

**CHARTER REVISION COMMISSION
MINUTES FOR REGULAR MEETING
APRIL 10, 2008**

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The Charter Revision Commission conducted a meeting on Thursday, April 10, 2008, at 7:00 p.m., in the Council Chambers of the Town Hall, 2725 Main Street, Stratford, CT.

Members Present: John A. Florek, Beth McMellon, Benjamin S. Proto, John E. Fahan, Richard Fredette, Jon A. August, Eric W. Booth, James Orlowe and Karen Rodia.

Others Present: Town Attorney Richard J. Buturla

CALL TO ORDER

- Chairman Florek called the meeting to order at 7:07 p.m.

Distributed to Commission Members:

1. *Copy of City of Milford Charter.*
2. *Legal Opinion from Attorney Kevin C. Kelly, dated February 19, 2003, regarding "Severability of 1921 Special Act Charter Provisions."*
3. *CCM information regarding Forms of Government in Connecticut (submitted by Ms. Rodia);*
4. *Legal Opinion dated April 10, 2008 regarding "Impeachment/Suspension Procedure/ Discipline for Chief Elected Official Violates the Charter, Collective Bargaining Agreement, or Fails to Fund Approved Expenditure."*
5. *Legal Opinion dated April 10, 2008 regarding "Definition of 'Felony' and Application to Non-Penal Code Offense."*
6. *Town Attorney fee information for the last five years as provided by the Finance Dept.*

1. **APPROVAL OF MINUTES:**

a. **Meeting of April 3, 2008**

- MR. FREDETTE MADE A MOTION TO APPROVE THE MINUTES OF APRIL 3, 2008. MS. RODIA SECONDED. Discussion followed.

- Mr. Fahan noted two clarifications of the Minutes for the record. On the top of page 5, in the first full paragraph, although the Council Chair would not have to vacate his Council seat, **the Chair would not be able to vote on the Council** while serving as Temporary Mayor. On page 6, referring to the second sentence of the second paragraph, Mr. Proto had proposed that the Council would call a special election **at the next regular municipal election** to fill the remainder of the Mayor's term.

- THE MINUTES OF APRIL 3, 2008, AS AMENDED BY MR. FAHAN, WERE APPROVED 9-0.

2. **THE FORMATION OF SUB-COMMITTEES** - No business.

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3. SOURCES OF INFORMATION FOR THE COMMISSION.- No business.

4. REPORT FROM/QUESTIONS TO TOWN ATTORNEY

- Regarding the CRC's earlier request for an opinion as to whether sitting mayor's have the authority to take control of the Police Dept during emergencies, Attorney Buturla referenced his earlier opinion of December 31, 2007, regarding the appointment of Councilman Kubic by the Council to serve as mayoral substitute. The Attorney General has ruled that in Connecticut only certified, trained police officers can take command of the Police Department. This applies to elected officials, including mayors. Therefore, it is Attorney Buturla's recommendation that the language in Section 1.2 of the Charter, referring to the Mayor taking control of the police, be stricken.

- Secondly, there is no statutory basis for the sanctions of impeachment, suspension, or discipline of a chief elected official. However, the judicial remedies of Quo Warranto and Mandamus may apply as discussed in Attorney Buturla's legal opinion.

- As to the definition of "*felony*," the statutes are not clear although a felony implies a term of imprisonment in excess of one year or a large fine. However, a motor vehicle violation/infracton or DUI conviction are not defined as "crimes" in the statutes and may not automatically carry prison sentences of that duration. Attorney Buturla's suggestion would be to clarify Section 1.3(5) of the Charter to read, "*[I]f the Mayor is convicted of a felony or any crime, violation or offense of the law authorizing a term of imprisonment in excess of one year during his or her term of office....*"

5. DISCUSSION OF AREAS FOR POSSIBLE AMENDMENT

5.1. PRIORITY AREAS [TABLED]

- a. Power of Investigation (§ 2.2.15, etc.)
- b. ~~Veto power of the Mayor (§ 1.2(6), § 2.2.2, § 2.2.9, etc.)~~
- c. Powers of Mayor/Council (§ 1.2, § 2.2.1, etc.)
- d. Appointments to Boards/Commissions.
- f. Line of Succession in the event of vacancy/disability/absence of Mayor (§ 1.2, § 1.3, § 5.1.1, etc.).
- g. Hiring/firing/administration of Town Employees (Section 5, etc.).
- h. Office of the Town Attorney (Section 3, etc.).
- r. Length of Mayor's term (§ 1.1, etc.).

5.2. OTHER AREAS FOR CONSIDERATION [TABLED]

- j. Employment of CRC members (§ 9.8.1). **[Tabled pending legal opinion]**
- k. Planning and Zoning Boards (§ 4.2.1, § 4.2.2, § 4.2.5, § 4.2.6).

