

MINUTES OF THE CHESHIRE CHARTER REVISION COMMISSION JOINT TOWN COUNCIL MEETING HELD ON WEDNESDAY, AUGUST 2, 2017 AT 6:30 P.M. IN ROOM 207, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410

Present

Robert J. Oris, Jr., Chairman; Paul A. Bowman, Vice-Chairman; Councilors: Michael Ecke, Jeffrey Falk, Sylvia Nichols

Absent: Patti Flynn-Harris, Thomas Ruocco, Timothy Slocum, Peter Talbot.

Staff: Town Manager Michael A. Milone; Assistant Town Attorney Arnett Talbot.

Supt. of Schools Jeff Solan

Charter Revision Commission Members – Barbara McWhirter, Chair; Kim Cangiano, Michael Laden, Michael Levine, Sandra Mouris, Mark Shumilla, and Kevin Wetmore

1. ROLL CALL

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

2. PLEDGE OF ALLEGIANCE

The group Pledged Allegiance to the Flag.

3. REVIEW OF TOWN COUNCIL RECOMMENDATIONS ON DRAFT REPORT

On July 26, 2017 the Council met and reviewed the recommended revisions to the Town Charter from the Charter Revision Commission. At this meeting the Council requested a few items be returned to the Commission for reconsideration.

1. Section 2-2 (A)(2) Minority Representation on Town Council
2. Sections 2-2(B) and 6.14 – Appointed Town Clerk
3. Section 1-7(A) Residency Requirement for the Superintendent of Schools
4. Section 4-2(C) Duties of Town Manager relative to wording that duties include “assist in the development of all Council and Council committee agendas.
5. Section 2.9 Public Records – Clarification of the language relative to the statement “The policy concerning electronic recording of public meetings shall be established by the Council”. It was suggested replacing the first word in the sentence “The” with “A”.

Information on these recommended items were submitted and discussed by the Council and the Commission. Areas highlighted in yellow on the pages are the sections which the Council requested for reconsideration, going back to the original written language in the Town Charter (bold/italics for these minutes).

CRC Chair, Ms. McWhirter, stated the Commission has two choices...to choose standing firm on its recommendation, or choosing to revisit and reword language taking into consideration the Council’s requests. The Council decides on whether questions are separated out for the referendum on the Town Charter.

Chairman Oris stated the Commission makes the final decisions on the Charter revisions. The Council can decide to separate out the questions, so the whole Charter is not voted on in totality. There could be two or three of the more contentious issues separated out for referendum. Mr. Oris said the Council cannot overturn the Commission's recommendation, i.e. minority representation at 6-3 versus 7-2. The Charter must go to the voters as determined by the Charter Revision Commission. If the Commission and Town Council agree for Charter sections to remain as written or revised, then there is nothing to vote on for that section.

The Council and Commission were informed by Ms. Talbot that the Council and Commission are "meeting and conferring" at this meeting, as required by statute. Minutes of the Charter Revision Commission meetings are on the Town web site, and were forwarded to Commission members during the months of meeting. Tapes of these meetings are also available for Commissioners.

Chairman Oris noted that Council members spoke at the last Council meeting on their recommendations for the changes in the Town Charter.

Section 2-2(B) Town Clerk and Section 6-14 new –

Ms. McWhirter read new Section 6-14 into the record.

"The Town Manager shall appoint for a term of not more than 6 years a Town Clerk, who shall be professionally qualified by education and experience. The Town Clerk shall be responsible to the Town Manager, consistent with State law. The Town Clerk may be removed pursuant to Section 7-22 of the Connecticut General Statutes."

Ms. Talbot explained that if the Town Clerk was returned to the elected position, new Section 6-14 would not be in the Charter.

Ms. Mouris talked about the appointed position being left in the Charter with the not more than 6-year term. She asked if this means the Town Manager has to reappoint the Town Clerk, and if this is what the Commission wanted.

It was stated by Mr. Wetmore that the Commission had talked about 2 years, 4 years or 6 years for the Town Clerk position.

Mr. Ecke commented on the difficulty in removing a Town Clerk, the need for a contact with the person in the position and time period stated.

Mr. Laden said the 6-year term allows for a Town Clerk to get the required certifications.

It was noted by Ms. McWhirter that removal of a Town Clerk, whether appointed or elected, is an extremely onerous procedure, and could take a few years.

Two other Town Manager appointed positions, Fire Chief and Police Chief, were mentioned by Ms. Mouris. She said it is also difficult to remove people from these two positions, and she asked about consistency.

Town Manager Milone stated that the Fire Chief and Police Chief are not under contract, and they are appointed.

Mr. Shumilla thought it would be easier for the Town Manager to assert authority if people were hired versus being elected. Now, it is being stated it could take 6 years to remove someone from the Town Clerk position, either removal or firing.

With a contract, Mr. Ecke said the removal process would be easier by not renewing the contract at its end date.

Chairman Oris is not convinced where we are in the process allows those kinds of changes at this point, i.e. Police or Fire Chief. Valid points are being raised, but Mr. Oris does not think this is the appropriate time for the discussion.

According to Mr. Bowman, the Council can request the Town Manager to have a contract for a Police and Fire Chief. He said the three positions (Fire Chief, Police Chief and Town Clerk) are covered by State statute, even with a contract. The removal process is difficult.

Ms. Nichols asked about these positions having a contract, and the process being different for an elected person versus an appointed person.

