

**MINUTES OF THE TOWN OF CHESHIRE CHARTER REVISION COMMISSION HELD IMMEDIATELY FOLLOWING THE 6:30 P.M. PUBLIC HEARING ON WEDNESDAY, DECEMBER 7, 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, Matt Levine, Sandy Mouris, Mark Shumilla, Susan Stanley, Kevin Wetmore

Absent: Michael Laden, Barbara McWhirter and Robert J. Oris, Jr.

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

**1. ROLL CALL**

Mr. Bowman called the meeting to order at 6:32 p.m.

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 DECEMBER 1, 2016 PUBLIC HEARING AND MEETING**

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

MOVED to approve the minutes of the December 1, 2016 Public Hearing subject to corrections, additions, deletions.

VOTE           The motion passed 8-0-1; Ecke abstained.

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

MOVED to approve the minutes of the December 1, 2016 Regular Meeting subject to corrections, additions, deletions.

VOTE           The motion passed 8-0-1; Ecke abstained.

**4. ACCEPTANCE OF SUGGESTED LANGUAGE FROM DECEMBER 1, 2016 MEETING**

Ms. Talbot explained the "red lining" of the language in the Charter document versus all the changes made to the Charter.

Green - moving forward

Blue - new language

Red - deleted language

Once there is consensus of the language in Chapter 1, these areas will be shaded out, and all changes will be indicated. Commission members will receive e-mails of changes prior to the next scheduled meeting.

Documents in the packet were reviewed by Ms. Talbot.  
Advertising Budget FY 16-17 - for the Town, approximately \$28,000 line item; for Town Council, \$3,700 (all legal notices, but not all for public hearings).

Public Hearing Notice Requirements - research of other CT Town Charters indicates either a 5 day notice requirement (10 days for special issues i.e. ordinance amendments); or no mention of notice requirements.

Board of Assessment Appeals compensation (Cheshire) - \$1,800 total per year; \$600 for 3 people.

Form of Government/Appointed Town Clerk - the towns and form of government are cited in the report and attached to these minutes.

Compensation of elected officials in CT municipalities - a CCM salary survey and report on compensation for elected officials is attached to these minutes.

Ms. Talbot will provide the schedule of meetings out past June 1, 2017 for the next meeting.

Attorney Smith provided the language for Section 1-5, Notice of Public Hearings.

Attorney Smith researched the Charter, Section 1-7, Residency Requirement. He informed the Commission about imposing a residency requirement on a Superintendent of Schools, who is a Board of Education (BOE) employee. There is ample case law supporting the ability of the Charter to impose residency requirement on a Superintendent. The question is whether any waiver of this requirement or extension of the requirement could be made by the Town Council as opposed to the BOE. There is nothing directly addressing this issue. Research suggests anything that removes the ability of the BOE to impose terms and conditions of employment on a Superintendent, transferring those responsibilities to another body (i.e. Town Council) might run afoul of the law. There is a State Statute that gives BOE the right to establish terms and conditions of employment for a Superintendent of Schools. It has never been tested and Mr. Smith would not bet on the outcome.

In response to a question of change in the Charter, having a 2/3rds vote of the Council to waive the Superintendent's residency requirement, Attorney Smith said this would be on shakier ground than leaving it with the BOE. The Council can have a 2/3rd vote on Town Manager residency requirement because the Town Manager reports directly to the Council.

Chapter 1, Section 1-6 - Notice of Public Hearings - this notice must allow for publication on the Town's electronic media in addition to local newspaper circulation; there will be continuation of publication in local and area newspapers and on their web site, and Town web site. The public notice time frame then runs from the first publication, i.e. on the Town web site.

Change to read: ...in a newspaper, "to include but is not limited to the newspaper's web site"...

Section 1-7 Residency - The BOE residency waiver remains in place. There was discussion about flexibility for the Town Manager's residency requirement; i.e. 2/3rds vote of the Town Council to extend the Town Manager's residency. The Commission discussed the Charter being too restrictive for the BOE and Council. The consensus of the Commission was to have a time frame, i.e. 2 to 4 years, for residency for the Town Manager and Superintendent of Schools.

Attorney Smith stated that a 2 or 3 year window limit for the Town Manager and Superintendent would be reasonable, and this would not be illegal in the Charter.

Change to read...the Board of Education may by a two-thirds (2/3) vote of its entire membership waive "for a period not to exceed three (3) years the residency requirement for the Superintendent of Schools".

"For good cause benefiting the Town, the Town Council may by two-thirds (2/3) vote of its entire membership waive the residency requirement for the Town Manager, for a period not to exceed three (3) years".

Town Manager Milone commented on the "three (3)" years being very generous, and it is a long time to waive someone moving into Town. He believes a two (2) year waiver is more adequate.

The Commission agreed to amend the changes to read "two (2) years".

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

MOVED to accept the changes to Chapter 1 of the Town Charter.

VOTE           The motion passed unanimously by those present.

## **5.     DISCUSSION/REVIEW/ACCEPTANCE - CHARTER CHAPTER 2        ELECTIONS AND ELECTIVE OFFICERS**

Attorney Smith submitted some changes according to law, and some where the towns have a great deal of autonomy.

