

TOWN COUNCIL  
*Town of Trumbull*  
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Trumbull

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**LEGISLATION & ADMINISTRATION COMMITTEE  
&  
CHARTER REVISION COMMISSION  
MINUTES  
June 13, 2011**

**CALL TO ORDER:** Chairwoman Suzanne Testani called the Legislation & Administration Committee to order at 7:34 p.m.

**L&A Committee Members Present:** Chairwoman Suzanne Testani, Kristy Waizenegger, Mark Altieri and Michael Rappa.

**L&A Committee Members Absent:** Vice-Chairman Jeff Jenkins and Chadwick Ciocci.

**Charter Revision Commission Members Present:** Chairman John Chiota, William Holden, James Cordone and Russell Friedson.

**Charter Revision Commission Members Absent:** Gail Hanna and Paul Timpanelli.

**Also Present:** Town Council Chairman Carl A. Massaro, Jr. and Attorney Maslan.

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Chairman of the Charter Revision Commission John Chiota noted that all Town Council members in addition to the L&A Committee had been invited to attend this meeting. This meeting had been structured as a work session where questions with regard to all of the proposed Town Charter changes could be asked and answered. Many of the Town Council members who had been critical of the process and the CRC were not present at this meeting. Judge Chiota noted that this meeting and the next two joint meetings of the L&A and Charter Revision Commission are the Town Council's opportunity to participate and be informed.

1. RESOLUTION TC23-171: Moved by Mr. Rappa, seconded by Ms. Waizenegger  
BE IT RESOLVED, That the Town Council of the Town of Trumbull hereby approves as amended proposals for a revision of the Charter of the Town, as provided and permitted by Connecticut General Statutes Section 7-191 and the Charter of the Town of Trumbull; and

BE IT FURTHER RESOLVED, That the questions of having a general Charter revision shall be submitted to the electors of the Town of Trumbull for adoption or rejection at the regular municipal election scheduled for the 8<sup>th</sup> day of November, A.D. 2011; and

BE IT FURTHER RESOLVED, That the Town Clerk is hereby authorized and directed to give such notice as required by law of such ballot questions at the regular municipal election, and of the registration of electors entitled to participate therein.

**Chapter I:** The first section appears to be an error; there is no change. Pages 2 & 3 are in red due to an error, there had been no changes.

**Chapter I Section 4. – Definitions:** Defined terms used throughout the Charter and to clarify the terms throughout the Charter. The definitions section is new and had been added by the Charter Revision Commission.

It was noted by a CRC member that under Definitions – *Adoption of Legislation* appears to be an error – the last two items are the same, the last could be deleted.

Mr. Altieri stated having the Charter “days” less defined may have been beneficial in certain instances.

Mr. Holden clarified that the process had begun in April, the red-lined sections sometimes include some changes that had been considered by the CRC, but in a subsequent meeting, the commission decided not to make the change, the change back to the original shows as a strike through.

Town Council Chairman Massaro stated that in the Definitional Section - all positions elected or appointed to an office are defined as a Town Official with the exception of the Town Council. Judge Chiota stated that the Town Council would fall under the term “Town Officer”. Chairman Massaro that if that were the case, it would be expected to see the Town Council members referred to as Town Officers throughout the Charter. Judge Chiota agreed.

**Chapter IV – Adopting the Annual Budget:** The term Special Agency Accounts has been added to the Charter– Mr. Friedson explained that there are a number of special agency accounts throughout the town departments. Noting that it is important that the BoF and the Town Council are aware of the accounts and what sources of income and expenditures are identified in a particular area of the budget, this allows for more transparency. These accounts are not currently accounted for in the budget as a line item

Chairman Massaro stated that the term Special Agency account, should be included in a Definition section. Mr. Friedson agreed and explained that a special agency account represents any and all sources of revenue and expenditures of any town office of any type and should be identified in the budget. This adds another layer of transparency for all. Chairman Massaro stated that if they were to be identified in the budget and there would be no appropriation made during the budget process the special agency accounts could be included in the budget as a line item with a zero denoting the specific account.

Mr. Holden stated that the current Charter does not include the term special agency accounts or enterprise accounts; the red-line section of this represents changes made after discussion during this Charter Revision process, not a change from the current Charter.

Judge Chiota stated that the balance of these accounts is not currently represented in the budget.

