmen would present their budgets and they would have line items and would say they knocked off 'this', 'this', and 'this'; that the citizens might say they want to put that back on and give their recommendation.

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**July 30, 2015 5:30PM (continued)**

Attorney Saucier said that that was helpful; that, for example, that's something that's not in the petition. He clarified that what she was saying was that the Board of Selectmen's recommended budget and the Budget Committee's recommended budget would be presented at this meeting.

Ms. Adams agreed they would be presented and talked about; that that's why the citizens might decide they don't want to make any recommendations and go with one or the other.

Mr. Lee asked to make a suggestion. He said that it sounds like probably he and Attorney Saucier ought to work tomorrow to come up with two scenarios; that one includes the citizen's meeting and the process and so forth; that the other one would be the more streamlined course he's sort of thinking about it, with just the basics from the ordinance put in. He added that that way the Charter Commission has two roads that they can weigh. He said that he knows if he was on the Charter Commission he would want to be able to say he can't live with A but he can take B, or he can live with both, pick whichever one you want. He asked if that would work.

**6:13 PM** Attorney Saucier said that they could do that; that we could certainly come up with the language for both and, then, the Charter Commission gets to vote what you want to put in.

Mr. Lentz said that that would be better.

Mr. Lee said that he thought we had our walking instructions; that we have a pretty good idea it can be done, let's make it work, let's find a good process, keep it simple; that Attorney Saucier has good feedback and knows where to head and Mr. Lee will be available to bounce things back and forth.

**6:14 PM** Attorney Saucier agreed he had feedback on that. He said that he has two more questions before he leaves, in terms of direction. He said that one was he thinks answered by Mr. Lee before the meeting, which was not to include the specific appropriations that would be on the ballot in the charter.

There was general agreement to not include specific appropriations.

Attorney Saucier said that the other thing that he picked up on that is sort of being lost is that your ordinance that passed also included authority for the Board of Selectmen that's more general in nature in some ways; that it was talking about receiving gifts (and setting the delinquent tax rate) and is the kind of thing that the Charter Commission has already essentially done – the Powers of the Board of Selectmen section; that they're not consistent today; that he just looked at the ordinance and it's just more specific in some ways so you may want to take a look at that. He added that you may have already decided we've seen that and we have decided what we want to put in the charter.

**6:15 PM** Mr. Pomerleau said that he thinks Attorney Saucier is suggesting that there may be items in the ordinance, with respect to the budget process, that needs to be included under the Powers and Duties in the charter.

Attorney Saucier agreed.

Mr. Lee said that is because the budget adoption process is numerical and, then, there is the setting of when taxes are due, abated tax interest rates, etc.; that we'll make note of that tomorrow that that really should be checked real quick, pop 'this' in over here and, then, give you two roads – one our best ability to get to where Mr. Fisher, et al, think we can do, and he thinks we can but it's going to require deadlines and, then, the one that's the more simplified process; that then

**SPECIAL BOARD OF SELECTMEN'S MEETING**  
**July 30, 2015 5:30PM (continued)**

it's up to the Charter Commission. He added that that is going to be a tough decision for them because it may be a poison pill, one way or the other.

**6:16 PM** Ms. Adams had a general question. She said that she knows we are talking about more specific, asking if you can't reference two things that were voted on by the citizens and say, like, within 60 days the Selectmen will merge those two into an ordinance called 'this' to be voted on by the citizens; that you couldn't do that and simplify it completely.

Attorney Saucier said that you could in the sense of the parts you decide don't have to be in a charter; that now that you're going through the charter process there are certain things that need to be in the charter. He added that he thought we could still have what we talked about under either option and that is to have an ordinance that puts some flesh on that structure that's going to be in the charter.

**6:17 PM** Ms. Adams said that that has to be referenced in the charter, that ordinance.

Attorney Saucier said that he would actually argue that it doesn't have to be referenced; that you always read your charter and your ordinances together no matter what the topic is; that it wouldn't hurt to reference it but you don't have to.

Mr. Murphy said that he was going through that ordinance and comparing it to the law; that a parcel of about a dozen things that were reserved that the citizens are no longer going to be voting on at petition and the Selectmen will be doing those things on their own; that currently the statutes have some of those as specifically being required to be voted on by the legislative body. He said that some of the things that are specifically proposed in our Selectmen's ordinance to be reserved and let the Selectmen handle that, the statute says no, the legislative body does it.

**6:18 PM** Attorney Saucier said yes, that was where he was going with just taking a look at that list and see what you really want; that if you want it, we should put it in the charter because your charter is creating another legislative body.

Mr. Murphy asked if the charter could take those over safely.

Attorney Saucier said yes; that the Selectmen would be the legislative body for those items. He added that when you read the statutes and it uses the term 'legislative body' you look to the form of government the town has.

Mr. Murphy asked if the charter can name the Select Board to be a small legislative body.

**6:19 PM** Attorney Saucier said that you reserve certain things; that he thinks the Town of York does this; that they reserve certain functions to the board and then certain functions have to go out to the body for voting.

Mr. Lee said that, if the charter gives that authority as part of the powers and duties of the Board of Selectmen, then that would override existing statute.

Mr. Fernald asked if those had to be listed in the charter.

Attorney Saucier said yes; that some of them he thought were inherent authorities, already, so he doesn't think they have to be listed.

The Selectmen thanked Attorney Saucier for his time.

**SPECIAL BOARD OF SELECTMEN'S MEETING  
July 30, 2015 5:30PM (continued)**

**M. Adjourn**

There was a motion and second to adjourn the meeting at 6:20 PM.

**VOTE**

**4-0**

**Chair concurs**

---

**DATE**

---

**Mr. John Murphy, Secretary**