

To the Members of the Scarborough Charter Review Commission:

January 8, 2010

My name is Judy Shirk and I live at 6 Avenue Three.

You no doubt have followed or at least heard about the land exchange issue in Pine Point last year. I am here tonight to urge you to include in your recommendations several issues which will prevent what I and many other believe was a terrible injustice to the citizens of this town and an abuse of power by a majority of the Town Council.

The Town closed a public road to the beach through what some legal experts have stated was an illegal discontinuance since the road had been used by the public. They also gave away more land in the exchange than the Town received, effectively gifting public property to private citizens.

There was tremendous opposition to the plan presented to the Town Council. Citizens pleaded with the Council to put the issue to referendum given the irreversibility of the decision and its importance to the entire community. We discovered, however, that because this was a Council order which expended less than \$100,000, a citizens' referendum would not be allowed. Even had it been allowed, the procedures for doing so are unreasonable.

I ask you to include language recommendations for the Charter which grants citizens the right to petition for referendum to overturn any Council action, and that the process to do so be simplified and require no more than a petition of 5% of the number of registered voters who cast ballots in the last gubernatorial election. Citizens should also be permitted 90 days to do so. So the burden to the Town of frequent special elections, language which would establish three election times, including those already scheduled, for citizen initiatives would consolidate ballot items. The right of the voters to petition and overrule its government is critically important.

Along the same line, I urge you to propose language in the charter amendment to permit electronic petition signing where citizens can electronically sign their name to citizen initiated petitions. The technology is available for municipalities to permit this form of citizen participation in government in a secure way not unlike electronic balloting which will be coming soon. We should not wait ten years for another charter revision or amendment to consider this.

Many residents were surprised to learn that we had no recall provision in our charter which would permit the citizens to remove a Town Council member. It is important to note that only 25 signatures on a candidate petition are required for a citizen to get his or her name on the ballot for local elected office. A recall provision should not be so easy, but it should also not be so difficult. Again, any individual citizen should be allowed to petition for recall without stating reasons, and only 5% of voters who cast ballots in the last gubernatorial election should be required. There should be no time limit, but special elections should be limited so recall petitions can be consolidated if needed. A Town Council member stated at last week's Council meeting that he felt the standard for recalling a Town Council member should be very high. I disagree and don't understand what he or others who are granted the privilege of serving would be afraid of recall. Again, the will of the voters is what is important and the voters must always be trusted to make the right decision. This is an important check on local representative government.

On the subject of disposition of Public Property, I urge you to include in your proposal language which would prevent the Town Council from exchanging, gifting, selling, or otherwise transferring any public property worth more than \$50,000 of appraised value without voter approval. As we saw in Pine Point, a 4-3 vote in favor of the land exchange had the effect of closing a public road to the shore forever, and that action could have occurred in one Council vote under current rules.

One of the issues which came to light during this controversy was the role of the Town Attorney and legal firm. In the case of Pine Point, the Town Attorney acted in two conflicting roles, one as negotiator of a land exchange with a private party and later giving legal advice to the Town in its regulatory role on the property the Town conveyed. Ordinances also give the Town Attorney too much authority. I urge you to include language which would require the Town to change law firms every three years to prevent the sort of lifetime appointments we seem to have.

Transparency in government is a buzzword but it's important and does not fully exist now. If you look at the Town's website you will find the last agenda posted for the Zoning Board of Appeals is last November, for example. Citizens cannot be expected to call Town Hall twice monthly to make sure an issue that might affect them is not on the agenda. The Charter should have language which requires all agendas for all elected bodies to be printed two weeks in advance in the local weekly papers and sent to an electronic mail distribution list for those who elect to sign up for it. The charter should also reflect the technological times with language requiring all electronic and print communications to be archived electronically and available on the Internet, including e-mail between and among all officials of the Town. The Freedom of Access Law requires these communications be provided when requests are made, but the only remedy when the Town or its officials don't comply is Superior Court. That is unrealistic. The people's business should be easily available. This will also prevent the sort of clandestine electronic meetings by elected officials which have been so frequently in the news.

Finally, while the Charter calls for appointment of a Town Manager by the Town Council, I urge you to include language which would permit a citizens petition for dismissal of the Town Manager by the voters in an election with the same procedures as a Town Council member. Town Managers are supposed to be professional administrators but the reality is they can also be very political and that political role is where they do not act in the best interest of the Town. The Town Manager should be held accountable to both the Council and the Citizens.

Thank you for your consideration. Please keep in mind the principles I have outlined and do what you can to promote a better balance between representative government and the voters' rights to ultimately decide matters of importance to the Town. Right now there is little balance and that can breed Councils and Managers who are unresponsive to the public. The Charter is the citizens only guarantee that their voices will be heard and respected.

Judy Shirk