

MINUTES OF THE CHESHIRE TOWN COUNCIL SPECIAL MEETING HELD ON WEDNESDAY, JULY 26, 2017 AT 7:00 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410

Present

Robert J. Oris, Jr., Chairman; Paul A. Bowman, Vice-Chairman; Councilors: Jeffrey Falk, Patti Flynn-Harris, Sylvia Nichols, Thomas Ruocco, Tim Slocum, Peter Talbot.

Absent: Michael Ecke

Staff: Town Manager Michael A. Milone; Town Attorney Alfred Smith; Town Attorney Joseph Schwartz.

Charter Revision Commission Members – Barbara McWhirter, Chair; Sandra Mouris and Kevin Wetmore

1. ROLL CALL

The Clerk called the roll and a quorum as determined to be present.

2. PLEDGE OF ALLEGIANCE

The group Pledged Allegiance to the Flag.

3. REVIEW AND RECOMMENDATIONS RE: CHARTER REVISION COMMISSION REPORT.

Town Manager Milone made note of the letter from Supt. Of Schools Jeff Solan that was included in the meeting packets.

Chairman Oris stated that the Town Council majority vote on Town Charter changes recommended by the Commission will be sent back to the Commission. A resolution will be crafted to determine which items will be advanced.

Mr. Slocum commented on the role of “Constables” which had no changes made in the Charter revision. Regarding the position of Town Clerk, Mr. Slocum wants to see this remain an elected position. He talked about the current Town Council minority representation of 7-2, and stated his support that this not be changed to 6-3. Mr. Slocum talked about people making the choice to be an Unaffiliated (U) voter; the importance of people making their decision to vote for someone they want in a position; and to change this is taking away rights from the voters.

Mr. Ruocco had two issues with the Charter revisions – minority representation and elected Town Clerk. He also pointed out Section 4.2 of the Charter -- the clause about the Town Manager assisting with the development of the Town Council agendas. Mr. Ruocco thought the agenda was the decision of the Council Chairman, and asked about the Town Manager removing something from a Council agenda. He questioned needing this language in the Town Charter.

Minority Representation and the State statute for 6-3 minority representation were discussed by Mr. Ruocco. This statute does not apply to Cheshire Town Council, but

does apply to the Planning and Zoning Commission and some other boards and commissions because they do not have district representation. The Town Council already has 7-2 minority representation on a voluntary basis. He said "U" voters are conservatives, liberals, in-between, and vote for Democrats or Republicans.

Mr. Talbot said the districts are decided by the electorate. With 6-3 minority representation, if one party claims all the districts, that is four (4) Council seats; and they could only get their two highest at-large numbers, and the other party's highest three (3) vote getters.

Because the Town is not subject to the State statute, Attorney Smith said making the change would not, necessarily, subject the Town to the statute. It could decide to go with a different set of numbers; award the non-majority seats as it chooses; it is not locked in. There is a limit on majority representation, the number of seats the majority can hold. It does not demand a particular non-majority party fill those seats.

Mr. Ruocco stated his support of the 7-2 minority representation on the Council. With regard to the Town Clerk position, he stated this should remain an elected position, and elimination the electorate is not in the best interests of the Town.

Comments from Councilor Michael Ecke were read into the record by Ms. Flynn-Harris. In his statement, Mr. Ecke said he was a member of the Charter Revision Commission. Mr. Ecke stated that a majority of the Charter Revision Commission supported the changes recommended, and he also supports them.

Ms. Flynn-Harris was a strong proponent of having a Charter Revision Commission. All comments made by the Commission and the Council indicate the work was beneficial, with only substantive changes made to the Town Charter. Nothing brought forward from the Commission should be changed, and she said the Charter should go out as one document.

Ms. Flynn-Harris commented on the position of Town Clerk. She stated that the previous Town Clerk came to the Council about compensation for the position, stating she is a department head, and should be treated as a department head when it came to salary increases. At that time the Council agreed the position is a department head with people reporting to her. But, this position does not follow the regulations as other regular staff, and how they are treated within the administration. The position has no secondary follow-up, review by a supervisor, managerial process, no performance review by the Town Manager, and this is unfair. If the position is a department head, is called a department head, then the person should be treated as other department heads. This means an appointed, not elected, position, and it would not be suppression of voter rights. Many Connecticut towns have appointed Town Clerks. Ms. Flynn-Harris said the number of residents in Town who actually have contact with the Town Clerk is very few, and they do not visit the Town Clerk's office to conduct business on a

regular basis. The position is an administrative function to the people. It makes sense to have the Town Clerk position elected and treated as a department head and administrator. With regard to minority representation, Ms. Flynn-Harris said it makes sense to follow the State statute. This is not taking away voter discretion. Ms. Flynn-Harris thanked the Charter Revision Commission for their hard work and dedication to their task of revising the Town Charter.

