

DATE: May 12, 2023
TIME: 8:37 AM

**Bylaw Review Committee Minutes
March 9, 2022 by Zoom Video Conferencing Only**

Meeting convened at 7: 34 PM

Members Attending: Joe Hicks, Charles Hamann, Robert McGaw, Ellen O'Brien
Cushman

Members Not Attending: Robert Schafer

Others Attending: Anne Marie Mahoney, Chair of Capital Budget Committee

Approval of minutes from February 22, 2022 – Charles – Yes, Bob – Yes, Ellen – Yes, Joe –
Abstain. Approved 3 Yes– 0 No – 1 Abstain

• Review and possible vote on proposed amendment to General Bylaws:

§ 40-100 and § 40-120 Boards, Commissions and Committees

Ellen explained that at this point, Belmont allows people who are not residents of the Town to be appointed to serve on appointed Town committees. However, these committees are making choices about Belmont's spending, Bylaws, and priorities and several residents have expressed surprise and concern over the years remarking that committee membership should be reserved for Belmont residents. Ellen believes that Town Meeting should vote on whether they want to continue the practice of allowing non-residents, unless an exception is voted by the appointing authority such as a Belmont business owner. She mentioned that because we have now an online application for committee appointments, we have recently received several email-only applications, resulting in at least one person who lives in Spain being appointed to a committee or interest. Ellen worked with Town Counsel who also recommended including the State-mandated Ethics training and presented the text after review by Town Counsel. Lastly, Town Counsel recommends clarifying the language regarding ex-officio members.

Proposed Warrant Article:

To see if the Town will vote to amend § 40-100 of the Town's General Bylaws titled
Membership of Town Committees:

1. § 40-100(8) add the definition of Resident
2. § 40-120 change the title from "Failure to attend meetings" to "Grounds for removing members from appointed boards" and renumber the existing text as § 40-120(A) and delete the last sentence after the words "§ 40-110"
3. Add Subsections B, C, D and E to the resultant. § 40-120

,so that the proposed changes appear as follows:

Boards, Commissions and Committees:

Article 1 General Provisions

§ 40-100 **Applicability; definitions.**

- A. Except as otherwise provided by law, or by these bylaws, or by specific vote of the Town Meeting, all Town boards shall be subject to the provisions of this article.
- B. As used in this article, the following terms shall have the following meanings: **[Amended 5-29-2013 STM, approved 10-8-2013]**

APPOINTED BOARD

A board any of the members of which are appointed by an appointing authority.

APPOINTING AUTHORITY

The Moderator, the Select Board or any other officer or board of officers, or combination thereof, responsible for the appointment of members of an appointed board.

BOARD

Any board, committee, commission or other body of the Town, however named or constituted, which is composed of two or more members and has been or is established pursuant to statute, these bylaws, vote of the Town Meeting or vote of the Select Board.

ELECTED BOARD

Any board the members of which are elected by all the voters of the Town at the Town Election.

PERMANENT APPOINTED BOARD

An appointed board the purpose of which is ongoing and is not limited to one or more specifically defined objects culminating in the filing of a report or the completion of an authorized or delegated assignment.

RESIDENT: A natural person who resides in the Town; a Post Office Box address or address used exclusively for mailing purposes is not sufficient.

§ 40-105 **Term of office for members of permanent appointed boards.**

The members of each permanent appointed board shall be appointed for a term of three years ending on June 30 of the third year following the year of appointment, except that, when appointing the initial members of a newly established permanent appointed board or when appointing the members of a permanent appointed board established prior to the effective date of this article the members of which had been appointed for a term of one year, the appointing authority shall appoint as nearly 1/3 of the members as possible for terms expiring on June 30 of the first, second and third years, respectively, following the year of appointment. The members of permanent appointed boards shall serve until their respective successors are appointed and qualified.

§ 40-110 Vacancies on appointed boards.

If a vacancy occurs in the membership of an appointed board, the appointing authority shall appoint a new member to serve for the balance of the unexpired term.

§ 40-115 Officers; records; annual report; conduct of meetings.

