

PROPOSED SUBSTANTIVE CHANGES TO THE TOWN OF WESTON CHARTER

The Charter Revision Commission's detailed review of the Charter, which took place over more than six months, resulted in the following tentative substantive changes to the Charter. These changes have not yet been voted on by the Commission, but they represent the sense of the Commission at this point. In most cases, but not all, the recommendations represent the unanimous sense of the Commission, pending further input from the public and discussion among the Commissioners. The format in this memorandum for presentation of these proposed substantive changes will be as follows: first the applicable provision of the current Charter will be summarized, then the proposed change, and finally the Commission's reasons for recommending the change. The Commission also intends to recommend in its final report a number of other changes that are either minor or non-substantive, including stylistic and organizational changes that are intended to make the Charter more clear and concise.

The Commission encourages the entire community to read this memorandum and provide any comments to the Commission. Members of the public may attend any Commission meeting or may send comments by email to Kenneth Edgar at simick54@gmail.com or Dennis Tracey at d.h.tracey@gmail.com

We contemplate that the Commission's schedule for completion of this phase of its work will be as follows:

March 24, 1 pm	Commission meeting
March 25, 11:30 am	Commission meeting
March 28, 7:30 pm	Commission meeting
March 31, 11 am	Commission meeting
Early April	Issuance of Draft Report
April 25, 7:30 pm	Public hearing on Draft Report
May 10	Submission of Report to Board of Selectmen

Thereafter the Board of Selectmen will consider our proposals and hold a public hearing of their own before commenting on them.

A. CHANGES TO THE ANNUAL BUDGET PROCESS

Timing of Annual Town Budget Meeting – (Existing Section 2.2)

Section 2.2 provides that the Annual Town Budget Meeting must be held by April 22.

Proposed Change

Extend that date to the end of the first full week in May.

Reason for the Change

The Commission felt that giving the Board of Selectmen the flexibility to move the Annual Town Budget Meeting to a date as late as the end of the first week in May allowed the Board of Finance to use additional time to resolve difficult issues and to schedule the meeting at a time that would not be affected by the April school vacation. Providing this flexibility also puts the Town more in line with its neighbors in terms of scheduling the Town Meeting. (Note that the Commission also recommends that the date by which the Board of Selectmen must submit the budget to the Board of Finance (currently February 25) should be extended to March 1, for similar reasons. See existing Section 8.3.)

Reduction of the Budget at the Annual Town Budget Meeting – (Existing Section 8.4(f)(ii))

Section 8.4(f)(ii) permits the Annual Town Budget Meeting, by majority vote, to reduce any item in the budget. A secret ballot is conducted at the Meeting to determine the amount of any reduction if such ballot is requested by a majority of qualified voters present and voting.

Proposed Change

Retain the power of the Annual Town Budget Meeting to reduce budget items by majority vote, but require that at least 2% of qualified voters (currently about 130 people) be present in order for such reduction to occur. A secret ballot on such a budget reduction would be held if requested by at least one-third of the qualified voters present at the Meeting.

Reason for the Change

The Commission was concerned that if a small number of qualified voters attended the Annual Town Budget Meeting, budget reductions could be effected by a very small minority of voters whose views might not be representative of the views of the great majority of voters in Town. While it is true that such a decision could be subsequently reversed by machine ballot, that would not be an efficient remedy and

would cause additional expense and disruption to the Town. Requirements that a critical mass of voters (or “quorum”) be present in order to reduce a budget are relatively common, and in fact were part of the Town’s Charter until 1979 (and the requirements for a quorum were far stricter than the proposed 2%).

The Commission also received comment that, by permitting a reduction of the budget at the Annual Town Budget Meeting, voters in favor of a reduction would have “two bites at the apple” by being able to reduce the budget either at the Meeting or in a subsequent machine vote. The suggestion was made that, in order to avoid the “two bites,” no budget reduction should be permitted at the Annual Town Budget Meeting. This would turn the Meeting, in effect, into an additional public hearing on top of those already held in the budget process. The Commission was not inclined to adopt this suggestion. We felt that the Town Meeting remains an important aspect of our Town’s governance. It gives voters a forum to effect change other than at the ballot box. At the Town Meeting, voters can hear both sides of the argument immediately prior to determining whether, and if so, by how much, to lower the budget. To reiterate, however, in order to reduce the potential for dominance of the Meeting by a small group, we recommend imposing a quorum of 2% of voters in order for the budget to be reduced.

With regard to a secret ballot on budget reduction at the Meeting, the Commission did hear comment from those who supported use of a secret ballot because, among other reasons, they felt that voters could be concerned about public criticism if they publicly supported reductions in the budget. The Commission was of the view that a vote to conduct a secret ballot might be thought of as a proxy for reduction of the budget, and that some individuals might be reluctant publicly to support a secret ballot for that reason. It considered many approaches to this issue, but settled on an approach that gave a minority (albeit a substantial minority) of voters the right to call for a secret ballot on a particular issue.

Machine Balloting – (Existing Section 8.4(g)(i))

Under Section 8.4(g)(i), voters may petition under Connecticut law for a machine ballot to be held with regard to the annual budget. (Under Section 8.4(g)(ii), after the machine ballot the Annual Town Budget Meeting would be reconvened, and “taking under advisement” the results of the machine ballot, the Annual Town Budget Meeting would then vote on the budget. Under the existing Charter, a petition may be filed after the Meeting to attempt to overturn the results of the Meeting by machine ballot.)

Proposed Change

Approval of the budget would be determined by mandatory referendum (machine ballot). Voters would separately approve (i) the Town’s operating budget, (ii) the Board of Education’s operating budget and (iii) the capital budget. The referendum

would commence immediately after the Annual Town Budget Meeting and would recommence between 7 and 14 days after the Annual Town Budget Meeting. At the discretion of the Board of Selectmen, voters could be given the opportunity, if they opposed a particular component of the budget, to indicate whether they did so because that component was too high or because it was too low.

Reason for the Change

The Commission supports the widest possible participation by voters in the budget approval process. We perceive that there is broad support for an annual budget referendum. In fact such a referendum has been conducted with respect to the Town and Board of Education operating budgets for the past two years and has resulted in greater voter participation than is normally the case at the Annual Town Budget Meeting. In addition, a referendum is of course conducted by secret ballot, thus addressing to some degree those who are concerned about the potential lack of a secret ballot in the budget process.

Our proposed referendum mirrors in some respects the process used by the Town of Wilton, which also conducts the ballot immediately after the Town Meeting and recommences the vote at a later date.

In addition, Wilton utilizes the “too high” or “too low” options on its ballot. While the Commission thought that these options might be attractive in certain circumstances, it did not want to mandate their use in every budget cycle.

Procedure if the Budget Fails to Pass – (Existing Section 8.4(h))

Under Section 8.4(h), if the decision of the Annual Town Budget Meeting is overturned by machine ballot, the Meeting is reconvened one last time and the voters at the Meeting can increase the proposed budget up to an amount not greater than the amount that was originally recommended by the Board of Finance or can further decrease the budget.

Proposed Change

If one or more components of the proposed budget is rejected by the mandatory referendum it is returned to the Board of Finance for reconsideration. The Board of Finance may increase that component of the budget, decrease it or resubmit it to the voters in the same form. A new referendum on that component will then be held between 10 and 21 days after the original referendum was completed. If that component is rejected again, the process of resubmission to the Board of Finance and subsequent referendum would be repeated.

Reason for the Change

The Commission felt that the lack of provision in the current Charter for resubmission of a rejected budget to the Board of Finance needed to be addressed. Having recommended that there be a mandatory referendum, the Commission felt that all subsequent approvals should be by referendum.

B. PROVISIONS RELATING TO ELECTED AND APPOINTED TOWN POSITIONS

Making Tax Collector and Town Clerk Appointed Positions – (Existing Sections 5.3 and 5.4)

Sections 5.3 and 5.4 provide that the Town’s Tax Collector and Town Clerk are elected positions.

Proposed Change

Change these positions to appointed positions, effective upon expiration of the incumbents’ current terms.

Reason for the Change

Since the inception of the Charter, these positions have been elected positions. The majority of Commission members felt that changing these positions to appointed positions, just like the position of Town Administrator, would best serve the needs of the Town in the long run. The principal reasons supporting this change are:

1. **Professionalism.** By making these positions appointed positions, when these offices become vacant we will have a much larger pool of qualified professional applicants, since under the present Charter only residents of the Town of Weston can hold elected positions in Town.
2. **Continuity.** Continuity is an important aspect of the job. Should these positions be the subject of contested elections in the future, we run the risk of losing continuity in these positions, and we could wind up with serial changes in these positions based on which party prevails at election time.
3. **Accountability.** The Commission felt that all professional and clerical employees of the Town should be accountable to the First Selectman and Town Administrator, and at present this is not the case.

There was some concern that these offices would become more “politicized” if they became appointed positions, and that the Board of Selectmen might hire a new Tax Collector or Town Clerk merely for political or patronage reasons. While there is always some risk of such behavior, we vote for our Selectmen every two years, and any appointments made by the Board of Selectmen are subject to the scrutiny of the

voters. Although the majority of towns in Connecticut elect their Town Clerks, and about half elect their Tax Collectors, the majority of the Commission believes that changing these positions to appointed officials will best serve the interests of our Town in the long run.

Eliminating Board of Education “Safe Seats” – (Existing Section 5.5)

Under Section 5.5, absent a special Charter provision, when four positions on the Board of Education are being filled at an election basically two must be elected from each party, making them “safe” seats.

Proposed Change

Adopt a provision doing away with the safe seat (i.e., uncontested) requirement.

Reason for the Change

The Commission believes that, where possible, all Town elections should be contested elections to give the public meaningful input into the selection of their representatives. With regard to the Board of Education in particular, Connecticut State law provides that, unless a town’s Charter provides otherwise, when four seats are up for election, the Democrats and Republicans can only run two candidates each, thus assuring that all such candidates get elected. (This of course assumes no nonaffiliated candidates run for that Board.) Adoption of the new provision will change the process to allow each party to nominate a candidate for each open seat (in addition to any unaffiliated candidates), which should result in meaningful contested elections for the Board of Education.

Four-Year Terms for the Board of Finance, beginning in 2017 - (Existing Section 5.6)

Section 5.6 deals with the Board of Finance. It provides for six-year terms for its members, but does not explicitly provide for staggered terms.

Proposed Change

Beginning in 2017, change members’ terms to four years.

Reason for the Change

In 1979, the terms of members of the Board of Finance were changed from four years to six years, and the following staggered terms were established: three

members are elected, then four in the next two-year cycle, then none in the third two-year cycle. This was not the original intent, but an error occurred and this cycle was established.

The Commission felt that both the length of the members' terms and the cycle needed to be addressed. Changing the terms to four years, in the Commission's view, would allow voters to have input more frequently than every six years, which is viewed by the Commission as very desirable and consistent with its overriding objective to maximize accountability of the Town's elected boards and commissions. A four-year term would also be more consistent with other towns, the vast majority of which provide for four-year terms for their boards of finance.

We note that the current six-year term was not the result of any principled choice, but was caused by a misunderstanding of applicable law. Prior to 1979, members of the Board of Finance served four-year terms, and the change to six-year terms occurred, we understand, due to the misimpression that State law required six-year terms. Finally, if we introduce four-year terms, we can fix the problem with the current stagger beginning in 2017, upon expiration of the terms of the members who were elected in 2011 to a six-year term.

We have weighed concerns that have been expressed that the longer terms are helpful due to the significant learning curve required for a board of finance member and that longer terms may contribute to non-partisanship. We unanimously concluded, as have virtually all of our neighboring towns, that four-year terms allow for greater accountability to the voters, while also allowing for adequate learning time for members and a non-partisan board.

Prohibiting Borrowing to Make Additional or Supplemental Appropriations - (Existing Section 8.5(d))

Section 8.5(d) permits additional or supplemental appropriations to be funded by means of borrowing.

Proposed Change

Eliminate this possibility.

Reason for the Change

The Commission felt that it was inappropriate for additional or supplemental appropriations (as opposed to extraordinary appropriations) to be funded by borrowing.

Removal of Elected or Appointed Officials - (Existing Section 6.7)

Section 6.7 provides that any elected official may be removed “in accordance with the general law.”

Proposed Change

Add new removal sections. An elected or appointed official may be removed from office by the Board of Selectmen in the event of:

- a) malfeasance, negligence, incapacity, conviction of a felony or abandonment of office;
- b) material violation of the Charter’s Ethical Standards provisions or the Town’s Code of Ethics;
- c) the making of unauthorized expenditures; or
- d) failure to attend 3 consecutive meetings without contacting an officer of that official’s board or commission and providing a reason for such absence.

Reason for the Change

The current Charter provisions generally give no guidance as to the reasons why a Town official may be removed from office “for cause” or the procedure for doing so. The Commission felt that this was a significant gap in the current Charter, and modeled its proposed revision on the charter provisions of the Town of Wilton.

Elimination of Archaic Positions; Listing of Current Positions – (Existing Section 7.1)

Section 7.1 includes in the list of appointed positions Assistant Treasurer, Constable and Jury Committee.

Proposed Change

Eliminate these positions and add a Board of Ethics, Commission on Aging, Commission for Children and Youth and Commission for the Arts.

Reason for the Change

Since 1979, which was the last time these provisions were revised, the above positions mentioned in the existing Charter have essentially been eliminated, and the new ones mentioned above have been added.

C. POWER TO CREATE, CHANGE OR ABOLISH POSITIONS; POWER TO ADD ALTERNATES

**Creation, Change or Abolition of Positions; Use of Alternates -
Existing Section 3.2(b)**

Section 3.2(b) provides that the Board of Selectmen may create, change or abolish Town offices, Boards and Commissions, other than those provided for in the Charter.

Proposed Change

Expand this authority to provide that the Board of Selectmen may:

- a) create appointed Town offices or additional boards or commissions;
- b) expand the membership of any appointed boards and commissions (for example, to add alternates to the Conservation Commission);
- c) with the approval of a Town Meeting, abolish appointed Town offices, boards and commissions or reduce the number of members on appointed Boards or Commissions; or
- d) add alternate members to the Planning & Zoning Commission.

The Board of Selectmen would not, however, have the power to change in any way elected positions or offices, other than adding alternates to the Planning & Zoning Commission, as indicated in (d) above.

Reason for the Change

This change is intended to provide the Board of Selectmen with flexibility to make changes in appointed offices, boards and commissions and, with the consent of the voters, abolish appointed positions or reduce the size of, or abolish, boards and commissions in response to the needs of the Town. In fact, several positions that are contained within the current Charter have been effectively eliminated over the past several years as the needs of the Town have evolved.

In addition, the Commission has received significant input from the Conservation Commission requesting that alternates be added to that Commission. The proposed change would permit the Board of Selectmen to add alternates if the Board felt that such action were appropriate. Finally, we felt that the Board of Selectmen should have the power to provide for alternates on the Planning & Zoning Commission as well, since land use boards in general may have greater need for alternates given the nature of their responsibilities.

D. ABSENCE OF THE FIRST SELECTMAN; VACANCIES IN TOWN POSITIONS

**Creating the Position of Acting First Selectman – (Existing
Section 4.2)**

Section 4.2 provides for a Second Selectman to act when the First Selectman is temporarily absent, but only when the Board of Selectmen consists of more than three people. Because we only have three Selectmen, this provision of the Charter is inapplicable, and we do not currently have a Second Selectman.

Proposed Change

Provide for a Selectman to be elected by the Board of Selectmen, when the Board takes office, to assume the duties of the First Selectman in situations where the First Selectman is temporarily absent. This “acting” First Selectman cannot, however, make significant decisions in the First Selectman’s absence without the concurrence of the remaining Selectman.

Reason for the Change

As will be mentioned later (see discussion of existing Section 4.4(b), below) the Charter does not currently provide for the circumstance where the First Selectman is absent or in fact the office becomes vacant, principally because the provisions of the Charter regarding the Second Selectman are inapplicable. Creating the position of “acting” First Selectman addresses these issues.

Vacancy in the Office of First Selectman - (Existing Section 4.4(b))

Section 4.4(b) provides that in the event the First Selectman dies, becomes disabled or otherwise vacates office the Second Selectman would become First Selectman. Of course, this provision is not helpful because there is no Second Selectman. Therefore, the Charter is basically silent on succession, should the First Selectman’s position become vacant.

Proposed Change

Create the position of “acting” First Selectman (see discussion of existing Section 4.2 above). If the First Selectman position becomes vacant, the acting First Selectman would succeed to that position. If that succession occurs with more than 6 months left in the First Selectman’s term, a special election would be held to pick a new First Selectman. Otherwise the acting First Selectman would serve until the next regularly scheduled biennial election of Town officials.

Reason for the Change

As was noted, the existing Charter is silent on succession should the First Selectman’s office become vacant. The Commission felt that choosing an acting First Selectman at the start of the Selectmen’s term would minimize disruption should such a vacancy occur. The Commission also felt that if there were 6 months or less

left in the First Selectman's term the acting First Selectman could serve out the term, but if more than 6 months remained, a special election should be held to fill the vacancy, and unless the acting First Selectman was then elected First Selectman, he or she would resume the office of Selectman.

Vacancies in Appointed Positions - (Existing Section 7.3)

Section 7.3 requires that in the case of a vacancy in an appointed position the successor must come from the same party as the person who vacated the position.

Proposed Change

Eliminate this requirement.

Reason for the Change

In the case of appointed positions, the Board of Selectmen is very often presented with a candidate from either party, or an unaffiliated voter who steps forward, and chooses which person is ultimately appointed. If that person were to resign or otherwise vacate office, the Board of Selectmen should be able to choose the best replacement candidate (whether from a party or a nonaffiliated candidate) and not have to accept a candidate put up by the party with whom the prior appointed member was affiliated. This provision is of course subject to the general rule that no more than a bare majority of a Town board or commission be members of the same political party.

E. OVERRULING AN ACTION OF THE SELECTMEN; CALLING A TOWN MEETING

OVERRULING an Action of the Selectmen - (Existing Section 2.6(d))

Section 2.6(d) provides that an action of the Board of Selectmen can be overruled by a Town Meeting (called by 5% of voters) if at least 100 voters, constituting a majority of those present and voting, vote in favor of overruling such action.

Proposed Change

Increase the required vote to 3% of qualified voters (about 200 voters at present).

Reason for the Change

Overruling an action of the Board of Selectmen is a rare and serious occurrence, and the Commission felt that more than 100 votes should be required to do so. Also, expressing the required vote as a percentage allows it to change appropriately with the number of qualified voters.

Calling a Town Meeting – (Existing Section 2.7)

Under Section 2.7, 5% of voters can call a Town Meeting to adopt a new ordinance or mandate an action by the Selectmen, but that Meeting can only act if 5% of voters are present at the meeting and a majority support the proposed ordinance or action.

Proposed Change

Change the required vote at the meeting to 3% of voters, if they constitute a majority of those present and voting.

Reason for the Change

The reasons are similar to those expressed above with regard to Section 2.6(d) of the current Charter. In addition, changing the requirement to 3% achieves consistency with the new percentage requirement for overriding an action of the Board of Selectmen, discussed above.

F. MISCELLANEOUS RECOMMENDATIONS

Code of Ethics and Board of Ethics (Existing Section 9.1)

Section 9.1 contains a prohibition on certain conflicts of interest and a provision for remedies for violations.

Proposed Change

Establish a high general standard of ethics, including avoidance of conflicts of interest, and provide for specific ethical standards to be contained in a Code of Ethics that is established by ordinance and interpreted by the Board of Ethics.

Reason for the Change

The existing Charter does not provide for either a Code of Ethics or a Board of Ethics, and contains only a single provision relating to conflict of interest with no clear standard for removal of officials who violate ethical standards. As noted

above, the Commission is recommending that the Board of Ethics be established by Charter (see change to Existing Section 7.1 above) and that removal standards be clearly stated (see change to Existing Section 6.7 above). The Commission further believes that the Charter should not itself contain the Town's Code of Ethics because a code of ethics should be subject to change as evolving standards of conduct require), but rather the Charter should (1) expressly require a Code of Ethics (which the Town has but it is not provided for in the current Charter) and (2) authorize the Board of Ethics to interpret the Code of Ethics.

Service on other Boards by Selectmen – (Existing Section 3.1)

Section 3.1 provides that no Selectman can hold any other "office of profit" in Town Government.

Proposed Change

Broaden this provision to preclude service by a Selectman on other Town boards and commissions.

Reason for the Change

The Commission felt that it was inappropriate for the members of the Board of Selectmen to be serving on other Town boards and commissions. One exception to this rule is that the First Selectman is an ex officio member of all such boards and commissions and may designate another Selectman to serve in lieu of the First Selectman.

Board of Selectmen's Power to Enter into Agreements – (Existing Section 3.2(c))

Section 3.2(c) enables the Board of Selectmen to enter into agreements with the State's Commissioner of Transportation.

Proposed Change

Broaden this authority to include agreements with any federal or State agency.

Reason for the Change

This is largely a recognition of the status quo. The Selectmen periodically enter into agreements with federal and State agencies and the Commission felt it

unnecessary to hold a Town Meeting each time there is such an agreement. However, if a federal or State grant involves the expenditure of non-budgeted amounts by the Town, a new Section 3.4(b) has been added to require a Town Meeting to approve such grant.

Reimbursement of Non-Budgeted Expenses – (Existing Sections 5.12(b) and 7.14(b))

Sections 5.12(b) and 7.14(b) provide that non-budgeted expenses must be reimbursed upon requisition, upon approval of the Board of Selectmen.

Proposed Change

Provide that all such expenses be approved in advance by the First Selectman, as well as approved by the Board of Selectmen, in order to be reimbursed.

Reason for the Change

The primary reason for this change is to give the First Selectman more control over expenses by compelling Town officials to obtain pre-approval if they wish to incur non-budgeted expenses.

Timing of Appointments by the Board of Selectmen – (Existing Section 7.1)

Section 7.1 provides that the Board of Selectmen must make appointments within 30 days after being elected.

Proposed Change

Generally extend this date to December 31.

Reason for the Change

The Board of Selectmen is having difficulty meeting the current time limits imposed by the Charter. First the Town political committees must vet candidates for appointment, and then the Board of Selectmen must evaluate and appoint such individuals. Moving the required appointment date to December 31 (or 60 days after the expiration of an official's term of office, if earlier) will help the Board of Selectmen meet the applicable deadline. (We would also change the election of officers of boards and commissions to January as a corresponding adjustment (see existing Section 10.1)).

Pre-Approval of Requests for Legal Opinions – (Existing Section 7.5)

Section 7.5 provides that the Town Attorney must render a legal opinion to any Town officer, board or commission upon request.

Proposed Change

Provide that the First Selectman must pre-approve any such request.

Reason for the Change

The Commission felt that there should be some centralized control over the issuance of legal opinions by the Town Attorney. The First Selectman can determine, what is the cost of such opinion? Is it wise to ask for this opinion? How does it affect the Town?

Compensation of Appointed Officers – (Existing Section 7.14(c))

Section 7.14(c) provides that the compensation of an appointed officer cannot be reduced during that officer's term of office.

Proposed Change

Eliminate that provision.

Reason for the Change

The Commission felt that it is not logical that the Board of Selectman can remove a person from appointed office (see current Section 7.3) but cannot reduce that person's compensation. This provision is, of course, subject to the terms of any applicable collective bargaining agreement.

Ability of a Town Board or Commission to Call a Town Meeting - Existing Section 8.6(b)

Section 8.6(b) provides that a Town Board or Commission may call a Town Meeting if their request for an extraordinary appropriation is denied by the Board of Selectmen.

Proposed Change

Eliminate this possibility.

Reason for the Change

The Commission felt that the ability of a Town Board or Commission to compel the Selectmen to call a Town Meeting (and, if an appropriate petition were filed, conduct machine balloting) was not necessary and a marginal protection at best. In fact, if the Board or Commission felt sufficiently aggrieved, it could petition voters to call for a Town Meeting under Section 2.6 or 2.7 of the current Charter, the substance of which would be preserved in the proposed Charter.

The Charter Revision Commission

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March 18, 2012