Ms. Nichols talked about minority representation, noting she is one of the people who had to relinquish a Council seat. She was not the highest vote getter for an at-large seat...it was one of the minority party people. This is the process and the way it works. In this small town, people vote for people doing their job well. Voters will select the right person. She is okay with the 7-2 minority representation. Regarding the Town Clerk position, Ms. Nichols looked to the purpose of the changes in the Charter, which are intended to look forward over the next 20 years. Technology to run the Town Clerk's office will also change in the next 20 years. She supports the Town Clerk position as appointed rather than elected. This position maintains all the record for the Town of Cheshire. The person should be a professional. There are organizations which provide more credentials for the Town Clerk certification. Ms. Nichols does not believe the general public has any idea of the work performed in the Town Clerk's office. She does not see it as a political position; it is part of the administration of the Town. Presently, there is no oversight of the Town Clerk's office; this is wrong; and, we must wait for another election before something is done. Ms. Nichols stated her support of an appointed Town Clerk. With regard to residency for the Superintendent of Schools, Ms. Nichols does not support the residency requirement. The job description could be created to direct the Superintendent to have a certain level of communication with the public. It could also be more dangerous for the Superintendent to live in Town, become friendly with neighbors, people who want things or lobby for special favors. With a person committed to the job, there should be no residency requirement.

Mr. Falk thanked the Charter Revision Commission for a phenomenal job on the Charter review and revisions, and looking to the Town's future with some enhancements and changes into the 21st Century. Mr. Falk supports an appointed Town Clerk position, which will ensure management style and qualified person for the job. For the minority representation of 7-2, he does not see a strong need to change and go along with State statute. Regarding residency requirements for the Superintendent of Schools, Mr. Falk said the Superintendent should live in Town. But, he does not believe this should be a forced issue; it should be left to the Board of Education to waive residency requirement and not restrict it to just three years. Mr. Falk stated this should be the same for the Town Council to waive Town Manager residency requirement. He said the Town Charter must continue to look forward with what is best for the Town and its citizens.

Mr. Talbot thanked the Charter Revision Commission for the time and effort they put into the revisions of the Town Charter. They did exceptional work and put thoughtfulness into their work. He is inclined to go with the Commission's recommendations. This panel was put together as a group of individuals seated by a

majority of the Council to represent the public. Their vote on controversial issues reflects what the public would say, and we owe the Commission and residents the opportunity to vote on these issues as stand-alone items. With regard to the Town Clerk position, Mr. Talbot pointed out that communities with Town Manager/Town Council form of government, +65% have appointed Town Clerks. After reading the report, he noted Cheshire's Town Clerk spoke in favor of an appointed position. When talking about qualifications for the position, Mr. Talbot said someone like him, with no credentials to be Town Clerk, could run and be elected, reporting only to the electorate, having no supervision. It is clear this is a department head position; it should report to the Town Manager; and there should be oversight. Going forward we must maintain the expertise, qualifications and customer service of the position. Mr. Talbot talked about minority representation, his support of going with the Charter revision of 6-3 representation, which was an overwhelming vote of the Commission. There are 27 towns with the same form of government as Cheshire; 25 have 6-3 minority representation; and this is the acceptable standard. Regarding the residency requirement of the Superintendent of Schools, Mr. Talbot tends to go with the recommendation of the Commission on this requirement.

Mr. Bowman thanked the Commission for its hard work and diligence throughout the process, the Council for the opportunity to open the Town Charter for review, and the public who attended and provided input in the process. It has been a healthy debate, dialogue, spirited at times, but worthwhile. As a member of the Commission, Mr. Bowman said his record on the issues is clear. Regarding the Superintendent's residency requirement, he reached out to professionals in the industry, looking at the next 10 years in the recruitment area for Town Managers and Superintendents of Schools. The pool of candidates is dwindling for the future. For working families with two incomes it is not as easy to require residency, as in the past. Mr. Bowman requested the Commission to look at both the Town Manager and Superintendent residency requirements, revisit the issue, because the requirement may not work as well over the next 10 years. These issues should be decided by the voters. Mr. Bowman commented on the Town Clerk and minority representation sections of the Charter, which should go out to the voters on their own, along with the rest of the Town Charter for approval.

Chairman Oris thanked Councilor Bowman for spearheading the thought process for a Town Charter revision. He thanked the Charter Revision Commission members for their work in the process, and expressed respect for everything they did.