- A. Every board, including every elected board, shall annually select a chair, a clerk or secretary and such other officers, if any, as the board shall deem necessary. The clerk or secretary may, but need not, be a member of the board.
- B. The clerk or secretary shall keep an accurate record of each meeting of the board and shall file such records with the Town Clerk following their approval by the board. All rules and regulations adopted by a board shall likewise be filed with the Town Clerk.
- C. Every board shall annually file a report of its activities, in form suitable for printing in the Annual Town Report, on or before such date as may be fixed by the Select Board.
- D. Every board shall conduct its meetings in accordance with the Open Meeting Law of the commonwealth. **[Amended 5-29-2013 STM, approved 10-8-2013]**

§ 40-120 Grounds for removing members from appointed boards. ~~Failure to attend meetings~~

~~A, Failure to attend meetings.~~

The chair of each appointed board shall report to the appointing authority the name of any member who fails to attend any three successive meetings of the board. The appointing authority may thereupon declare the office of such member vacant and appoint a successor to fill such vacancy in accordance with § 40-110. ~~This section shall not apply to persons who are serving as members of an appointed board solely by virtue of their holding another Town office.~~

~~B. Failure to comply with conflict of interest training requirement.~~

~~If under State law, members of a board are required to comply with the training requirements of the State Conflict of Interest (Ethics) Law (M.G.L. ch. 268A, § 28, or law of like import or effect), the Town Clerk shall notify the members of such requirements, and shall report to the appointing authority the name of any member who fails to comply with such requirements. The Town Clerk shall make at least two documented attempts to secure compliance by the member before making such report. Upon receipt of such report, the appointing authority shall thereupon declare the office of such member vacant and appoint a successor to fill such vacancy in accordance with § 40-110.~~

~~C. Failure to maintain resident status.~~

Only a Resident, as defined in § 40-100B, may be a member of an appointed board, unless the written charge of the board allows for an exception. A member of an appointed board who ceases to be a Resident shall promptly notify the board's appointing authority. Upon receipt of such report, or upon otherwise learning that a member of a board has ceased to be a Resident, the appointing authority shall thereupon declare the office of such member vacant and appoint a successor to fill such vacancy in accordance with § 40-110.

D. Inapplicability to ex officio members.

Subsections 40-120.A-C shall not apply to board members who are paid or unpaid employees or officers of the Town, and serving as members of the board in question solely because of their other Town employment or office

§ 40-125 Use of Town materials.

No Town officer or member of a Town board shall use any paper, stationery or other article bearing the Town Seal or representation thereof or bearing the name of a Town board for other than official Town purposes regardless of whether private payment has been made for such use.

On a motion by Ellen, seconded by Joe, the Committee approved the language as to form and placement by the following vote: Charles – Yes, Joe – Yes, Bob – Yes, Ellen – Yes

4 - Yes, 0 – No, 0 - Abstain

8:10 PM Chris Doyle and Jennifer Fallon joined the meeting

This was the second time the amendment came to the Committee.

Anne Marie explained that the intention is to now replace the existing Capital Budget Committee General Bylaw with the new Comprehensive Capital Budget Committee text. Overall the effort will:

1. Expand the size of the committee, further defining membership
2. Expands the mandate of the committee

From Select Board Meeting of 2/28/22 - Redline Text by Bylaw Review 3-9-22, with changes, approved as to form and placement.

MOVED: That § 40-405 of the General Bylaws be amended to rename, enlarge, and repurpose the Capital Budget Committee, by replacing § 40-405 in its entirety to read as follows:

§ 40-405. Comprehensive Capital Budget Committee.

A. The Capital Budget Committee shall henceforth be named “Comprehensive Capital Budget Committee” (“the Committee”) composed of nine voting members and two non-voting ~~ex-~~

~~officio-members: consisting of~~ the Vice-Chair of the Select Board, the Chair of the Warrant Committee (or a member of that Committee designated by its Chair), the Chair of the Energy Committee (or a member of that Committee designated by its Chair), the Chair of the School Committee (or a member of that Committee designated by its Chair), and five registered voters of the Town who shall be appointed by the Moderator. The Moderator-appointed members shall serve for staggered three-year terms and shall be eligible for reappointment. The Town Administrator and the Superintendent of Schools, or their designees, shall serve as the non-voting ~~membersex-officio-members~~.

B. The Committee shall prepare (and annually update) a Long-Term Capital Improvement Plan (“the Plan”). As used in this § 40-405, the term “capital improvement” shall refer to spending to acquire, lease, construct, rehabilitate, or upgrade long-lived assets such as buildings, infrastructure, vehicles, ~~and~~ major pieces of equipment, and technology, and the acquisition by purchase or taking of land, easements, and other long-term interests in real estate, and such projects are referred to in this § 40-405 as “Capital Projects.”

