

**CHARTER REVISION COMMISSION  
MINUTES FOR SPECIAL MEETING  
MAY 7, 2008**

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The Charter Revision Commission conducted a special meeting on Wednesday, May 7, 2008, in Room 213, 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 (left 10:35 p.m.), James Orlowe and Karen Rodia.

Others Present Bryan L. LeClerc (Town Attorney's Office). [Note: Town Attorney Richard J. Buturla was present for some of the meeting.]

CALL TO ORDER

- Chairman Florek called the special meeting to order at 8:05 p.m.

*Distributed to Commission Members:*

1. *Drafted changes (red-line) to Charter (prepared by Town Attorney's Office).*
2. *Legal opinion dated May 5, 2008, re: "Mayoral Employment."*

1. THE FORMATION OF SUB-COMMITTEES - no business.

2. REPORT FROM/QUESTIONS TO TOWN ATTORNEY

- The CRC reviewed the changes to Sections 5.1.1 and 5.1.2.

- MR. PROTO MOVED TO AMEND THE SECOND SENTENCE OF SECTION 5.1.2. BY ADDING THE FOLLOWING LANGUAGE: "...OR SUCH OTHER EDUCATION, GENERAL EXECUTIVE AND ADMINISTRATIVE EXPERIENCE AND ABILITY AS ARE NECESSARY TO PERFORM THE DUTIES OF THE OFFICE." MR. ORLOWE SECONDED AND THE MOTION TO AMEND CARRIED 9-0.

- In Section 5.1.1, the following technical change was made: the phrase "state law and federal law" was changed to "state law and/or federal law."

- The CRC next discussed the wording of the last sentence of the first paragraph of Section 1.2 and whether "...proper performance of the duties by all the employees of the Town" should be changed to "...proper performance of the duties of all Town employees." Attorney LeClerc suggested deleting this sentence and adding "employees" to Subsection 1 on the next page where it lists the duties of the Mayor. The CRC will defer changing this language until it has decided on whether the Mayor should be allowed outside business pursuits.

- Mr. LeClerc directed the CRC's attention to the revision to Section 1.4(b) suggested by Mr. Proto last week. The Minutes do not reflect that the CRC formally voted on this change.

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- MR. PROTO MOVED THAT THE THIRD SENTENCE OF SECTION 1.4(b) BE REVISED 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 SECONDED AND THE MOTION CARRIED 9-0.

- The CRC discussed the opinion it had received regarding whether the current Charter language prohibits the Mayor from owning an interest in any type of business or entity. The Town Attorney opined that although the Charter does not prohibit the Mayor from possessing an outside business interest, he would be prohibited from being actively involved in the running of that business or corporation. His active involvement, in any capacity, would be in conflict with the Charter provision requiring that the Mayor be a full time position and “not engage in any other employment during his or her term of office.”

- Ms. Rodia questioned what sanctions would be available if the Mayor violated this Charter provision (other than Council censure, an Ethics violation, and/or bad publicity)? She asked if the Council could suspend the Mayor’s pay? The Town Attorney will further research whether the Council can impose economic sanctions or take any other action against the Mayor if he violates the Charter.

**3. DISCUSSION OF AREAS FOR POSSIBLE AMENDMENT.**

**3.1. 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.).

**3.2. OTHER AREAS FOR CONSIDERATION [TABLED]**

- 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.
- p. Other employment/business pursuits of Mayor (§1.2).
- s. Chief Administrative Officer (§§ 5.1.1 - 5.1.4).

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- t. Residency requirement for Department Heads.
- w. Police Commission.
- x. Technical Changes
- z. Term Limits for Mayor, Council, Commission Members.

- MR. PROTO MOVED, SECONDED BY MR. ORLOWE, TO TAKE ITEMS 3.1 AND 3.2 OFF THE TABLE IN THEIR ENTIRETY. MOTION CARRIED 9-0.

- At the last meeting, the following motion had been tabled. MR. FREDETTE MOVED, SECONDED BY MR. FAHAN, THAT THE MAYOR NOMINATE HIS DIRECTORS SUBJECT TO THE COUNCIL'S DISAPPROVAL BY A SUPER-MAJORITY VOTE.

- MR. FAHAN MOVED, SECONDED BY MR. PROTO, TO TAKE THE ABOVE MOTION OFF THE TABLE. MOTION CARRIED 9-0. Discussion continued.

- The members restated their arguments from last week. Mr. Fahan is looking for checks and balances. Ms. Rodia is looking at the Board of Education as a model. Mr. Booth likes Mr. Fahan's suggestion of a thirty day pocket approval if the Council fails to take action. Mr. August is opposed to any kind of Council interference. Ms. McMellon agrees with Mr. August that adding the Council will only put politics back into the process. She also disagrees with Mr. Fahan that Council review of resumes will prevent "bad hires." A strong Mayor should be able to make his own appointments. Chairman Florek understands both sides of the argument, but is still in favor of a supermajority disapproval process. He thinks it would only be used by the Council in extraordinary circumstances.

- Mr. Proto pointed out that the CRC is looking to change the process because some people don't agree with the Mayor's decisions. The process is not flawed. Mr. Proto was also concerned about the situation that would be created if a motion to disapprove a department head failed 6-4 or 5-5. That department head would now be starting a new position without the full trust and confidence of the Council.

- As a prior Councilman, Mr. Fredette stated that there are already enormous pressures on the individual Council members to vote one way or another. He personally doesn't believe the Council would want this added responsibility. He would advise leaving the hiring of department heads to the Mayor.

- MR. FREDETTE'S MOTION FAILED 4-5 (with Ms. McMellon, Mr. Proto, Mr. Fredette, Mr. August and Mr. Orlowe voting against).

- The Petitioners had brought up the issue of "at will" employees and whether there should be a "just cause" provision for non-union employees?

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- Mr. Proto pointed out that Section 9.7.1. of the Charter already states that all employees shall continue in office “until such office terminates by death, incapacity, resignation or removal for cause of such person.” This would seem to cover all non-union employees except for the six Directors specifically stated in the Charter to be “at will” employees.

- Chairman Florek stated that the employees who have left over the past two years have done so for different reasons. A few were given a golden handshake, contracts were not renewed, or the Council cut these positions from the budget.

- Mr. Booth questioned whether there was really any difference between serving “at will” or “at the pleasure of?” Attorney LeClerc advised that both terms basically mean the same thing. An employee is either a member of a collective bargaining unit, has a contract, or serves “at will.”

- MR. BOOTH MOVED THAT EVERY REFERENCE IN THE CHARTER TO “AT THE PLEASURE OF” BE REPLACED WITH “AT WILL.” MR. FREDETTE SECONDED THE MOTION FOR DISCUSSION.

- Ms. Rodia suggested putting a Glossary in the Charter because the public is not familiar with the meaning of these terms. Attorney LeClerc advised that the legal definition of some of these terms is quite complicated. If you try to limit their meaning to a sentence or two in the Charter, this could have future repercussions in a lawsuit.

- The phrase “at the pleasure of” is only used twice in the Charter when referring to the Council Clerk and the Town Attorney. The Town Attorney is not an ‘employee’ of the Town and that section of the Charter will be dealt with separately. The Council Clerk is a political appointment and can only be hired or removed by the Town Council.

- MR. BOOTH AND MR. FREDETTE WITHDREW THEIR MOTION.

[CRC recessed at 9:50 p.m. and reconvened at 10:06 p.m.]

- Section 5.2.1 recognizes six Administrative Departments. Section 5.2.6 states that a Director may be removed by the Mayor at any time and is an “at will” employee.

- Mr. Proto questioned whether adding to the Directors in the Charter would require the CRC to also create new departments? Also, if the CRC elevates a collective bargaining unit employee to a Director, would that person lose his “just cause” protections?

As a Director of Safety was never appointed and the CAO is serving in this capacity, Chairman Florek asked if this Director should be eliminated? Mr. Fredette

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was in favor of leaving this position in the Charter as a future Mayor may want to appoint a Director of Safety.

- Section 1.2, Subsection 12, states that the Mayor or his designee is the personnel director for the Town. The Human Resources Dept is not mentioned in the Charter. Rather than the Mayor, Mr. Proto would like the Human Resources Director to be the Personnel Director.

- Attorney Buturla clarified that under State labor law, the Public Works Director, Health Director, Finance Director, Town Clerk, Human Resources Director, Police Chief and Fire Chief would be recognized as directors or department heads. Although Economic and Community Development is named as a Department in the Charter, it's Director was a member of the Supervisor's Union. However, EMS, because of its budget and number of employees, may meet the requirements under State law to be considered a separate Administrative Department.

- MS. RODIA MOVED, SECONDED BY MR. ORLOWE, TO PUT ITEMS 3.1 AND 3.2 BACK ON THE TABLE IN THEIR ENTIRETY. MOTION CARRIED 8-0 (with Mr. Booth absent).

4. ADJOURNMENT

- ON MOTION BY MR. FREDETTE AND SECONDED BY MR. FAHAN, THE MEETING ADJOURNED AT 10:56 P.M. MOTION CARRIED 8-0 (with Mr. Booth absent).

Respectfully submitted,

Gail J. Nobili, Secretary