

**Town of Wethersfield
Charter Revision Commission
Minutes
June 25, 2015
Town Manager's Conference
Town Hall
505 Silas Deane Highway, Wethersfield**

Members Present: Chairman Dan Silver, Commissioners Steve Kirsche, Lou Laccavole, Mary Pelletier, John McAuliffe, William Knapp, Mike Zaleski.

Staff Present: Jeff Bridges, Town Manager

After an opening statement, Chairman Silver called for a short recess to provide an opportunity for the Commissioners to read the information presented to them.

On a motion by Mr. Knapp, with a second by Mr. Zaleski, and with all present voting in favor, the meeting was recessed for 10 minutes. Recess began at 6:56 p.m.

Meeting reconvened at 7:09 p.m.

Public Comments:

Robert Young, 20 Coppermill Road: He thought the language on the powers of the Park and Recreation Board should be stronger. He also did not feel confident in the ability of the Town Attorney to determine whether or not a Council Member had a conflict of interest. He stated that the Taxpayer's Association had taken to Town to court because they did not agree with a Town Attorney opinion, and the Taxpayers Association won the case.

Paul Copp, One Executive Square: He stated that he did not have much to say. His comments are already on the record from prior meetings.

The purpose of the meeting was to consider the comments provided by Town Council on the draft revised Charter. These comments were summarized in a memo from Jeff Bridges; Town Manager to Members of the Charter Revision Commission dated June 25, 2015. A copy of the memo is attached to these minutes.

Public comment was closed.

The first item discussed was the elimination of the term “advisory” in Section 510 of the Charter which established a Parks and Recreation Board.

On a motion by Mr. Knapp to leave the proposed language as is, with a second by Mr. Kirsche, and with Mr. Knapp, Mr. Kirsche, Mr. Zaleski, Mrs. Pelletier, and Mr. McAuliffe voting in favor, and Chairman Silver and Mr. Laccavole voting against, the motion passed 5 votes to 2.

The next item discussed was changes to Sections 601, 708, 709, regarding budget appropriations. The proposed changes to the Charter added some language which in review was not applicable to these sections.

On a motion by Mrs. Pelletier to keep the current Charter language in Sections 601, 708, 709 and strike the proposed language in those sections, and with a second by Mr. Zaleski, and with all present voting in favor, the motion passed.

The Commission then discussed the proposed changes in Section 703 of the Charter. This section establishes what information is to be provided in the Town Manager’s Proposed Budget. The recommendation at this time is to modify the proposed language to clarify what is being required in the proposed budget. The net effect of this change requires the Town Manager to provide not only an estimate of the unencumbered cash balance, but also the cash position in the fiscal year. (Did the Town receive the revenue expected in the fiscal year?)

On a motion by Mr. Kirsche to amend the proposed language in Section 703(a) to “An estimate of the unassigned fund balance, or the equivalent as defined by generally accepted accounting principles, and the probable cash deficit or unencumbered cash surplus, as the case may be, at the end of the current fiscal year” seconded by Mrs. Pelletier, and with all present in favor, the motion passed.

The Commission also discussed proposed changes to Sections 308 and 705 of the Charter. These sections provide for the method of public notices. The Charter Commission is recommending changes to the notice methodology whereby the Council can determine the means of how public notices are made in the event the state statutes are changed. The Commission discussed providing some language to the Charter on how the Town Council is to establish a methodology for public notices. It was determined that the process should be adopted by ordinance.

On a motion by Mr. Zaleski to amend the proposed language in Sections 308 and 705 to “... or alternate means established by the Town Council by ordinance”. Seconded by Mrs. Pelletier, and with all present voting in favor the motion passed.

The Town's Bond Counsel, upon review of the proposed revised draft also had a concern regarding Sections 309, 310, 311, 713, 714, and the proposed language "appropriated expenditures". These sections remove the set dollar amount for certain thresholds and replaces them with a percentage amount of the budget or appropriations. In order to clarify the language, it is recommended that the proposed language be amended to "... of the appropriated General Fund expenditures for the current fiscal year".