The removal process is the same, whether elected or appointed, and Ms. McWhirter explained that if a person is appointed under a contract, there is the ability to terminate the contract at its appropriate end. This alleviates running into the removal process under statute. She informed the Council that Attorney Smith agreed with the Commission on this issue.

The Council and Commission continued discussion about the Town Clerk position with no more than a 6-year contract.

Ms. McWhirter advised this was discussed by the Commission, and the vote was 2 years or 6 years...and 6 years was decided as the appropriate time frame.

With a contract, Mr. Bowman said there can be termination for cause. The Town Clerk could be terminated at any time between years 1 and 6.

Stating no, Ms. McWhirter said regardless of a contract, the State statute takes precedent.

Ms. Talbot stated that is correct, unless the contract has a termination date.

Having an appointed Town Clerk has its advantages, and Ms. McWhirter said there is some protection for removal at the end of the contract period.

Mr. Laden said the Commission's idea was that without a contract term, under the law, the person cannot be removed.

Mr. Bowman said the only thing enforced in that contract is the ending date.

Stating that is not the only thing, Ms. McWhirter said if the Town Clerk is answerable to the Town Manager, there are performance issues, job description issues.

With regard to conferring, Mr. Laden asked about the process for voting on Charter items.

That decision does not take place at this meeting. Chairman Oris explained that the Statute requires the Council to give the Commission the items which Council requested for reconsideration, and then "confer" and have a dialogue about these Charter items. This meeting between the Council and Commission meets the statute requirement.

The issue of a contract is a sub-issue to appointed or elected Town Clerk, and Ms. McWhirter said this is part of the rationale behind the Commission's decision for an appointed Town Clerk. The Commission looked at many points on whether the position should be elected or appointed.

In its review of Section 2-2(B), the Town Council voted 5-3 to leave the Town Clerk position as an elected position.

Section 1-7(A) Residency – "For good cause benefitting the Town, the Board of Education may, by a two-thirds (2/3) vote of its entire membership, waive this residency requirement for the Superintendent of Schools ***for a period not to exceed three years.***"

In its review of Section 1-7(A), the Town Council voted 7-1 to leave the residency requirement as stated in the existing Charter.

Chairman Oris said this section should be left the same. He advocated, at minimum, the residency requirement be carved out excluding the sitting Superintendent of Schools because he was not hired under the residential requirement.

Ms. McWhirter advised that this residency requirement could have some hardships on a Superintendent of Schools when hired for the job. There could be a spouse with a good job in another area; having school age children might obligate putting them in a private school rather than the public school; and then considering this in the pay scale. She said a good candidate might choose not to come to Cheshire under the residency

requirement. On the other hand, it would be nice to have the Superintendent paying town taxes, understanding up front the tax burden on Cheshire residents.

The Council and Commission were told by Mr. Bowman that he talked to some human resource people outside Cheshire to get the thought process in the industry for attracting candidates for the Superintendent's position. Those same issues came up, and this is what changed his thought process at the Council meeting.

Section 4-2(C) Duties of Town Manager... "assist in the development of all Council and Council committee agendas;"

Chairman Oris stated that after further reading of this wording, he agrees with Councilor Ruocco on changing the wording. Their concern was the potential for this to read as the Town Manager actually having a formal role in setting the agenda. The Council wanted to make sure it was not increasing the power of the Town Manager, and the power of setting the agenda stays where it has always been...with the Chair of the Town Council.

Mr. Wetmore commented on his assumption that the Town Manager now assists in the preparation of the agenda.

Stating yes, the Town Manager does assist, Mr. Oris said the question is how formal this becomes. There are many people assisting in things the Council does, and he suggested adding a caveat stating that this in no way changes the formal role of who sets the agenda. Mr. Oris said if he and Mr. Ruocco read it the way they did, to him it lends itself to some ambiguity, and it should be cleared up.

Ms. McWhirter advised that Mr. Ruocco mentioned using the word "cooperate" rather than "assists". She asked if this wording would be clearer.

In that regard, Mr. Bowman said there are many things which the Chairperson can put into the agenda. The Town Manager keeps the agenda calendar, as there are many things, some by statute with time lines, reporting, etc. that a new Council Chairman may not be aware of.

Ms. McWhirter said that the Town Manager is assisting the Council in the development of agendas.

The wording "shall assist" was suggested by Mr. Laden, who said it would not make it mandatory.

Mr. Oris said we must make sure not to expand the role of the Town Manager in the Town Charter.

Section 2-2(A)(2) – “After the district Council members have been determined, the remaining five (5) members shall be determined by plurality from the at large candidates; ***membership of the Council shall be consistent with minority representation provisions in the General Statutes, as amended.***”

In its review of Section 2-2(A)(2), the Town Council voted (6-2) for minority membership of the Council to remain as grandfathered in at 7-2.

Section 1-7 (A) Residency (Town Manager) – the Commission discussed residency requirement of the Town Manager, and there was no vote to advance this section of the Charter to the Town Council.

Section 2-9 Records – “***The policy concerning electronic recording of public meetings shall be established by the Council.***”

In its review of Section 2-9, the Town Council’s recommendation for clarity was changing the sentence to read “**A**” policy concerning...”

Chairman Oris stated that using the word “The” infers there is already a policy in place. There is no such policy in place, and Council recommends using “A” policy.

The Council had a unanimous vote on forwarding this request to the Commission for reconsideration.

4. ADJOURNMENT

MOTION by Mr. Levine; seconded by Mr. Laden.

MOVED that the special meeting be adjourned at 7:30 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk