

Draft amendments Charter Secs 1 -13

While most of the proposed changes to Secs. 1- 13 of the Charter are primarily editorial/clarifying, the following issues need some discussion. There are additional comments related to these issues in the track changes version of the Charter.

Sec 1. Body politic. Who comprise the body politic? What about “taxables”? Who should be eligible to vote, and might this be different for different types of elections?

Currently Sec 1 defines the body politic as “inhabitants.” While the Charter seems to provide a vote to corporations and partnerships in an annexation special election it otherwise restricts voting rights to registered individuals and trustees & creators of a valid trust, as does current practice. While it is important to establish clear definition of voter eligibility (see below) the point here is to define the body politic.

Sec 2d Voting in an annexation special election. Who should have a vote on proposed annexation? Currently Sec 2d provides a vote to corporations and partnerships that own real property or a valid leasehold in either Dewey or the area targeted for annexation. Should this be limited to just individuals in Dewey, or just individuals in both Dewey and the target for annexation, or left as is, or should we provide multiple recommendations? The current amendment is drafted to limited voting eligibility to individuals.

“... residents of and individuals otherwise qualified to vote in the Town of Dewey Beach and all residents and individual owners of record of real property in the territory proposed to be annexed”

Sec 4a Town goals/goals of governance. The draft amendment now reads:

“the governance of the Town; the maintenance of its peace and order; the provision for its sanitation and the maintenance of its infrastructure; the protection of its beauty and surrounding natural environment; the provision for the health, safety, convenience, comfort and well-being of its population and visitors; the protection and preservation of property, public and private, and the preservation of the character of the Town; the ensurance of financial sustainability; the provision of resilience in the face of global climate change; and the provision for the Town’s culture and commerce to extend into the Spring and Fall shoulder seasons (hereinafter referred to as the “Goals of Town Governance” or “Town Goals”).”

Is this an appropriate expansion of town goals?

Sec 5b et seq Five year lease. Herein I have tried to clarify that this requirement should be interpreted to require holding a lease with a term of 5 years regardless of the amount of time actually left on the lease at the time of registering to vote or be a candidate. An alternative would be to require a minimum length of time remaining on such a lease of 1 year for voter registration and/or 2 years for candidacy for Commissioner.

Sec 5e Removal of a Commissioner. For clarity amended as:

“If any one of the Commissioners shall, during said Commissioner’s term of office fail to continue to be qualified as above stated, said Commissioner shall be removed from the Office of Commissioner by a majority vote of the remaining Commissioners present in a properly-noticed Town Council Meeting. The Town Council shall be the final judge of the qualifications of its number.”

This language provides the Council a more active role.

Sec 7b Filling a vacancy on Town Council. Amended to read:

“In the case of a vacancy created in the office of Commissioner of Dewey Beach having the title of Mayor of the Town of Dewey Beach either by death, resignation, loss of eligibility for the Office of the Mayor, or other disqualifying event, or otherwise, the remaining Commissioners shall fill such vacancy for the remainder of the term of the vacating Mayor by the election of a sitting Resident Commissioner to the Office of Mayor by a majority vote in a properly-noticed Town Council Meeting of the Commissioners therein present. Thereafter the Town Council shall fill the still-remaining vacancy amongst their number by the election of an appropriately-qualified candidate to the vacant Office of Commissioner by a majority vote in a properly-noticed Town Council Meeting of the Commissioners therein present as follows.

In the case of a vacancy created in any office of Commissioner of Dewey Beach other than in the Office of Commissioner of Dewey Beach having the title of Mayor of the Town of Dewey Beach either by death, resignation, loss of eligibility for Commissioner, or other disqualifying event, or otherwise, the remaining Commissioners shall fill such vacancy for the remainder of the vacating Commissioner’s term with an appropriately-qualified candidate by majority vote in a properly-noticed Town Council Meeting of the Commissioners therein present provided such election results in a minimum of two (2) of the Town Council’s number qualifying as Resident Commissioners. In so filling such a vacancy the Mayor shall nominate such qualified candidate or candidates for the consideration and appointment by the Town Council by majority vote in a properly-noticed Town Council Meeting of the Commissioners present.