On a motion by Mr. Knapp to change the proposed language in Sections 309, 310, 311, 713, and 714 to "... of the appropriated General Fund expenditures for the current fiscal year", and with a second by Mr. McAuliffe, and with all present voting in favor the motion passed.

There were concerns expressed also about the proposed language in Section 311 of the draft revised Charter that places limits on the number of bond referenda that can be held in one year. After some discussion it was determined that the intent of the Commission was to limit the number of special appropriations per year and not bond referenda. This also impacts Section 310 where the proposed language would have put the same limitation on emergency ordinances. The Commission revisited the issue and amended the language to only restrict to two the number of special appropriations per year.

On a motion by Mr. Kirsche to eliminate the proposed language in Section 310 limiting the number of emergency ordinances to two per year and to amend the proposed language in section 311 to restrict the limitation to two special appropriations per year, with a second by Mrs. Pelletier, and with all present voting in favor, the motion passed.

There was a request that the percentages contained in Sections 310, 311, 713, and 714 which must be calculated for the proposed also be calculated for the adopted budget and that the percentage contained in Section 309 be included in the requirement for both the proposed and adopted budgets.

On a motion by Mr. Knapp to require the percentages contained in Section 310, 311, 713, and 714, be calculated for the proposed and adopted budgets and include Section 309 to the Sections identified in the proposed language in Section 703(e), seconded by Mr. Kirsche, and with all present voting in favor the motion passed.

There were many comments put forth by the Council on the proposed ethics language contained in the draft revised charter. Several motions and changes were made to this section.

On a motion by Mr. Kirsche to amend the proposed paragraph (c) of the new section on ethics in the draft charter to add, prior to the last sentence in the paragraph "Alleged violations that are determined not to have serious purpose or value are to be dismissed by the Board of Ethics with

no findings of fact” and seconded by Mr. Knapp, with Mr. Kirsche, Mr. Knapp, Mrs. Pelletier, Mr. Laccavole, and Mr. McAuliffe voting in favor, and Chairman Silver and Mr. Zaleski voting against, the motion passed.

On a motion by Mr. Knapp to eliminate the proposed “conflict of interest” section from the ethics section of the draft charter, seconded by Mr. Kirsche, and with Mr. Knapp, Mr. Kirsche, Mr. Laccavole, Mr. McAuliffe, and Chairman Silver voting in favor and Mr. Zaleski and Mrs. Pelletier voting against the motion passed.

Mr. Zaleski made a motion to delete paragraphs (b) & (c) from the proposed section on ethics in the draft Charter which was seconded by Chairman Silver, with Mr. Zaleski and Chairman Silver voting in favor of the motion and Mr. Kirsche, Mr. Laccavole, Mrs. Pelletier, Mr. Knapp, and Mr. McAuliffe voting against, the motion failed.

With no further business to come before the Commission, on a motion by Mr. Knapp and with a second by Mrs. Pelletier, to adjourn, and with all present voting in favor, the meeting was adjourned at 9:50 p.m.

Minutes Prepared by.
Jeff Bridges, Town Manager



Memo

To: Members of the Charter Revision Commission
From: Jeff Bridges, Town Manager
Date: 6/26/2015
Re: Town Council Comments on draft revised Town of Wethersfield Charter

The Wethersfield Town Council, at its June 15, 2015, meeting had suggestions and questions regarding the draft revised Charter prepared by the Charter Revision Commission. The following is a summary of those items. As supporting documentation on those concerns / questions I have attached emails and letters from Council Members Jeff Kotkin, Gerri Roberts, Mike Hurley (through a letter by Richard Roberts to the Town Council) and Finance Director Michael O'Neil.

