



Minutes of the Special Town Meeting on Voting Procedures Monday, November 10, 2014

1. Call Meeting to Order

Mayor Krause called the November 10, 2014 Special Town Meeting on Voting Procedures to order at 6:04 PM in the downstairs meeting room of the Slaughter Beach Memorial Volunteer Fire Company. Council members present were Mayor Bill Krause, Vice Mayor Amy Parker, Treasurer Jackson Gingrich, Secretary Glenn Stieffenhofer, and Councilperson Kathleen Lock. Community members in attendance are shown on the attached sign-in sheet.

2. Welcoming and Announcements

Mayor Krause introduced Town Attorney Barrett Edwards and explained the purpose of the meeting: We have gone through some turmoil since the Town election, and as most know, after the election, a couple people complained to the State Board of Elections. The Board of Elections Commissioner determined that the election was sloppy, but it was legal. The same people then carried their complaint to the ACLU. We have done some groundwork with our own study and research, much of which was done by Rebecca Craft. With this work, coupled with the recommendations from the Election Commissioner and the wisdom of the ACLU, we have reached a point where we need to decide what to do. Much of what we are doing lies in Town Council motions, Ordinance changes, or Charter changes that will make our Town compliant and leave us with a reasonable set of voting regulations. Tonight's activity, with Barrett's support, will work through what we can do, how we can do it, and how much it is going to cost.

Our baseline option would be to do nothing and continue as we have for the past 78 years; the downside to that would be legal costs especially if the ACLU files suit. Barrett Edwards stated that it is highly undesirable to do nothing and it would just be asking for problems. Council agreed.

Barrett has drafted proposed changes to the Charter that will be discussed in this meeting.

3. Presentation and Discussion by Town Attorney Barrett Edwards

Synopsis of DE State Elections Commission Hearing

- *Appoint Election Officers*
 - *Barrett somewhat disagrees with the recommendation of the Commission that we must appoint a Board of Elections as well as appoint election judges or officers. He read the state statute, which states, "unless provided otherwise in the charter or code", and his opinion is that the Town is in compliance with general assembly election laws. Barrett recommends that the town council appoint election officers and in the absence of Council action at least 15 days prior to the date of the election, the Board of Election members can determine a) to work as election offices, appointing one officer as the inspection, or b) appoint additional election officers, if they deem necessary.*
- *Determine a better way to identify qualified voters*
 - *We can accomplish almost all of this with a charter change and changes to ordinances. We need to remember that it's very difficult to change a Charter. Barrett recommends keeping the charter flexible so that the Town has the ability to make changes with an ordinance, if necessary at a later date. Via ordinance the town can modify registration/identification. This can be fine-tuned/massaged to be what is best for the future.*

- *Freeholder election rights. We do not have to provide non-resident property owners with the right to vote. Generally, voting is allowed only where people reside.*
- *However, because this is a resort town, there is a legal precedent in Colorado that gives non-resident property owners the right to vote and we can follow those guidelines.*
- *Registration would be a bit of work over time but would work well in subsequent years. He recommended getting the most up-to-date tax list and publish it on the website. It would then be up to potential voters to identify whether or not they are on the list and inform the town, providing the appropriate documentation. Renters would not be on list and would need to provide documentation on residency. Owners that inherited property that have not re-deeded the property must also provide documentation in order to be placed on a supplemental voting list. Either way we must address these issues in an ordinance. We may not be able to nail it the first time and there may need to be some fine-tuning.*
- *Extending voting hours*
 - *The Charter shall state that the polls shall be open at least four hours, but Council can vote to have the polls open for an extended period of time.*
- *Absentee ballots*
 - *Absentee balloting for municipalities is not required by the state legislature. We could state in an ordinance that absentee ballots could be implemented. Ms. Manlove's position is that since freeholders are provided with the right to vote, it would make sense to allow them to vote by absentee ballot. However, the state statute on absentee ballots is especially onerous and given the size of the town and the limited staff, Barrett doesn't believe that we can do this well.*
- *Residency requirement should be modified to 30 days.*

Letter From ACLU

- *Accurate voter registration laws – Barrett addressed this in the section immediately preceding*
- *Two hour period isn't long enough – Barrett addressed this in the section immediately preceding*
- *Slaughter Beach must institute absentee ballots – Barrett disagrees with this statement for the reasons addressed above*
- *Slaughter Beach may not institute voter identification requirements that violate state law. Barrett thinks it's not clear if they can say this, but we may not want to implement photo id's.*

Election Committee Chair Report

- *Results of the survey and the Committee report are posted on the Town's website.*