Throughout the document the change from council to Town Council has been made.

**Page 2, subsection 2, paragraph B-Duties of the Board of Finance:** This section references the town website, for purposes of disclosure, publishing the public hearing notice in the newspaper and the town website. The current Charter only references publishing the notice in the newspaper.

**Section 1, B2 – Adopted Budget:** Chairman Massaro spoke to the veto of the First Selectman section needing clarification of the specific scenario that took place this year during the Budget Process.

Both the L&A Committee and the Charter Revision Commission discussed at length the addition and/or clarification of the language of this Section 3 B. (i) and (ii) –Duties of the Town Council based upon the dead-lock of the BoF during this year’s 2011-2012 Budget. Chairman Massaro clarified that the Town Council under the Charter adopts and is the only body which does adopt.

Judge Chiota clarified that particular scenario had taken place after the CRC had reviewed this section; therefore it would be necessary to address it now. It was suggested to remove the language which references Section 3 B (i) or 3B (ii). After a lengthy discussion ensued it was agreed upon that this matter would be referred to the Town Attorney for determination of the proposed language. The Town Attorney has already done extensive research on this matter.

Chairman Massaro stated that this section does not require a substantial rewrite, all present agreed.

**Section 3. B(i):** The addition of “2 business days” is a new addition to the Charter. This change does not allow the Town Council to submit the budget to the First Selectman on the last day, April 30<sup>th</sup>. If the Town Council had acted on it prior to, it now reads that it has to be submitted within 2 days after it has been adopted and can no longer wait until April 30<sup>th</sup> to submit the budget.

**Section 4. B.:** References the referendum under Chapter VIII. It was preferred to group everything under one category under the referendum section of the Charter. This would make the document easier to read. There would be three (3) different types of referendums proposed. If there were only one type of referendum this language would still apply and there would still be only one section referencing the referendum.

**Section 5. Setting the tax rate:** The word “shall” has been added to reflect that is something that will definitely be done.

**Chapter V. Appropriation from the General Fund and the Capital Nonrecurring Fund  
During the course of the Fiscal Year.**

**Section 2. Supplemental Appropriation:**

**Paragraph 3 - The addition of the phrase “other than that petitioned” -** The BoF historically has granted a supplemental amount other than what had been originally requested; this change

would address what has been past practice and would clarify the language of the Charter to allow this past practice.

**Section (d)** – The addition of the word “approved”, clarifies that it had been approved not only just “considered”, as it reads in the current Charter. The word considered is up for interpretation approved defines the action.

**Last paragraph on page 2 of Chapter V.** - Mr. Friedson explained that in the budget process it takes a 2/3 vote of the council to override the BoF for a change in the budget; there have been instances in the past where the BoF has cut something from the budget; the first selectman came in after the fiscal year started and put in for a supplemental for the very item that had been cut from the budget, it then is denied by the BoF only to be overturned by the council. It is Mr. Friedson’s opinion that this scenario needs to be addressed in the Charter; the proposal to inhibit this practice did not prevail and is not included with the proposed Charter changes. The Bonding section does include such a provision; the Supplemental section does not include such a provision.

### **Chapter VIII. Electoral Process –**

**Section 3. Biennial town elections:** Proposes a four (4) year terms for the first selectman, town clerk and treasurer.

CRC Chairman Chiota stated that there will be debate on this proposed change and that this should not be taken away from the public to decide; it reflects a substantial change; the only way to get the real answer for Trumbull is to give it to the public to decide.

Research has been done on the proposal of four (4) year terms; there are 18-19 communities in the state of CT that have changed to a four (4) year term. Out of those eighteen (18) communities, six (6) of the town s are from Fairfield County they are as listed: Bridgeport, Stratford, Stamford, Fairfield, Westport and Ridgefield. The advantage to a four year term is that the first selectman can work on projects that can culminate in a time period longer than two (2) years; politically it is a benefit to take away the idea that within the two years that they are up for election again. The townspeople of Trumbull should ultimately make the decision on the term length.

The L&A Committee and the Charter Revision Commission discussed how this question would be presented on the ballot and cautioned that the counter balance could possibly not be provided for if presented as two (2) separate questions.

