

**CHARTER REVISION COMMISSION 2020
MINUTES
MAY 6, 2020
AS AMENDED MAY 13, 2020**

A meeting of the Charter Revision Commission 2020 was held on Wednesday, May 6, 2020 remotely via Zoom teleconference. The meeting was called to order by Chair Kate Donahue at 7:02 p.m.

Members Present: All Commission members were in attendance, including Kate Donahue, Tom Tesoro, Susan Gilson, Nancy Gardiner, J.C. Cinelli, and Martin McCann (who joined the meeting at 7:08 p.m.). In addition to the Commission members were Town Attorney Dan Schopick, Chief Administrative Officer and Commission Clerk Cindy Katske, Public Works General Foreman Tom Baldwin, Purchasing Agent Kevin Bova, and Superintendent of Parks and Recreation Dmitri Paris.

All present recited the Pledge of Allegiance.

Public Comment: There was no public comment.

Prior Minutes: Moved by Tom Tesoro, seconded by Nancy Gardiner to table the minutes of the April 29, 2020 meeting. The motion carried unanimously.

Input from Town staff: Tom Baldwin, General Foreman, Public Works Department, reviewed some changes that are proposed by his department, in Chapter III, Section 6G(ii) regarding purchasing they would like to see the \$1,000 amount come out of the charter. Prices have increased and this should be in the purchasing policy, not the charter. In Chapter III, Section 6G(iii), the Finance Director and Board of Finance should be able to set the dollar amount rather than the \$10,000 amount that's in the charter.

Also, the requirement to publish in the newspaper should be removed because more people will see it on the town website. Kevin Bova, Purchasing Agent, clarified that it's just the advertisement of the bid that is published in the newspaper. The bid documents are on the website. We would save \$10-12,000 a year by not publishing in the paper. Most people sign up on the town website and the state of Connecticut portal. Tom Baldwin offered suggested language.

Another suggested change is to bid waivers in Chapter III, Section 6G(vii). The recommendation is to remove the time period between bid waivers from the charter and instead keep it in the purchasing policy. Kevin Bova clarified that bid waivers are done for \$10,000 or more for emergencies. He likes the three-year period to keep the town from going to the same vendor every time there's an emergency, but would take the dollar amount out of the charter. Tom Baldwin also recommends adding a definition of emergency as a threat to life or property in Chapter I, Section 4.

Chapter III, Section 6G(vi) could be revised to delete the exception for emergencies. These suggestions are flexible and are the product of a group of employees working together. Superintendent of Parks and Recreation Dmitri Paris added that town employees are just looking to increase their efficiency. Kevin Bova asked that the Assistant Finance Director be added as a backup purchasing authority. Currently the charter states that the Director of Finance is the purchasing authority.

Discussion of these proposed changes ensued. Discussion will continue at the next meeting.

Charter Review: The Commission reviewed the following topics.

1. Chapter III, Section 3, regarding absence, disability, etc. of the First Selectman: Tom Tesoro prepared a second draft for review and discussion, attached. A lengthy discussion ensued and a number of revisions were made. Town Attorney Dan Schopick will provide necessary language regarding state election law, and Chair Kate Donahue will provide a draft of the provision as revised so the Commission can vote at the next meeting.
2. Chapter VII, Section 19, regarding the Arts Commission: Superintendent of Parks and Recreation Dmitri Paris had recommended that the Arts Commission be removed from the charter and the Commission's function be carried out by a subcommittee of the Parks and Recreation Commission. J.C. Cinelli reached out to Arts Commission Chair Regina Butler, who stated that she thinks the Arts Commission should stay in the charter. The Arts Commission began when her father was the First Selectman. Ms. Butler will reach out to Arts Coordinator Emily Areson. Dmitri Paris stated the Arts Coordinator handles the cabarets at the Senior Center and the Arts Festival. The Senior Center cabarets could get incorporated into Senior Center programming. Ms. Butler and Ms. Areson will draft something for the Commission to consider.
3. Chapter III, Section 6G, regarding purchasing: Nancy Gardiner researched other town charters and most were very general and only one (Shelton) contained dollar limitations similar to those in our charter. In most cases those charters referred to ordinances governing purchasing.
4. Chapter II, Section 5B, first bullet: Town Council Clerk Margaret Mastroni suggested posting non-confidential supplemental materials on the town website no less than 24 hours prior to the meeting's start time, citing FOIA. Discussion ensued. The charter currently requires 48 hours' notice, while FOIA requires 24 hours' notice. The charter is more stringent than FOIA. Moved by Nancy Gardiner, seconded by J.C. Cinelli to change "48 hours" to "24 hours" in Chapter II, Section 5B, first bullet. The motion carried unanimously.
5. Chapter VII regarding boards and commissions: Town Council Clerk Margaret Mastroni suggested moving the material in Chapter II, Section 5B, to the end of Chapter VII. Discussion ensued, including whether to alphabetize the boards and commissions in that chapter. Moved by Tom Tesoro, seconded by Susan Gilson to add the following sentence at the end of Chapter VII, Section 24: "All boards, commissions and committees shall follow posting requirements for all meetings as stated in Chapter II, Section 5B." The motion carried unanimously.
6. Chapter II, Section 5A, regarding publication of notice of Town Council meetings in the newspaper not less than five days prior to the meeting: Town Council Clerk Margaret Mastroni suggested changing the requirement to posting on the town website as a minimum rather than publication in a newspaper. Moved by Martin McCann, seconded by J.C. Cinelli to replace the last sentence of Chapter II, Section 5A with the following: "Notice of meetings of the Council shall be, at a minimum, posted on the Town website not fewer than five (5) calendar days prior to the meeting." The motion carried unanimously.
7. Several suggestions by Town Council Clerk Margaret Mastroni were discussed that have already been addressed by the Commission. One suggestion, alphabetizing the boards and commissions listed in Chapter VII, was dismissed as cumbersome due to numerous cross references.

8. Chapter IV, Section 2B and Chapter IV, Section 3A, regarding publication of the budget summaries and hearing dates by the Board of Finance and Town Council, respectively. Town Council Clerk Margaret Mastroni recommended the Board of Finance and Town Council budget notices be posted on the town website rather than published in the newspaper, and change the time requirement from five business days to five calendar days. Discussion ensued. Moved by Nancy Gardiner, seconded by Tom Tesoro to change the beginning of the second sentence in Chapter IV, Section 3A, to read "At least five (5) calendar days prior to said hearing, the Town Council shall cause to be, at a minimum, posted on the Town website, a notice of the public hearing together with a summary of the budget recommended by the Board of Finance..." and to change the first sentence of Chapter IV, Section 2B to "The Board of Finance shall, at least five (5) calendar days prior to the hearing provided in chapter IV, section 2 A, cause to be, at a minimum, posted on the Town website, the budget proposed by the First Selectman including in parallel columns...." The motion carried unanimously.

9. Chapter II, Section 8, regarding publication of adopted legislation. Discussion ensued regarding changing newspaper publication to posting on the Town website in this section as well as all other sections where publication is required in the charter. Moved by Tom Tesoro, seconded by Martin McCann, to replace all references to publishing in a newspaper with posting on the Town website wherever it appears in the charter. The motion carried unanimously.

10. Youth Commission: Tom Tesoro reached out to the people involved in the Trumbull Youth Association (TYA) regarding the Youth Commission and they will be providing input by the next meeting. The Commission will discuss whether to include a Youth Commission in the charter.

11. Senior Citizen Commission: Nancy Gardiner researched other towns, and most do have provisions in the charter and they call it a Commission on Aging, which is in line with what was sent by the Trumbull Senior Center Director. This discussion will be tabled until next week.

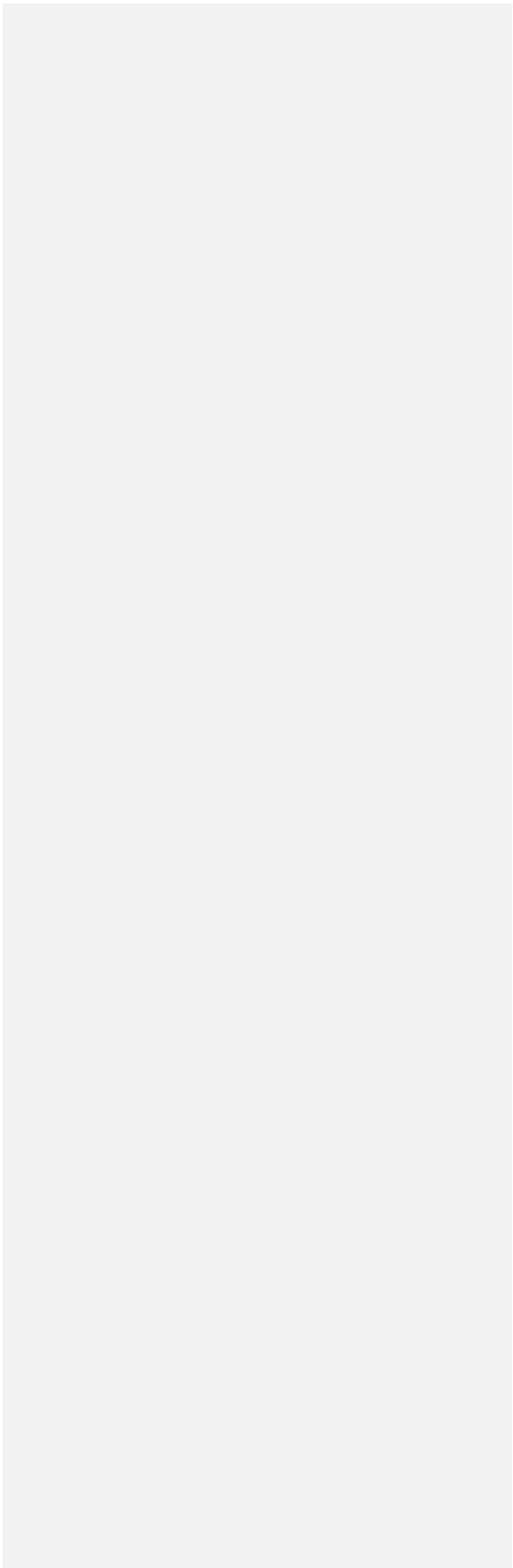
12. Chapter VII, Section 17, regarding the Ethics Commission: Town Attorney Dan Schopick stated that the state enabling legislation does not include the Ethics Commission having jurisdiction over consultants, so the Commission should remove that from the charter. The statute is Section 7-148h of the CT General Statutes. The Commission considered proposed revisions submitted by Martin McCann. Discussion ensued regarding several recommended changes. Moved by Tom Tesoro, seconded by Nancy Gardiner to insert the following language as Chapter VII, Section 17D: "Procedure. The Ethics Commission shall, in the conduct of its activities, adhere to the confidentiality requirements of Section 1-82a(a) through (e) of the Connecticut General Statutes, and the Code, as the same may be amended from time to time. The provisions of the Code notwithstanding, the respondent shall be afforded the opportunity to cross examine the complainant and witnesses against the respondent and, failing such opportunity, absent evidence of coercion or intimidation of the complainant or death or disability of the complainant, the Commission shall dismiss the complaint." The motion failed 1-5-0 (FOR: Tesoro). Moved by Martin McCann, seconded by J.C. Cinelli to adopt the revisions to Chapter VII, Section 17, Ethics Commission, proposed by Martin McCann (attached). The motion passed 5-1-0 (AGAINST: Tesoro).

The Commission discussed timing and procedure issues.

Moved by J.C. Cinelli, Seconded by Nancy Gardiner to adjourn at 9:28 p.m. The motion was approved by unanimous consent.

Respectfully submitted,

Cindy Katske, Clerk



Proposed language for Chapter III, Section 3

Section 3. Absence, Disability, Vacancy, etc.

- A. In the event of a temporary absence of 30 calendars days or less, the First Selectman may, by letter filed with the Town Clerk, appoint the Town Treasurer as Acting First Selectman. In the event the Town Treasurer is unable or unwilling to serve, the First Selectman may, by letter to the Town Clerk, appoint the Chairman of the Town Council as Acting First Selectman. In this situation, the Acting First Selectman shall have all the powers and duties of the First Selectman except that unless otherwise required by law, the Acting First Selectman shall neither make any appointments to any Board or Commission nor sign any agreements binding the Town.
- B. The Office of the First Selectman shall be deemed vacant upon the occurrence of any of the following:
 - 1. Death of the First Selectman.
 - 2. The retirement or resignation of the First Selectman.
 - 3. If the First Selectman ceases to have a principal residence in the Town.
 - 4. If the First Selectman is, as determined by the Town Council, absent from office, for any reason, for a continuous period of not less than 90 calendar days. Vacation time shall not be considered in determining the period of absence.
- C. In the event that the Office of the First Selectman becomes vacant as defined in Section 3 B, the Council shall call for a Special Election to fill the remainder of the term of the outgoing First Selectman. Such Special Election shall be held not less than 90 nor more than 100 days from the date the office becomes vacant.
- D. During the period beginning with the Office of the First Selectman becoming Vacant and ending with the swearing in of a new First Selectman, the Town Treasurer shall become Acting First

Selectman. In the event the Town Treasurer is unwilling or unable to perform the duties of Acting First Selectman, the Chairman of the Town Council shall become Acting First Selectman. In the event neither the Treasurer or Chairman of the Town Council is willing and able to serve, the Town Council shall, with a vote of 2/3rds of the members present and voting, appoint and Acting First Selectman. The Acting First Selectman shall have all the powers and duties of the First Selectman except that unless otherwise required by law, the Acting First Selectman shall neither make appointments to any Board or Commission nor sign any contracts binding the Town for a period exceeding his term as Acting First Selectman.

- E. If a vacancy occurs within a period of six months or less from the date of a regularly scheduled election for the Office of First Selectman, there shall be no Special Election and the Acting First Selectman shall fill the remaining portion of the term of office.
- F. Any Special Election held under this section shall follow all the rules and regulations and be conducted in the same manner as a regularly scheduled election of the Office of First Selectman.

Chapter III, Section 3 – language revised 5/6/20 for Commission vote on 5/13/20

Chapter 3, Section 3. Absence, Disability, Vacancy, etc.

- G. In the event of a temporary absence of 30 calendars days or less, the First Selectman may, by letter filed with the Town Clerk, appoint the Town Treasurer as Acting First Selectman. In the event the Town Treasurer is unable or unwilling to serve, the First Selectman may, by letter to the Town Clerk, appoint the Chairman of the Town Council as Acting First Selectman. The Acting First Selectman shall have all the powers and duties of the First Selectman except that unless otherwise required by law, the Acting First Selectman shall neither make any appointments to any Board or Commission nor sign any agreements binding the Town **nor hire or fire any employees that serve the Town at the pleasure of the First Selectman.**
- H. The Office of the First Selectman shall be deemed Vacant upon the occurrence of any of the following:
5. Death of the First Selectman.
 6. The retirement or resignation of the First Selectman.
 7. If the First Selectman ceases to have a principal residence in the Town.
 8. If the First Selectman is, as determined by the Town Council, absent from office, for any reason, for a continuous period of not **fewer** than 90 calendar days. Vacation time shall not be considered in determining the period of absence.
- I. In the event that the Office of the First Selectman becomes vacant as defined in Section 3 B, the Council shall call for a Special Election to fill the remainder of the term of the outgoing First Selectman. Such Special Election shall be **held in compliance with state statute (need specifics from Dan).**

- J. During the period beginning with the Office of the First Selectman becoming Vacant and ending with the swearing in of a new First Selectman, the Town Treasurer shall become Acting First Selectman. In the event the Town Treasurer is unwilling or unable to perform the duties of Acting First Selectman, the Chairman of the Town Council shall become Acting First Selectman. In the event neither the Treasurer **nor the** Chairman of the Town Council is willing and able to serve, the Town Council shall, **by** a vote of 2/3rds of the members present and voting, appoint an Acting First Selectman **who shall be a resident and elector of the Town**. The Acting First Selectman shall have all the powers and duties of the First Selectman except that unless otherwise required by law, the Acting First Selectman shall ~~neither make appointments to any Board or Commission nor~~ **not** sign any contracts binding the Town for a period exceeding his term as Acting First Selectman. **Any appointments made by the Acting First Selectman shall expire at the end of the Acting Selectman's term, unless state law requires otherwise.**
- K. If a vacancy occurs within a period of six months or less from the date of a regularly scheduled election for the Office of First Selectman, there shall be no Special Election and the Acting First Selectman shall fill the remaining portion of the term of office.
- ~~L. Any Special Election held under this section shall follow all the rules and regulations and be conducted in the same manner as a regularly scheduled election of the Office of First Selectman.~~

Chapter VII, Section 17 Ethics Commission – As adopted 5/6/20

Section 17. Ethics Commission.

- A. *Composition and appointment.* The Town shall have an Ethics Commission consisting of five (5) regular members and two (2) alternate members who shall be appointed by a two-thirds (2/3) vote of the Town Council from the recommendations of the First Selectman.

Each regular member shall have a five (5) year term. One (1) term shall expire each year. The first alternate member appointed shall have a one (1) year term. The second alternate member appointed shall have a two (2) year term and the terms of all alternate members thereafter shall be two (2) years. No more than a bare majority of the regular members shall be members of the same political party and the alternate members shall not both be members of the same political party.

A. *Powers and duties.* The Ethics Commission shall have the following powers and duties:

- (i) It shall recommend a code of ethics (a "Code") for adoption by the Town Council; and
- (ii) It shall investigate any complaints and make a determination of whether or not, in the discretion of the Ethics Commission, there have been any material violations of this Charter, ordinances of the Town, or of the Code code of ethics adopted by the Charter Town Council; and
- (iii) It shall conduct such inquiries and proceedings as may be required and, thereafter, in appropriate cases, impose such sanctions as may be provided by the Town ethics code or by this Charter.

Commented [MM1]: My thought here is that the EC may find no probable cause if there is a violation which, in the opinion of the EC is not a material violation.

B. *Code of ethics.* The Town Council shall have the power and the duty to adopt, under its ordinance making power, and subject to the approval of the First Selectman required for ordinances, a eCode of ethics which shall, except as otherwise provided by law, by this Charter, govern the conduct of all elected and appointed Town officials and all Town personnel employees. For purposes hereof, "Town personnel" shall mean and include (i) all Town employees, (ii) members of the Board of Education and Board of Education employees, (iii) paid consultants of the Town, and (iv) members of all other Town Boards, Commissions, Committees and Authorities. The eCode shall specify and designate ethical standards of conduct required of affected persons, prohibited activities, rules of procedure, and the sanctions that may be imposed for violations of the eCode with the exception of those cases where violations of the eCode may also involve criminal violations in which cases the matters involved, at the discretion of the Ethics Commission, shall may, be referred to and reserved for the appropriate criminal authorities. The power to investigate violations, to conduct hearings on any alleged violations, and to impose sanctions or otherwise enforce the eCode shall be vested in the Ethics Commission and in no other body or official of Town government.

~~C.~~ D. *Procedure.* The Ethics Commission shall, in the conduct of its activities, adhere to the confidentiality requirements of Section 1-82a(a) through (e) of the Connecticut General Statutes, and the Code, as the same may be amended from time to time. The provisions of the Code notwithstanding, the statute and also the the

respondent shall be afforded the opportunity to cross examine the complainant and witnesses against the respondent and, failing such opportunity, the Ethics Commission may, in its discretion, dismiss the complaint.~~Ethics Commission and shall observe the following procedural rules:~~

~~Any person charged with any violation:~~

- ~~(i) — Shall be promptly notified, in writing, of the charges against him/her and the provision of ethics code or Charter claimed to have been violated;~~
- ~~(ii) — Shall be entitled to a hearing on the charges against him/her to be held, at his/her option, in public or in private, not later than forty-five (45) days after the notification of charges, or at any later time agreed upon by the Commission and the person charged;~~
- ~~(iii) — Shall be entitled to confront his/her accuser and to cross examine witnesses against him; and~~
- ~~(iv) — Shall be entitled to representation by counsel.~~