

MINUTES OF THE CHESHIRE TOWN COUNCIL MEETING HELD ON THURSDAY, JULY 6, 2017, AT 7:00 P.M. IN TOWN HALL COUNCIL CHAMBERS, 84 SOUTH MAIN STREET, CHESHIRE CT 06410

Present

Robert J. Oris, Jr., Chairman; Paul A. Bowman, Vice Chairman; Michael Ecke, Jeffrey Falk, Patti Flynn-Harris, Sylvia Nichols, Thomas Ruocco, Timothy Slocum, Peter Talbot. Staff: Town Manager Michael A. Milone; Assistant Town Manager Arnett Talbot.

Guests: Charter Revision Commission Members – Barbara McWhirter, Chairperson; David Borowy; Kim Cangiano; Matt Levine; Sandra Mouris; Mark Shumilla; Sue Stanley; Kevin Wetmore. Councilors Bowman and Ecke were members of the CRC.

Absent: Michael Laden

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 CHARTER REVISION COMMISSION DRAFT REPORT

Chairman Oris welcomed the Commission members to the special Council meeting. On behalf of the Council and the Cheshire Community, Mr. Oris expressed appreciation to the Commission members for their hard work and dedicated efforts to their task of revising the Town Charter. The last Charter revision was in 1995, and the Council believed it was important for the Town Charter to reflect the times in which we now live. Mr. Oris thanked the members for the draft report submitted to the Council on June 1st.

Ms. McWhirter, Chairperson of the CRC, read a statement into the record which summarized the Commission's work on the Charter, and cited the following:

- the Commission discussions on the overall Charter
- recommended substantive revisions
- replacement of obsolete language or time frames, provision for electronic recording of public meetings and public notices
- schedule changes for operating and capital budgets
- updating of special appropriations and purchasing levels for 2017
- change in status of Town Clerk from elected to appointed position
- change in minority representation rule from 7-2 to 6-3
- establishing residency requirement for Town Manager and School Superintendent

Ms. McWhirter commented on the commitment of the Commission to create a Town Charter that would guide the Town of Cheshire into an uncertain future, and not reflect on the past.

In her closing remarks, Ms. McWhirter thanked Town staff – Town Manager Milone, Assistant Town Manager Talbot, Town Attorney Smith, Ms. Roberts, Mr. Jaskot, Town

Clerk Brennan, Council Clerk Marilyn Milton and Videographer Michael Solimine for their guidance and participation in the process of revising the Town Charter.

Councilor Bowman commented on how well the Commission members worked together, addressed the issues which came forward, had robust discussions on every chapter of the Charter, and covered every chapter. He said Ms. McWhirter summarized very well the issues involved in the revision process, and what will be recommended for approval of the Council.

Councilor Ecke commented on the current Town Council working well together and moving in a good direction...far better than past Councils. Mr. Ecke said the revision commission worked in a non-partisan way in its approach to the Charter, and the large task to be undertaken. The proposed changes look into the future, and will make the Charter a more living document. It could be another 20 years before there is another Charter revision, and a good and positive job was done by the Commission members.

Councilor Nichols thanked the Commission members for a great job on the Charter revision. She was able to keep up with the meetings and ongoing work through the minutes submitted to the Council. As an elected Council member, she asked how the Commission arrived at the conclusion of the three major issues cited (change in status of Town Clerk from elected to appointed position, change in minority representation rule from 7-2 to 6-3, establishing residency requirement for Town Manager and School Superintendent), and if the group worked collaboratively throughout the process.

In response, Ms. McWhirter said it is a tremendous help to review the videos of the meetings (which are on the CRC website), listen to comments from other members, but noted that Commissioners did not agree on everything. There was agreement to publish dissenting opinions on issues in the report.

Councilor Falk asked about the residency requirement for the Superintendent of Schools, and if the current Superintendent must meet this requirement.

In reply, Ms. McWhirter pointed out that the current Superintendent just had a one year contract extension, and this is one way to get around the residency requirement...one year, plus one year, and the requirement keeps getting extended out. The commission members noted the Town Manager and Superintendent of Schools positions are ones of great power in terms of making a difference for Cheshire citizens. If they are not living in Cheshire, they are not on the streets, not accessible to the people, not paying taxes, but are developing budgets which are the end results of taxes.