Regarding minority representation, Mr. Oris believes in maintaining the rights of voters and abiding by their votes in an election. He asked the Commission to reconsider their decision changing minority representation to 6-3, from 7-2. For the Town Clerk position, Mr. Oris believes in smaller government, stating this is a salaried position, voting rights of the people should be preserved. He asked the Commission to reconsider this change and keep the position as elected, maintaining the right of the people to make the decision. Mr. Oris talked about the residency requirement for the

Superintendent of Schools, has read Mr. Solan's letter, and listened to the BOE members on this issue. He asked the Commission to change this section of the Charter back to the original requirement, maintaining the BOE flexibility to waive the residency requirement. This should also be looked at relative to the Town Manager. Mr. Oris commented on it being more difficult to find quality people for positions. If we are looking for a local connection, there are other ways to maintain this without forcing the residency requirement. He also said that it is a disservice to Supt. Solan to force him to adhere to this requirement, when he was not hired on that basis. Mr. Oris stated that Supt. Solan can have roots in the community without living here.

Section 2-9 Records – This section (last sentence) reads... "The policy concerning electronic recording of public meetings shall be established by the Council."

Mr. Oris supports transparency, but questioned this sentence, and whether a policy is cited somewhere else in the Charter. He agrees with the statement, and suggested this sentence be reworded from "The policy" to "A policy".

CRC Chair Ms. McWhirter said it could be reworded, and she explained the meaning behind this statement. If the Council chooses to go this route, it may be necessary to hire an additional Town employee to archive electronic recordings, as it is major task, and a job onto itself.

Mr. Oris supports the Town Manager "agenda" issue raised by Mr. Ruocco. While the Town Manager's office assists in putting the agenda together, whatever is on the agenda is done with the Town Council Chairman.

Ms. McWhirter stated her support of the Town Manager assisting with the Council agenda, and suggested the sentence read "contribute" rather than "assist."

Regarding Section 2-9 Records, Mr. Bowman said this is an item of concern to him. There have been Town meetings without any record. He cited the meetings on the \$30M Waste Water Treatment Plant Upgrade project...with no accurate record of discussions, people in favor, opposed, how commission members felt, etc. The public should have the opportunity to go back and review tapes rather than just looking at minutes, and know and learn what people are saying and thinking. The records have to change; there has to be a way the public can check on transparency, how appointed and elected officials feel on issues. Better records are needed; they must be more available to the public; there should be audio/visual recordings; it may be more costly, but it will help with accountability.

Ms. McWhirter stated the policy would be set by the Council after talking to the Town Attorney who would be the leader in setting this policy.

Continued support of the residency requirements for the Town Manager was cited by Mr. Slocum. For the BOE, he said the current language on residency is acceptable at that level and he would be satisfied it remain as now stated, not as proposed by the

Commission. The new Town Manager must live in Cheshire, and the Superintendent must be available to the public.

Regarding the handling and saving of electronic recordings (audio and visual), Ms. Flynn-Harris asked if policy has been established.

Mr. Milone explained there is an internal policy for handling electronic media, but there is no policy to the extent of what is being discussed. There is no policy for boards and commissions.

For the residential requirement for the Superintendent, Ms. Flynn-Harris said she supports residency for the three major Town positions – Town Manager, Supt. Of Schools and Chief of Police. She can understand having waivers for a certain amount of time. Also, all searches now are not limited to Connecticut or New England, but are nationwide.

Mr. Slocum asked about the records policy, noting the Police Department has this policy in place, and it is very extensive. He asked if the Council is committed to this, or is there a policy to be created.

As he reads Section 2.9, Attorney Smith said it permits the Council to develop a policy without imposing any specific requirements as to content of the policy. This type of information is governed (generally) by the Freedom of Information Act. The only question is how far beyond FOIA the Council wants to go...or not go down it at all.

Chairman Oris informed the Council he kept a list of things cited and suggested by Councilors, and a vote can be taken on these Charter issues.

MOTION by Mr. Oris; seconded by Mr. Slocum

MOVED that the Town Council requests the Charter Revision Commission reconsider maintaining the minority representation at 7-3, and not approve minority representation at 6-3.

VOTE The motion passed 6-2; Talbot and Flynn-Harris opposed.

MOTION by Mr. Oris; seconded by Mr. Slocum

MOVED that the Town Council requests the Charter Revision Commission reconsider maintaining the language for the position of Town Clerk as an elected position, not an appointed position.

VOTE The motion passed 5-3; Flynn-Harris, Nichols, Talbot opposed.

MOTION by Mr. Oris; seconded by Mr. Slocum.