1. Altering the “advisory” nature of the Park and Recreation Advisory Board to a policy making body; (Sections 510 / 604). The Council does not support this change.
2. Changes to Sections 601, 708, and 709. These sections deal with budget appropriations and how excess appropriations can be handled. Town Council is recommending that the new language be stricken and the existing current charter language remains. The existing language is more appropriate in these sections.
- 3a. Proposed Section 703 outlines what is necessary in the proposed budget developed by the Town Manager. Perhaps to clarify, Section 703(a) should be modified as follows, “An estimate of the unassigned fund balance, or the equivalent as defined by generally accepted accounting principles, and the probable cash deficit or unencumbered cash surplus, as the case may be, at the end of the current fiscal year”.
- 3b. Sections 308 & 705 regarding public notices. The concern is that the proposed language in the Charter states that the Council can determine alternate means (other than newspaper publications) to disseminate public notices. However, the proposed language does not say how those means are established. The recommendation is to change the language in Sections 308 and 705 to “... or by alternate mean established by ordinance by the Town Council.”
4. Sections 309, 310, 311, 713, 714: These sections set a maximum dollar amounts for various purposes. The dollar amount is determined by a percentage multiplier on the “appropriated expenditures”. To clarify the term it is requested that the proposed language in these sections are changed to “... of the appropriated General Fund expenditures for the current fiscal year.”

5. Based upon comments from Bond Counsel, the Town Council is concerned about the limitation on the number of bond referenda that can be held in any one year, Section 311. Given that referenda are ultimately decided by the electorate is there a need for a limit on the number per year.

6. Section 703 requires the Town Manager to calculate the percentage limitations set forth in Section 310, 311, 713, and 714 for the proposed budget. This requirement should also be extended to the adopted budget. Section 309 should be added to Section 703(e) as well.

7. Ethics:

a. Response to Ethics Recommendations from Council majority:

There are a range of concerns about the proposed changes in the Charter on this topic. During discussion with the Chair and Vice Chair of Charter Revision, it was clarified that the proposed charter language does not provide that a recommendation of resignation in the event of a negative finding is imposed, but “recommended”. (urged)...

This was taken back to Council members who still object to the ethics commission having the ability to urge or recommend resignation. It is certainly understood that Charter Revision intended(s) to create the “buck stops here” resolution as opposed to returning it to elected officials who must rule on their own colleagues where political motivations may conflict with objective thinking. And it is understood, and agreed by councilors that ethics needs attention, revision, and organizational correction.

However, the concern from council is that there are no references to degrees of infractions: Steve Kirsche indicated that there should be a guideline established for accepting something as in the case of the tickets for the play at the High School years ago, which without, could set off a series of frivolous claims of ethics violations. Another example cited this past year was the accusation that council majority had a conflict of interest because a PAC had contributed to the Democratic Town Committee, and therefore any union represented by the PAC that had been engaged in contract negotiations should not be voted on by any of the majority because of a conflict. In this example, conceivably all democratic council members who obtained an opinion from the Town Attorney indicating there was no conflict, could be subject to an ethics complaint, and potentially asked to resign if it was the desire of members of the community or other elected officials to pursue an ethics violation. How do we ensure that frivolous or politically motivated accusations without merit don’t end up morphing into determination of ethics violations and calls for resignation? This is still a big concern of the council.

There is still sentiment that the findings of the ethics commission should be findings of fact with treatment similar to an 8-24 referral from P & Z where the recommendations go back to elected officials for final adjudication or decision.

There is also significant concern that the absence of any appeal calls into question due process. The fact is the commission is appointed, not elected. The possibility that a finding would result in impact on elected officials reputations fairly or unfairly, without appeal ignores the potential harm to their personal reputations, careers and families without appeal. It is the sense from the council that this swing over is too severe an over reach.

We do believe as a Council that ethics commission, procedures and structure needs a deeper look, and addressing. We are contemplating the creation of an ad hoc committee to investigate ordinance review, commission design and structure, as well as procedures.

And if a councilor self inquires as to a potential conflict of interest, and seeks an opinion from the Town Attorney and this opinion determines there is NOT a conflict, could we insure that this finding insulates the elected official from any ethics complaints being filed?

b. Response on the Ethics Section from the Minority Party:

Please refer to paragraph 7 on the last page of the letter from Richard Roberts.

There may be other comments contained within the letters, emails, and memo attached as supporting documentation; however the concerns and recommendations above remain the Council's priorities.

Att.