Mr. Levine clarified that the Superintendent's residency can have a one year extension, but the next time the contract is renewed, if the new Charter is in place, there must be compliance with the residency requirement.

Councilor Ecke said the BOE can give the Superintendent one three (3) year waiver. If the Charter passes at referendum, the current Superintendent could have up to 5 years to comply with the residency requirement.

Chairman Oris commented on the Council having the right to require residency...but it does not have to do so.

According to Mr. Levine, if the Charter requires residency, the Charter is in control.

In reading the summary of revisions, #2 Residency Requirements, Mr. Oris asked about the Council having the same right for Superintendent residency requirements as with the Town Manager.

Mr. Wetmore read an excerpt from Chapter 1-7(A) (bold/italics are changes).

***“For good cause benefiting the Town, the Town Council may, by a two-thirds (2/3) vote of its entire membership, waive this residency requirement for the Town Manager for a period not to exceed three years. For good cause benefiting 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 Chapter 1-7(B), Mr. Falk asked about anyone hired after the Charter is in effect.

Chapter 1-7(B) is in the Charter now...and the Commission added...***”as allowed by law”***.

Mr. Slocum asked if the Commission explored the residency requirements in other towns.

According to Ms. McWhirter the Commission explored them all over the State map.

Mr. Levine said when issues came up, the group looked at other towns, did a survey, and looked at things worked or did not work.

Mr. Slocum supports an elected Town Clerk, and is at odds with the minority representation changing to 6-3. He asked about the Council's opposition to recommended Charter changes, and how these changes would result.

The Council must return to the Commission its request for changes to the draft report by July 28th, and Ms. McWhirter said they are then reviewed by the Commission. The Commission may change, or leave them as they are, and then present its final report to the Council. What goes to referendum is in the hands of the Town Council.

Mr. Talbot talked about the vote on the Charter in November, and his understanding the vote is on the whole Charter, and it will not be line item vetoes.

Ms. Talbot informed the Council there could be multiple Charter questions on the November ballot.

Chairman Oris said this is done as the Council chooses. The Council can support various items for referendum vote or pull out 2 or 3 items for individual vote.

This was discussed by the Commission, and Mr. Bowman stated the Council could pull out a few items to be voted separately. There could be 2 or 3 questions...a base Charter and 2 other items. If they fail at referendum, then the Charter, as written in the existing charter, remains in effect. However, he said it would be a shame to have the entire Charter go down in flames for a few items.

Councilor Ruocco stated his assumption that the Council has the authority to pull some items from the final draft and send out a revised Charter with 2 or 3 large issues.

The recommendations cited are the Commission recommendations, and this is what the group was asked to do. What happens with the recommendations is in the hands of the Council.

Mr. Borowy stated the Council cannot change and say it wants an "elected Mayor". The Council can accept or reject and break into parts, and can make recommendations between now and July 28th. The Commission will get together and send the Council its final report in August, which the Council will accept, reject, or divide it up...but it cannot make a major change.

The issue of the meaning of "electronic recordings of meetings" was raised by Mr. Ruocco.

This means audio/visual recording of meetings, and Ms. McWhirter said this would include all board and commission meetings, especially for legal reasons. She noted that Ms. Talbot is in charge of insuring meetings are recorded. It may require a new position for someone in charge of keeping an audio and visual library for the Town. This is a 21st century issue; is something which must be discussed with Attorney Smith; and there was no recognition in the Charter for electronic recordings of all proceedings. It is recommended the Town Council meet this requirement. The Charter does not make any stipulations as to what it should be, but points out it is the obligation of the Council to make policy.