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l. Emergency fiscal measures/Rainy Day Fund/Council oversight of spending (§§ 6.2.1 - 6.2.3).

n. Budget referendum.

o. Salary/stipend/expenses of Council members (§ 2.1.6).

p. Other employment/business pursuits of Mayor (§1.2).

q. Relation of delinquent taxes to appointed/elected officials. **[Tabled pending**

legal opinion]

s. Chief Administrative Officer (§§ 5.1.1 - 5.1.4).

t. Residency requirement for Department Heads.

u. Composition of Town Council (§ 2.1.1, § 2.1.5, § 1.2, § 1.3).

w. Police Commission.

x. Technical Changes

y. Council Term

z. Term Limits for Mayor, Council, Commission Members.

- UPON MOTION BY MR. PROTO AND SECONDED BY MR. FREDETTE, ITEMS 5.1 AND 5.2 WERE TAKEN OFF THE TABLE IN THEIR ENTIRETY. MOTION CARRIED 9-0.

- Based on Town Attorney Buturla's opinion, MS. RODIA MOVED TO STRIKE THE FOLLOWING SENTENCE FROM SECTION 1.2 OF THE CHARTER: "*IN TIME OF PUBLIC DANGER OR EMERGENCY HE OR SHE MAY, WITH THE CONSENT OF THE COUNCIL, TAKE COMMAND OF THE POLICE AND MAINTAIN ORDER AND ENFORCE THE LAWS.*" MR. FAHAN SECONDED THE MOTION TO STRIKE AND IT CARRIED 9-0.

- The CRC next took up the issue of whether the Mayor should be allowed to hold outside employment or other business interests (Section 1.2). One concern is that the current Charter language limits the potential pool of candidates as a small businessman would have to give up his business if elected Mayor. Mr. Orlowe was concerned about the possibility of the Mayor's outside employment or business interest doing business with the Town. Chairman Florek noted that the Stratford Code has an Ethics Ordinance and three Conflict of Interest Ordinances. There is also an Ordinance that specifically allows Council members to participate in the competitive bidding process with the Town.

- Mr. Booth stated that the other Charters he had looked at don't have any specific language dealing with this issue. He doesn't have a problem with the Mayor having outside business interests as long as there is oversight such as the Ethics Commission. Chairman Florek stated that the Bridgeport Charter doesn't preclude other business interests or employment. Instead it talks about the Mayor devoting the full time necessary to the duties of the office. Mr. Proto suggested tweaking the Bridgeport Charter language.

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- Both Ms. Rodia and Mr. Fredette questioned what would happen if the Mayor neglected his mayoral duties for his other business interests? Mr. Proto responded that you need to trust the people you elect. Most chief elected officials work very hard, even if you don't agree with their policies. Mr. Proto felt that the CRC is attempting to legislate the Charter. The Charter is the 'constitution' of the municipality. It is up to the Council to enact legislation to enforce and fill out the Charter provisions.

- Mr. Proto's earlier proposal had barred the Mayor from holding other employment, but he was not against the Mayor being the owner of a business or majority stockholder, etc., as long as he was not the managing partner. Also, the current Charter doesn't say anything about outside business interests. It just prohibits the Mayor from engaging in other employment. Chairman Florek doesn't like outside employment, but he doesn't have a problem with outside business interests.

- Borrowing language from the Bridgeport Charter, Mr. August suggested the following amendment to Section 1.2 of the Charter: *"The Mayor shall devote the full time necessary to the duties of the office and shall be responsible for the proper performance of their duties by all the appointive officers and departments and employees, and shall not engage in any other ownership of a business which significantly impacts his ability to do so."* Mr. August is in favor of keeping the language generic and not trying to micro-manage.

- Mr. Proto questioned the use of the word *"their"* in the sentence Mr. August just quoted from the Bridgeport Charter. He suggested replacing "their duties" with *"...the proper performance of the duties of all department heads, etc..."*

- Mr. Fahan suggested adding the words *"or interest"* after *"...any other ownership of a business."*

FOR DISCUSSION PURPOSES, MR. AUGUST MOVED THAT THE OUTSIDE EMPLOYMENT OF THE MAYOR LANGUAGE IN SECTION 1.2 BE MODIFIED AS FOLLOWS: *"THE MAYOR SHALL DEVOTE THE FULL TIME NECESSARY TO THE DUTIES OF THE OFFICE AND SHALL BE RESPONSIBLE FOR THE PROPER PERFORMANCE OF THE DUTIES BY ALL THE DIRECTORS, DEPARTMENT HEADS AND EMPLOYEES, AND SHALL NOT HOLD ANY OTHER OWNERSHIP OR BUSINESS INTEREST WHICH SIGNIFICANTLY IMPACTS HIS OR HER DUTY TO DO SO."* MR. FAHAN SECONDED THE MOTION.

