

**Wellesley Advisory Committee  
Wellesley Middle School  
Faculty Dining Room  
April 24, 2018, 6:35 PM**

Those present from the Advisory Committee included Jane Andrews, Rose Mary Donahue, Tom Fitzgibbons, Mary Gard, Mike Hluchyj, Paul Merry, Lina Musayev, Alena Poirier, Betsy Roberti, Tom Skelly, Ria Stolle and Andrea Ward.

Mike Hluchyj called the meeting to order at 6:35 p.m.

**6:35 p.m. Citizen Speak**

There was no one present for Citizen Speak.

**6:35 p.m. Discussion/Votes on ATM Warrant Articles**

Tad Heuer, Town Meeting Member (Precinct G), was present.

Article 32, Motion 5

Mr. Heuer presented his motion to amend Article 32, Motion 5 by striking in its entirety subsection “1.” of that motion, which reads:

1. Amending Section 26.3, Duties, relative to the Town Clerk, by inserting a new subsection “i” as follows: “Have the power to make non-substantive corrections for the purpose of addressing formatting, ordering, numbering, alphabetization, and cross-reference errors within the Town’s bylaws.”

Mr. Heuer presented legal and policy reasons for his amendment. According to Mr. Heuer, the Massachusetts General Laws and supporting case law permit only the legislative body of the Town—i.e., Town Meeting—to amend the bylaws, no matter how minor the amendments. Mr. Heuer interpreted the comments of Town Counsel at the last session of Town Meeting, in which Town Counsel stated that he had presented the proposed provision to the Municipal Law Unit of the Massachusetts Attorney General’s office for review, as an indication that the proposed provision was unusual. Mr. Heuer also noted a case from the U.S. Court of Appeals for the First Circuit in which the ruling hinged on the absence of an Oxford comma in a state statute, resulting in a multi-million dollar judgment; in Mr. Heuer’s view, Town Meeting, not the Town Clerk, should be reviewing and approving any changes to the bylaws, no matter how minor.

There was a question whether punctuation, which most would agree is substantive, is in fact different from the non-substantive items listed in the provision (e.g., formatting and numbering): Depends on how each person interprets terms like “formatting.”

Mr. Heuer also raised a concern about individuals unknowingly relying on different versions of the Town bylaws, were the Town Clerk (as opposed to Town Meeting) to have authority to make changes at the Clerk’s discretion. There was a question as to why the Town Clerk’s changes couldn’t be noticed and recorded in the same way that Town Meeting’s changes presently are: You could, but the provision as written doesn’t provide for that.

In response to questions about whether Town Meeting has a legal basis to delegate this authority to the Town Clerk, Mr. Heuer stated that he is not aware of any such basis; in Massachusetts and everywhere else, only the legislative body can amend bylaws.

*Andrea Ward made and Alena Poirier seconded a motion for favorable action on the amendment to Article 32, Motion 5, that would strike subsection "1." relating to the duties of the Town Clerk and renumber the remaining three subsections of the Motion. Additional Discussion: An Advisory Member requested that the Chair, when delivering the recommendation of the Committee on the floor of Town Meeting, note that some Advisory members were concerned about the possible absence of a legal basis for the delegation of authority in this provision and would appreciate hearing the views of Town Counsel further on this. *The motion passed by a vote of 7 in favor and 4 opposed.**

**7:00 p.m. Adjourn to Annual Town Meeting**

Andrea Ward made and Tom Skelly seconded a motion to adjourn the meeting at the close of Annual Town Meeting later this evening. The motion passed unanimously.