C. The Plan shall include one-year, five-year, and 30-year components, as hereinafter described. The Plan’s one-year component shall include recommended appropriations for the next fiscal year, which shall consider the capital expenditure requests from each department head made through the Town Administrator and the Superintendent of Schools. The Plan shall also specify a program of capital expenditures by fiscal year over a period of five years. The Plan for one-year and five-years shall include recommendations for sources of funds the Town can utilize to pay for Capital Projects. Beginning with the second Long-Term Capital Improvement Plan, each Plan shall also include the Committee’s analyses and recommendations for the anticipated capital improvement needs over a 30-year period following the date of the Plan.

D. The Committee shall coordinate with the Town Administrator to implement the Plan in accordance with the Town’s Comprehensive Financial Policies and other governing plans of the Town adopted by the Select Board, as they may be amended from time to time. The Committee shall create procedures to be used by the Town and the Committee to review and prioritize Capital Project requests and ensure that full life-cycle costs and potential funding sources are identified for each Capital Project, including the establishment and updating of a comprehensive inventory of capital assets, and including coordination with related Town committees.

E. The Long-Term Capital Improvement Plan shall be provided annually to Town Meeting, including specific recommendations for appropriations and funding sources for the following fiscal year. The Plan shall be submitted to the Town Clerk in sufficient time for distribution to Town Meeting Members at least 14 days prior to the commencement of the Town Meeting session at which the capital budget is to be considered. The Plan shall be available at the Town Clerk’s office and posted on the Town’s website for distribution to the public. The Plan shall also be included in the Town of Belmont Annual Report.

Many of the Bylaw Review Committee changes have been incorporated and members were happy with the result.

Robert McGaw, Town Meeting Member Precinct 1, Proposed Amendment

As an individual Town Meeting Member, I am proposing to amend Article 3 by adding the following sentence to the end of Paragraph C to guide the renamed and repurposed Comprehensive Capital Budget Committee in its analyses:

Among its analyses, the Committee should include, where appropriate, projections, financial modeling, and comparisons of the full life-cycle costs of significant proposed Capital Projects and practicable alternatives to such Capital Projects (such as lease vs. purchase, renovation vs. new construction, Town-provided vs. outsourced, etc.).

§ 40-405 Comprehensive Capital Budget Committee (formerly Capital Budget Committee)
AND McGaw Amendment to proposed Comprehensive Capital Budget Committee amendment.

Anne Marie addressed McGaw proposed amendment, stating that it was well-intentioned but not practical. The committee would be extraordinarily burdened and the work he proposes should not be performed by the Committee, but instead by those proposing and analyzing alternatives that are presented to the Committee.

Amendment to the Comprehensive Capital Budget Committee Amendment Proposed by Robert McGaw, Precinct 1

Moved: that the main motion be amended to give guidance as to the types of evaluations that the Comprehensive Capital Budget Committee should include in its analyses of proposed Capital Projects, by inserting the following sentence at the end of Paragraph C of the proposed Section 40-405:

Among its analyses, the Committee should include, where appropriate, projections, financial modeling, and comparisons of the full life-cycle costs of each proposed Capital Project and practicable alternatives to such Capital Project (such as lease vs. purchase, renovate vs. new construction, Town-provided vs. outsourced, etc.).

Anne Marie addressed the proposed amendment, stating that it was well-intentioned but not practical. The committee would be extraordinarily burdened and the work he proposes should not be performed by the Committee, but instead by those proposing and analyzing alternatives that are presented to the Committee.

Charles noted that this is a comment based upon substance and the Bylaw Review Committee should vote on the form and placement of this amendment.

On a motion by Ellen, seconded by Joe, the Committee approved the language as to form and placement by the following vote: Charles – Yes, Joe – Yes, Bob – Yes, Ellen – Yes

4 - Yes, 0 – No, 0 - Abstain

On the Main Motion, without amendment

On a motion by Ellen, seconded by Joe, the Committee approved the language as to form and placement by the following vote: Charles – Yes, Joe – Yes, Bob – Yes, Ellen – Yes

4 - Yes, 0 – No, 0 - Abstain

8:57 PM Anne Marie Mahoney, Jennifer Fallon and Chris Doyle left the meeting.

Ellen informed the Committee that the Leaf Blower Bylaw we've heard will be proposed by Roy Epstein is not yet ready. He told Ellen he hopes it will be available for March 24th at 7: 30 PM

Charles will not be present for Annual Town Meeting sessions so Bob McGaw will read the votes of the Bylaw Review Committee at Town Meeting. Bob agreed to perform the task.

Next meeting dates and times recommended April 28th at 7: 30 PM.

Adjourned 9: 17 PM.

Respectfully Submitted,

Ellen O'Brien Cushman
Town Clerk, ex-officio member