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**Government
Review
Committee
Report**

To the
Board of Selectmen
April 7, 1994

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PREFACE

The Town of Topsham was incorporated in 1764. Since its inception, town meeting has played a central role in town government, social structure, leadership, and economic development. Town meeting is the oldest form of self-government in New England, and the tradition of town meeting sustains itself throughout Maine.

A significant factor of town meeting is the opportunity for any voter in the community to have a direct influence, voice, and vote over the activities that affect their lives and tax dollars that pay for those activities. This direct citizen involvement is the key to an effective town meeting form of government.

In recent history, the Town of Topsham has twice considered modifications to the organization of town government. In 1991, the voters approved a change to the present form of Town Meeting-Selectmen-Town Manager in order to provide administrative accountability and professional management in day-to-day operations.

In 1993, with continued diminishing attendance at Town Meeting, as well as the increased influence of splinter political and special interest groups, the Board of Selectmen raised the question of adequate citizen involvement and participation. The foundation of town meeting is the presumption of an informed, active voting population. As attendance at town meetings drops, the influence of even a few voters can have a dramatic effect on town government.

In the fall of 1993, a request was issued for a new Government Review committee to study the various forms of government and make any appropriate recommendations. The committee of nine members and

one alternate was appointed by the Board of Selectmen in October 1993. We met weekly until April 1994. We reviewed Topsham's Town Meeting-Selectmen-Town Manager form of government, and studied other forms and variations of local government in Maine. Much time was spent on the importance of the history, tradition, and value of town meeting for Topsham.

The Government Review Committee made a sincere effort to represent the opinions of town citizens and employees. We conducted a thorough study of issues at hand and an unbiased comparative review of the forms of government applicable to a town of Topsham's size and maturity. This report documents that process and our recommendations.

REVIEW PROCESS

We began our deliberations with the following underlying requirements:

- Become cognizant of those matters which are functioning well within our present form of government as well as those which warrant improvement.
- Conduct interviews with the Town Manager, Board of Selectmen, Town Planner, employees and citizens.
- Acquire data and information from various sources regarding local forms of government.

We established the following ground rules:

- Rules are subject to change by majority vote, and in general, Robert's Rules of Order apply.

- The Committee will meet weekly on Monday from 7-10 p.m. The meetings are open to the public. All members will strive to attend or call the Chairman in advance if unable to do so.
- Quorum rules are as follows:
 - Six (6) members must be present to hold a meeting, and seven (7) members to make a decision which does not impact the final report.
 - Nine (9) members must be present to make a major decision directly related to the final report.
- The decision making mechanism is as follows:
 - On a decision which does not directly impact the final report, a majority vote of seven (7) members must prevail.
 - On a major decision, a consensus of nine (9) members is required.
- Meetings will be conducted according to the following format:
 - Each meeting will have a recorder and timer.
 - Every member will be treated respectfully regardless of differences in opinions.
 - The Chairman will be responsible for ensuring that all members are granted equal opportunity to speak.
 - Ownership of ideas is forfeited at the door.

With our rules in place, we next formalized our goal, mission statement and objectives.

- **GOAL:** To provide a recommended course of action by consensus report through comprehensive analysis of the Town's governmental structure and its alternatives.
- **MISSION STATEMENT:** The Committee will consider the changes in the socio-economic environment of the Town, assure citizen involvement in the Town's legislative affairs, and respond to the challenges of the next century.

- **OBJECTIVES:**

Analyze the existing form of government.

Analyze other forms of government.

Make a committee recommendation as to the best form of government for the Town.

Identify procedures necessary for any recommended change(s).

Report findings and recommendations to the Board of Selectmen in April, 1994.

We considered the five basic forms of government in Maine.

- Town Meeting - Selectmen
- Town Meeting - Selectmen - Administrator¹
- Town Meeting - Council - Manager
- Council - Manager
- Council - Mayor

After analysis and comparison, we concentrated our efforts on the following three forms:

- **Town Meeting-Selectmen-Manager:** The town meeting is vested with general legislative and policy-determining powers, while the board of selectmen under law may enact certain ordinances regulating vehicles and public ways, and under the authorization of town meetings may amend certain zoning ordinances. The elected board of selectmen is the executive body of the town. It retains ultimate responsibility for administration but hires a manager to carry out and oversee day-to-day operations. The extent and scope of managerial administrative authority

¹Known by various titles: Administrative Assistant, Town Administrator, Town Manager, etc.

varies. Since the town meeting is constituted only occasionally, the board of selectmen may exercise some discretion in interpreting town meeting policy between town meetings.

- **Town Meeting-Council-Manager:** General legislative powers and policy-making authority are vested in a small elected council. Other such powers are retained by the town meeting. The manager is responsible to the council for town administration, and is accorded some degree of supervisory, appointment and budgetary authority. Under this form the council has less legislative and policy-making flexibility than does the council-manager form of government.
- **Council-Manager:** All municipal legislative and policy-determining powers are unified in a small elected council. The council hires a professional manager to carry out its policy and to direct administration. The manager is vested with administrative authority to appoint and supervise personnel, to prepare and administer the budget, and to make recommendations and reports to the council. Ultimate responsibility for policy and administration, however, resides with the council. This form parallels the national model which also has numerous hybrids.

We also considered the various forms of government which are found most commonly in towns of similar size to Topsham.

After more than 400 man-hours of deliberations, the committee reached a consensus on its final recommendation. The overwhelming sense received by the committee through interviews, meetings and deliberations was that it is time for a change in the form of Topsham's government.

RECOMMENDATIONS

It is the consensus of the Government Review Committee that a Town Meeting-Council-Manager form of government be established, maintaining the Town Meeting for budgetary items only. This would allow the council to make decisions on routine business and administer the budget according to the mandate of the townspeople. The Committee recommends that the Town be set up in districts with elected council representation from each district and two members elected at large. In general terms, the Council would function very much like the Board of Selectmen does now with the further responsibility of handling additional legislative and administrative functions.

The Town also needs to address the critical link of informational communications between the Town's government and its citizens. Public apathy cannot be changed by any single act in any municipality. We must build upon previous recommendations to improve the townspeople's knowledge of how our government works.

The major implementing part of the process is the recommendation that a Charter Commission be established to provide the specific blueprint for the people of Topsham. This vehicle allows the citizens of Topsham to customize their governmental process. It sets out and defines the specific way responsibilities, authority and accountability shall be shared.

The Government Review Committee makes the following recommendations to the Town of Topsham:

- 1) That a Charter Commission be established.
- 2) That Topsham adopt a Town Meeting-Council-Manager form of government.
- 3) That Town Meeting be retained for the purpose of approving and adopting the annual town budget.
- 4) That election of the Council be by representative districts with at least two members to be elected at large.

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Josiah N. Collins

Harold E. Kilbreth
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Ronald J. McKinnon
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Patrick O'Regan
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Melvin L. Pearce
Melvin L. Pearce, Chair

Ruth B. Peck
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George H. Randolph
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George W. Sargent
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Robert L. Williamson
Robert L. Williamson

The committee members acknowledge the efforts and assistance of LCDR Lance Tucker, U.S. Navy, NAS Brunswick, whose tireless energy in helping us through the process of committee work was invaluable.

Topsham's Form of Government: Town Meeting

An Important Message for all Topsham Residents

The purest form of democratic governing is practiced in a Town Meeting. As Thomas Jefferson said in a letter to Joseph C. Cabell in 1816,

Town meeting is the wisest invention ever devised by the wit of man for the perfect exercise of self-government.

In use for over 300 years, Town Meeting Government has proven to be a valuable means for many Maine taxpayers to voice their opinions and directly effect change in their communities. Here in this ancient American assembly, you can make your voice heard as you and your neighbors decide the course of the government closest to you.

Newcomers to Topsham may be unfamiliar with this form of government. Television is full of "town meeting" debates, especially during national campaign cycles. Those "town meetings" are not what Town Meeting government is. As a form of government, Town Meeting is a legislature, a policy making institution. Every registered voter in Topsham is a legislator. Town Meeting government is a "no excuses" government. You are the government is Topsham.

	Executive	Legislative
National	President	US Congress
State	Governor	State Legislature
City	Mayor	City Council
Town	Selectboard	You and your neighbors who attend town meeting

Attendance at Town Meeting is important for several reasons including:

- Face to face participation teaches forbearance and tolerance. It teaches respect for others' views. It teaches citizenship.
- Town Meeting allows citizens to hear "both sides of the story." It builds appreciation for the complications often involved in the simplest of policies.
- By allowing citizens to actually fashion the law themselves, it creates a sense of

“ownership” of the town’s business not present when decisions are made by others.

- Town Meeting builds community by bringing people together. Sometimes difficult personalities hold the floor. Sometime conflict occurs—and it should. But when successfully resolved, in an open and honest manner, wounds heal more quickly and leave the body politic stronger.
- Town Meeting strengthens civil society. There is a correlation between the use of traditional town meeting and stronger democracy at the state level.
- Town Meeting brings politics to life. Town Meeting can be interesting, exciting and fun.

Here is an outline of the forms and procedures used in Town Meetings. This may provide helpful tips to participate more fully in Town Meeting debates and votes that shape our community!

Introduction

Each town has a different way of running its Town Meeting, depending on its administrative code. Topsham does not have a charter or bylaws. What follows is a general outline of Town Meeting Basics. This is not intended to be an all inclusive text, but a broad overview designed to encourage you to find out more and attend Town Meeting.

If you have any questions regarding the specific procedures employed by our town, please contact the Town Clerk.

Questions and Answers about Town Meetings

Town Meeting Basics

What is a Town Meeting?

A Town Meeting is both an event and an entity. As an event, it is a gathering of a town’s eligible voters, and is referred to as “the Town Meeting.” As an entity, it is the legislative body for towns in Maine, and is referred to simply as “Town Meeting.” So you may say, “I went to the Town Meeting. Town Meeting approved the budget.” In Topsham, we have an ~~Annual~~ Town Meeting in May. We schedule Special Town Meetings throughout the year, usually quarterly, on an add-needed basis. During ~~Annual~~ Town Meeting, we set the municipal budget and undertake other town business such as adopt or revise municipal ordinances.

Not annual

Charter Review Commission and Term Limits Fact Sheet

November 8, 1994 Ballot Issue

Greetings to the Townspeople of Topsham:

Shortly you will be going to the polls for the November Election and several items on the ballot relate to the following questions:

On the salmon colored ballot you will see:

- "Shall a Charter Commission be established for the purpose of revising the Municipal Charter or establishing a New Municipal Charter?"
- "Shall we enact the following ? ; TERM LIMITS, Effective January 1, 1995, all elected officials of the municipality may not serve more than two terms, Service prior to the passage of this measure shall not count in determining length of service? For the purposes of this section, election to an unexpired term of less than 18 months shall not be considered a full term. This law shall continue as law unless changed by another referendum of equal or more voters ."

On the yellow ballot you will see:

- "For Charter Commission, 1-year term, Vote for Six"

Since these subjects have not been widely publicized, there is some understandable confusion as to what they are all about. The following fact sheets have been prepared by the Town to attempt an unbiased clarification and explanation of the issues involved to assist you in determining your voting preference on Tuesday, November 8, 1994. The election of candidates to serve on the Charter Review Commission will be rendered null and void if the first issue of actually creating the Charter Review Commission does not pass.

This information is provided by the Topsham Board of Selectman.

Town of Topsham
Election Polls are Open
8 a.m. to 8 p.m. November 8, 1994
Topsham Fairgrounds off Elm Street

Charter Commission Question/Answer Section:

Q: What am I being asked to vote on in November concerning a Charter Review Commission?

A: The issue is comprised of two parts: First is the actual creation of a Charter Review Commission and second, the election of candidates to serve in six of the nine positions on the commission.

Q: What does a Charter Review Commission do?

A: The commission reviews the adequacy of Topsham's current form of government to effectively make the legislative decisions that Topsham will be facing in the coming years.

Q: What is wrong with Topsham's current form of government?

A: Maybe nothing. It all depends on one's personal perspective. Some people feel that the present form of government (5 elected Selectmen, Town Manager, and town meeting as the legislative body) has served us well and should continue to do so for the foreseeable future. Others suggest that we keep our present form of government but only use the town meeting for the adoption of a budget and vest the Selectmen with all other legislative authority. There are a variety of forms that can be considered and the mechanism by which they get "reviewed" is by the authority set forth in the state statutes for this process, namely the Charter Review route.

Q: Does the Charter Review Commission make the decision as to what form of government we will have?

A: No. They can only make a recommendation which is placed on the ballot as a question for review and approval by registered voters of Topsham.

Q: If the voters approve it, does it immediately go into effect?

A: No, it must be approved by the State Legislature before going into effect.

Q: What is a Charter?

A: A charter is a grant of power and authority from the State Legislature to the municipality under which they can conduct their municipal affairs. About 75 Maine communities have charters.

Q: Why would a municipality want a Charter?

A: If a municipality does not have a Charter, then it derives its authority to operate under the "general laws governing municipalities" of the State. Some municipalities find these laws cumbersome and not necessarily fashioned to let communities effectively rule themselves within the best tradition of the democratic process.

Q: What nearby communities have Charters rather than operating under the general laws of the State?

A: Bath, Brunswick, Freeport and Rockland.

Q: What are the arguments in favor of Topsham having a Charter?

A: Some argue that vesting all of the legislative authority of the Town with the town meeting process rather than giving some (or all of it) to the Selectmen hamstring the Town. They say the town may not act in a timely manner to take advantage of opportunities that arise. Others say that the town meeting is not a true representation of the Town owing to the lack of attendance and important decisions being unduly influenced by special interest groups who do attend.

Q: What are some of the arguments supporting the present system?

A: Topsham has a tradition of governing itself for over 200 years through the present system. Some people think that although it might appear cumbersome and unable to move in a timely manner, it has served us well and should continue to do so.

Q: What are some of the increased legislative authorities that have been mentioned as being more effectively vested with the Selectmen or council?

A: The ability to enact ordinances (laws) with a public hearing only rather than having to schedule a town meeting. The ability to accept gifts to the Town in excess of \$5,000 without calling a special town meeting. It is the job of the charter review commission to suggest changes that are in the Town's best interest based upon their research and solicitation of input from as many townspeople as possible.

Fact Sheet: Term Limits

Q. What do term limits do?

A. They apply to “elected officials” (i.e. People who are elected to public office). They do not apply to appointed officials (i.e. any governmental official not elected to their position.) An elected official serves for a specified period of time, referred to as “a term.” Terms are commonly two, three, or four years long depending on the office held. Once an elected official has served one term they usually make a decision to seek (or not seek) reelection to another term. Term limits restrict the “number” of times an incumbent can seek additional terms... usually for the office they presently hold. For example, the President of the United States can only serve two consecutive four-year terms.

Q. What are the arguments generally advanced by proponents of term limits?

A. They claim that term limits discourage “career politicians” and make it more difficult for special interest groups (e.g. lobbyists) to influence incumbents.

Q. What might opponents claim against imposing term limits, in general?

A. They usually feel that the quality of the public’s representation is related to the experience of the elected official in office (i.e. how to get things done effectively for their constituency). If they are not doing a good job, they won’t get reelected.

Q. Why is this issue on the Topsham Ballot?

A. Advocates of term limits circulated petitions which sought to have the Selectmen place the petitioned referendum issue on the November ballot. Although the Selectmen had some major concerns on the legality of the wording of the referendum issue, they allowed it to go on the ballot. They did not want the electorate to be deprived of a chance to vote on the central issue. If passed, the courts will need to interpret its application.

Q. What are some of the confusing implications of a strict interpretation of the ballot issue as worded?

A. 1. Do the term limits mean “consecutive” terms (i.e. no break between the first term and the second term) or does it mean that someone who has served two terms and then decided not to seek an additional consecutive term, could not, years later, run for that office again?

2. If someone served the maximum of two terms in one office (e.g. Selectman) would they be prohibited from running for a different office (e.g. County Commissioner, School Board, or even the state legislature)?

3. Is the sentence “ This law shall continue as law unless changed by another referendum of equal or more voters.” illegal in requiring equal or more voters?

Q. With specific regard to this term limit referendum for Topsham, what seem to be the arguments for and against its passage?

A. **Supporters** of this referendum philosophically feel that term limitations assure a healthy turnover of elected officials, remove the potential for “lifetime” terms, prevent entrenchment of preferred ways of doing things, promote new ideas, facilitate change, and assure better accountability.

Opponents of this referendum philosophically feel that while term limitations for state and federal elected office may be supportable, term limits at the municipal level are unnecessary. The nonpartisan nature of local government, the token pay and time requirement don’t encourage career candidates, unlike the state legislature. Topsham has a history of being well-led. The questions of legalities in the referendum wording is very troubling.