

**CHARTER REVISION COMMISSION
Town of Wallingford**

**Regular Meeting
April 6, 2009**

A Regular Meeting of the Wallingford Charter Revision Commission was held on Monday, April 6, 2009, at the Wallingford Town Hall, Room 116, Wallingford, Connecticut.

Seated from the Commission was Jeffrey Knickerbocker – Chairman, Suzanne Wright – ViceChair, Kate Wall, Debbie Gross, Vincent Cervoni, Hank Toman, Ray Rys, Ray Lilley, Robert Applegate, and Recording Secretary Sonja Vining

Absent:

Chairman Knickerbocker called the meeting to order at 7:00 p.m.

1. PUBLIC COMMENT:

Mike Brodinsky, Valley View Drive, spoke about the Ethics Chapter XVII. He specifically spoke of the ability of the Board of Ethics to obtain outside counsel. He questioned if that should apply just to the hearing section or if it also applies to the probable cause section. Mr. Brodinsky feels there is some ambiguity regarding this issue. He questions if the language is strong enough for what situations that may present themselves. Mr. Brodinsky gave some examples to back up his comments.

Mr. Brodinsky stated that the issue of probable cause should be spelled out. He doesn't feel that the existing Charter or proposed language from Attorney Small is acceptable. Probable cause should be written in plain language that everyone could understand. He feels there is too much room for a subjective view as to what it is. Mr. Brodinsky stated that if you have too much room for interpretation that is where controversy will arise.

Craig Fishbein, Grieb Road, stated that he is opposed to an automatic review of the Charter every five years. He feels it would be a waste of taxpayer dollars.

Wes Lubee, Montowese Trail, feels that leaving the appointments to the Board of Ethics to the Council and the Mayor would guarantee a stalemate because the fifth person would never get appointed. He feels that the compromise that the Charter Revision Commission has reached regarding the appointments to the Board of Ethics needs to be reexamined.

Mr. Lubee spoke to the subject of investigations. He stated that the hearing is held first and he believes the investigation should be done first before the hearing so that there are some facts to look at.

2. APPROVAL OF MINUTES:

March 30, 2009 - Regular Meeting

Ms. Wright made a motion to approve the Minutes of the March 30, 2009 – Regular Meeting. The motion was seconded by Mr. Lilley and passed.

3. REWRITE PROBABLE CAUSE SECTION RE: ETHICAL VIOLATIONS**4. REWRITE HEARING SECTION TO INCLUDE ABILITY TO OBTAIN OUTSIDE COUNSEL:**

Chairman Knickerbocker skipped 3 and 4 above but would come back to them.

5. REPORT BACK ON RESEARCH REGARDING BOARD OF SELECTMEN:

Attorney Small presented a memorandum dated April 6, 2009 (Attachment II).

MR. APPEGATE: **MOTION TO DELETE CHAPTER V, SECTION 3, LINES 40 THROUGH 44.**

MR. TOMAN: **SECOND**

There was discussion about the motion.

VOTE: **UNANIMOUS**

6. REPORT BACK ON RESEARCH CONCERNING TOWN ENGINEER:

Attorney Small presented a memorandum dated April 3, 2009 (Attachment I).

MS. WRIGHT: **MOTION THAT IN CHAPTER IX, SECTION 1, LINE 2 “CERTIFIED CIVIL ENGINEER” BE CHANGED TO “LICENSED PROFESSIONAL ENGINEER.”**

MS. WRIGHT: **WITHDREW HER MOTION**

MR. APPEGATE: **MOTION THAT IN CHAPTER IX, SECTION 1, LINE 2 “CERTIFIED CIVIL ENGINEER” BE CHANGED TO “LICENSED PROFESSIONAL ENGINEER WITH CIVIL ENGINEERING EXPERIENCE”**

MR. RYS: **SECOND**

The motion was discussed.

VOTE: **MR. RYS – YES, MR. APPELGATE – YES, MR. TOMAN – YES, MS. WALL – YES, MS. GROSS – YES, MR. CERVONI – YES, MR. LILLEY – NO, MS. WRIGHT – NO, MR. KNICKERBOCKER – YES.**

3. REWRITE PROBABLE CAUSE SECTION RE: ETHICAL VIOLATIONS:

MS. WRIGHT: **WITHDREW HER MOTION FROM MARCH 30, 2009.**

MR. APPELGATE: **WITHDREW HIS SECOND FROM MARCH 30, 2009.**

MS. WRIGHT: **MOTION TO ADOPT SECTION 3A OF ATTACHMENT II FROM THE MARCH 30, 2009 MEETING TO BECOME SECTION 6A WITH SOME SLIGHT REVISIONS TO READ: “UPON WRITTEN COMPLAINT OF ANY PERSON, SIGNED UNDER PENALTY OF FALSE STATEMENT, OR UPON ITS OWN COMPLAINT, THE BOARD SHALL INVESTIGATE ANY ALLEGATION OF UNETHICAL CONDUCT, CORRUPTING INFLUENCE, ILLEGAL ACTIONS OR A VIOLATION OF THE CODE OF ETHICS, OF THE TOWN OF WALLINGFORD TO DETERMINE IF SUFFICIENT PROBABLE CAUSE TO BELIEVE THAT A VIOLATION OF ANY OF THE ABOVE EXISTS TO WARRANT FURTHER ACTION BY THE BOARD. BOTH THE RESPONDENT AND COMPLAINANT SHALL RECEIVE PRIOR NOTICE OF SUCH PROBABLE CAUSE HEARING, AND SHALL BE PROVIDED WITH THE OPPORTUNITY TO ATTEND. IF THE BOARD DETERMINES THAT A COMPLAINT DOES NOT ALLEGE FACTS SUFFICIENT TO CONSTITUTE A VIOLATION, IT SHALL DISMISS THE COMPLAINT AND NOTIFY THE COMPLAINANT AND RESPONDENT. IF SUCH PROBABLE CAUSE IS FOUND, THE BOARD SHALL INTIATE HEARINGS TO DETERMINE WHETHER THERE HAS BEEN SUCH VIOLATION.**

MR. APPELGATE: **SECOND**

The Commission discussed the motion. There was discussion about if this section should contain specifics or if the Code of Ethics is where the details belong. Discussion of dereliction of duty was compared to an ethical violation.

VOTE: **MR. RYS – YES, MR. APPELGATE – YES, MR. TOMAN – YES, MS. WALL – YES, MS. GROSS – NO, MR. CERVONI – YES, MR. LILLEY – NO, MS. WRIGHT – YES, MR. KNICKERBOCKER – NO.**

4. REWRITE HEARING SECTION TO INCLUDE ABILITY TO OBTAIN OUTSIDE COUNSEL.

MS. WRIGHT: **MOTION TO ADOPT SECTION 3B OF ATTACHMENT II FROM THE MARCH 30, 2009 MEETING TO BECOME SECTION 6B WITH THE DELETION OF THE SENTENCE THAT READS: “HOWEVER, THE BOARD MAY, IN ITS SOLE DISCRETION, OBTAIN THE APPOINTMENT OF OUTSIDE COUNSEL ON MATTERS OF SUBSTANTIVE LAW.”**

MR. TOMAN: **SECOND**

MS. WALL: **MOTION TO AMEND THE MOTION TO HAVE THE LAST SENTENCE OF THE SECTION READ; “THE BOARD SHALL ISSUE A WRITTEN DECISION WITHIN 30 DAYS AFTER CONCLUDING THE HEARING.”**

MS. WRIGHT: **SECOND**

There was discussion of the 30-day time frame and if that is long enough or too long.

VOTE: **UNANIMOUS**

It was suggested that the probable cause section could be further defined by including in this section special defenses. The three affirmative defenses would be justification, impossibility of performance, innocent inadvertence or reasonable misinterpretation. Some sample language was read for these defenses. Some Commissioners felt that the language proposed was too complicated and legal. Once again there was discussion of if this belongs in the Charter or the Code of Ethics as developed by the Town Council.

MR. KNICKERBOCKER: **MOTION TO AMEND THE MOTION AND HAVE THE FOUR SENTENCE READ; “ AT SUCH HEARINGS, THE RESPONDENT SHALL HAVE THE RIGHT TO BE REPRESENTED BY LEGAL COUNSEL, THE RIGHT TO ASSERT DEFENSES, THE RIGHT TO COMPEL THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF BOOKS, DOCUMENTS, RECORDS AND PAPERS AND TO EXAMINE AND CROSS-EXAMINE WITNESSES.”**

MR. CERVONI: **SECOND**

VOTE: **UNANIMOUS**

VOTE: **UNANIMOUS TO APPROVE THE MOTION MADE BY MS. WRIGHT AND AMENDED BY MS. WALL AND MR. KNICKERBOCKER.**

MS. WRIGHT: **MOTION TO CREATE SECTION 5C TO READ; “THE BOARD MAY IN ITS SOLE DISCRETION, OBTAIN THE APPOINTMENT OF OUTSIDE COUNSEL ON MATTERS OF SUBSTANTIVE LAW.”**

MR. CERVONI: **SECOND**

VOTE: **UNANIMOUS**

The Commission moved on to review Section C of Attachment II from March 30, 2009.

MS. WRIGHT: **MOTION TO CHANGE SECTION C. OF ATTACHEMTN II FROM MARCH 30, 2009 TO BECOME SECTION 7 CONFLICT OF INTEREST, DISCLOSURE.**

MR. CERVONI: **SECOND**

VOTE: **UNANIMOUS**

There was discussion of including past or foreseeable future interests in this section.

MR. KNICKERBOCKER: **MOTION TO REVISE CHAPTER XVII, SECTION C, LINE 67 THROUGH 69 TO READ; “NO OFFICER OR EMPLOYEE SHALL HAVE ANY INTEREST, PAST, PRESENT OR FORESEEABLE FUTURE, FINANCIAL OR OTHERWISE, DIRECT OR INDIRECT, WHICH IS IN CONFLICT, OR APPEARS TO BE IN CONFLICT, WITH THE PROPER DISCHARGE OF HIS OR HER OFFICIAL DUTIES OR EMPLOYMENT.”**

MS. GROSS: **SECOND**

There was discussion of the motion.

VOTE: **MR. RYS – NO, MR. APPEGATE – ABSTAIN, MR. TOMAN – NO, MS. WALL – NO, MS. GROSS – YES, MR. CERVONI – NO, MR. LILLEY – NO, MS. WRIGHT – NO, MR. KNICKERBOCKER – YES.**

MR. KNICKERBOCKER: **MOTION TO REVISE CHAPTER XVII, SECTION C, LINE 67 THROUGH 69 TO READ; “NO OFFICER OR EMPLOYEE SHALL HAVE ANY INTEREST, PAST OR PRESENT, FINANCIAL OR OTHERWISE, DIRECT OR INDIRECT, WHICH IS IN CONFLICT, OR APPEARS TO BE IN CONFLICT, WITH THE PROPER DISCHARGE OR HIS OR HER OFFICIAL DUTIES OR EMPLOYMENT”.**

7. REVISION OF CHARTER AFTER 5 YEARS:

The Commission reviewed a memorandum dated March 30, 2009 included in Attachment II from March 30, 2009.

MS. WRIGHT: **MOTION TO REVISE CHAPTER XVIII, SECTION 6 TO READ; “A MANDATORY REVIEW OF THIS CHARTER SHALL BE UNDERTAKEN AT 10 YEAR INTERVALS BY A CHARTER REVISION COMMISSION APPOINTED IN ACCORDANCE WITH STATE LAW. IF A CHARTER REVISION COMMISSION IS APPOINTED SOONER THAN 10 YEARS, THE NEXT COMMISSION SHALL BE APPOINTED 10 YEARS FROM ITS COMPLETION.**

MR. RYS: **SECOND**

The motion was discussed.

VOTE: **MR. RYS – YES, MR. APPEGATE – YES, MR. TOMAN – NO, MS. WALL – YES, MS. GROSS – YES, MR. CERVONI – NO, MR. LILLEY – NO, MS. WRIGHT – YES, MR. KNICKERBOCKER – NO.**

8. PAGE 41 – HOURS OF REFERENDUMS:

The Commission discussed page 41 and 42, Connecticut General Statutes Relating to Petitions. They specifically discussed the hours for referendum.

MR. KNICKERBOCKER: **MOTION TO DELETE PAGE 41 AND 42 FROM THE CHARTER.**

MS. WALL: **SECOND**

VOTE: **UNANIMOUS**

MS. WALL: **MOTION TO ADD TO THE END OF CHAPTER III, SECTION 9 TO READ; “THE HOURS OF THE REFERENDUM SHALL BE CONSISTANT WITH THE HOURS OF A REGULAR ELECTION.**

MS. WRIGHT: **SECOND**

VOTE: **UNANIMOUS**

9. MISCELLANEOUS ISSUES FROM SONJA VINING:

There were several items that needed clarification for the final draft to be completed.

MR. CERVONI: **MOTION THAT THE NEW LAND USE AND DEVELOPMENT SECTION BE CHAPTER X. ALL OF THE FOLLOWING CHAPTER NUMBERS WILL BE CHANGED ACCORDINGLY.**

MS. WRIGHT: **SECOND**

VOTE: **UNANIMOUS**

MS. WRIGHT: **MOTION TO DELETE SECTION 2, PAGE 10 AND SECTION 5, PAGE 11.**

MR. TOMAN: **SECOND**

VOTE: **UNANIMOUS**

MR. RYS: **MOTION TO CHANGE DIRECTOR OF PERSONNEL TO DIRECTOR OF HUMAN RESOURCES THROUGHOUT THE CHARTER.**

MS. WRIGHT: **SECOND**

VOTE: **UNANIMOUS**

MS. WRIGHT: **MOTION TO CHANGE THE BOARD OF TAX REVIEW TO BOARD OF ASSESSMENT APPEALS THROUGHOUT THE CHARTER.**

MR. CERVONI: **SECOND**

VOTE: **UNANIMOUS**

MS. WRIGHT: **MOTION TO CAPITALIZE TITLES THROUGHOUT THE CHARTER.**

MS. WALL: **SECOND**

VOTE: **UNANIMOUS**

MR. KNICKERBOCKER: MOTION TO MAKE THE CHARTER GENDER NEUTRAL.

MR. LILLEY: SECOND

VOTE: UNANIMOUS

MR. KNICKERBOCKER: MOTION TO COMBINE SECTION 2 OF THE REVISED CHARTER DRAFT WITH SECTION 1 AND CHANGE SECTION 3 TITLED QUALIFICATIONS OF MEMBERS TO SECTION 2. ALL OF THE SECTIONS FOLLOWING WILL BE RENUMBERED ACCORDINGLY.

MS. WRIGHT: SECOND

VOTE: UNANIMOUS

MS. WRIGHT: MOTION THAT THE TABLE OF CONTENTS BE REVISED TO MATCH THE CHANGES MADE TO THE CHARTER.

MR. CERVONI: SECOND

VOTE: UNANIMOUS

The Commission discussed a time frame for a review of the revision draft and a public hearing. It was determined that the next Charter Revision meeting would be on April 13th and the Public Hearing would be on April 27th. The draft would be available for the public to review prior to the public hearing.

10. ADJOURNMENT:

Mr. Lilley made a motion to adjourn. The motion was seconded by Mr. Applegate and passed unanimously.

The meeting adjourned at approximately 9:37 p.m.

Respectfully submitted,

Sonja Vining
Recording Secretary
Town of Wallingford
Charter Revision Commission
April 6, 2009