

Call to Order

Committee Chair Mr. Stumpf called the meeting to order at 4:02 pm. TGSC members all participated remotely via WebEx, able to see and hear each other and share documents for all to see. A feed from the WebEx was broadcast live on Andover TV, by which members of the public could observe the meeting.

Mr. Stumpf also reviewed the agenda for this meeting.

Participants

The following were online on WebEx for the meeting: Sheila Doherty (ex-officio); TGSC Committee members David Floreen, Richard Fox, Andrew McBrien, Dara Obbard, Gail Ralston, Austin Simko and John Stumpf; Finance Committee Liaison Paula Colby-Clements (non-voting); and John Petrin of Community Paradigm Associates.

TGSC Committee member Sandy Stapczynski apologized in advance for her absence from the meeting.

1. Approval of Minutes of the Committee's Meeting of September 23rd, 2021.

Ms. Doherty moved that the minutes of the meeting of September 23rd 2021 be approved as written, Mr. Fox seconded. The TGSC voted by roll call 8 in favor, none against, with Ms. Ralston abstaining as she was not present at the September 23rd meeting.

2. Current Focus of the Committee

Mr. Stumpf summarized the current focus of the TGSC as follows:

The TGSC has one remaining topic from Tier 2 to finalize, that being whether a recall mechanism should be adopted. This meeting will to all intents be dedicated to this topic, albeit with a brief update on the logistics of the report writing process to close.

3. Public Comment

Mr. Simko informed the committee that he had received an email from Tracy Spruce of 23 Woodhaven Drive, Andover, on the subject of recall. Mr. Simko read the email. Ms. Spruce' email is attached to these minutes as Appendix 1.

4. Discussion of Recall Provision for Elected Officials

Ms. Doherty left the meeting at 5:01pm during the discussion of this topic.

Prior to this meeting, Mr. Simko had circulated the recommendation of the group that met to discuss the various thresholds for the recall of elected officials. Mr. Floreen summarized this, and

added that the group had had far-ranging and “spirited” conversations. This is attached as Appendix 2.

Mr. Fox was a member of the group that developed this proposal and asked to speak in dissent and was recognized by the Chair. He contended that if the thresholds as laid out were exceeded, this would indicate that Andover’s voters very strongly felt the incumbent to be unfit to remain in office. Thus, the incumbent should not be allowed to stand for re-election, and might even be barred from holding public office in Andover for a period thereafter.

A number of members referred to Ms. Spruce’ email and agreed that her comments were entirely valid and reflected serious concerns that the TGSC itself had considered. It was generally agreed, albeit not unanimously, that the high threshold of 7800 signatures, as compared to a typical turnout for Town Elections of 2500, would limit abuse of a recall mechanism. Notwithstanding, it was agreed that even a failed attempt at a recall could be disruptive. Mr. Simko argued that this might not be substantively different from informal but concerted attacks in other formats, and Ms. Obbard informed the TGSC that she had spoken to a number of contacts who hold elected positions in communities other than Andover, and all said that they would not have stood for election if they had known how much abuse they would have faced online.

However, the majority, perhaps all, members agreed that some mechanism is needed to remove an elected official who has committed an egregious transgression. While there has not yet been a situation in Andover in which such a mechanism would have been needed, a number of incontrovertible examples from other municipalities were cited, taken from the research presented by Paradigm. Recall is not a solution looking for a problem. While it should be noted that most of the communities around Andover do have recalls, this is not *per se* a reason why Andover should also adopt a recall provision.

A number of members stated that they would prefer an alternative mechanism other than recall if one were available. However, the TGSC had expended effort to seek alternatives and none were found. While “absence of evidence is not evidence of absence”, the TGSC was generally (but not unanimously) satisfied that alternatives already had been explored sufficiently. All ideas had turned out to be ineffective and/or potentially legally infeasible on deeper consideration. Some members stated that this had been decisive for them, changing their absolute opposition to recall to an acceptance that it is the only apparent feasible solution, and that they now supported a recall mechanism albeit not without reservations. All three members of liaisons to the TGSC who currently or had previously held elected office in Andover spoke in favor of a recall mechanism (although of these, Ms. Colby-Clements, as a non-voting liaison, did not vote in favor.)

A concern was raised that requiring 30% of voters to sign a recall petition might mean that it would not be possible to collect sufficient signatures in any situation. However, the consensus was that in extreme circumstances, which are the only occasions on which a recall should be initiated, sufficient voters would sign.

It was questioned whether an election is needed to replace recalled officials or whether the board or committee should select the replacements as is current practice to replace member who resign. This had been discussed by the group who developed the proposed process, and discounted

because (a) it is common practice in communities with a recall to elect replacements, although this should not constrain Andover (b) if sufficient members of a board or committee were recalled, there would not be a quorum to select replacements, and while one might postulate that a recall provision might account for this by requiring an election in this case, this would be convoluted, and (c) this would offer a potential mechanism for elected officials to manipulate the membership of their board or committee in their own favor.

It was also questioned whether there should be a requirement that a certain number of signatures be collected from each precinct. It was explained that sufficient signatures could only be collected if a recall had broad support from all precincts. At a theoretical minimum, a recall could not go forward unless voters from at least four precincts signed the recall petition (and even here, at least 78% of the voters in each precinct on average would need to sign the petition, which is not thought likely).

In an informal non-binding show of hands, 6 members of the TGSC indicated that they support the recommendation in principle that Andover should adopt a recall provision with a high barrier to initiation, one member indicated that she does not support a recall provision.