Proposed Charter Change and Ordinance Change

- *Qualifications to serve on Town Council – change language to state that person must meet voter requirements for at least one year prior to running for Council*
- *Filing deadline for running for Town Council is modified to no later than the date of the Annual Meeting*
- *Moving the Annual Town Meeting to the first Saturday is necessary in order to meet election requirements.*
- *Voting hours modified to be at least four hours in length*
- *Change residency requirement from 6 months to 30 days*
- *Jackson asked if the election date should be later. Barrett said no.*
- *Under state statute it says the Board of Election members can't be mother/father/daughter but doesn't say spouse. We might want to include spouse in our language.*
- *Add language about election ties – if a tie occurs, the Board of Election will break the tie by a toss of coin. Option would be to do a whole new election.*
- *Add language about keeping an election book – not keeping it should have no effect in challenging the election*
- *Organization meetings can't be held less than seven days after the election under state statute.*

- *In our charter there is a requirement that anytime we change elections, that we have a formal public hearing and mail copies to everyone in Town. That is incredibly cumbersome and onerous. We wouldn't eliminate the requirement, we would change it a 15 day notice and post the notice around town and on the website.*
- *Kathy asked what is the down side of not changing the charter. He doesn't think that there is a downside of not doing it this year as opposed to next year, and Barrett is not sure that we can get it through in time for the next election. We will have to make the legal determination.*
 - *Kathy's concern is that we have not yet identified a procedure or process for voter registration. Specifically, we discussed using a search of the Sussex County tax database but if you are the second name on the tax roll, your name won't come up, so that process is not viable. Giving rights to non-residency property owners when we don't have a good process seems to be premature. She spoke to the Information Technology department in Sussex County and the manager thinks he can get the information to us, but that hasn't yet been confirmed.*
 - *Additionally, we have a lot of Town property that is deeded in the name of a family trust or a corporation. We don't define voter eligibility in that case. What about commercial properties? We did allow a person to vote in the last election when the property is held by a corporation. We do not have a clear indication on the number of eligible voters. Doing a charter change before we get these issues resolved seems to be putting the cart before the horse. We should also look at every thing in the Charter too, to do it one time rather than over the course of several years.*
- *Jackson asked what is the minimum we can do without requiring a charter change? Barrett is concerned that a charter change alone is not enough. Simultaneous with a charter change we can do an ordinance that addresses absentee ballots, etc.*
- *Barrett addressed the corporation issue. We may have a valid argument that corporations may not be eligible to vote. Several are family trusts that don't identify names.*
- *As a business case, the cost for doing a charter change is almost done. We won't incur much more cost if we do a more comprehensive charter change. However, the political cost of doing several charter changes may be a good reason for doing one charter change.*
- *Kathy – Several states allow provisional balloting. Could we incorporate a provisional ballot? If it were a close election provisional ballots would come into play. It would be incumbent on the Board of Elections to check and take that extra step to ensure that that person was eligible to vote, but it would not disenfranchise anyone who couldn't prove eligibility. Barrett responded that provisional ballots are not contemplated in the municipal election statute.*
- *Voter registration process – Barrett recommended that he put something on paper on voter registration that can be adopted within 30 days.*
- *Kathy would prefer that we change the ordinance now and change the charter in a more deliberative way.*
- *Bill – we still need a charter change for several items to clean things up.*
- *Amy – does it make a difference to the General Assembly if it is a small or large charter change? Barrett – comprehensive charter change is a more detailed review. We are at 9 pages now and can go up to 60 pages for a more comprehensive review*
- *Amy – Since we have Floodplain Ordinances and Zoning Ordinances on our plate now we shouldn't take on a comprehensive Charter review this year*
- *Dan – asked whether non-resident property owners could be dropped off the voter registration list. Barrett explained the resort theory which is what we do. He does not recommend that we get rid of the non-resident component because as a resort town we have a disproportionate number of non-resident property owners.*
- *Dan – when an election is certified, and someone contests it, what is the procedure? Barrett asked if this would be before or after certification? Dan – after. Barrett – No later than 48 hours after the close of the*

polls, the election shall be certified by the Board of Elections. A complaint must be filed with the Election Commissioner within 20 days after the election has been certified.

- *Amy - do you see any problem with us having another meeting before deciding/voting? Barrett – not really, April is when stuff starts moving through the Legislature. There isn't much difference whether we submit a Charter change in December or January. We should get stuff into the staff sooner rather than later. We can state that we had election related problems and we need to get this resolved.*

4. Next Steps

- *Amy recommends having another special meeting.*
- *Jackson is not in favor of absentee balloting.*
- *Bill - Barrett should address an ordinance change that would go with the charter change.*
- *Amy – voter registration questions. Would this be better handled by town clerk or tax collector? Barrett said town clerk.*
- *Kathy and Amy – Barrett should deal with the ACLU. Barrett has no problem with that.*
- *Next special meeting to be scheduled at 3pm on December 3, 2014*

5. Adjournment

Mayor Krause adjourned the meeting at 7:23 PM.

Respectfully submitted,



Glenn Stieffenhofer

Town of Slaughter Beach

Secretary

