

**CHARTER REVISION COMMISSION
MINUTES FOR SPECIAL MEETING
MARCH 6, 2008**

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The Charter Revision Commission conducted a special meeting on Thursday, March 6, 2008, at 7:00 p.m. in Council Chambers.

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

Others Present: Richard J. Buturla (Town Attorney).

CALL TO ORDER

- Chairman Florek called the special meeting to order at 7:00 p.m.

Distributed to Commission Members:

1. *Copies of written comments received at Feb. 28 Public Hearing;*
2. *Memo of Decision, Bratsenis v Rice (re: "absence" of Governor);*
3. *Excerpt from CRC Minutes of 11/13/02 (re: tax delinquency of elected & appointed officials);*
4. *Draft Majority Report Summary from last CRC;*
5. *Minutes of Public Hearing of 02/28/08.*
6. *Proposed Changes to Veto Power of Mayor (drafted by Mr. Proto).*

1. ROLE OF TOWN ATTORNEY IN COMMISSION PROCEEDINGS

- Under the Charter, the Town Attorney is "*the chief legal advisor of all offices, departments and agencies and of all officers and employees.....*" Attorney Buturla is here to make sure all recommendations of the CRC comply with State statutes and to assist with the drafting of the proposed changes.

2. DISCUSSION, RE: FORMATION OF SUB-COMMITTEES

- Mr. Proto had suggested forming three sub-committees of three members each to look at some of the minutiae and bring back information to the Commission. The CRC could then concentrate on the broader issues at their Thursday night meetings. All sub-committee meetings would have to comply with FOI and post agendas and minutes. Correcting the archaic language in the Charter would be a good topic for a sub-committee to work on.

- Chairman Florek felt that the CRC needs to first address the issues raised by the Council. Some of these other issues can be looked at later depending on time constraints. Per Mr. Proto's suggestion, Chairman Florek will review the list of topics and put together a proposal for sub-committees.

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3. SOURCES OF INFORMATION FOR THE COMMISSION

- Chairman Florek felt that the CRC should hear from people who have had practical experience under the new Charter. It has already heard from Mr. Henrick, Council Chairman, at the Public Hearing. He suggested inviting Mayor Miron and former Council Chairman Jim Feehan to address the CRC.

- CRC members suggested hearing from the Mayors of Milford and Shelton, and some Town employees, depending on the final topics picked by the CRC.

- Mr. Feehan is not available until March 20. Chairman Florek was going to ask the Mayor to come on the same night.

- ON MOTION BY MR. FREDETTE AND SECONDED BY MS. RODIA, DISCUSSION OF SOURCES OF INFORMATION WAS UNANIMOUSLY TABLED.

4. REPORT FROM/QUESTIONS TO TOWN ATTORNEY

- Attorney Buturla reported that he is going to try "redline" drafts of the Charter changes that can be distributed by e-mail.

- Mr. Proto suggested putting the Charter in word format.

- Mr. Booth suggested that in addition to Thursdays, the CRC also meet every other Saturday morning, commencing Saturday, March 15. The meetings will be at 10:00 a.m., at either the Police or Fire Depts. (Attorney Buturla to check availability). A revised Schedule of Meetings will be filed with the Town Clerk.

5. DISCUSSION OF AREAS FOR POSSIBLE AMENDMENT

- 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.
- e. Requirements for number of petition signatures needed to trigger charter revision.
- 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.).
- i. Run-off election (§ 1.1).
- j. Employment of CRC members (§ 9.8.1).
- 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).
- m. Recall/Referendum/Initiative (Section 8).
- 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.
- r. Length of Mayor's term (§ 1.1, etc.).
- 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).
- v. "Vote against" option in municipal elections.
- w. Police Commission.

- The CRC first needs to prioritize the above 23 items. Some proposals can be stricken because the CRC has no legal authority to make the suggested changes. Other proposals can be looked at later depending on the time constraints of the Commission.