Any Mayor or Commissioner so appointed shall assume the duties of their respective offices at the same Town Council Meeting, being first duly sworn or affirmed to perform their duties with fidelity, provided said Town Council be so noticed.”

An alternative to the 3rd paragraph would be to have the “Mayor name and Council confirm” such candidate.

Sec 8b Secretary to the Town Council. Amended for clarity and to provide some description of duties:

“The Commissioners shall then likewise select a Secretary of the Town Council (hereinafter referred to as “Secretary”) from their own number to serve until the subsequent Organizational Meeting. Said Secretary shall be responsible for taking and keeping minutes of Executive Sessions of the Town Council, coordination with the Town Clerk on the development and keeping of minutes of all Town Council Meetings, presiding over Town Council Meetings when the Mayor is unavailable and all other responsibilities of the Mayor when the Mayor is unavailable.”

An alternative would be to have the Council meet and elect an acting mayor on a case by case basis as needed.

Sec 8c Compensation. This seemed in conflict with current practice and any reasonable chain of command. Amended to read:

“The Town Council shall by ordinance fix the total amounts of any salaries or compensation paid to employees and officers on a department by department basis as a part of the annual budget approval process. Salaries or compensation of individual employees or officers shall be set by the Town Manager or appropriate Department Head with the approval of the Town Manager. No employee or officer of the Town shall in any form have, take, or receive from the Town or otherwise any compensation, in any form, in addition to the salary or compensation so fixed by the Town Council.”

Is what we want to recommend, or should there be an explicit penalty for taking/receiving extra compensation as suggested by some?

Sec 10a Manner of holding elections. Two minor amendments intended for clarification and to address concerns of the election committee regarding provisional ballots:

“In the event that there is no contest for any of the several offices up for election in any year, the polls shall not be required to open except in the case of there being other items on the election ballot beside the offices of Commissioner and in such case the polls shall be open from 10:00 a.m. to 6:00 p.m.”

“for the orderly and efficient conduct of municipal elections including provisions for the casting of provisional ballots,”

Sec 10b Voter qualifications. This is amended for clarity to read:

“Each person eighteen years of age or older, who is a bona fide resident and domiciliary of the Town of Dewey Beach, or who is an owner of real property within the Town, or who holds a valid lease with a term of five years or more on property within the Town regardless of time remaining on such lease, or who is both a settlor/creator and trustee of a valid trust to which real property which is located within the Town has been conveyed which conveyance is recorded in the Office of the Recorder of Deeds in and for Sussex County shall be qualified to vote in the Annual Municipal Election for the Office of Commissioner of Dewey Beach of Town officials as herein provided and in all other Special Elections undertaken by the Town of Dewey Beach as may be described elsewhere (such persons hereinafter referred to as “qualified voters”).”

The Charter and current practice seems to limit voter registration to individuals for the annual election of town officials. However, the language regarding Special Elections for Annexation provides for voting by corporations and partnerships and seems ambiguous regarding Special Elections in general. Do we want to retain this interpretation or recommend a change to limit voting in all town elections to individuals? The current draft amendment is written to limit voter registration to individuals.

Sec 10d Winners. Amended for clarity to read:

“The qualified persons having the highest number of votes shall be declared, by the Election Officials, to be duly elected provided such declaration results in a Town Council that will be comprised of a minimum of two (2) Resident Commissioners and if not, the highest vote-getting candidate(s) for Resident Commissioner as required to result in a Town Council having a minimum of two (2) Resident Commissioners plus the highest vote getting candidate(s) for the remaining opening(s) on the Town Council shall be declared to be duly elected;”

Sec 13 Procedures & minutes. Establishes Town Manger as record keeper and some basic description of “records” and access. Open to discussion regarding the details.

“The Town Council shall determine its own rules of procedure and order of business. The Town Manager shall keep a record of said rules and procedures and a record of the Town Council’s proceedings, such record including but not limited to written minutes and audio recordings of said proceedings, on the Town Council’s behalf and such records shall be open to public inspection both at Town Hall and on the Town web site.”