

**CHARTER REVISION COMMISSION
MINUTES FOR REGULAR MEETING
APRIL 12, 2008**

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The Charter Revision Commission conducted a meeting on Saturday, April 12, 2008, at 10:00 p.m., in the Police Dept, 900 Longbrook Avenue, Stratford, CT.

Members Present: John A. Florek, Beth McMellon, Benjamin S. Proto (left 12:00 [p.m.]), John E. Fahan, Richard Fredette, Jon A. August (arrived 11:20 a.m.), Eric W. Booth (left 12:07 p.m.), James Orlowe and Karen Rodia.
Others Present: Attorney Bryan L. LeClerc (Town Attorney's Office).

CALL TO ORDER

- Chairman Florek called the meeting to order at 10:12 a.m.
- 1. THE FORMATION OF SUB-COMMITTEES - No business.
- 2. SOURCES OF INFORMATION FOR THE COMMISSION.- No business.
- 3. REPORT FROM/QUESTIONS TO TOWN ATTORNEY - No report.
- 4. DISCUSSION OF AREAS FOR POSSIBLE AMENDMENT
 - 4.1. 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.).
 - 4.2. 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).
 - 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

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

- The CRC reviewed the Draft Charter changes prepared by the Town Attorney's Office.

- MR. PROTO MOVED THAT THE LANGUAGE IN SECTION 1.2, SUBSECTION 5, BE AMENDED TO CLARIFY THAT THE MAYOR CAN ONLY VOTE ON ORDINANCES AND RESOLUTIONS IN THE EVENT OF A 5-5 TIE.: MS. McMELLON SECONDED AND THE MOTION CARRIED 8-0 (with Mr. August absent).

- MR. PROTO MOVED THAT THE LAST SENTENCE OF THE FIRST PARAGRAPH OF SECTION 1.2 (*"During his or her absence or disability....selected by the Council."*), BE STRICKEN. MS. RODIA SECONDED AND THE MOTION CARRIED 8-0 (with Mr. August absent).

- Chairman Florek noted that in Section 1.2, subsection 6, the words "*...or any portion thereof...*" should be stricken. The Town Attorney's Office needs to add to the Draft the language adopted by the CRC on March 13.

- The CRC next discussed the changes to Section 1.3. The language the CRC adopted is not reflected in Subsection (a) regarding the Temporary Absence or Disability of the Mayor. Also, the language in Subsection (b)(4) dealing with the inability of the Mayor to communicate with the CAO should be in Subsection (a). Mr. Proto suggested that Subsection (b)4 be revised to state that if the Mayor is absent for any reason for a continuous period of not less than ninety days, he or she shall be deemed to have vacated the office (period). Attorney LeClerc asked what happens if the Mayor is recuperating at home and is absent from the office, but can still communicate with the CAO? For clarity, the term "absence" needs to be defined in both Subsections.

- Mr. Fahan brought up the issue of whether it would be micro-managing to specify that the Council Chair makes the decision that the Mayor is temporarily absent? Mr. Proto again stated that the Charter is only a broad outline and it is the function of the Council to adopt Ordinances to implement it. The CRC discussed relying on the CAO, as a professional, to notify the Chair if the Mayor is unable to communicate rather than adopting a formal trigger. Ms. Rodia asked about suggesting to the Council in the Final Report that an ordinance be adopted.

- MR. PROTO MOVED TO AMEND SECTION 1.3(b)(4) along the lines that if the Mayor is absent for his office for any reason, for a continuous period of not less than ninety days, he shall have vacated the office. Mr. Fredette seconded the motion. It was noted that the CRC had already adopted language revising this Section at its April 3 meeting Mr. Proto moved to reconsider the previous language because he questioned the meaning of the words "*temporarily disabled for ninety days*"? Discussion followed.

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- MR. PROTO MOVED TO AGAIN AMEND SECTION 1.3(b)(4) AS FOLLOWS: *“IF THE MAYOR IS ABSENT OR MEDICALLY IMPAIRED SUCH HE CANNOT PERFORM THE DUTIES OF THE OFFICE OF MAYOR, FOR ANY REASON FOR A CONTINUOUS PERIOD OF NOT LESS THAN NINETY DAYS, IT SHALL BE DEEMED THAT THE MAYOR HAS VACATED THE OFFICE. BOTH MS. RODIA AND MR. FREDETTE SECONDED. MOTION CARRIED 8-0 (with Mr. August absent).*

To make Subsection (a) consistent with Subsection (b), MS. RODIA MOVED TO AMEND SECTION 1.3(a) AS FOLLOWS: REPLACE THE WORDS “...TEMPORARY ABSENT OR TEMPORARILY DISABLED...” WITH “TEMPORARILY ABSENT OR TEMPORARILY MEDICALLY IMPAIRED.....” MR. ORLOWE SECONDED AND THE MOTION CARRIED 8-0 (with Mr. August absent).

- Next the CRC discussed Section 1.3, Subsection (b)(6), the permanent or progressive incapacity of the Mayor. The incapacity should directly affect the Mayor’s ability to perform the duties of the office

[Note: Mr. August was now present.]

- MR. BOOTH MOVED, SECONDED BY MS. RODIA, TO AMEND SECTION 1.3(b)(6) AS FOLLOWS: *“PERMANENT OR PROGRESSIVE INCAPACITY OF THE MAYOR, SUCH THAT HE CANNOT PERFORM THE DUTIES OF THE OFFICE OF MAYOR, AS DETERMINED.....” MOTION CARRIED 9-0.*

- The CRC again brought up Section 1.3, Subsection (a). On March 29, it had voted for the Council to select someone from the Council to assume the office of Mayor in the event both the Mayor is Temporarily Absent or Disabled and the Council Chair is also unavailable. However, a special meeting of the Council needs 48 hours notice per Section 2.1.3 of the Charter.

- MS. RODIA MOVED TO AMEND THE FIRST PARAGRAPH OF SECTION 1.3, SUBSECTION (a) AS FOLLOWS: *“THAT IN THE EVENT THE MAYOR IS TEMPORARILY ABSENT OR TEMPORARILY MEDICALLY IMPAIRED AND IS, BECAUSE OF SUCH ABSENCE OR IMPAIRMENT, UNABLE TO COMMUNICATE WITH THE CAO OR UNABLE TO PERFORM THE DUTIES OF THE OFFICE OF MAYOR, THE CHAIRMAN OF THE COUNCIL, OR IN THE EVENT THE CHAIRMAN OF THE COUNCIL IS UNAVAILABLE, AND UNTIL SUCH TIME AS THE CHAIRMAN OF THE COUNCIL BECOMES AVAILABLE, THE COUNCIL CHAIRMAN PRO TEMPORE, SHALL ASSUME THE OFFICE OF MAYOR, AND SHALL POSSESS ALL OF THE POWERS OF THE OFFICE OF MAYOR, EXCEPT THAT HE OR SHE SHALL NOT HAVE THE POWER TO TERMINATE OR PERMANENTLY HIRE ANY DIRECTOR OR DEPARTMENT HEAD, AND SHALL PERFORM THE DUTIES OF MAYOR UNTIL SUCH TIME AS THE MAYOR IS ABLE TO RESUME THE OFFICE OF MAYOR.” MR. PROTO SECONDED THE MOTION AND IT CARRIED 9-0.*

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- In the last paragraph of Section 1.3, following subsection (b)(6), the second sentence of the Draft should be amended to read, *“After such vacancy occurs, the Council Chairman shall serve as Mayor until a successor Mayor is elected.”*

- Section 2.2.2 of the Draft should be amended as follows, *“If the Mayor shall veto the annual budget appropriation ordinance, or any portion thereof, the Council may, within fourteen days following said veto, override the Mayor’s veto by the affirmative vote of seven members. If the Mayor shall veto any other ordinance, the Council may, at any time from the date of the veto, up to and including the close of business at its next regular meeting following said veto, override the Mayor’s veto by the affirmative vote of seven members of the Council.”*

- In Section 2.2.8, the Town Attorney needs to clarify that the Mayor can be the sixth affirmative vote in the event of a 5-5 tie in the passage of a resolution or ordinance.

- Section 2.2.9 must be changed to reflect that if the Mayor fails to sign any ordinance within thirty days, it shall constitute an approval of the ordinance. Mr. Booth pointed out that the last sentence of Section 2.2.9 is now inconsistent. This will be amend to read, *“No ordinance shall go into effect unless signed by the Mayor, deemed approved pursuant to the provisions of this Section, or passed over his or her veto by an affirmative vote of not less than seven members of the Council.”*

- Before Mr. Booth left at 12:07 p.m., he advised the CRC that he had reviewed other municipal Charters but could not find any specific language dealing with the outside employment of the Mayor.

[CRC recessed at 12:09 p.m. and reconvened at 12: 20 p.m.]

- MR. FREDETTE MOVED, SECONDED BY MR. ORLOWE, TO TAKEN ITEMS 4.1 AND 4.2. OFF THE TABLE IN THEIR ENTIRETY. MOTION CARRIED 7-0 (with Mr. Proto and Mr. Booth absent).

- MR. AUGUST’S MOTION REGARDING THE OUTSIDE EMPLOYMENT OF THE MAYOR WAS TABLED AT THE APRIL 10 MEETING. Both Mr. August and Ms. Rodia stated that they had been approached by members of the public after Thursday’s meeting about the Mayor being full time and having outside business interests. The public was concerned about patronage through the Mayor’s office. As a practical matter, however, Mr. August didn’t really believe there would be any difference if the Mayor’s business was run by a partner or family member.

- There is an Ethics Ordinance and three Conflict of Interest Ordinances, it is not clear what sanctions, if any, can be imposed on the Mayor. Chairman Florek asked for a Town Attorney opinion clarifying the sanctions.

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- MR. FREDETTE MOVED TO RE-TABLE MR. AUGUST'S MOTION UNTIL RECEIPT OF THE TOWN ATTORNEY'S OPINION. MS. RODIA SECONDED AND THE MOTION CARRIED 7-0 (with Mr. Proto and Mr. Booth absent).

- The CRC reviewed the proposed revisions to Section 2.2.15 e-mailed to everyone by Mr. Proto. Mr. Fahan questioned whether an investigation should be triggered by a two-thirds vote of the entire Council? Chairman Florek didn't think this was necessary.

- Mr. August questioned whether the Charter should spell out the power of the Council to appoint a Town Attorney? Chairman Florek responded that there is already case law on this issue. If two boards have a "concrete" adverse interest, then they have the right to hire their own counsel. Chairman Florek did not think the Charter, as written, prevented the Council from hiring its own consultants, including an attorney. The issue is what happens if the Council's attorney disagrees with the Town Attorney? Our Charter states that the Town Attorney makes the final determination.

- Ms. McMellon raised the issue of the power of the Mayor to investigate? The Mayor is already an ex officio member of all Boards and Commissions and has the power to get information and documents from his staff and Town employees.

MS. RODIA MOVED TO ADOPT MR. PROTO'S LANGUAGE TO REPLACE SECTION THE LANGUAGE IN SECTION 2.2.15 OF THE CHARTER, AS FOLLOWS:
"POWER TO INVESTIGATE AND PROCURE INFORMATION. THE COUNCIL SHALL HAVE THE POWER TO INVESTIGATE TOWN AFFAIRS. IN EXERCISE THIS POWER, THE COUNCIL SHALL HAVE THE POWER TO REQUIRE ANY TOWN ELECTED OR APPOINTED OFFICIAL, OFFICER, DIRECTOR, DEPARTMENT HEAD, EMPLOYEE, TO FURNISH THE COUNCIL OR ITS DESIGNEE ALL INFORMATION, CONTRACTS, REPORTS, PAPERS, DOCUMENTS, RECORDS, OR OTHER MATERIAL WHICH IS IN THE POSSESSION OF THE ELECTED OR APPOINTED OFFICIAL, OFFICER, DIRECTOR, DEPARTMENT HEAD, EMPLOYEE, AND WHICH, IN THE OPINION OF THE COUNCIL IS NECESSARY TO ENABLE THE COUNCIL TO DISCHARGE THE DUTIES IMPOSED UPON IT BY THIS CHARTER, OR TO PROPERLY AND COMPLETELY INVESTIGATE TOWN AFFAIRS. IT IS HEREBY MADE A DUTY AND OBLIGATION OF ALL TOWN ELECTED OR APPOINTED OFFICIALS, OFFICERS, DIRECTORS, DEPARTMENT HEADS, AND EMPLOYEES TO PROVIDE THE COUNCIL WITH THE REQUESTED INFORMATION, CONTRACTS, REPORTS, PAPERS, DOCUMENTS, RECORDS, OR OTHER MATERIAL WHEN SO REQUIRED BY THE COUNCIL. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHARTER, THE COUNCIL SHALL HAVE THE RIGHT TO APPROPRIATE FUNDS, EITHER BY WAY OF THE BUDGET OR BY SPECIAL APPROPRIATION TO FUND ANY COSTS AND EXPENSES WHICH MAY, IN THE OPINION OF THE COUNCIL, BE NECESSARY, PROPER AND REQUIRED TO CONDUCT THE INVESTIGATION OR TO PROCURE ANY INFORMATION,

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CONTRACTS, REPORTS, PAPERS, DOCUMENTS, RECORDS, OR OTHER MATERIAL. "MR. FREDETTE SECONDED AND THE MOTION CARRIED 7-0 (with Mr. Proto and Mr. Booth absent).

- MS. RODIA MOVED, SECONDED BY MR. ORLOWE, TO PUT ITEMS 4.1 AND 4.2. BACK ON THE TABLE IN THEIR ENTIRETY. MOTION CARRIED 7-0 (with Mr. Proto and Mr. Booth absent).

5. NEW BUSINESS/FURTHER SUGGESTIONS AS TO POSSIBLE TOPICS

- No new business.

6. ADJOURNMENT

- ON MOTION BY MR. FREDETTE AND SECONDED BY MS. McMELLON, THE MEETING ADJOURNED AT 1:02 P.M.

Respectfully submitted,

Gail J. Nobili, Secretary