- Attorney Buturla advised that items 'e' and 'i' and 'v' can be stricken because these are all pre-empted by State statute. A municipality has no legal authority to make these changes. As to item 'm' (Recall/Referendum/Initiative), he is working on an opinion that after the last charter revision Stratford may have lost the right to Recall because it adopted an entirely new Charter instead of amending sections of the old Charter. If Referendum and Initiative are also Special Act powers, these may no longer exist either. As to item 'q', Attorney Kelly has already given a legal opinion that you cannot prohibit someone from running for office because they owe taxes. As to item 't', residency requirements may be prohibited by State law. As to item 'j', he has already given an opinion that you cannot prohibit someone from running for office because they served on a charter revision commission. He has to research whether this also applies to public employees.

- Chairman Florek questioned whether there could be a residency requirement for a contract employee (such as a Department Head), who is not part of a collective bargaining unit? Attorney Buturla will research this.

- MR. FAHAN MADE A MOTION TO STRIKE ITEMS 'e', 'i', 'q' AND 'v'. MR. BOOTH SECONDED THE MOTION. Discussion followed.

- MR. PROTO MADE A FRIENDLY AMENDMENT TO ONLY STRIKE THAT PORTION OF 'q' THAT APPLIES TO PROHIBITING SOMEONE FROM RUNNING FOR ELECTED OFFICE. The question arose as to whether you could prohibit a sitting Councilperson from serving on a committee if their taxes were delinquent?

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- Chairman Florek asked Attorney Buturla to check the State statute regarding run-off elections. He thought that he had seen an opinion stating that due to the provision "unless other provided by law", a municipality has the power to amend its charter to provide for run-off elections. Attorney Buturla disagreed, but will do further research. CHAIRMAN FLOREK ASKED MR. FAHAN TO REMOVE ITEM 'i' FROM HIS MOTION TO STRIKE PENDING A LEGAL OPINION FROM ATTORNEY BUTURLA.

- MR. FAHAN AMENDED HIS MOTION TO STRIKE ONLY ITEMS 'e' and 'v' FROM THE AGENDA. MR. BOOTH SECONDED. MOTION AS AMENDED CARRIED UNANIMOUSLY AND ITEMS 'e' and 'v' WERE STRICKEN FROM THE AGENDA.

- MR. PROTO MADE A MOTION TO TABLE ITEMS 'i', 'j', 'm' (AS IT APPLIES TO RECALL), 'q' AND 't' PENDING LEGAL OPINIONS. MR. FAHAN SECONDED AND THE MOTION TO TABLE CARRIED UNANIMOUSLY

- MR. PROTO MADE A MOTION TO PRIORITIZE THE REMAINING ITEMS WITH 'a', 'b', 'c', 'd', 'f', 'g', 'h' AND 'r' AT THE TOP OF THE LIST. MR. FREDETTE SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

- MR. PROTO MADE A MOTION TO ADD ANOTHER TOPIC, '**x**' *Technical Changes*, TO THE AGENDA. MR. FREDETTE SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

DISCUSSION RE: ITEM 5.a. - POWER OF INVESTIGATION

- Chairman Florek stated that to him Section 2.2.15 of the Charter as currently written does not make sense. Discussion followed about whether the Council, the Mayor, or both should have the power to investigate town affairs. This provision was carried forward from the old Charter and the word "Mayor" replaced "Town Manager." Attorney Buturla stated that a recent court case has questioned whether municipalities have the right to issue subpoenas. If municipalities can no longer issue subpoenas, what is the alternative procedure? Also, what do the words "*town affairs*" mean?

- ON MOTION BY MR. FREDETTE AND SECONDED BY MR. ORLOWE, ITEM 5.a., POWER OF INVESTIGATION, WAS TABLED PENDING A TOWN ATTORNEY OPINION ON THE POWER OF MUNICIPALITIES TO ISSUE SUBPOENAS.

- Ms. Rodia asked Attorney Buturla for the following legal definitions: 1. "absence"; 2. "disability"; 3. "administration"; 4. "residency"; 5. "may; shall; at will; at the pleasure of"; 6. "town affairs".

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DISCUSSION RE: ITEM 5.b. - VETO POWER OF THE MAYOR

- Mr. Proto distributed his draft amendments to Sections 1.2.6, 2.2.2 and 2.2.9 of the Charter. In Section 1.2.6 he proposes striking the phrase "~~or any portion thereof~~" regarding the Mayor's power to veto portions of ordinances, although Mr. Proto proposes keeping the line item veto for the Budget. He also added a provision requiring the Mayor to report back to the Council within 48 hours, in writing, his reasons for vetoing an ordinance. In Section 2.2.2., Mr. Proto took away the Mayor's power to veto Resolutions, although he can still veto ordinances. He reversed Section 2.2.9 to create a pocket approval rather than a pocket veto. If the Mayor does not sign an ordinance within thirty days, it is automatically approved

- MR. PROTO MOVED (a) TO RETAIN THE LINE ITEM VETO ONLY FOR THE BUDGET; (b) TO REQUIRE THE MAYOR TO REPORT THE VETO OF AN ORDINANCE IN WRITING TO THE COUNCIL WITHIN 48 HOURS; (c) TO REMOVE RESOLUTIONS FROM THE MAYOR'S VETO POWER; (d) AND TO CREATE A POCKET APPROVAL OF ORDINANCES AFTER THIRTY DAYS. MR. FAHAN SECONDED. Discussion followed.

- The CRC was concerned about the Mayor having legislative authority. Questioned whether Mayor should vote in the event of a tie on the Council and then have the power to veto the ordinance. Need clear checks and balances. Attorney Buturla stated that the Mayor is an "ex officio" member of every Board and Commission. In a recent West Haven case, the court ruled that as ex officio member the mayor had a right to vote on the School Board. Attorney Buturla will research whether the Mayor is ever considered a member of the Council?

- MS. RODIA MADE A FRIENDLY AMENDMENT TO CHANGE THE 48 HOURS NOTICE OF A VETO TO TWO BUSINESS DAYS IN THE EVENT OF A WEEKEND OR HOLIDAY. (Attorney Buturla stated that it was implied that 'two business days' means two days when the Town Hall is open for business.)

- Chairman Florek suggested that the CRC wait to talk to Mayor Miron and Mr. Feehan before voting on Mr. Proto's motion.

- MR. BOOTH MADE A MOTION, SECONDED BY MR. ORLOWE, TO TABLE MR. PROTO'S MOTION TO CHANGE THE VETO POWER OF THE MAYOR. MOTION TO TABLE CARRIED 5-4 WITH MR. PROTO, MR. FAHAN, MR. AUGUST AND MS. RODIA OPPOSED.

3. SOURCES OF INFORMATION FOR THE COMMISSION

- UPON MOTION BY MR. FREDETTE AND SECONDED BY MR. AUGUST, ITEM 3 WAS TAKEN OFF THE TABLE.

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- Mr. Fredette suggested scheduling speakers now for later CRC Minutes. In addition to the Planning and Zoning Administrators, he suggested the Chairmen of the Land Use Boards. Ms. Rodia suggested sending potential speakers e-mail questions in advance. Mr. Proto stated that Shelton has a combined Planning and Zoning. If the CRC was going to consider a Police Commission, he wanted to also hear from the Police Chief and possibly the Fire Chief.

- ON MOTION BY MR. PROTO AND SECONDED BY MR. FREDETTE, ITEMS 5.'c', 'd', 'f', 'g', 'h', AND 'r' WERE TABLED.

- ON MOTION BY MR. PROTO AND SECONDED BY MR. FREDETTE, THE REMAINING ITEMS 5.'k', 'l', 'n', 'o', 'p', 's', 'u', 'w' AND 'x', WERE ALSO TABLED.

6. NEW BUSINESS/FURTHER SUGGESTIONS AS TO POSSIBLE TOPICS -

- Discussed above.

7. ADJOURNMENT

- ON MOTION BY MR. FREDETTE AND SECONDED BY MR. ORLOWE, THE SPECIAL MEETING ADJOURNED AT 9:50 P.M.

Respectfully submitted,

Gail J. Nobili
Secretary