

**CHARTER REVISION COMMISSION
MINUTES FOR REGULAR MEETING
MAY 1, 2008**

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The Charter Revision Commission conducted a meeting on Thursday, May 1, 2008, in the Council Chambers, Town Hall, 2725 Main Street, Stratford, CT.

Members Present: John A. Florek, Beth McMellon (left 7:19 p.m.), Benjamin S. Proto, John E. Fahan, Richard Fredette, Jon A. August, Eric W. Booth, James Orlowe and Karen Rodia.

Others Present: Attorney Richard J. Buturla (left 8:55 p.m.) and Bryan L. LeClerc (Town Attorney's Office).

CALL TO ORDER

- Chairman Florek called the meeting to order at 7:04 p.m. He took New Business out of order in order to discuss the change in schedule for next week. To accommodate Mr. Proto, the Commission will meet next week on Wednesday, May 7, at 8:00 p.m., in the Town Hall. The Thursday meeting will be canceled. Saturday will remain at 10:00 a.m. at the Police Dept.

Distributed to Commission Members:

1. *Drafted changes (red-line) to Charter (prepared by Town Attorney's Office)*
2. *Technical changes (blue-line) to Charter (prepared by Mr. Proto and the Town Attorney's Office).*

1. **APPROVAL OF MINUTES**

a. **Special Meeting of April 24, 2008**

- MR. FREDETTE MOVED, SECONDED BY MR. ORLOWE, TO APPROVE THE MINUTES OF APRIL 24, 2008. Discussion followed.

- Attorney LeClerc noted a typo on page 3 under Section (b). In the third line from the bottom of that Section "*In the event that Town Council does not vote to confirm.....*" should be a new sentence.

- APPROVAL OF THE MINUTES OF APRIL 24, 2008, AS AMENDED, CARRIED 9-0.

b. **Regular Meeting of April 26, 2008**

- MR. FREDETTE MOVED, SECONDED BY MR. ORLOWE, TO APPROVE THE MINUTES OF APRIL 26, 2008. Discussion followed.

- Mr. Fahan noted that both his motions on page 5 should have included the Chief Administrative Officer. Also, on page 6, his Amended Motion carried 6-2 as Mr. Proto was not present.

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- Ms. Rodia asked that Mr. Fahan's Amended Motion on page 5 be corrected to state that the Mayor may nominate those positions (based on her earlier friendly amendment to replace "shall" with "may").

- APPROVAL OF THE MINUTES OF APRIL 26, 2008, AS AMENDED,
CARRIED 9-0.

2. THE FORMATION OF SUB-COMMITTEES

- The first draft of the Technical Changes to the Charter was distributed with the grammar and archaic language corrections highlighted in blue.

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

4. REPORT FROM/QUESTIONS TO TOWN ATTORNEY

- Chairman Florek asked about the legal opinion regarding the Conflict of Interest Ordinances. Attorney Buturla stated that his opinion would be similar to his recent Ethics Commission opinion in that the only authorized sanction for the violation of an ordinance is a citation and fine. He also noted that the Ethics Commission has authority only over appointed and elected officials. Most of the Town's employees are covered by collective bargaining and the Town's unions do not recognize the authority of the Ethics Commission.

- Chairman Florek asked the Town Attorney to amend Section 5.1.1 to reflect that the Council Chair replaces the Mayor when absent and has the executive authority. Attorney Buturla pointed out that the CAO is directed by the Mayor or, in the Mayor's absence, by the Interim Mayor or Successor Mayor.

- Mr. Proto was uncomfortable with the CAO having executive authority since it is not an elected position. The Mayor is the chief executive officer. In his opinion, the CAO should only exercise administrative powers as delegated to him by the Mayor or Acting Mayor.

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

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(§ 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.

- MS. RODIA MOVED, SECONDED BY MR. ORLOWE, TO TAKE ITEMS 5.1 AND 5.2 OFF THE TABLE IN THEIR ENTIRETY. MOTION CARRIED 8-0 (with Ms. McMellon absent).

- MR. PROTO MOVED TO AMEND SECTION 5.1.1. AS FOLLOWS: *"THE CHIEF ADMINISTRATIVE OFFICER SHALL BE THE CHIEF ADMINISTRATIVE OFFICER OF THE TOWN. AS SUCH, HE OR SHE SHALL POSSESS, HAVE AND EXERCISE THE ADMINISTRATIVE POWERS AS DIRECTED BY THE MAYOR OR ACTING MAYOR, EXCEPT AS OTHERWISE LIMITED BY LAW."* MR. FAHAN SECONDED. Discussion followed.

- The last CRC seems to have taken the original 5.1.1. language from the definition of Town Manager. In response to Mr. Booth's concern about including the Acting Mayor in Mr. Proto's motion, Attorney Buturla advised that an Acting Mayor is different from a Successor Mayor. Chairman Florek was concerned that *"as otherwise limited by law"* was too narrow and didn't mention the Charter, although the Charter is the organic law of the municipality. Attorney Buturla advised keeping the language in the Charter as broad as possible.

- To address Chairman Florek's concern, MR. PROTO MADE A FRIENDLY AMENDMENT TO HIS MOTION AS FOLLOWS: TO REPLACE *"EXCEPT AS*

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OTHERWISE LIMITED BY LAW" WITH "EXCEPT AS OTHERWISE LIMITED BY THIS CHARTER, STATE LAW AND FEDERAL LAW." MR. PROTO'S AMENDED MOTION CARRIED 8-0 (with Ms. McMellon absent).

- The CRC next discussed Section 5.1.2 and whether the qualifications for CAO were too restrictive. It limits the pool of candidates to people who have just earned a Degree and have no experience. Mr. Proto pointed out that the qualifications language for Directors in Section 5.2.3. is more generic.

- MR. PROTO MOVED TO SUPPLEMENT THE CURRENT LANGUAGE OF SECTION 5.1.2. WITH THE MORE GENERIC LANGUAGE OF SECTION 5.2.3 AS FOLLOWS: "THE MINIMUM QUALIFICATIONS OF THE CAO SHALL BE A MASTER OF BUSINESS ADMINISTRATION DEGREE, MASTER OF PUBLIC ADMINISTRATION DEGREE, OR SUCH OTHER GENERAL EXECUTIVE AND ADMINISTRATIVE EXPERIENCE AND ABILITY." MR. FREDETTE SECONDED. Discussion followed.

- Mr. Booth questioned whether Section 5.1.2 should name specific Degrees since the language already references educational background, training, etc. Ms. Rodia and Mr. Fahan were against eliminating the Degree requirements for CAO.

- Mr. Proto didn't want anyone to limit the qualifications for CAO to specific Degrees so he amended his earlier motion to add the word "*education*" to the other qualifications. In addition, he deleted the word "*minimum.*"

- MR. PROTO'S MOTION TO REVISE SECTION 5.1.2. CARRIED 8-0 (with Ms. McMellon absent). Section 5.1.2, in its final form, was revised as follows:

"THE CAO SHALL BE APPOINTED AND MAY BE REMOVED OR SUSPENDED, WITH OR WITHOUT PAY, BY THE MAYOR. THE QUALIFICATIONS OF THE CAO SHALL BE A MASTER OF BUSINESS ADMINISTRATION DEGREE, MASTER OF PUBLIC ADMINISTRATION DEGREE, OR SUCH OTHER EDUCATION, GENERAL EXECUTIVE AND ADMINISTRATIVE EXPERIENCE AND ABILITY. THE CAO SHALL BE APPOINTED ON THE BASIS OF SUCH FACTORS INCLUDING, BUT NOT LIMITED TO, EDUCATION, MUNICIPAL AND PUBLIC EXPERIENCE, PROFESSIONAL TRAINING AND EXECUTIVE AND ADMINISTRATIVE QUALIFICATIONS."

- Mr. Proto brought up the revisions to Section 1.3(a) in the draft Charter received tonight. Some of the changes made at the April 26 meeting are not included in this draft. Attorney Buturla added that it also needs to be clarified in this Section that the Acting Mayor possesses and has the power to perform the duties of the Mayor.

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- Because the Charter is misnumbered, Section 1.5(b) has now become Section 1.4(b). Mr. Proto suggested that the meaning of the third sentence of Section 1.4(b) would be much clearer if the phrase *“without the consent of the Town Council”* was moved and that sentence was rewritten as follows: *“Any person nominated to any such board, commission, authority, agency or office which has the authority, without the consent of the Council, to spend any appropriated funds, to enter into an agreement, or to render a final decision on any matter.....”*

- Mr. Fredette stated that he has been thinking about the concept of Council approval of the Mayor’s Directors that was discussed at the last meeting, and he questions whether this would be in contradiction of what the voters approved at the last charter revision.

- Chairman Florek stated that the public had voted for a strong Mayor, but there may be some room for checks and balances. Mr. Fahan agrees that the Mayor should be able to hire his or her own people, but he believes there should be Council oversight. Mr. August is concerned that Council approval will only politicize the process. The Mayor campaigned and was elected on a platform. Mr. Proto agrees with Mr. August. The Town Manager did the hiring for 81 years without interference from the Council. The CEO of a business hires his own team. An approval process is only building partisan politics into the system.

- Chairman Florek pointed out that the Town Manager was a professional hired by the Council and the Mayor is a partisan position. However, he would prefer a super-majority disapproval process rather than an approval process.

- MR. FREDETTE MOVED TO RECONSIDER MR. FAHAN’S MOTION OF APRIL 26, 2008 ADOPTING A COUNCIL APPROVAL PROCESS. MR. FAHAN SECONDED AND THE MOTION TO RECONSIDER CARRIED 7-1 (with Ms. Rodia against and Ms. McMellon absent).

[CRC recessed at 8:55 p.m. and reconvened at 9:11 p.m.]

- MR. FREDETTE MOVED THAT THE MAYOR NOMINATE HIS DIRECTORS SUBJECT TO THE COUNCIL’S DISAPPROVAL BY A SUPERMAJORITY VOTE. MR. FAHAN SECONDED. Discussion followed.

- It was pointed out that Mr. Fredette needs to clarify whether he is referring to a supermajority of the Council members present or a supermajority of the entire Council? Also, a resolution takes six votes to pass, but a supermajority of the entire Council is seven votes.

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- Mr. Proto noted that the CRC should lay out the whole process in the Charter. Also, in the event the Mayor's nominee is not approved, the Mayor needs the ability to appoint an interim Director.

- Mr. August is opposed to any kind of Council approval or disapproval. He feels the CRC is adding bureaucracy and politics to the process. He was also concerned that Ms. McMellon wasn't here to express her views.

- MR. AUGUST MOVED TO TABLE MR. FREDETTE'S MOTION UNTIL MS. McMELLON IS PRESENT. MR. ORLOWE SECONDED. MOTION TO TABLE CARRIED 6-2 (with Mr. Florek and Ms. Rodia opposed and Ms. McMellon absent).

- Chairman Florek suggested looking at basic hiring practices. Mr. Fredette stated that the Mayor should hire his own Directors who, in turn, should hire their own people. Firing of employees should work the same way. Ms. Rodia was concerned about the financial cost to the Town if the Mayor makes bad hires. She would support Council approval of all new hires similar to the Board of Education model. Mr. August was concerned this would only result in the Council approving the hiring of their own friends. Mr. Orlowe agreed that the Council shouldn't be involved with all new hires. That's the job of the Human Resources Dept. Chairman Florek didn't think the Board of Education policy would be feasible on the Town side. He agreed that it would introduce an element of favoritism. Also, the Council already has a lot on its plate and these decisions are really the responsibility of the executive authority.

- Ms. Rodia stated that she knew specific instances of bad hires but she wasn't comfortable discussing them in public. MS. RODIA MOVED, AND MR. ORLOWE SECONDED, GOING INTO EXECUTIVE SESSION. Attorney LeClerc stated that the issue being discussed was not within the jurisdiction of the CRC. Therefore, it had no authority to go into executive session.

- FOR DISCUSSION PURPOSES, MR. PROTO MOVED THAT THE TOWN COUNCIL APPROVE ALL NEW HIRES WITH THE EXCEPTION OF THE DIRECTORS AND TOWN ATTORNEY. MR. FREDETTE SECONDED. MOTION FAILED 1-7 (with only Ms. Rodia in favor and Ms. McMellon absent).

- MR. PROTO MOVED TO DELETE SECTION 9.8.1 FROM THE CHARTER. MR. FREDETTE SECONDED FOR DISCUSSION. A previous Town Attorney opinion had already clarified that you cannot enact restrictions prohibiting someone from running for elected office. There also didn't appear to be any reason to restrict people on the CRC from applying for a Town position in the future. MOTION TO DELETE CARRIED 8-0 (with Ms. McMellon absent).

- MR. PROTO MOVED TO STRIKE ITEM 5.2.q FROM THE AGENDA. MR. BOOTH SECONDED. Again, a previous Town Attorney opinion has stated that you

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cannot restrict someone from running for elected office because they owe back taxes. Also, the CRC has adopted an approval process for appointed officials. MOTION TO STRIKE CARRIED 8-0 (with Ms. McMellon absent).

- MR. PROTO MOVED TO STRIKE ITEM 5.2.u FROM THE AGENDA. MR. FAHAN SECONDED. (The composition of the Council will remain as is.) MOTION TO STRIKE CARRIED 8-0 (with Ms. McMellon absent).

- MR. PROTO MOVED TO STRIKE ITEM 5.2.y FROM THE AGENDA. MR. FREDETTE SECONDED. (The term of the Council will remain as is.) MOTION TO STRIKE CARRIED 8-0 (with Ms. McMellon absent).

- MR. PROTO MOVED TO STRIKE ITEM 5.2.o FROM THE AGENDA. MR. FREDETTE SECONDED. (The current Charter already has a provision for Council expenses.) MOTION TO STRIKE CARRIED 8-0 (with Ms. McMellon absent).

- In light of the Town Attorney's opinion and the lack of sanctions available to the Ethics Commission, MS. RODIA MOVED TO RETAIN THE FOLLOWING SENTENCE IN SECTION 1.2 OF THE CHARTER: *"THE MAYOR SHALL BE A FULL TIME PAID POSITION AND HE OR SHE SHALL NOT ENGAGE IN ANY OTHER EMPLOYMENT DURING HIS OR HER TERM OF OFFICE."* MR. ORLOWE SECONDED. Discussion followed.

- Ms. Rodia is splitting the question. She is not addressing outside business pursuits.

- Mr. Proto referred to the language in Mr. August's suggested revision of April 10, 2008. He would like to add some of this language to Ms. Rodia's motion.

- MR. PROTO MOVED TO AMEND MS. RODIA'S MOTION AND ADD THE FOLLOWING LANGUAGE TO SECTION 1.2: *"THE MAYOR SHALL BE RESPONSIBLE FOR THE PROPER PERFORMANCE OF THE DUTIES BY ALL EMPLOYEES OF THE TOWN."* MS. RODIA ACCEPTED THIS AS A FRIENDLY AMENDMENT. MOTION, AS AMENDED, CARRIED 8-0 (with Ms. McMellon absent).

- The CRC next discussed whether the Mayor can hold an outside business interest. The real issue is active versus inactive involvement in another business, and what does "active employment" in a business mean? The Mayor can't work for someone else, but should he be allowed to own a business if it doesn't impact the performance of his mayoral duties?

- Mr. August pointed out that in his reading of the old Charter, the language left it open for the Town Manager to hold an outside business interest so long as he wasn't an employee of or perform executive duties for someone else.

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- Mr. Booth was concerned that the CRC was over legislating this issue. If the Mayor does not perform his duties, he will be in violation of the Charter and the Council and Ethics Commission will intervene. The CRC already agrees that the Mayor should not hold other employment.

- Chairman Florek stated that the problem is that the current Charter language has been interpreted to mean that the Mayor cannot have any other business interest. He doesn't necessarily agree with that interpretation. If the current language doesn't prohibit other business interests, then maybe it doesn't need to be changed.

- The CRC requested a Town Attorney opinion on this issue. Specifically, if the Mayor owns any kind of business interest, does the current Charter language prohibit the Mayor from being either actively or inactively involved in the running of that business?

- MS. RODIA MOVED, SECONDED BY MR. FREDETTE, TO PUT ITEMS 5.1 AND 5.2 BACK ON THE TABLE IN THEIR ENTIRETY. MOTION CARRIED 8-0 (with Ms. McMellon absent).

- Mr. Proto would like the red-line and blue-line copies of the Charter on the website. Since they are quite long and change frequently, it would be a better idea for the public to e-mail the Secretary and request a copy. An e-mail link will be put on the website instead.

6. NEW BUSINESS/FURTHER SUGGESTIONS AS TO POSSIBLE TOPICS

- None.

7. ADJOURNMENT

- ON MOTION BY MR. FREDETTE AND SECONDED BY MR. ORLOWE, THE MEETING ADJOURNED AT 11:06 P.M.

Respectfully submitted,

Gail J. Nobili, Secretary