Mr. Ruocco asked about "minority representation" which requires 2 seats and this being changed to 3 seats. There is a State mandate in place requiring 3 minority seats, but Cheshire is grandfathered in for this requirement. He pointed out there is no minority representation rules that apply to the State Legislature...a party can sweep the entire

legislature. In that regard, Mr. Ruocco has an issue abiding by a mandate which the State does not impose on itself. He asked if the Commission discussed the minority representation as being fair, and cited an example. If one party sweeps the 9 Council seats, they must give back 1/3 or 3 seats to the minority party, and questions the fairness of this requirement. In Cheshire, district seats get seated first; at large candidates who lose an election can be appointed to a seat; and those who win must give up a seat. Mr. Ruocco questions if the degree of fairness was considered, or if it was just to abide by a State mandate which Cheshire has not conformed to for many years.

Sections 2-2D (Planning and Zoning), E (Zoning Board of Appeals) and F (Board of Assessment Appeals) were cited by Ms. McWhirter as groups with recognition of minority representation. The Commission talked about the Democrats and Republicans...R vs. D, D vs. R, and the largest party being Independent (I) voters. The Commission was trying to be flexible, meet mandates which Cheshire already is using, and align with the State of Connecticut.

Chart of Other Towns (included with these minutes) – Mr. Wetmore reviewed the chart he prepared for Town Clerk and Council Data with 28 towns with Council-Manager form of government.

Town Clerk – 18 appointed; 64%;

Council Members data for # members, # at large, #by district, and # of districts.

Minority Representation – only 4 towns do not meet the CGS; 24 meet the standard.

Appendix C-1 covers the appointed Town Clerk position rationale and discussion.

Appendix C-2 covers the logic between minority representation and information on the matrix explains the Commission's review of Council-Manager form of government.

Cheshire is made up of 26% Democrats, 28% Republicans, 45% Unaffiliated voters.

Mr. Wetmore clarified that the towns meet the State standard. Some of the Charters break up differently in terms of districts, and people cannot pick more than 2 out of 3 candidates when they vote. In Cheshire, 9 at large candidates are put up; people vote for only 5 at large candidates; other towns do not have that or the number of people to vote for is cut back, which ends up with effective minority representation. For all at large Councils, there must be compliance with minority representation.

Looking at the two majority parties, Mr. Talbot said it would be 6-3 minority representation under current State law.

Mr. Wetmore clarified that Cheshire boards and commissions comply with the State statute on minority representation.

Mr. Ruocco does not support minority representation. He reiterated his statement that it is unfair for someone who wins to give up the seat for which the voters have elected this person. He noted that Cheshire does not have "U" candidates up for office. Mr. Ruocco asked when the Charter revisions go into effect.

The Council was told by Ms. Talbot that the Charter takes effect 30 days after it is approved at referendum, or date chosen by the Town Council and identified.

Ms. Mouris commented on agreeing that if 9 people are elected, Democrat or Republican, they get the seats as they are elected by the voters. She never liked the minority representation requirement. Ms. Mouris acknowledged that people work hard to campaign for an at-large set, people vote for the person, and she disagrees with the recommendation of the Charter Revision Commission.

The effective date of the new Charter and revisions was discussed by Mr. Talbot, who said if it passes at referendum it is effective January 1, 2018. For the appointed Town Clerk and minority representation, they would go into effect in December 2019.

The Town Clerk is elected for a two-year term, and Mr. Bowman said if there is a resignation or vacancy, the appointed position would be in place. The Charter supersedes.

Regarding Chapter 2-5 Voting Districts, Ms. Flynn-Harris stated the ten (10) years for examining the voting population makes the Charter in compliance with the State statutes.

Chapter 3-4 Clerk of the Council – Ms. Flynn-Harris asked about the Clerk keeping "a **summary** record" of the proceedings, and not verbatim records, particularly for PZC due to legal aspects.

Ms. McWhirter replied that minutes are taken as close to verbatim as possible, and are filed in the Town Clerk's office.

Under FOIA, Ms. Talbot informed the Council that there is no requirement for verbatim minutes; only a summary is required to include specific time of call to order, roll call, motions and who made and seconded and outcome of a vote, and time of adjournment. If the Council wants verbatim transcription of minutes, it is their decision.

According to Ms. McWhirter it is up to the Council to make policy with regard to recording, either audio or visual. She strongly recommends this issue be discussed with Town Attorney Smith who can cover the legal aspects of town government meetings. The Charter speaks about the Council preparing policy, but does not give direction.

