

MINUTES

CHARTER REVISION COMMISSION

October 5, 2011

Town Hall Meeting Room

A meeting of the Charter Revision Commission was held on October 5, 2011 in the Weston Town Hall Meeting Room. Present were Woody Bliss, Richard A. Bochinski, Nina Daniel, Arne de Keijzer, Kenneth C. Edgar, Jr. and Susan Moch. Dennis H. Tracey, III was absent.

Guest Speaker: Patricia Sullivan, Town Attorney

The meeting was called to order at 7:30 PM.

After discussion, and minor amendments to the minutes of the Commission's September 24 meeting, the minutes of the September 17, 21, and 24 meetings were unanimously approved.

The Commission then received comments from Town Attorney Patricia Sullivan regarding the Charter. Town Attorney Sullivan, in response to questions posed by the Commission stated that, in general, the Charter did not need major changes. There are issues regarding the budget process that should be addressed, in particular the process by which the budget is approved. In response to another question, she stated that in her view the relationship between the Town and the Town Attorney was a good one and was working well. In response to a question about Section 7.5, she stated that there was an informal process in place whereby requests from Town agencies for legal opinions were first discussed with the First Selectman as to their appropriateness, and that the process was working smoothly.

In response to a question from Mr. Bochinski, she stated that Section 2.7 might be amended to include a specific time limit on the Selectmen's ability to reject a petition, but that she did not feel strongly about this provision. She stated that, if feasible under State Law, the Charter should enable the Town to provide information online as opposed to in printed form. Finally, in response to a question from Mr. Edgar, she stated that she was not aware that State Law prevented a referendum from taking place immediately after a Town Meeting.

The Commission then turned to its detailed review the Charter. Mr. Edgar introduced this part of the meeting by commenting that the gist of the comments thus far received by the Commission was that the Charter is working well in most areas, although the budget process in particular has generated significant comment. He reminded the Commission of its criteria for determining whether a provision should be amended.

The Commission then began its discussion of the specific questions contained in its agenda regarding the Charter. After discussion of each of the questions, the sense of the Commission was reached, and is reflected in the following series of questions and responses.

Section 2.3. Section 2.3 (second paragraph) provides that the moderator of the Town Meeting must read the Connecticut State Statutes regarding who is qualified to vote in the Town Meeting and the penalties for unqualified persons voting. **Question:** Can we give the moderator the option of reading a summary of the law, rather than the actual text?

No change.

Section 2.4. Section 2.4 (b)(2) and (3) require that any sale or leasing of real estate of the Town, or any purchase of real estate by the Town, must be approved by a Town Meeting. **Question:** Clearly these are important events, but should there be a materiality threshold; i.e. should very minor transactions require Town Meeting approval?

No change.

Section 2.4 (c) requires that any proposed contract for services or use of facilities by or with the United States, any Federal agency, the State of Connecticut or any political subdivision thereof, must be approved by a Town meeting.

Question: Is this provision too restrictive, either because it lacks a materiality standard or because it covers too many different types of transactions?

Delete Section 2.4(c) and replace it with a provision to the effect that Federal or State grants that commit the Town to expend funds that have not been appropriated and cannot be appropriated by the Selectmen under Section 8.5 must be approved by a Town Meeting. (See Brookfield Charter Sec. 9-4(A)(6) and Ridgefield Charter 3-12.)

The Planning & Zoning Commission has proposed that the Town's exemption from the zoning regulations should be submitted to the vote of a Town Meeting.

Question: Is it appropriate to amend the Charter to include this provision?

No change.

The Planning & Zoning Commission has proposed that any decision to have the Town join a "Council of Governments" for purposes of regional planning be subject to approval by a Town Meeting.

Question: Is it appropriate to amend the Charter to include this provision?

No change.

Section 2.5. The last paragraph of Section 2.5, which applies to certain Town Meetings (other than the Annual Town Budget Meeting) contemplates a “yes” or “no” vote on the item(s) presented to the Town Meeting, but also provides that the Meeting must be reconvened between seven and fourteen days after it was adjourned for the purpose of holding the vote. It also doesn’t seem to specify directly when the vote needs to be taken.

Question: Should this provision be clarified to provide a) that there is no need to reconvene the Meeting after a machine ballot (because the machine ballot will have determined the outcome) and b) the dates on which the vote will occur?

This provision needs to be updated, and in particular the hours during which the polls will be open for a referendum made more flexible, subject to compliance with State Law.

Currently, neither Section 2.6 nor 2.7 permit a machine vote to decide an issue brought to the Town Meeting pursuant to these Sections.

Question: Should these provisions be amended to permit a machine vote either at the discretion of the Board of Selectmen or pursuant to a petition from the voters?

No change.

Section 2.6. Section 2.6 allows five percent of the voters to petition within 20 days to overrule an action of the Board of Selectmen.

Question: Should these requirements be changed or are they fine as they are?

No change.

Section 2.6 also requires, in Subsection (d), that the action of the Board of Selectmen can only be overruled if at least 100 voters have voted in favor of overruling the action.

Question: Is this the appropriate number of voters that should be required to take this action?

Change the requirement from 100 voters to 3% of qualified voters.

Section 2.7. Section 2.7 allows five percent of voters to petition for a Special Town Meeting, but the second paragraph allows the Board of Selectmen to reject the petition if the subject of the petition is materially the same as a matter that has previously been voted on. However, this provision does not contain a time limit, so that theoretically the Selectmen could reject a petition if it covered material that was voted on, for example, ten years previously.

Question: Should this provision be modified to add a time limit to the Selectmen's ability to reject the petition?

Several changes should be made to Section 2.7. 1) broaden the provision so it applies to matters that were previously voted upon by the Town Meeting as well as by referendum; 2) add a time limit of 3 years to this provision; 3) in the last paragraph of Section 2.7, change the required number of "yes" votes from "a majority" to 3% of qualified voters (to be consistent with Section 2.6); and 4) in the first sentence of the last paragraph, add "with the Town Clerk" after "such filing."

Section 3.1. Section 3.1 currently provides for the election of three Selectmen.

Question: Should we expand the Board of Selectmen to five members?

No change.

The last sentence of Section 3.1 provides that no Selectman may hold any other "office of profit" in Town government.

Question: Does this provision need to be clarified? Should Selectmen be allowed to serve on other Town Boards or Commissions?

Replace "other office of profit" with the concept that Selectmen should not hold any other Town office or serve on Town Boards, Commissions or Committees (except for service on Select Committees).

Section 3.2. Section 3.2(c) provides that the Board of Selectmen has the power to enter into agreements with the Commissioner of Transportation of the State of Connecticut.

Question: Should this power be expanded to include other agencies of the State?

First, examine further whether the words "power, duty and responsibility" at the end of the first paragraph of Section 3.2 are appropriate in all instances, and second, expand Section 3.2 to permit the Board of Selectmen to enter into agreements with any Federal or State agency.

Section 3.2(d) provides that the Selectmen can adopt ordinances that incorporate by reference statutes or regulations that "have been printed in book form", but only if "there have been filed two copies of the [statute or regulations] in the office of

the Town Clerk.” The language seems antiquated, at least to the extent such statutes or regulations are available online.

Question: Can we simplify the language and eliminate the need to keep two copies of statutes in the Town Clerk’s office?

Update these provisions to make them less burdensome, and consider, throughout the Charter, the degree to which items may be made available online in lieu of being printed, e.g., in the newspaper.

Section 3.2(e) gives the Selectmen the power to “regulate the internal procedure” of Town agencies (i.e. Boards and Commissions).

Question: Do the Selectmen actually do this? Is it appropriate for them to do so?

Delete this provision, subject to the Selectmen’s general authority to administer the operation of the Town.

Section 3.2(h) makes the Board of Selectmen, as part of their duties, responsible for reviewing the two-year and five-year needs of the Town.

Question: How is this provision administered, and is it overly specific in prescribing two and five-year projected time periods?

Retain the provision with a slight modification (replace “i.e.” with “e.g.” before the words “2 year time span”).

Sections 3.2(i) and (j) appear to provide that the Board of Selectmen cannot hire, fire, fix the compensation of, or otherwise deal with the job description of appointed or elected Town officials.

Question: Are these provisions causing any practical problems, and should they be revised?

No change to (i). Clarify (j), perhaps by breaking it into two segments, one addressing hiring and compensation of employees and the other addressing the discharge of employees; clarify also that the word “appointed” therein means appointed by the Selectmen.

Section 3.3. Section 3.3 (and Section 4.2) require that the Board of Selectmen elect a “Second Selectman,” but only when there are more than three Selectmen.

Question: Since provisions regarding the Second Selectmen are currently not applicable, should they be eliminated.

Eliminate all references to “Second Selectman,” and references to situations where the Board of Selectmen may consist of more than three members.

Section 3.3 provides that the Board of Selectmen must, by resolution, determine its own rules of procedure.

Question: Should procedure at the Board of Selectmen be determined by Roberts Rules of Order?

Yes, make this change.

The first two sentences of the second paragraph of Section 3.3 have been superseded by Connecticut State Freedom of Information requirements.

Question: Should these sentences be eliminated?

No change other than to add references to State Law since this is now covered by such law.

Section 3.6: Section 3.6 provides that the Board of Selectmen coordinates the operations of Town Government.

Question: Should this be changed so that the First Selectman has this responsibility?

No change.

In addition to the questions on the agenda, two changes to the Charter were proposed by Ms. Daniel, and were supported by the Commission. The first was whether the Charter might be improved by an introductory provision laying out the division of legislative responsibility between the Town Meeting and the Board of Selectmen. The second was whether Section 3.3 might be made clearer by specifically referencing State Law in the second paragraph thereof where a legal executive session is mentioned.

After discussion of the questions on the agenda and the additional items described above, and having no further business, the Meeting was adjourned at 10:05 PM.

Kenneth C. Edgar, Jr., Co-Chair