The question with regard to the at-large town council candidates was discussed. There are a number of issues with the town council, such as that 1/3 of the council is not voted for, as well as there are a number of items which requires a 2/3 majority vote, (i.e. overriding the first selectman’s veto or approving a bonding package that had been rejected by the BoF). There are problems with the seven (7) district plan; almost every election year it results in a recount of the Town Council. The redistricting had not occurred in 2002 and 1992 the town is still working off the 1980 census. The town may be in violation of the, “one person one vote” Supreme Court ruling. There is a disparity of over 24% between District 1 and District 4. The 9-167a would apply to any at-large Town Council seas for minority representation.

Both the L&A Committee and the Charter Revision Commission discussed the town council make-up and the cost of the elections based on the seven (7) districts. The changes proposed are not radical changes; the four year term and the at-large seats are in practice throughout the state and on a number of boards in our town as well as in Stratford which is all at-large and Fairfield, which has a 50 person RTM. There are certain administrative advantages to the district concept change.

All Town Council Members should and always consider the town as a whole, of course there are some district only considerations, but for the most part the Town Council always considers what is best for the town as a whole.

Mr. Friedson spoke against town committee appointed seats, speaking in favor of the election process noting that any one running for election should be elected, not appointed.

Ms. Waizenegger spoke in favor of a representative government.

(Mr. Rappa left the meeting at 9:05 p.m.)

Mr. Cordone stated that a critical item for consideration is that minority representation will be changed and spoke against the possibility of either party having a 18-3 majority citing that neither party should be afforded that kind of power at one time.

(Mr. Rappa returned to the meeting at 9:08 p.m.)

Mr. Cordone suggested the Charter has to be considered as a whole, all items are intertwined and it based upon checks and balances.

CRC Chairman Chiota stated that the Charter Revision did not want to take away the district representation, which is why that had not been changed.

Town Council Chairman Massaro stated that the new Charter proposal adopts a majority limitation rule for the first time, although it only applies in part to the at large seats. Another issue is the election of the three council members per district with each voter casting a vote for only two. If we vote for the number that we elect, as we do for all other elected seats, would each party be running 3 candidates? If we do and after the voters decide to the question, should we be adopting a majority limitation rule? The operation of voting for 2 and electing 3 creates the maximum of 14-7 majority representation from one party. If we go to 3 votes it may be disturb that majority balance that is already in place but is not written in the current Charter. After this long discussion, if it were to stay in district format the question is , “Could we consider anything different than what we already have?”

Mr. Holden agreed and noted this is a complex issue and how to enforce minority representation is another question raised. This situation’s proposal with the at large seats and applying 9-167a is about the only way to be fair to all of the candidates; the districts can be equal in population but may not be equal in registered voters.

CRC Chairman Chiota stated that is why the Town Council make-up proposal is somewhat of a hybrid, because the town is accustomed to the district representation.

**Section 7. Referendum** - The petition had been reduced from 10% -5% to make it easier for a referendum and it would be based upon the voters of the previous election, not the voter list.

Mr. Friedson stated that the existing referendum provision has thresholds so high it practically denies the public the choice of referendum, this is designed to allow a real referendum to be held. The line item provision has been left in the Charter. The recall has been removed, not by the CRC, but because it has been ruled illegal.

**Page 5. sub-section E** – the concept of this section, as explained by Mr. Friedson, is that if people choose not to vote they are making a decision for those who are voting; the act of not voting should not take away the right of someone who did vote. If someone chooses not to vote they should accept the outcome of those who did go out to vote. By setting a minimum number to the number of people who go out to vote, is taking away the voice of those who do vote.

CRC Chairman Chiota stated that it is the minority's position taken by Mr. Timpanelli and Mr. Cordone that a minimum number of voters based on the voter list should participate in order to make it valid. There is an on-going disagreement amongst the CRC.

Mr. Friedson stated that by majority vote this change was supported.

**Section 9. Special Referendum Requirements:** Mr. Friedson explained this proposed referendum is not an automatic referendum, it is not endless cycles, and it is a one-time only referendum.

CRC Chairman Chiota and counsel could find no prohibition to the specific legal question raised at the previous meeting with regard to the limiting the threshold. The CRC Chairman stated that he could not guarantee that this would stand up to judicial review because there is no such case to date. Atty. Maslan stated that as much research in CT as he could possibly have done had been done on this legal question. There are some comments but no definitive answer.

Mr. Friedson explained the mechanisms to the special referendum as such: there is only a referendum if the budget exceeds the threshold and the public petitions to bring about the referendum. If there is a referendum there is no guarantee that the budget as passed won't stand. That puts the trust in the voters' ability to weigh "faster growth than incomes going up" to the "town's needs".

Another mechanism in place is the inflation rate plus 1%. The calculations would be done before the budget process starts, this way all department heads would be prepared to justify something that exceeds that number.

If the referendum is passed the budget would go back to the First Selectman, BoF and the Town Council and it would then stand and would be final; there are no endless cycles; it is a one time referendum.

Mr. Cordone stated he believes it is unfair that taxes could go up over the rate of inflation but this discussion embodies a policy issue and should not be included in the Charter.

CRC Chairman Chiota stated that amongst the CRC members with regard to the referendum there are items that need to be tweaked, such as the number of signatures, the number of voters to come out, not all of the details of these had been agreed upon. Individual CRC members favored different numbers and/ or percentages. All are in favor of the idea and some changes, the Minority Report has not been voted on by the CRC to date.

Mr. Cordone stated that the CRC Chairman raised a good point clarifying his earlier comment that the CPI plus 1% is a policy issue. All are in agreement that a referendum would and could raise or lower any item in the budget. Writing a rate of what spending should be in the Town should not be written into the Charter.

The CRC Chairman explained that this referendum is place to allow the people to stop the increase if they choose to, it does not mean that people will; it gives them the right to do so. The rate has been set to give all department heads and those included in the budget process a number to justify. The Director of Finance will set the number/threshold and send it out to the department heads at the beginning of the budget process.

Mr. Friedson clarified that the number is 1% over the rate of inflation. That represents a fairly significant increase. The number was a compromise amongst the CRC. If there was no 4 year term he could see raising the signature requirement, it is part of the check and balance system, the ability to have a referendum protects the voter. To have the council swing to either party is another counterweight, representing a balanced package to get the maximum benefits with all the safeguards in place.

Mr. Cordone asked for the council's input:

Ms. Testani stated she still had an issue with the at-large seats of the council and would expect that to be a challenge to explain to the people of Trumbull, is concerned about the representation legality issue of the council and is in favor of the one-shot referendum.

Mr. Rappa stated that in concept, the referendum is a good idea, his concern is that a couple of disgruntled voters could control the outcome, without a minimum number of voter turnout in place. The silent majority, that Trumbull is known for is not included in this section.

Mr. Friedson stated that if you look to the passion of the voters of a few years ago when there was a large proposed increase, knowing the level of engagement Trumbull voters bring and knowing it is a one-shot referendum, he would think it would not be unlikely to see voter turnout at the same number or even higher as a regular election.

Mr. Holden stated that if a minimum voter turnout is in place; the easiest way for someone to help defeat a referendum is to stay home and not to vote. That is the problem with the system when a minimum voter turnout is required.

Mr. Altieri stated that he has considered all of this information with an open mind and is not against a referendum, but it should be harder to initiate the referendum if the minimum voter turnout is waived. Mr. Altieri spoke in favor of a minimum voter turnout and of a representative government.

**Section 10. Bonded Debt:**

Mr. Friedson stated the bonded debt referendum specifically excludes the refinancing of existing debt at a comparable or lower rate. This section only has to do with new debt, it is also written that it can not combine refinancing with new debt.

Any bonded debt over \$15 million goes to referendum automatically. Essentially that is sewers or a building. Only very major items.

The CRC Chairman stated that this concept was favored by all on the commission; only the number has been debated. The Bonded debt referendum was a specific goal of the CRC and the First Selectman.

Town Council Massaro stated that sewer installation should be an exception. Mr. Friedson stated that in his original proposal that the only people voting on the sewer referendum would be the residents impacted by the project but was unable to garner majority support. The counter argument to that was that 25% of the project is borne by the whole town.

Upon motion made by Mr. Altieri, seconded by Ms. Waizenegger to adjourn to a date certain of Monday, June 20, 2011 at 7:30 p.m.

The L&A Committee and the Charter Revision Commission adjourned at 10:03 p.m. by unanimous consent.

Respectfully Submitted,

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Margaret D. Mastroni