Mr. Talbot thanked the Commission for its hard work and effort put into the Charter document. On pages 4 and 5 of the Executive Summary, he noted that Commissioners agreed and disagreed, but their names are not reflected in the summary.

The Council was told by Ms. McWhirter that the Commissioners did not choose to put names of dissenting opinions in the summary. The names are reflected in the minutes.

Electronic Recording, Page 16 – Section 2-9. Mr. Talbot referred to this section of the Charter, and the additional wording... ***“The policy concerning electronic recording of public meetings shall be established by the Council.”***

He noted there is no reference made to when and if the policy shall be established, whether a time frame would be established, i.e. 60 days after the Charter takes effect.

According to Ms. McWhirter, the Commission did not feel it was necessary to “establish” dates, times, etc. and left that to the Council in consultation with the Town Attorney. There are legal questions to be pondered with such a policy.

Page 6 – Town Attorney. Mr. Talbot referred to this section in the summary (#7), and the wording “appoint an in-house town attorney”. He asked for clarification.

Ms. McWhirter explained that this would be having an in-house town attorney as opposed to an outside town attorney.

Ms. Stanley commented on this being an example of building out 20 years of flexibility in the Charter. The current system is fine; the future could have a situation where the town wants an attorney hired to deal with specific legal issues, i.e. land use and planning legal work. It might be cost effective to have an in-house attorney. In the future if there was replacement of the current town attorney, the Council could hire an in-house attorney.

Regarding “records”, the Commission recognized there are lots of technology changes. Ms. Stanley said we cannot imagine what will be in place 20 years into the future on recordings and maintenance of records. The Commission wanted to have the Charter include maintaining of electronic records of meetings. It believed in the Council’s ability to write a policy and revise this policy based on technology.

Page 6 – Commissions appointed by the Council. Mr. Talbot asked about this item #8 in the summary, and if there was a timeline or mandate for the Council to revisit its appointments.

In the current Charter it mandates certain commissions, and Ms. McWhirter said that the Council can decide if it really needs or wishes to have these commissions. It was felt this section restricts the Council and was unnecessary. The Commission tried to craft a statement covering commissions without mandating specific ones. It is up to the Council and what it believes the town perceives or needs.

Page 8, Section 4-2 – Mr. Talbot said it talks about eliminating reference to a “town report”, with verbiage that says the report is a capsulated version of the operating budgets. He asked if there is a State requirement for an annual report, and if the town can eliminate this report.

Ms. Talbot explained that the information provided in the annual report is provided in other town documents, and the report is redundant. The town does meet all of the State requirements.

Mr. Talbot thanked the Commission and Town Staff for their service in the Charter revision. For the record, Mr. Talbot stated minority representation is good enough for 25 of the 27 towns listed in the summary. This is an overwhelming majority of communities adhering to the State statute.

Chairman Oris stated the Town Council will, collectively, decide and deliberate on the potential changes and suggestions sent back to the Council. Mr. Oris thanked the Commission members for their work and dedication to their task of reviewing and revising the Town Charter. The Council will look at the changes, and provide meaningful and thoughtful suggestions back to the Commission for deliberation. He asked Ms. McWhirter if the Commission looked at, and what it did relative to the form of government in Cheshire, and why it was decided to remain with the current form of government.

The Council was informed by Ms. McWhirter that the Commission spent several of the first meetings on the topic of “form of government”, recognizing that the entire Charter would be based on that decision. There was a look at every town in the State, the form of government, information, statistical data, pros and cons of different forms of government, reviewed information from other towns, municipal organizations (i.e. CCM, COG). There was strong discussion about the City of Meriden and New Haven mayoral form of government. The size of the town played into the discussions, and almost all other towns similar in size and population to Cheshire had Council/Manager form of government. The mayoral form seems to work with larger cities.

With a vote on the issue, there was a broad consensus that the Council-Manager form of government was working well in Cheshire, has worked well, and there was no reason to recommend it be changed. The mayoral system also brings more layers of political motion to a town or city.

