

**TOWN COUNCIL
LEGISLATION & ADMINISTRATION COMMITTEE
&
CHARTER REVISION COMMISSION 2020
JULY 22, 2020
JOINT SPECIAL MEETING MINUTES**

A joint meeting of the Town Council Legislation & Administration (L&A) Committee and the Charter Revision Commission (CRC) 2020 was held on July 22, 2020 via Zoom teleconference. The meeting was called to order by L&A Committee Chair Jason Marsh at 7:06 p.m. All present joined in the Pledge of Allegiance.

ATTENDANCE

Present

L&A Committee members Jason Marsh, Chairman, Thomas Whitmoyer, Vice Chairman, Ashley Gaudiano, Eric Paulson, Steve Lemoine, Joy Colon, Alternate, and Tony Scinto, Alternate; Charter Revision Commission members Kate Donahue, Chair, Nancy Gardiner, Vice Chair, Tom Tesoro, Susan Gilson, Martin McCann, and J.C. Cinelli.

Absent

L&A Committee member Carl A. Massaro, Jr.

Also Present

First Selectman Vicki A. Tesoro, Town Council Chair Mary Beth Thornton, Town Attorney Dan Schopick, and Chief Administrative Officer and substitute Clerk Cindy Katske.

Mr. Lemoine stated that the committee did not receive the draft report until 25 hours prior to the meeting, which is not in accordance with the Town Charter. Mr. Marsh responded that this is not a meeting where they are voting on anything but rather is a discussion opportunity to confer with the Charter Revision Commission. Mr. Marsh noted Mr. Lemoine's concerns.

Ms. Donahue stated that the Council had made eight recommendations. The Commission has met twice since meeting with the Council and has discussed the recommendations and made some changes.

The first change is Chapter II, Section 2, Legislative Branch, on page 5 of the report and page 3 of the redlined Charter. Ms. Donahue stated that this was the item specifying seven districts for the Town Council. The Town Council recommended giving the Council the ability to set the number of districts and their boundaries. The new language reads, "The number of voting districts in the Town shall be established from time to time upon the affirmative vote of two-thirds (2/3) of the members of the Council present at a meeting duly warned for such purpose.

Voting districts so established shall consist of substantially equal population. The boundaries of voting districts in the Town shall be set from time to time by a majority vote of the Council.” The Commission did what the Council asked it to do. Mr. Scinto asked Attorney Schopick whether with a 14 majority vote to change the districts, that would be a legal problem. Attorney Schopick replied that it would not.

Ms. Donahue stated that the second change is Chapter II, Section 5A, page 6 of report and page 5 of redlined version, regarding publishing versus posting. The Commission had wanted to move to posting on the website, but the concern was that many residents still rely on the newspaper as their primary means of getting information, so the Commission went back and added website posting to newspaper publication. The Commission agrees with the Council that it might be a little too early to move to a website posting approach. Mr. Marsh asked for confirmation that the cost of maintaining newspaper publishing is \$70,000 per year. Ms. Katske stated she thought it was less than that, because the only things the Charter covers are Town Council publication, publication of the budget, and referendum questions. Things like Planning & Zoning, which needs to publish notices, are governed by statute and are unaffected by the Charter. Ms. Katske thinks the \$70,000 figure is based on a larger number of things than those impacted by the Charter. Mr. Scinto asked what happens if there are no newspapers in the future. Ms. Donahue stated that if newspapers don’t exist, the requirement wouldn’t apply.

Mr. Lemoine went back to Chapter II, Section 2 regarding voting districts. He was concerned about a situation where only a few Council members could be present at a meeting to change the number of voting districts. Mr. Marsh stated that a quorum (a majority of the Council members, or 11 members) would have to be present in order to vote and Attorney Schopick confirmed that is the case.

Ms. Donahue stated that the next change is Chapter II, Section 5B, page 6 of the report and page 4 of the redlined Charter. The Council wanted the posting time to be changed back to 48 hours from 24 hours, which the Commission did.

The next change is Chapter II, Section 6, regarding legislative branch, adoption of legislation, on page 7 of the report and page 5 in the redlined Charter. The Council was looking for clarification on the phrase “immediately upon posting on the Town website.” The way the Commission addressed it was to add the language that “such appointments shall become effective immediately upon posting notice of the appointment in the Legal Notices section of the Town website.” Ms. Donahue clarified that this would apply just to appointments, not to legislation.

Next is Chapter III, Section 3, absence or disability of the First Selectman, on pages 7-9 in the report and pages 7-9 in the redlined Charter. The conversation was about if the Treasurer replaces the First Selectman, how do we replace the Treasurer? The Commission determined that in Chapter VIII, Section 5, there are provisions for vacancies in other positions, so we would default to that provision. Mr. Marsh questioned why Chapter VIII, Section 5 was completely redlined, and Ms. Katske replied that while some verbiage was added, the section was reorganized, so much of it is the same information in a different format. Ms. Donahue stated that the order didn’t make sense so they reorganized it. Attorney Schopick summarized how that section would work. If the Treasurer is the Acting First Selectman, there’s no vacancy in the

Treasurer's office. You have the possibility of either the Treasurer or the Council Chair ascending to the position of First Selectman on a more permanent basis. If it's a Council member, the Council replaces the person under the rules of the Council. If the Treasurer becomes permanently the First Selectman, there's a vacancy in the office of Treasurer and a vacancy is declared, and the new First Selectman (and former Treasurer) can appoint someone to that position if there's no petition for special election filed, and if a petition is filed, then the process goes along in accordance with the Charter. This is not different from the existing Charter. The Charter says that a First Selectman who is absent can appoint the Treasurer or the Chairman of the Council if the Treasurer is not available or doesn't accept the position.

The next change is in Chapter VII, Section 1A, which is not in the report but is on page 27 of the redlined Charter. Ms. Donahue stated that the Commission tried to specify what happens with the appointment of alternates to the Board of Finance. The Commission had said one Republican, one Democrat, no more than two from either party, and they looked at a number of ways to address this, but there were multiple ways to interpret anything they came up with. In the end, the Commission decided to take out that recommendation and recommend that the Town Council address it in an ordinance. Attorney Schopick noted that there is an existing procedure in the Town Code.

Next is Chapter VII, Section 17, the Ethics Commission, on pages 14-15 of the report and pages 36-37 of the redlined Charter. Ms. Donahue stated that the Commission decided to abandon a number of its recommendations, including the inclusion of a materiality threshold for ethical violations, discretionary referral of criminal matters to appropriate authorities, and creation of a discretionary right to dismiss any matter in which the respondent is not afforded an opportunity to cross-examine the complainant and witnesses against the respondent. While the Commission strongly favors the concept of materiality and the discretionary right to dismiss, it believes those issues are better suited to the Trumbull Code of Ethics and urges the Council to include them in any subsequent revision to the Code. The Code of Ethics has not been revised since 1989. The Commission strongly recommends that the Town Council undertake a review of the Code to ensure that it aligns with current practices, state statutes, and this Charter. The changes the Commission kept in include: restoring subsections (i)-(iv) of subsection D, which are also in the Code, but the Commission wants to ensure that those fundamental rights of due process survive any subsequent changes to the Code; clarified the definition of "town personnel"; added rules of procedure; and made reference to the CT general statute governing ethics commissions' activities. The Commission created some clarity but the Code should govern these issues and should be reviewed periodically. Mr. McCann stated that one additional change made was under subsection D(ii). The Charter provided for a hearing in public or private, but that isn't permissible under the Freedom of Information Act. Mr. Marsh asked if these changes were made as a result of comments made by Attorney Lee, Chairman of the Ethics Commission. Ms. Donahue confirmed that the Commission looked carefully at his comments.

The last change was Chapter VIII, Section 9, Bonded Debt, on pages 22-23 of the report and pages 52-53 in the redlined Charter. Ms. Donahue stated the original intent was to create a process for holding a referendum on bonded debt. The \$15 million threshold and the need for a referendum were established in the 2011 charter revision, but no process was put in place for

actually doing a referendum. The Commission added language to deal with that and also added a provision adjusting the threshold amount based on the CPI. The Commission believes both those things should remain, but should be separated in the way they appear on the ballot. The Commission believes the CPI calculation should be a separate question but the procedural wording should be included with the other charter changes. The recommendation is for there to be three ballot questions: the Board of Education, the CPI on bonded debt, and everything else.

Mr. Scinto stated that he watched the June 15 Commission meeting and noted that Mr. Tesoro had stated there was no referendum question on the ballot in 2012. Mr. Tesoro clarified that he misspoke and there were in fact multiple questions on the ballot. Mr. Scinto read the three ballot questions. The bonding referendum question got 67% of the vote, which is why he wants financial issues to be a separate question. Ms. Katske explained that explanations are required to be provided by statute. The Town Clerk creates explanations and there may be publication requirements. We can look at the statute before the full Town Council meeting. Attorney Schopick clarified that the proposed changes are required to be published at least once in the newspaper with a notice that a complete copy of the charter is available in the Town Clerk's office and a copy shall be mailed to any person who requests a copy. The practice has been to make a record of the changes and their implications available to the public. They will be posted on the Town website along with the proposed changes and explanation of the changes.

Mr. Scinto asked if there are any state questions on the ballot. Ms. Gaudio stated she doesn't believe so.

Mr. Lemoine asked about Chapter VII, Section 21, pages 38-39 regarding the Commission on Aging. The Commission on Youth, in Chapter VII, Section 22, has language in paragraph B stating that "The Commission shall act as an advisory board to the Director of Parks and Recreation and any other Town department, except the Board of Education, charged with providing services and programs to the youth of our community. The Commission shall act as an advocate for youth programs and expenditures before the Board of Finance and Town Council during budget preparation." This language should be included in the Commission on Aging as well. He has been dueling with Parks & Rec on senior matters and the Commission on Aging should advocate for the seniors on these issues. Ms. Donahue stated that she has no objection to adding that language. Ms. Katske stated that the section does mention recreation for older adults. Mr. Lemoine thought that stronger language clearly spelling out an advocacy role would help. Mr. Tesoro and Mr. Marsh agreed. Mr. Marsh inquired about the process for making that change and Attorney Schopick stated that the Commission can make the change in the final report.

Attorney Schopick stated that there is a different statute requiring explanatory language to be provided to the voters as discussed above.

Ms. Gaudio thanked the Commission for its work and for taking the Council's feedback and either incorporating it or providing thoughtful reasons why it is not incorporated. Mr. Marsh agreed.

Regarding next steps, Ms. Katske stated that the Commission will meet right after this meeting to finalize its report and should have the final report soon. Council Chair Thornton stated that this is a resolution on the agenda and since the L&A Committee considered it tonight, it would be redundant to consider it at the regularly scheduled meeting next week, so it will be considered as a resolution before the full Council. Mr. Marsh stated he would probably move for it to be passed without recommendation in any event.

First Selectman Tesoro stated that the Commission did a commendable job during these challenging times and she echoed the statements made earlier about the Commission's work.

Mr. Scinto asked if a resolution is needed to move it forward. Attorney Schopick stated there will be a resolution on the Council agenda. Under the statute, this meeting is called a "conference." The Commission will meet to finalize the report and present it to the Council to be voted on at the August 3 meeting. It will not be discussed at the committee level.

Moved by Ms. Gaudiano, seconded by Mr. and approved by unanimous consent to adjourn at 7:53 p.m.

Respectfully submitted,

Cynthia Katske
Substitute Clerk