The TGSC was reminded that the purpose of the proposed framework of thresholds is to express in a very concrete way what the TGSC means by “high threshold”. The framework is not meant to be absolutely prescriptive but is meant to convey a strong statement of the TGSC’s intent and communicate the overall boundaries that the TGSC would hope to see respected in any final proposal put before the voters. Thus, it was agreed that the framework as proposed should be included in the report rather than debated in detail.

Mr. Simko moved that the TGSC should recommend that Andover adopt a recall provision, that the report authors should put forth an articulation of the framework, and that the report should state the expectation that the framework might be tweaked and amended, with the amendments potentially including Mr. Fox’s suggestion. Mr. McBrien seconded. The committee voted by roll call 6 in favor (Mr. Floreen, Mr. Fox, Mr. McBrien, Ms. Ralston, Mr. Simko and Mr. Stumpf), 1 against (Ms. Obbard), with 1 abstention (Ms. Doherty, as she felt she had a conflict of interest as a currently-elected official).

5. Next Steps

- a. Mr. Simko reminded the members of the report-writing milestones and members’ responsibilities:
 - a. A first draft shall be provided to the Committee on or about October 18th.
 - b. Members shall review the draft and per current thinking, submit suggested edits by late October, although Mr. Simko shall confirm the details of how (and even whether) edits should be submitted when he distributes the draft.
 - c. The TGSC shall meet to discuss the report in an open meeting in mid-November. It was agreed that the Committee would focus on substantive issues during this meeting, and report any typographical errors or recommend any changes intended

purely to aid clarity or readability back to the report-writing team in marked-up drafts.

- d. The Final Draft shall be presented to the Select Board on or about December 3rd.
- b. The report-writing team confirmed that they are on track to achieve the first milestone and are comfortable with the remaining milestones
- c. No new business was introduced.

Adjournment

Ms. Ralston moved that the meeting adjourn, Mr. McBrien seconded. The committee voted by roll call 8 in favor, none against and with no abstentions. The meeting adjourned at 5:23pm.

Respectfully submitted,

Andrew McBrien, Clerk

Appendix 1: Ms. Spruce's email received as public input

Tracey Spruce

10/14/2021

Recall Provisions

Input Hello Committee Members,

Thanks for your work on this committee. As an elected official, I know the time and commitment it takes to serve the Town of Andover. I'd like to share my thoughts about the proposal to amend our Town Bylaws to add a recall provision.

First, I'm not aware this is problem that Andover needs to solve; rather, it feels like a solution in search of a problem. Having lived here for 20+ years, I can't think of a time when giving the voters a chance to recall an elected official was necessary. If any of you can share an example that I'm missing, I would certainly be open to reconsidering my perspective.

Second, as we've seen in other parts of the country, recall elections easily can be weaponized to advance a political agenda. This is undesirable even when elected officials are political (i.e., Democrat, Republican, etc.). It's even more undesirable, and potentially harmful, when the elected officials are supposed to be non-partisan, as is the case with elected Andover officials. I can think of situations over the past few years when a group of people wanted to see the Town Manager or Superintendent fired, and the elected board chose to retain the executive (e.g., AYS, "Respect Our Coaches"). In those cases, the public does not have -- and should not have -- all of the information about the particular situation, and cannot possibly know all of the factors that went into a particular personnel decision or action. Yet, it is not a stretch to imagine the groups clamoring for Dr. Berman's or Mr. Flanagan's discharge turning to the recall process for recourse. Similarly, the school committee has had to make incredibly difficult decisions throughout the pandemic, many of which have resulted in uncivil debate and deep divides within our community. Yet, we've done our best with a complicated and unprecedented pandemic where the data changes rapidly and guidance is constantly evolving. Nonetheless, I don't doubt one or more of use would have faced a recall if that were an option for Andover voters. Allowing voters to seek a recall over a single issue would be an egregious abuse of process that likely would sow deep divisions in our town. We should not put in place any process that might do further harm to our town than already is caused by social media and the greater political forces at play around the country.

Finally, the recall process is expensive. Why would we want to add the potential for an expensive process like this to our budget, where we're already stretched thin? If voters don't like their elected officials, they have an opportunity every March to replace those officials. I'd rather see our resources devoted to increasing voter turnout, which is how democracy thrives, than to misguided recall efforts, which allows a one-issue group to subvert the annual election process.

By the way, my perspective has nothing to do with an interest in retaining my position as an elected official. Frankly, after the past 18 months of serving in this role and being abused and maligned by so many members of the public, there isn't a whole lot of ongoing appeal. I just don't see any benefit to adding a recall process and I see a lot of drawbacks. Thank you for considering my perspective.

Appendix 2: Recommendation for the various thresholds for the recall of elected officials

We recommend that the following thresholds apply in relation to an effort to recall an elected public official. Note that each of the four phases of a recall are described separately.

To receive petition pages/provide notice of recall attempt – 50 signatures, or whatever is required under State law to become a candidate for local election. The notice must state the grounds for recall – however, there is no limitation on which grounds can support a recall effort. Separate petitions are required for each elected official targeted for recall. Within business 5 days of certification, the Town Clerk will issue blank petition pages to petitioners.

To call a Special Recall Election – Certified signatures from 30% of registered voters (around 7800 voters) must be provided. Petition pages must be returned by petitioners within 20 days of the pages being given to the petitioners by the Town Clerk.

To qualify a candidate for the ballot – The standard ballot/candidate threshold for local elections (50 signatures) applies.

To recall & elect replacement official – There are two votes on the recall election ballot: the first determines whether the elected official should be recalled; the second determines who, if a recall has been approved, should be elected to the now-open seat. A simple majority of votes is required to recall the elected official(s); and the candidate receiving the most votes is elected to serve the balance of the unexpired term. The recalled candidate remains on the ballot in the resolution of question two.