Section 2-2 - Town Elections.

Town Council term of office - Mr. Bowman commented on understanding the process of going to four (4) year terms for at large Councilors, and two (2) year terms for district Councilors.

Mr. Borowy supports four (4) year terms of office for Councilors; districts should be two (2) years; and there is his concern about staggered terms.

The turnover on the Council is minimal, and people tend to stay for longer periods of time. Mr. Bowman has previously served on the Council for 8 years; Mr. Ecke has served 13 years; Ms. Mouris has served 16 years; Mr. Borowy has served 16 years. How the ballot would be stacked for terms with at large candidates at 4 years and district candidates at 2 years would be a question to be resolved.

If the terms of office are changed to 4 years, Mr. Levine supports all Council seats at 4 years...but they should be staggered with district seats every 2 years and at large seats every 4 years. It takes longer than 2 years to conduct the town business, i.e. large projects.

Mr. Wetmore stated the 2 year terms make people more available for the commitment.

Mr. Ecke would consider 4 year terms with 9 at large seats and elimination of district sets, which have outlived their time.

Ms. Cangiano commented on people running for district seats, and other voters (out of the district) unable to vote for them. She noted there are talented people who want to serve; we need a broader pool of people to get involved; and supports the 4 year terms of office.

Mr. Wetmore said we should look at the perception of the Council members, and people identify with their district Councilor. There should be a balance with district and at large Council members.

There are district issues and Mr. Bowman said the Councilors listen to anyone, and can bring a district issue to the full Council. The district Councilors have a better understanding of their area issues. He also sees the value of term limits so other people can have opportunity in the future to serve. Mr. Bowman explained it is the responsibility of the Republican and Democratic Town Committees to hear from people who want to serve...in their district or at large...and they make the decisions on who will run for office.

Mr. Mouris does not like 4 year terms, and said with 2 year terms the people can voice their support or disconnection from Council members. The 4 year term limit does not give citizens the opportunity to vote out someone not doing a good job. With staggered terms there is confusion for the voters. She supports a 2 year term limit. District

Councilors are the one receiving calls and contact from people about issues or problems, and they bring matters to the full Town Council. At large Council members do see the whole picture and can participate in district issues working with the district Councilors.

Mr. Borowy supports 4 year terms, with a limit of no more than 2 or 4 year terms.

Cheshire has good people who want to continue to serve, do well, and are committed to the Town, and Mr. Shumilla has concerns with limiting how many terms a quality person can serve. What is currently in place works well, and he questions why we want to change it...as we have people committed who want to serve longer than 2 years and have been doing it for a long time. He supports keeping term limits as they are now.

Term limits at the local level are not supported by Mr. Wetmore. He said voters know if people are doing a good job...and they will set term limits themselves.

It was suggested by Mr. Ecke to have 2 year terms for three terms; take one term off; and go back for 3 more terms. With recruiting people to run for office, term limits do not make sense...it is difficult to get people to run for office...but there is always a place for people to run and get involved. Under the current 2 year terms, things go smoothly in the first year, and then politics sets in for the second year as reelection is upcoming.

According to Mr. Bowman, independent voters have no way to get involved in the party process.

Consensus of the Commission Members - Ms. Stanley, no term limits; no view on 2 year terms. Ms. Mouris, 2 year terms, no term limits. Mr. Borowy has thought about 4 year terms for at large seats, and 2 year terms for district seats. Mr. Wetmore, 2 year terms, no term limits. Mr. Shumilla, 2 year terms, no term limits. Ms. Cangiano, 4 year terms at large seats, 2 years district seats, no term limits.

There must be minority representation on the Council, and Mr. Wetmore recommended it being no more than 6 of the 9 Council members from the same political party versus 7 of 9 Council members from the same party.

Attorney Smith cited the State Statute (1989) on minority representation, no more than 6 from the same party. There is an exception for a charter provisions in place since 1987. The 7 member limit was in the Charter in 1987 and is grandfathered in the Cheshire Charter. He noted the statute on minority representation applies to all boards and commissions, but not those elected on a geographical basis.

Mr. Ecke supports having minority representation of 3 seats on the Council.

The Commission discussed minority representation, and Attorney Smith will provide more information on the State Statute. There was no decision made at this meeting on

term limits and number of years for Council seats. More discussion at the next meeting and there will be a decision made.

(B) Town Clerk - the Commission held a discussion on whether this position should be elected or appointed, and who "appoints" the Town Clerk...Town Council or Town Manager.

Ms. Mouris supports an elected Town Clerk position as she does not want to take any power away from the voters. She asked who would appoint the person for the position, and noted it is not a department head position at this time under the Town Manager. The Town Manager is not in charge of this position (as he is with other department heads); rules and regulations come from the Secretary of State; the department budget comes from the Town Manager and Town Council. Ms. Mouris raised the issue of hiring and firing for an appointed Town Clerk, and who would handle this task.

Ms. Stanley and Ms. Cangiano and Mr. Levine support an appointed position.

Attorney Smith advised that if a Town Clerk is appointed under a special law or charter, the appointment authority shall appoint. This leaves the appointment authority to the Town Charter; the default person is the executive official (Town Manager) who shall appoint.

In Wallingford CT, the Council appoints the Town Clerk, and the person can change every 2 years based on the elections.

Ms. Stanley commented on the job of the Town Clerk needing to be done well, and the CEO being in a position to know what is being done, deal with problems, and have administration over the position and department.

Ms. Cangiano stated the Town Clerk position should fall under the Town Manager's charge to appoint, review, dismiss, etc. as necessary.

Mr. Ecke said Mr. Milone does a great job as Town Manager, and the position and person of Town Clerk would grow under his leadership. If there is a problem with this department, he asked where the public goes to cite complaints or concerns...they cannot go to the Town Manager as he has no authority to do anything.

As a matter of law, Attorney Smith said there are skills and training required and involved with the Town Clerk's position, and there are technical aspects to the work, i.e. maintaining the land records is a skill requiring development. Legally, the direction for large legal questions for the Town Clerk comes from the Secretary of State. Administration of the office and inter-relations with the town residents comes through the CEO.

Mr. Wetmore stated the Town Clerk should be appointed and be part of the larger organization...the Town staff.

Mr. Shumilla supports an appointed Town Clerk with more oversight by the Town Manager.

(C) Constables - no changes.

(D) Planning and Zoning Commission -no changes.

(E) Zoning Board of Appeals - no changes.

(F) Board of Assessment Appeals - no changes.

(Mr. Levine left the meeting at 8:00 p.m.)

(G) Board of Education - no changes.

(H) Justices of the Peace - no changes.

(I) Registrars of Voters -

Section 2-3 Effective Date of Office - Changed to read: "The Council's term and those of all elected board and commission members shall begin the first Monday of December after the municipal elections."

Section 2-4 Compensation - A communication was received from Tim Slocum for consideration of compensation for Town Councilors for their service.

The Commissioners discussed the issue of compensation, and the consensus was no compensation for Town Council members.

Section 2-5 Voting Districts - There was discussion about increasing the number of Council district seat candidates. The State redistricting plan is used for local districts, and it equalizes the population. The Commission agreed to change five (5) years to ten (10) years to link to the State reapportionment.

Section 2-6 Eligibility - the limitation of serving on no more than one board or commission was discussed, particularly as it relates to The Beautification Commission, which oversees landscaping plans for town projects. This gives a professional discipline for boards and commissions to have a say on applications. It was agreed to leave this section as stated in the Charter, and is duplicated in Section 5-5.

Section 2-7 Resignations of Elected Officials - no changes.

Section 2-8 Vacancies in Elected Offices - in this section the discussion centered on the wording...the Mayor shall have the power to make the appointment...; wording should further state "appointment should be of the same political party". It was agreed to change the word "Mayor" to "Chair of the Town Council".

Section 2-9 Records - line #1 changed to read "All elected and appointed permanent boards, commissions, agencies, bureaus, committees"

Ms. Talbot stated the following: Elected and appointed Permanent Boards, Commissions, Committees and other bodies of the Town have their by-laws approved by Council. Many have not been revised in years. They are on file in the Town Clerk's office and Town Manager's office

The Commission reviewed and read Section 3-5 (G), Attorney Smith stated Section 3-5(G) is inconsistent with Section 2-9; Section 3-5 should state "shall" (not "may"). When Council creates a board, for consistency, it should direct how the board should operate in terms of procedure. This alleviates different boards operating under different rules and procedures. If power is to be given to the Council, it should be stay in Section 3-5; making it "shall" instead of "may". The third sentence in 2-9 captures the requirements concerning preservation of records. The first two sentences talk about creating their own rules of procedure.

Mr. Wetmore said the key is that whatever a board or commission does, it is being directed by Town Council and filed, and stays with "Records". It should state..."Such regulations and any amendments provided by the Town Council"...is what should be recorded.

Attorney Smith will have language recommendations for Section 2-9 at the next meeting.

Section 2-10 Breaking a Tie - there was a brief discussion on this section. Attorney Smith will research this section as it relates to the State statutes, and have recommended changes at the next meeting.

The 14 day time frame is in line with State statutes.

Mr. Wetmore and Mr. Levine informed the Commission that they received calls from *The Cheshire Herald* about the Charter Revision Commission, and what happened at the public hearing.

Mr. Bowman stated that the Chair of the CRC is the spokesperson, and calls from the media can be referred to the Chair.

- 6. DISCUSSION - CHARTER CHAPTER 3 - DUTIES, POWERS AND APPOINTMENTS - TOWN COUNCIL**
- 7. NEXT MEETING, JANUARY 11, 2017 (tentative schedule, Chapter 3 Continued).**
- 8. ADJOURNMENT**

MOTION by Ms. Mouris; seconded by Mr. Borowy

MOVED to adjourn the meeting at 8:35 p.m.

VOTE           The motion passed unanimously by those present.

Attest:

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Marilyn W. Milton, Clerk