Mr. Wetmore said there is correlation between the size of the town and the governance. With smaller population there is more level for Selectman, and going up to where Cheshire’s population is now, there is preference for a professional Town Manager. Going into larger populations there are resources to support a larger organization to reflect the larger needs of a city or town.

The Commission's consideration of extended terms of office for Council members was raised by Mr. Oris. He asked for the thought process on this issue.

Ms. McWhirter stated that the ultimate decision came down to the position of the Town Clerk. There was some discussion on extended Council terms.

The Council was told by Mr. Borowy that the Commission discussed extended terms of office to four years for Council members...for district, at-large or both. The thought from many Councilors was the fact it was not that hard to run for office in a town like Cheshire. Two years was reasonable. It could have gone either way, and there was discussion about four years also working, but this was a long time commitment.

Having two Council members on the Commission helped greatly with some of the town government discussions. Mr. Nero and Ms. Flynn-Harris both addressed the Commission on the two or four year terms of office for Councilors. Running every two years can turn people off; running for a four year term turns people off; and there was a decision to not change the terms of office.

Records of public meetings was discussed by Mr. Oris, who has seen what other towns do in this regard. He contends that the public and all parties deserve an accurate assessment of what is going on when there are large financial impacts on people on both sides. An accurate assessment must be maintained on what transpires at meetings. Mr. Oris is a strong advocate, at a minimum, for audio recordings of all town government meetings. He is pleased the Commission advanced this change in the Charter, and strongly supports it. A policy will be put in place by the Council to insure Cheshire can lead the way on this issue, as it impacts transparency, legal issues etc. Mr. Oris was shocked that FOI only goes to the extent of limited records.

Mr. Bowman stated he strongly supports appropriate recordings of all meetings, and commented on issues with some boards and commission that do not, and did not, have documented record keeping. He cited the meetings held on the \$32 million sewer treatment plant project, which did not have appropriate record keeping. All meetings should be video-taped, and archived properly for future reference to protect what was said or not said, to protect the town, and this initiative needs to be addressed.

When the Council adopted its Rules and Procedures and following Roberts Rules, Mr. Bowman said that says what "summary minutes" are.

Mr. Oris stated that Cheshire does a good job, and is farther ahead of other communities...but we can do better to insure accurate assessment of meetings.

Ms. Flynn-Harris talked about tapes being missing when people take them for review, and they are not turned back into the town departments. She said the management issues for tapes and DVDs is very important.

Electronic Notice – Ms. McWhirter informed the Council about the recommendation in the Charter, where public notice is required, that it include electronic notice, in addition to newspaper notification. We are in a period of time when everything is transitional, and a large segment of the population is not on the computer regularly and they must be serviced.

Ms. McWhirter informed the Council that many requests and suggestions came to the Commission during public hearings, which are not Charter material. They are important and should be considered as ordinance material. That point was made to people who brought the issues forward. So, there are matters which could only be done with an ordinance or regulation, and not through the Town Charter.

A question was raised by Mr. Slocum about possible ordinances which the Council should revisit as a result of the Charter revision process.

On page 104 of the report document, Ms. McWhirter explained there is reference to ordinance implications and recommendations. For State statutes, which are continuously changed, the Charter now states “as required by law” or “as required by the Connecticut General Statutes”.

The Council will have the Charter Revision on the agenda of the July 11th meeting. Chairman Oris invited Commission members to attend this public hearing. The Council must have its recommendations on the Charter back to the Commission by July 28th. Mr. Oris will schedule another July meeting to address what the Council wishes to advance to the Charter Revision Commission.

Ms. Talbot addressed the Council, stating she worked with the Commission on many issues, for many hours, and substantive issues took up lots of discussions. Thought and time was also given to the non-substantive issues, which will bring this Charter up to date and plan for the future. Ms. Talbot expressed gratitude for the opportunity to work with the Commission members.

The Charter Revision Commission was comprised of a diverse group of people, and Mr. Oris reiterated the thanks of the Council and the Cheshire community for their service. The Commission represented the community well, was a bi-partisan group, had no political fodder, and focused on the issues of the community.

4. ADJOURNMENT

MOTION by Mr. Talbot; seconded by Mr. Falk

MOVED to adjourn the meeting at 9:10 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk