

**CHARTER REVISION COMMISSION
MINUTES FOR REGULAR MEETING
APRIL 26, 2008**

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The Charter Revision Commission conducted a meeting on Saturday, April 26, 2008, in the Police Dept, 900 Longbrook Avenue, Stratford, CT.

Members Present: John A. Florek, Beth McMellon, Benjamin S. Proto (left 11:47 a.m.), John E. Fahan, Richard Fredette, Jon A. August, Eric W. Booth, James Orlowe and Karen Rodia.

Others Present: Attorney Warren Holcomb (Town Attorney's Office).

CALL TO ORDER

- Chairman Florek called the meeting to order at 10:05 a.m.

Distributed to Commission Members:

1. *Drafted changes to Charter (prepared by Town Attorney's Office).*
2. *Legal Opinion dated April 25, 2008 regarding "Actions the Ethics Commission Can Impose on a Public Official."*
3. *List of Non-Union Town of Stratford Positions (provided by Attorney Holcomb).*

1. **APPROVAL OF MINUTES** - April 17, 2008

- MR. FREDETTE MOVED, SECONDED BY MS. McMELLON, TO APPROVE THE MINUTES OF APRIL 17, 2008. Discussion followed.

- Mr. Fahan noted a clarification of the Minutes for the record. In the second sentence of the fourth paragraph on page 5, he would add the word "additional" so that sentence now reads ".....*or the Council could have the power to make some **additional** appointments directly.*"

- APPROVAL OF THE MINUTES OF APRIL 17, 2008, AS AMENDED, CARRIED 7-0 (with Mr. Proto and Mr. Booth abstaining because they were absent).

2. **THE FORMATION OF SUB-COMMITTEES**

- Mr. Proto has been working with Attorney Buturla on the technical changes in the Charter. These changes will be highlighted in blue on the working draft. They also found some substantive issues that need to be addressed. One is that the Board of Assessment Appeals should have alternates. Chairman Florek noted that the Assessor had recently called him about this same thing.

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

4. **REPORT FROM/QUESTIONS TO TOWN ATTORNEY**

- Attorney Holcomb reviewed the revisions to Section 1.3(c) of the Charter. He modified the CRC's motion to account for the vacancy in the office of Mayor occurring on the two year anniversary of the Mayor's term.

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- Mr. August pointed out that Section 1.3(a) provides for the Temporary Mayor to be compensated after forty-eight consecutive hours in office. However, there is no such provision in the event of a permanent vacancy in the office of Mayor.

- MR. AUGUST MOVED TO AMEND SECTION 1.3(c) TO PROVIDE THAT IF THE COUNCIL CHAIR SERVES AS MAYOR IN A PERMANENT CAPACITY, HE SHALL BE COMPENSATED ACCORDINGLY. MR. FREDETTE SECONDED THE MOTION AND IT CARRIED 9-0.

- MS. RODIA MOVED, SECONDED BY MR. FAHAN, TO RECONSIDER THE LANGUAGE IN SECTION 1.5(b) MOTION CARRIED 9-0.

- Ms. Rodia suggested giving the Council 45 to 60 days to confirm or reject a mayoral appointment instead of 30 days. Mr. Fredette felt that 30 days was long enough; otherwise, the appointment process would drag on.

- MR. PROTO MOVED TO APPROVE THE ORIGINAL 30 DAY LANGUAGE MR. FREDETTE SECONDED AND THE MOTION CARRIED 9-0.

- Mr. August questioned the grammatical construction of the third sentence of Section 1.5(b). He thought the word "or" was used too much. The CRC also discussed whether this sentence means that the Council votes on mayoral nominations which are "required by state or federal law" to be made by the Mayor, or does this refer to boards and commissions "required by state or federal law?"

- MR. PROTO MOVED TO AMEND THE THIRD SENTENCE OF SECTION 1.5(b) AS FOLLOWS: "ANY PERSON NOMINATED TO ANY SUCH BOARD, COMMISSION, AUTHORITY, AGENCY OR OFFICE WHICH HAS THE AUTHORITY TO SPEND ANY APPROPRIATED FUNDS, TO ENTER INTO AN AGREEMENT, OR TO RENDER A FINAL DECISION ON ANY MATTER, WITHOUT THE CONSENT OF THE TOWN COUNCIL, OR WHICH BOARD, COMMISSION, AUTHORITY, AGENCY OR OFFICE IS ESTABLISHED PURSUANT TO STATE OR FEDERAL LAW, SHALL BE SUBJECT TO CONFIRMATION BY A MAJORITY OF THE MEMBERS OF THE TOWN COUNCIL." MR. FREDETTE SECONDED AND THE MOTION TO AMEND CARRIED 9-0.

- The CRC next discussed Section 2.1.5 and whether the Charter should specify who becomes the next Council Chairman in the event the current Chair vacates the office. The Charter states that the Chairman Pro Tempore presides in the "absence" of the Chair, but it does not address the permanent vacancy of the Chair. Mr. Fahan suggested language to the effect that if the Council Chair vacates his office, the Council Pro Tempore presides at the next regular Council meeting at which time the Council would elect a new Chairman.

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- MR. PROTO MOVED TO ADD THE FOLLOWING LANGUAGE TO THE END OF SECTION 2.1.5: *"IN THE EVENT THAT THE COUNCIL CHAIRMAN HAS VACATED HIS OFFICE, THE CHAIRMAN PRO TEMPORE SHALL SERVE AS CHAIRMAN UNTIL THE NEXT REGULARLY SCHEDULED TOWN COUNCIL MEETING AT WHICH TIME THE COUNCIL SHALL ELECT A NEW COUNCIL CHAIRMAN."* MR. BOOTH SECONDED AND THE MOTION CARRIED 9-0.

- Going back to Section 1.3(a), Mr. Proto wanted to add language prohibiting the Acting Mayor from having two votes, one as Councilman and one as Mayor, since while serving as Mayor on a temporary basis the Chairman still retains his Council seat and Council vote. Mr. Proto also questioned whether the Acting Mayor should have the veto power?

- MS. RODIA MOVED, SECONDED BY MR. FREDETTE, TO RECONSIDER THE LANGUAGE IN SECTION 1.3(a). MOTION CARRIED 9-0.

- Not everyone agreed with Mr. Proto's interpretation of Section 1.3(a). The CRC had agreed that the Council Chair should not lose his Council seat while serving as Acting Mayor, but it had never discussed whether the Acting Mayor retains his Council vote. Mr. Fahan and Mr. Booth argued that since the Acting Mayor possesses all the powers and duties of the Mayor, with the exception of the power to hire and fire, the Council Chair should lose his Council vote during the period he serves as Acting Mayor.

- MR. PROTO MOVED TO AMEND SECTION 1.3(a) TO CLARIFY THAT THE COUNCIL CHAIR DOES NOT LOSE HIS COUNCIL SEAT OR RIGHT TO VOTE ON THE COUNCIL WHILE SERVING AS ACTING MAYOR. MR. FREDETTE SECONDED. Further discussion followed.

- Mr. Fahan was concerned about one person having both executive and legislative authority. Mr. Proto said that it is done this way in other municipalities with no problem. Chairman Florek was not against the Council Chair retaining his Council vote during the temporary absence of the Mayor. Otherwise, the Chair's District would be unrepresented during this period.

- MR. PROTO'S MOTION CARRIED 9-0.

- MR. PROTO MOVED TO AMEND SECTION 1.3(a) TO CLARIFY THAT THE ACTING MAYOR DOES NOT HAVE THE POWER TO BREAK COUNCIL TIES. MR. FREDETTE SECONDED AND THE MOTION CARRIED 9-0.

- MR. PROTO MOVED TO AMEND SECTION 1.3(a) TO CLARIFY THAT THE ACTING MAYOR CANNOT EXERCISE THE VETO POWER. MR. FREDETTE SECONDED AND THE MOTION CARRIED 9-0.

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- In reviewing the language of Section 1.3(a), Mr. Proto thought that it was somewhat confusing, and suggested that Section 1.3(a) be broken up into sentences and rewritten as follows: “ 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 CHIEF ADMINISTRATIVE OFFICER OR UNABLE TO PERFORM THE DUTIES OF THE OFFICE OF MAYOR, THE CHAIRMAN OF THE COUNCIL SHALL BECOME ACTING MAYOR. 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 BECOME ACTING MAYOR. THE ACTING MAYOR 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, SHALL NOT HAVE THE RIGHT TO BREAK TIES ON THE COUNCIL, AND SHALL NOT HAVE THE RIGHT TO VETO ANY ORDINANCE OR RESOLUTION PASSED BY THE COUNCIL, AND SHALL PERFORM THE DUTIES OF MAYOR UNTIL SUCH TIME AS THE MAYOR IS ABLE TO RESUME THE OFFICE OF MAYOR. THE COUNCIL CHAIRMAN OR COUNCIL CHAIRMAN PRO TEMPORE, WHILE SERVING AS ACTING MAYOR, SHALL RETAIN THEIR COUNCIL SEAT AND ALL RIGHTS ASSOCIATED THEREWITH. [The Town Attorney will draft the language for the CRC’s review.]

- Attorney Holcomb distributed the list of Town of Stratford non-union employees.

- Mr. Proto pointed out that a Director of Safety was never appointed and the Fire Chief is not mentioned in the Charter. He questioned whether the CRC should create a Police Department, a Fire Department and an EMS Department?

- In an attempt to streamline the process, Mr. Fahan would suggest that the Health Director, Police Chief, Public Works Director, CAO, Human Resources Director, Fire Chief and Town Attorney be nominated by the Mayor, subject to Town Council approval. Finance Director and Town Clerk were also added to this list. These are the positions Mr. Fahan considers the most important. He doesn’t want to see the Council bogged down with too many appointments.

- In the alternative, Ms. Rodia had suggested that the Council approve the hiring of all Town employees. Mr. Proto agrees with Mr. Fahan that there should be a separate process for the approval of Directors and Department Heads. They comprise the Mayor’s cabinet and their decisions also impact the various Council Districts.

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- Ms. Rodia asked that Assistants to Department Heads and Directors also be approved by the Council. Mr. Fahan responded that we need to trust the Directors to hire qualified Assistants. Mr. Proto commented that Ms. Rodia was trying to micro-manage. Mr. Booth felt that Department Heads should hire their own Assistants. Mr. August added that a Council approval process is not necessary because the Mayor is only making the same appointments that in the past were made by the Town Manager.

- MR. FAHAN MOVED THAT "THE MAYOR SHALL NOMINATE THE FOLLOWING DIRECTORS: FINANCE DIRECTOR, HEALTH DIRECTOR, PUBLIC WORKS DIRECTOR, HUMAN RESOURCES DIRECTOR, TOWN CLERK, TOWN ATTORNEY, FIRE CHIEF AND POLICE CHIEF, SUBJECT TO TOWN COUNCIL APPROVAL BY A TWO/THIRDS VOTE OF THE TOTAL COUNCIL. FURTHER, IF THE MAYOR'S NOMINATION IS REJECTED, HE CAN RESUBMIT THAT PERSON'S NAME AT THE NEXT REGULAR COUNCIL MEETING. NO NAME CAN BE SUBMITTED BY THE MAYOR MORE THAN TWICE. ALL DIRECTORS SHALL SERVE AT THE PLEASURE OF THE MAYOR." MR. FREDETTE SECONDED THE MOTION FOR DISCUSSION PURPOSES.

- Ms. Rodia asked Mr. Fahan to change "shall" nominate to "*may*" nominate. She explained that there are statutes affecting the firing of the Police and Fire Chiefs. Chairman Florek pointed out that the CRC was only talking about the hiring of individuals. The CRC had not gotten to the firing issue yet. Ms. Rodia was also concerned that "shall" implies a new Mayor must fire everybody upon taking office. She also disapproved of the language that Directors "shall serve at the pleasure of the Mayor." Mr. Fahan said he would accept both of Ms. Rodia's suggestions as friendly amendments to his motion.

- Mr. August pointed out that the Mayor cannot appoint someone unless the position is already vacant. Chairman Florek agreed and said that the CRC was putting the cart before the horse. The termination process may need to be discussed first.

- MR. FAHAN MOVED TO AMEND HIS PREVIOUS MOTION TO STATE THAT THE MAYOR SHOULD NOMINATE THE FINANCE DIRECTOR, HEALTH DIRECTOR, PUBLIC WORKS DIRECTOR, HUMAN RESOURCES DIRECTOR, TOWN CLERK, TOWN ATTORNEY, FIRE CHIEF AND POLICE CHIEF, SUBJECT TO SIMPLE MAJORITY APPROVAL OF THE TOWN COUNCIL. MR. FREDETTE SECONDED THE AMENDED MOTION.

- Chairman Florek noted that there is a separate Town Attorney section already in the Charter. Mr. Booth suggested leaving the Town Attorney in the motion for now. Chairman Florek stated that he has a conflict voting on this motion as he still does legal work for the Town Attorney's Office. Mr. Fahan removed the Town Attorney position

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from his motion so Chairman Florek could vote on the concept of the Council approving the Mayor's nominations for those positions by a simple majority vote.

- MR. FAHAN'S AMENDED MOTION CARRIED 6-3 (with Mr. Orlowe and Mr. August opposed, and Mr. Proto absent). [The Town Attorney's Office will draft the language for the CRC to review.]

5. DISCUSSION OF AREAS FOR POSSIBLE AMENDMENT - never taken off table.

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).
- 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.

6. NEW BUSINESS/FURTHER SUGGESTIONS AS TO POSSIBLE TOPICS

- No new business.

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7. ADJOURNMENT

- ON MOTION BY MR. FREDETTE AND SECONDED BY MS. McMELLON,
THE MEETING ADJOURNED AT 12:17 P.M.

Respectfully submitted,

Gail J. Nobili, Secretary