Jeff Bridges <jeff.bridges@wethersfieldct.com>

Comments for Charter Revision

1 message

Jeffrey R. Kotkin <jeffrey.kotkin@wethersfieldct.com>

Tue, Jun 16, 2015 at 9:23 PM

To: Jeff Bridges <jeff.bridges@wethersfieldct.com>, "Paul F. Montinieri" <Paul.Montinieri@wethersfield.org>

As requested, here are my general thoughts about the Charter Revision recommendations.

1. I like all of the indexing of the spending limits. That makes a lot of sense.
2. I do not agree with removing the "advisory" reference to the Park and Rec board and find it contradictory that the second "advisory" reference remained later in the affected paragraph.
3. I know it is very late in the process, but I would suggest that the commission take a look at whether we need a Treasurer or a Deputy Treasurer. I believe the positions are a throwback to the days when Wethersfield had a Board of Selectmen and would reference the comments from our auditor. I do not believe that in practice the positions act as a check on town finance staff.
4. I agree with the other comments by bond counsel.
5. I have a number of issues with the new Board of Ethics language. First, there is nothing I here that discusses the severity of any potential violation. About 8 years ago, members of the Town Council improperly accepted \$8 tickets to a musical at the high school. The Ethics Board found that council members should not have accepted them and I and probably some other council members sent \$8 checks to the school department. My reading of the proposal indicates that all of us would have been censured and asked to resign since there was a finding of impropriety. That does not make sense.
6. I have recused myself 10-15 times during my 10 years on the council because issues related to my employer have come up. Each time, I said I had a conflict and left the room. It was then reported in the written minutes which were approved by the council. I don't understand the point of also needing to write out a statement explaining the conflict to the Town Clerk.
7. I don't agree with the notion that the Town Council, Board of Education and Library Board are obligated by charter to rubber stamp a finding by the Board of Ethics. What if they don't? What if they all abstain?
8. The text appears to require that issues of a conflict of interest be brought before the Board of Ethics. When a question arose as to whether Dave Drake or I could vote on the developer restriction on Goff Road a couple of years ago because Dave's mother and I lived nearby, I asked the town manager to ask the town attorney for an opinion ahead of time on whether I could vote on it. The proposed wording appears to say the Board of Ethics would have to be convened to decide that issue. I don't find that very workable.

Jeff

Sent from my iPad



Jeff Bridges <jeff.bridges@wethersfieldct.com>

Charter Revision

1 message

Gerri Roberts <gerri.roberts@wethersfieldct.com>
To: Jeff Bridges <jeff.bridges@wethersfieldct.com>

Fri, Jun 19, 2015 at 10:12 AM

I agree with the Councilor comments made on Monday night around the Ethics Committee section and deleting "advisory" from the Parks and Recreation Board.

I do not believe that Boards and Commissions should be given "more power" or authority as Chairman Silver stated. They are appointed and should not be setting policy for the town. That is the role of the elected officials on the Town Council and Board of Education.

I concur with the comments made by Jeff Kotkin and the Mayor on Monday night regarding the Ethics Section. I have additional concerns regarding Chairman Silver's assertion that the decisions of the Board of Ethics are final and binding with no appeal process. Additionally, Chairman Silver emphasized that the Ethics Board would be taking testimony and evaluating evidence. I am concerned that without proper legal training, lay members of the Board are not qualified to make these determinations. Since there is no appeal in the proposed language, proper interpretation of testimony and evidence would be essential.

Gerri

Town of Wethersfield
505 SILAS DEANE HIGHWAY
WETHERSFIELD, CONNECTICUT 06109



MICHAEL J. O'NEIL
FINANCE DIRECTOR

(860)721-2863
MICHAEL.ONEIL@WETHERSFIELDCT.COM

Memorandum

To: Jeffrey K. Bridges, Jr.
From: Michael J. O'Neil, Finance Director
Date: June 15, 2015
Re: Charter Revision

Regarding your request for input on issues related to charter revision, I offer the following:

1. Town Treasurer

The Charter provision for Town Treasurer grants duties related to the custody of Town funds, that is, how funds are received, invested and disbursed. In my opinion, this provides for a significant level of oversight and involvement all of which depends on the extent to which the appointee chooses to exercise those duties, his/her background, and the expectations conveyed by the Council when it makes its appointment. There are also opportunities to expand the Treasurer's scope of responsibilities beyond those delineated by the Charter, as has been done by naming the Treasurer as a trustee of the Town Pension Committee and the VFD Pension Committee.

