

MINUTES OF THE TOWN OF CHESHIRE CHARTER REVISION COMMISSION HELD IMMEDIATELY FOLLOWING THE 6:30 P.M. PUBLIC HEARING ON WEDNESDAY, DECEMBER 1, 2016 IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410.

Present

Charter Revision Commission Members: Town Council Members Paul Bowman and Michael Ecke; David Borowy, Kim Cangiano, Michael Laden, Matt Levine, Barbara McWhirter, Sandy Mouris, Mark Shumilla, Susan Stanley, Kevin Wetmore

Absent: Robert J. Oris, Jr. Town Council Chairman

Staff: Town Manager Michael A. Milone; Town Attorney Alfred Smith; Exec. Assistant to the Town Manager, Arnett Talbot.

1. ROLL CALL

The clerk called the roll for the Charter Revision Commission and a quorum was determined to be present.

2. PLEDGE OF ALLEGIANCE

The group Pledged Allegiance to the Flag.

3. APPROVAL OF MINUTES OF NOVEMBER 16, 2016 MEETING

MOTION by Ms. Mouris; seconded by Mr. Borowy.

MOVED to approve the minutes of November 16, 2016 subject to corrections, additions, deletions.

VOTE The motion passed unanimously by those present.

4. DISCUSSION AND POSSIBLE ACTION RE: FORM OF MUNICIPAL GOVERNMENT

Ms. McWhirter noted there were two communications about the charter revisions submitted to the Commission.

Tim Slocum, 1028 South Main Street, and Cindy Kleist, 251 Lancaster Way, each submitted correspondence with recommendations for revisions to the Charter.

The communications were read into the record of the meeting.

MOTION by Mr. Wetmore; seconded by Ms. Mouris.

WHEREAS, the Town's current Charter is based on the Council-Manager form of municipal government and the form of government going forward will impact most of the ensuing discussions on the subsequent sections of the Charter; and

WHEREAS, in order to facilitate relevant, topical discussion on these various issues that the Charter Revision Commission will review, it is critical that the Commission identifies the form of government that it assumes the Town will support;

NOW, THEREFORE, BE IT RESOLVED, that the Charter Revision Commission, having discussed the issue at length and solicited public comment, assumes no change from the current Council-Manager form of municipal government as the Commission reviews and makes recommendations on the Town of Cheshire Town Charter.

Discussion

Mr. Bowman commented on the fact that, based on the public hearings, there is no resounding call for a change in the form of government for Cheshire. He has read and researched information on the forms of government in Connecticut, and stated he supports the resolution before the Commission.

VOTE The motion passed unanimously by those present.

5. DISCUSSION - CHAPTER 1 - INCORPORATION, GENERAL POWERS AND MISCELLANEOUS PROVISIONS

CHAPTER 1 - Incorporation, General Powers, and Miscellaneous Provisions

1.7 (A) - Residency for the Town Manager and Superintendent of Schools.

Mr. Borowy noted this is a requirement in other towns, and questioned this residential requirement for Cheshire. He also asked about the Public Works Director, Fire Chief, Police Chief having a residential requirement.

Town Manager Milone replied that staff would research the residency requirement, but at the present time he does not believe there is a requirement for the Superintendent of Schools to reside in Town.

Attorney Smith stated that in terms of the law the only legal restrictions is that the Charter cannot impose residential requirements on any employee covered under a bargaining union.

The Commission began discussion of Chapter 1, Section 1-6, with the following changes recommended.

Section 1-6 Words and Phrases - add (H) to read "**Constitution refers to the Constitution of the State of Connecticut unless otherwise specified**".

Add (I) to read "**Charter**" to include the Charter as amended.

Attorney Smith advised that there are amendments outside the Charter, and the Charter in existence is the Charter as amended.

It was suggested by Mr. Laden to move "Section 1-6 Words and Phrases" to the beginning of Chapter 1. The Commission concurred with this recommendation, and sections must be re-numbered accordingly.

1-1 Incorporation - Throughout the Charter the Constitution of the State of Connecticut is mentioned; this is vague and needs clarification. The question is whether this means the State Constitution only or the General Statutes of the State of Connecticut. "Constitution" means the State of Connecticut Constitution.

Section 1-2 Rights and Obligations - no changes.

Section 1-3 General Grant of Powers - no changes.

Section 1-4 Existing Laws and Ordinances - no changes.

Section 1-5 Notice of Public Hearings - The Commission members discussed inclusion of "electronic media" into this section along with public notification in local newspapers.

Attorney Smith advised that there could be consideration of updating this section based on technology to be consistent with FOIA. Wording was suggested to **add "...in the Town or posted on the Town's web site"**.

The Commission members discussed the number of days currently required for public notification for a public hearing - five (5) days...and whether this is 5 business days.

Mr. Ecke said 5 days (not 5 business days) is more than adequate.

Ms. McWhirter noted the public comments stated about the Town having better communication with its citizens, needing better ways to communicate with the public, and asked if seven (7) days is enough time for public notifications. There should be thought about how administrative matters of the Town get to the public.

There is a concern about everyone not having access to the Cheshire Forum. Mr. Bowman said the Town has budgetary items, legal notices, referendum public hearings and notification about budgetary issues or property purchases with 5 days notice.

Once the notification is in the newspaper the 5 days notice is in place. Mr. Shumilla said with technology, business moves forward quickly. A notice posted on Monday would be for the following week's business, and statements must be in compliance with FOIA.

Mr. Ecke said adding the notification to the web site is a good idea, and it starts the clock immediately. With newspapers, it is 5 days from the publication date.

Ms. Talbot reviewed the current public hearing notification process. The Cheshire Herald receives the notice on Monday and publishes it on Thursday. There is also

publication by the Town Clerk's office on the boards outside Town Hall front door. The 5 days would also start upon posting on the website. She advised other newspapers are used for public notification...New Haven Register, Meriden Record Journal, Waterbury Republican, which publish daily. Each public notification costs about \$800, and these newspapers are also on-line.

It was recommended to keep the notification "at least 5 days", with the and/or for the posting on the website. This gives immediate notification from the website...and *The Cheshire Herald* posts on Thursday for a meeting the following week...giving almost 8 or 9 days notice. For a newspaper, the 5 days public hearing notification must be 5 days after the newspaper publication.

It was stated by Ms. Mouris that many people, especially the elderly, do not have computer access and await the local newspapers for notifications.

Attorney Smith will prepare language to tighten up Section 1-4, giving the Town and Town Council ability to publish on the website as the supporting place for public notices. He noted that some things must be published in the newspaper.

Ms. Talbot advised that Cheshire has a twitter account and there can be notification of a public hearing. There can also be notification on the public access channel.

Section 3-6 in the Charter speaks of public hearings on ordinances, and Ms. Talbot pointed out this requires ten (10) days notification.

Section 1-6 (C) - change to read "**Words importing any gender applies to all genders**"

Section 1-6 - add new (I)..."**Fiscal Year is from July 1st to June 30th**".

Section 1-6 (D) - no change.

Section 1-7 Residency - The Commission discussed residency requirements for the Superintendent of Schools.

Mr. Ecke believes the Superintendent should be a member of the community, see people throughout the community, and be answerable to town residents for the way the school system is operated.

Stating she does not disagree, Ms. Mouris commented on this being a BOE decision, and they may not be pleased to have this power taken away from them.

In the event this wording is changed, Mr. Milone pointed out that this would be effective with the next Superintendent of Schools. He will research the history further and inform the Commission.

According to Attorney Smith this is a fair question - as to whether the town can impose terms and conditions on a BOE employee. The BOE has a separate, legal, and statutory existence. This can be checked out as to whether the residence requirement can be imposed in a Town Charter. The Superintendent is hired by the BOE under the statutory requirements established by the BOE statutes. There is not always clear delineation of responsibilities of a town legislative body and a town board of education.

Ms. Mouris stated that it is a good idea to have town administrators living in town, but when dealing with the BOE they will not want power taken away from them.

Attorney Smith will be looking into the residential requirement issue. The town does set the BOE budget, under the statutes, but it does not talk about the ability of the town to impose terms and conditions.

The Commission was told by Mr. Milone that this provision was added to the Charter in 1995 and was not in the old Charter. The minutes of the 1995 revision process will be reviewed.

Mr. Bowman stated the Charter Revision Commission is appointed to make decisions and recommendations, and the BOE can weigh in on their issues.

Mr. Levine commented on the Commission considering whether the pool of applicants for positions is limited with a residency requirement for a Superintendent.

It was pointed out by Mr. Ecke that the Superintendent is the highest paid employee in Town, and has the responsibility for educating our children. This is a large commitment being made and the person can reciprocate by residing in Town.

Stating he sees some of the issues with a pool of candidates, Mr. Wetmore said a 2/3rds vote could extend the time for residential requirements. This provides flexibility on the issue.

Mr. Milone said this is a good idea. He was appointed interim Town Manager for one year, then acting Town Manager due to needing more time to move to Cheshire. Mr. Milone said it is critical to be a Cheshire resident as the Chief Executive Officer of the Town. A grace period for residency is a good idea.

6. DISCUSSION - CHAPTER 2 - ELECTIONS AND ELECTIVE OFFICERS

CHAPTER 2 - Elections and Elective Officers.

2-1 General - delete "justices of the peace"; they are not "elected" but nominated by the town political committees and approved by the Town Council.

Attorney Smith advised that the State law permits appointed or elected State officers (2-2 H).

Paragraph #1 - recommendation to amend and read as follows:

"Nomination and election of municipal elected officials shall be conducted; and the registrar of voters shall prepare lists of electors qualified to vote therefore, in the manner prescribed in the Constitution and the General Statutes of the State of Connecticut, as amended."

2-2 (C) - Constables. Attorney Smith explained that Constables are elected or appointed; they have various powers (i.e. serve writs). State law requires a town to have Constables. The Commission decided to keep Constables as "elected". There are two Democratic and two Republican Constables in Cheshire.

2-2 (B) Town Clerk. In some municipalities the Town Clerk has been changed to a staff position, from elected to appointed in the position.

Mr. Bowman reported there are 121 elected and 48 appointed Town Clerks, and he sees no reason to change this section of the Charter. Much of the work of the Town Clerk's office is regulated by the Secretary of State, and he prefers an elected rather than an appointed Town Clerk as another Town employee.

The Town Clerk's office is separate from other Town departments, and Mr. Ecke noted that the position and the office are not under the Town Manager. If the position and office were under the Town Manager it would function more like the rest of Town Hall.

The Commission was informed by Town Manager Milone that he has direct authority over everyone in Town Hall, except for the Town Clerk's office. He has always had a good relationship with the Town Clerk and staff; it is advisory and nothing more; but he cannot impose anything on this office. This does create a double standard as he cannot manage, reorganize, or consolidate this office. It is one department that is here but contrary to the operation of the government based on the Council/Manager form of government.

Mr. Ecke advised that the Town Clerk must come to the Town Council to request a salary increase rather than being a professional staff person with a salary range and evaluation from the Town Manager.

The Town Clerk office staff are members of the bargaining union, and Mr. Milone advised the Town Clerk comes to him for the department budget review. The Town Clerk also comes to the Town Council to present the department budget. This is the same issue with the Registrars of Voters. Mr. Milone is uncertain on the number of Town Clerks elected in other towns under the Council/Manager form of government. He will research this and report back to the Commission.

Ms. McWhirter requested Town Clerk Brennan be invited to the December 7th Commission meeting. Ms. Talbot will check with the Town Clerk on her availability.

2-2 (l) Registrars of Voters. Each party puts up one person for this elected position. Mr. Milone stated this section should be more explicit and could state "**representing each political party**".

Following a brief discussion the Commission revised Section 2-2 (1) to add the following words... "**in accordance with State Law.**"

Mr. Wetmore talked about having only one option to vote for, and asked why Registrars cannot be appointed by the political parties, without having to vote for people who will be elected anyway.

Ms. Mouris stated that this is done under the State Statute requirement.

Meeting Schedule - the tentative schedule was reviewed by the Commission...Thursday, December 1, 2016 through June 1, 2017. Adding more meeting dates can be added to this schedule, as required.

7. NEXT MEETING - DECEMBER 7, 2016

9. ADJOURNMENT

MOTION by Mr. Bowman; seconded by Mr. Wetmore

MOVED to adjourn the meeting at 8:31 p.m.

VOTE The motion passed unanimously by those present

Attest:

Marilyn W. Milton, Clerk