- Mr. Booth stated that he wanted to look at the language in other municipal Charters before voting on this motion. Ms. McMellon asked why the CRC was expanding the original text by adding new language about the Mayor being responsible for the performance of other employees? The duties of the Mayor are already listed separately in Section 1.2.

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- Mr. August will e-mail his proposed language to the CRC members for Saturday's meeting. UPON MOTION BY MR. BOOTH AND SECONDED BY MR. FREDETTE, THE CRC VOTED 9-0 TO TABLE MR. AUGUST'S MOTION UNTIL SATURDAY.

[The CRC recessed at 9:06 p.m. and reconvened at 9:20 p.m.]

- Salary increases for the Mayor had been brought up by both Mr. Feehan and Mayor Miron. Section 2.2.5 of the Charter states that the Mayor's salary is not subject to any interim increase or decrease. Ms. Rodia explained that the last CRC was concerned about a new Council changing the Mayor's salary every two years.

- Mr. Fredette stated that the Mayor's salary is too low and this limits the pool of candidates. He is in favor of some kind of percentage increase during the Mayor's term with a cap. Mr. Proto agreed with a salary increase over the four years as the Town Managers always received raises. Ms. Rodia suggested that the Council set a salary schedule for the next four years at the beginning of the Mayor's term with built-in steps. Mr. Proto disagreed that the current Charter language allows this. Chairman Florek is not in favor of putting a salary cap or Index in the Charter itself.

- Mr. Proto also suggested forming a Mayoral Salary Commission to make recommendations to the Council. Another alternative would be to have the incoming Council set the Mayor's salary every two years with the stipulation that the salary could not be decreased over the Mayor's term.

- Many members were in favor of leaving the issue of the Mayor's salary to the Council's discretion. However, Mr. Proto emphasized that you needed a mechanism in place to set the parameters of the Mayor's salary in order to create certainty and structure in the Office of the Mayor. Chairman Florek agreed that a mayoral candidate needs to know what the salary will be before committing to run for office. Otherwise, you would limit the pool of potential candidates.

- Chairman Florek suggested that near the end of the Mayor's term, the Council adopt a salary schedule for the incoming Mayor for the next four years when adopting the Budget. This would take all the politics out of it. Mr. Proto would add a provision that the next Town Council cannot change the salary schedule for the four year period. Chairman Florek will draft language for the CRC to review on Saturday.

- Mr. Fahan brought up the Power of Investigation (Section 2.2.15) and Attorney Buturla's opinion that the Council could not issue subpoenas. He suggested adding a sentence to this section spelling out that the Town Council has the authority, by a two-thirds vote of its entire membership, to fund an investigation. Mr. Proto would also add language that the Council has the authority to hire professional services to assist in the investigation. Town Attorney Buturla stated that the Council already has the budgetary

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authority to appropriate and transfer money for an investigation, but it is not clear under the current Charter who the Council can hire (with the exception of the Council Clerk) since the Mayor has all executive and administrative authority. Chairman Florek noted that Councils have hired outside third parties such as auditors, architects, engineers, etc.

- Chairman Florek pointed out that the real issue is clarifying what powers of investigation the Council has, and maybe adding language that the Council can retain experts to assist in the investigation.

- Mr. August suggested that the entire CRC might not be comfortable with Attorney Buturla's opinion regarding subpoena power, and the CRC may want to leave subpoena power in the Charter and let the courts decide the issue.

- Mr. Proto called attention to the strong language in Section 4, Chapter 9, of the Bridgeport Charter regarding the City Council's power to procure information. The Bridgeport Charter doesn't mention the word "subpoena," but it makes it an affirmative duty for City officers and employees to turn over requested documents. This language would also bolster a mandamus action. Mr. Proto will work on a revised draft of Section 2.2.15 for Saturday's meeting.

- UPON MOTION BY MR. PROTO AND SECONDED BY MR. FREDETTE, ITEMS 5.1 AND 5.2 WERE PUT BACK ON THE TABLE IN THEIR ENTIRETY.

6. NEW BUSINESS/FURTHER SUGGESTIONS AS TO POSSIBLE TOPICS

- No new business.

7. ADJOURNMENT

- ON MOTION BY MS. RODIA AND SECONDED BY MR. FREDETTE, THE MEETING ADJOURNED AT 10:39 P.M.

Respectfully submitted,

Gail J. Nobili, Secretary