I also asked Vanessa Rossitto, the audit partner at Blum Shapiro, (the Town's independent accountant) about this. She indicated that with elected treasurers, she sees more negatives than positives due to the prevalence of individuals in such positions who do not have the proper training or background to provide suitable oversight. This could be less of a factor in situations where a treasurer is appointed; owing to the opportunity that it affords the Council to vet candidates.

2. Review of Proposed Changes by Bond Counsel

I asked Judith Blank of Day Pitney, LLP in her role as bond counsel to the Town, to review the Charter changes that have been proposed by the Charter Revision Commission. Ms. Blank only reviewed the changes proposed to Chapter III. She noted the following:

Jeffrey K. Bridges, Jr.

June 15, 2015

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- a) The phrase “appropriated expenditures for the current fiscal year”, used as the index in several sections of Chapter III, may be too broad. For example, it would have included the appropriation for the high school project during the fiscal year of its approval. She suggests using, “budgeted expenditures for the current fiscal year” as the index that might be more appropriate.
- b) The final sentence of Section 311 limits to two the number of borrowing authorizations or special appropriations in a fiscal year, without reference to cost or means of approval. It is unclear whether the intent is to limit only those authorizations approved without referendum vote, or to limit to two the number of capital projects of any size in each fiscal year. As proposed, the Town could not authorize three projects in a fiscal year, even if all were to be voted on at referendum.

I concur with the change noted in item 2.(a). above.

Richard P. Roberts
15 Lantern Lane
Wethersfield, CT 06109

June 1, 2015

Mayor Paul Montinieri
Members of the Wethersfield Town Council

Good evening:

Unfortunately, I am unable to attend tonight's Town Council meeting and, in particular, the public hearing on the proposed charter revisions. The proposed changes are good and should be adopted. However, there are some clarifications or revisions that the Council may wish to consider. I would summarize these as follows, with a more detailed explanation below:

- The notice provisions in Section 308 and 705 should be clarified to ensure that the Town Council uses an alternative means designed to provide as much notice as is feasible if it elects not to use publication in a newspaper.
- The change in thresholds for referenda and special appropriations should be clarified to explain exactly what is meant by the phrase "appropriated expenditures". Also, if the current \$98,000,000+/- budget is used as a baseline for these calculations, the \$100,000 limitation is increased to \$147,276 and the \$200,000 limitation is increased to nearly \$300,000, vastly outpacing inflation over the past ten years.
- The proposed limitation in Section 311 to no more than two bond issuances or special appropriations in any fiscal year may be too restrictive. People can vote against bond issuances or special appropriations if they think there have been too many or if the amounts are too high, and this could be problematic in an emergency.
- The changes to Section 501 (Town Clerk) make it more confusing without really changing the substance.
- Sections 601 and several parts in Chapter VII use the new phrase "unassigned fund balance, or the equivalent as defined by generally accepted accounting principles". The context in which that phrase is being used suggests that it is meant to refer to something other than "unassigned fund balance", perhaps "remaining appropriations" or "unencumbered appropriations" or some similar term.

- Two minor revisions should be considered for Section 703.
- The proposed ethics section is a good addition conceptually, but it should be carefully coordinated with the existing ordinance so that there are no gaps or inconsistencies.

The details of these points are as follows:

1. Sections 308 and 705 propose allowing the Town Council to use means other than publication in a newspaper to give notice of hearings on proposed ordinances or resolutions and the budget. While it is understandable that you would seek to reduce the costs associated with publication in a newspaper, the alternative means selected by the Town Council should be established with the goal of providing as much broad notice as possible to the public. In any event, such alternative notice should not provide for a shorter time frame than that which is currently provided so that citizens who may not have internet with which to check the town website on a daily basis are not frozen out of the process.
2. Section 309 changes the threshold for a referendum from \$100,000 to a floating number equal to "0.15% of the appropriated expenditures for the current fiscal year". Likewise, Section 310 permits an emergency appropriation by the Council to be made in the same amount. In addition, Section 311 increases the threshold for a mandatory referendum on bond issues and appropriations from \$200,000 to "0.30% of the appropriated expenditures for the current fiscal year." Similar changes are made to Sections 713 and 714 for purchasing and public bidding.

The concept of setting these numbers at an index rather than a flat number avoids having to amend the charter to keep pace with inflation. Many other cities and towns have made similar changes so that the thresholds remain relatively constant as a percentage of the municipal budget despite inflation.

One change that I would suggest would be to change the phrase "appropriated expenditures" to something else that is either clearer or is found somewhere else in the charter. That phrase is circular and redundant and really does not have an independent meaning. Is it the sum of the approved expenditures for the Town, Board of Education, Library and road levy? If so, it should say that, perhaps as a defined term. If it means something else, it should be clarified.

My concern is that it might have been intended to mean something other than the aggregate total of the four parts of the town budget, because the Charter Revision Commission's summary states that the Town Manager's office estimated that 0.15% of the current appropriated expenditures would be equal to \$100,000. If you take the \$98 million town budget that was recently approved, 0.15% is \$147,276, rather than \$100,000. Likewise, the \$200,000 threshold

currently in place for a mandatory referendum would now be \$294,552. These are nearly fifty percent increases proposed to be made in the time period in which we have experienced virtually no inflation.

3. Section 311 proposes to limit the number of bond issuances or special appropriations to two in any fiscal year. The proposal may be designed to impose fiscal restraint on the Council, but it might be problematic in the event of emergency situations which can't be handled under Section 310. In addition, there have been several times when more than one proposed bond issuance is on the ballot at a single time and I recall one time when there were three. Would this change prohibit multiple bond issuance questions at one election? Would it also include MDC bond issuance questions?
4. The Charter Revision Commission indicated that the phrase "indefinite term" was confusing in the context of the Town Clerk under Section 501. That exact same phrase is used for the Town Manager in Section 401 and the Town Treasurer in Section 502 but those have not been changed.

The rest of the proposed revisions to Section 501 don't really change anything that is currently in effect. The Town Clerk is still appointed by the Town Council and is still subject to removal under Section 313.

5. Sections 601, 708, 709, and 711 use the new phrase "unassigned fund balance, or the equivalent as defined by generally accepted accounting principles". The way that phrase is being used – in the context of the current year's budget and the expenditures and appropriations within the current year's budget – suggests that the reference to the "fund balance" is not correct. The fund balance is the "off budget" reserve account and is separate and distinct from any sums that may have been appropriated but not yet expended during the then-current fiscal year. The phrase is probably the correct one to use in Section 703, where the Town Manager is required to provide an estimate of the fund balance as part of the budget preparation process.

Perhaps the Town Manager or the Director of Finance can provide clearer terminology to accomplish the desired objectives.

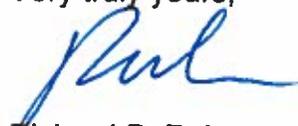
6. Section 703 sets out the Town Manager's obligations with respect to the town budget. Subsection (e) should be revised to include Section 309, which contains a similar floating percentage threshold. Also, it doesn't make sense for the Town Manager to calculate these percentages as part of his proposed budget submitted to the Town Council, since it is likely to be amended before it is finally adopted. Those amounts should be calculated based off the approved budget,

not the proposed budget – and should reflect whatever formula is determined to be appropriate for calculating those percentages.

7. The proposed ethics section is a good addition conceptually, but it should be carefully coordinated with the existing ordinance so that there are no gaps or inconsistencies. For example, the wording of the proposed "penalty" clause in the Charter is different from Section 10-74 of the ordinance and the conflict of interest definition is similar but inconsistent with Section 10-68 of the ordinance. You could end up having a violation of one but not the other.

Thank you for your consideration of these comments. Please let me know if you have any questions.

Very truly yours,



Richard P. Roberts