MOVED that the Town Council requests the Charter Revision Commission reconsider maintaining the position on residency of the Superintendent of Schools.

VOTE The motion passed 6-2; Oris and Slocum opposed.

MOTION by Mr. Bowman; seconded by Mr. Slocum.

MOVED that the Town Council requests the Charter Revision Commission reconsider maintaining the position on the residency requirements and waiver for the Town Manager.

VOTE The motion passed 6-2; Oris and Ruocco opposed.

MOTION by Mr. Oris; seconded by Mr. Ruocco.

MOVED that the Town Council requests the Charter Revision Commission reword Section 2-9 on the Town Manager's involvement in the Council agenda.

VOTE The motion passed unanimously by those present.

MOTION by Mr. Slocum; seconded by Ms. Nichols

BE IT RESOLVED, that the Town Council approves Resolution #072617-1.

RESOLUTION #072617-1

BE IT RESOLVED, that the Cheshire Town Council approves the following comments and recommendations for revisions to the Town Charter for submittal to the Charter Revision Commission for said Committee's final report.

- Minority Representation remains as stated, 7-2;
- Town Clerk remains elected position;
- Superintendent of Schools residency requirement remains as stated;
- Look at Section 4-2 (C) Language for Town Manager "assist in the development of all Council and Council Committee agendas;"
- Look at Section 2-9 – Language for a look at creation of a public records policy.

VOTE The motion passed unanimously by those present.

4. DISCUSSION AND ACTION RE: FORMER CHAPMAN PROPERTY REMEDIATION

MOTION by Mr. Slocum; seconded by Ms. Nichols.

BE IT RESOLVED, that the Town Council approves Resolution #072617-2.

RESOLUTION #072617-2

BE IT RESOLVED, that the Cheshire Town Council, in order to expedite the remediation process and avoid extensive remediation costs associated with remediating underneath, within and around an existing structure, authorizes the demolition of the old yellow farmhouse on the former Chapman property.

Discussion

Mr. Slocum commented on the many discussions held on this matter, which included uncertainty about preservation costs. There is information on the costs for demolition of the house.

It was stated by Mr. Ruocco that he is not unsympathetic to the cause of historical preservation. The subject property cannot fit into the plan, and when analyzing this property the Town was not thinking of an historical house. He said the Town would be involved with the costs of the preservation process, and one of the houses cannot be saved.

Ms. Flynn-Harris is torn by this issue on the Ives House. She clarified that from the beginning, any discussion on the future use of the Chapman Property and the plan, it was only meant to be a concept. There was nothing hard and fast on paper as to what would be on the property, i.e. tennis court instead of a house. This property is an excellent investment and important for the Town, and there was no discussion about preservation of anything. It was known there were real estate agents looking at this property for other uses. Ms. Flynn-Harris would love to say the Town has the money now, or future money, for long term preservation costs, and future upgrade of this house. The Town is faced with the long term project for our schools, and the schools are a higher priority than preservation over the Ives House. She supports the resolution.

Mr. Bowman asked Town Manager Milone if there has been any communication from the Chapman Family for completion of the remediation process.

In response, Mr. Milone said he has not recently checked with PW Director Noewatne, but does not believe there has been communication from the Chapmans.

For the demolition of the house, Mr. Bowman asked if there is authorization for the Town to do it, or the Chapmans to do it.

According to Mr. Milone, the Chapmans will hire the demolition company to demolish the house.

Stating he reluctantly supports this resolution, Mr. Bowman explained he has had experience with preservation of houses, and rebuilt 744, 774 and 168 South Main Street. He has an understanding of what is involved in the process, and the costs involved. Mr. Bowman commented on it being a shame that the community cannot find an organization or foundation to remove and/or repurpose buildings. Without State funding and other resources, it is impossible for the Town to preserve this house. He agreed with Ms. Flynn-Harris that the Town must focus on the funding from the State to support the infrastructure of other Town buildings that have incredible needs.

Chairman Oris is in favor of those who support and preserve historical buildings. The subject house is not in the historical district. There are concerns about any delay and its impact on the Town contract with the Chapmans. Also, Mr. Oris has no idea where the Town would get the money to preserve the house. The Council must make financial decisions in terms of priorities. Mr. Oris supports putting Town resources where there is the greater need. Noting the serious financial situation of the State, Mr. Oris commented on the uncertainty of the Town's financial future, and cannot see how the decision can be delayed, with hope of money coming forth, without an impact on the taxpayers.

VOTE The motion passed unanimously by those present.

5. ADJOURNMENT

MOTION by Mr. Slocum; seconded by Mr. Talbot

MOVED to adjourn the special meeting at 8:25 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk