

1 **DRAFT DOCUMENT – SUBJECT TO APPROVAL**

2 **Charter Revision Commission**

3 **Regular Meeting**

4 **January 19, 2017**

5 **Room 205**

6 **Town Hall, 45 S. Main Street**

7 **Wallingford, CT**

8 **MINUTES**

9 **PRESENT:** Chairman Stephen Knight; Vice-Chair Christina Tatta; Commissioners Bob Swick;
10 Jim Pyskaty; Sam Carmody; Pat Kohl; Jonathan Chappell; Mark Gingras; Gina Morgenstein; Tom
11 Corrigan; Corporation Counsel Janis Small.

12 **NOT PRESENT:** Commissioner James Seichter

13 Chairman Knight called the Meeting to order and 6:30 p.m. and the Pledge of Allegiance
14 recited.

15 **Motion: A motion by Vice-Chair Tatta second by Commissioner Kohl to add the**
16 **review and possible approval of the Nov. 10, 2016 and Nov. 17, 2016 Meeting**
17 **Minutes. The motion passed unanimously.**

18 **Nov. 10, 2016 Meeting Minutes**

19 Regarding the Nov. 10, 2016 Meeting Minutes: page 2, line 33 should read: "because it will be
20 an "oral" appointment, should be "mayoral" appointment".

21 Page 5, line 3, the sentence: "and noted Council Compensation was eliminated" was not
22 compensation but "confirmation".

23 **Motion: A motion by Commissioner Corrigan, second by Commissioner Gingras to**
24 **approve the Nov. 10, 2016 Meeting Minutes as amended. The motion passed**
25 **unanimously.**

26 **Nov. 17, 2016 Meeting Minutes**

27 Commissioner Kohl said on page 1, lines 30 and 30, should be the Citizen Mike show is available
28 on-line not on WGTV. On page 9, line 20, should be "placed a phrase" correctly, not "2009"
29 correctly.

1 **Motion: A motion by Commissioner Gingras second by Commissioner Corrigan to**
2 **approve the Nov. 17, 2016 Meeting Minutes as amended. The motion passed**
3 **unanimously.**

4 **1. Discussion and Possible Action concerning review of the following sections of**
5 **the Charter:**

6 **a. Chapter XIII: Personnel and Pensions**

7 Atty. Small said the last time she appeared before the Commission, having the two departments
8 look at the 2009 version to see if there was anything they wanted was discussed. Atty. Small
9 said the departments met and looked at the document and what was acceptable, noting that
10 some things from the 2009 version were not acceptable to them and some things were. Atty.
11 Small said in Human Resources, some of the language was re-worked and said it was agreed
12 the bulk of the Human Resources Director's laundry list was not needed.

13 Atty. Small said on the second page, the information on the surety bonds was removed, and
14 there is a Risk Manager, which doesn't necessarily have to be in the Charter, so the paragraph
15 was added on where the Town's insurance program is run. Atty. Small pointed out that legally,
16 some of the surety bonds may be still be required by law, so language was added stating it was
17 required. Ms. Morgenstein asked about the last sentence before the cross-outs, "the Human
18 Resources Director shall have had training and experience in Personnel Administration.'

19 She said some jobs have licensure and degree requirements. She said obviously the
20 Department went over this and there is no minimum amount of education. Atty. Small said she
21 didn't believe this was raised in the Charter. She said this would probably end up going in the
22 approved job description. Vice-Chair Tatta noted Section 3, "Pension Commission" and asked if
23 Minority Representation would be covered by this. She said believed the Charter Revision
24 Commission stated they would write something about this in a section.

25 Atty. Small said she believed the Statute would cover this. Ms. Kohl said she believed Atty.
26 Small drafted something. She asked that being the Pension Commission specifies who should be
27 on it, would they fall under the Minority Representation or just for the three members
28 appointed by the Mayor.

29 Atty. Small said she would think believes this would be how it has to be, but noted she would
30 take a look at this. Mr. Gingras asked Atty. Small whom she had spoken to, referring to "them".
31 Atty. Small said she spoke with Jim Hutt and Mayor Dickinson. She said the Personnel Director
32 then informed herself and the Mayor, his thoughts about the 2009 version and this draft was
33 created as the result of the meeting. She said however the Commission wishes to word this
34 phrase (Human Resources), is up to them.

35 Ms. Morgenstein noted Section 2, "Personnel and Pensions Appeals Board" the three people and
36 whether there needs to be the Statute, of anything to do with a party. She pointed out there is

1 language which states “the members of the Board appointed by the Mayor and the Council
2 should be known to be in sympathy with the principles of Civil Service and should not be
3 members of any local, State or National Committee”. Ms. Morgenstein said it sounded like if
4 someone wanted to be on this Board, one could not be a member of their Town Committee.
5 She asked if there should be a Statute which cares how they are registered to vote if they are
6 not part of the party. Atty. Small said the Statute requires they be in sympathy with the Civil
7 Service. Atty. Small said she would double-check.

8 Chairman Knight asked if the Commission would want to approve this contingent upon the
9 review of the minority representation. He said he would like to move forward on this, with the
10 understanding that Atty. Small would be revisiting this topic. Ms. Kohl noted under Section 1,
11 line 4, where it references Chapter 16, she said she believed a chapter had already been added
12 before this, so Chapter 16 should be Chapter 17. Atty. Small said this is a good point, because
13 changes were made. She said she wanted to leave them blank, but must figure out how to keep
14 track of these Chapters and pointed out she didn't know if the Commission would want to keep
15 changing chapter sections.

16 Ms. Morgenstein asked for clarification on the following: “the Council may upon
17 recommendation of the Mayor, establish, maintain, and revise a system of retirement benefits
18 for Town employees, provided however, that no existing system shall be changed or altered,
19 except as permitted by law”. Atty. Small said this wording is meant to protect the existing
20 system that we have. She said this isn't meant to strip away what currently exists. Mr. Chappell
21 said he believed the language was fine. Ms. Kohl believed the meaning behind this is what we
22 have now is a defined benefit pension and in the future if it is decided that everybody should
23 have a 401K they won't convert the existing pension into a 401K.

24 Mr. Gingras noted the law states that whatever pension plan is in place is sacrosanct unless the
25 law changes. Vice-Chair Tatta asked the rationale for the language change in Section 6. Atty.
26 Small said she believed this was to bring it in to the systematic pay plan. She said it is collective
27 bargaining; it is the rules and the budget. She said instead of using that language, noting
28 nothing is called this, we changed “determined” to “approved” because the Council approves
29 this.

30 **MOTION: Vice-Chair Tatta made a motion that the Charter Revision Commission**
31 **approve the Personnel and Pension Section as revised in the Law Dept. memo dated**
32 **Jan. 17, 2017 with a further review of minority representation forthcoming from the**
33 **Law Dept. Mr. Chappell seconded the motion.**

34 **Roll Call Vote: Corrigan-yes; Swick-yes; Gingras-yes; Pyskaty-yes; Chappell-yes;**
35 **Morgenstein-yes; Kohl-yes; Carmody-yes; Tatta-yes; Knight-yes**

36 **b. Chapter XIV: Public Utilities – No Action Taken**

37 **c. Chapter XV: Finance and Taxation**

1 Atty. Small said her staff reviewed this against the 2009 draft. She said in the 2009 draft more
2 was taken out but was put back in. She said on page 2, the 2009 draft, in the Capital Non-
3 Recurring, the mill rate was changed from to four because the Statute changed it from two to
4 four. She said instead of putting in a number, staff put in "as permitted by law". Atty. Small
5 said the next two paragraphs are the changes that were in the 2009 draft. She said this clarifies
6 the language and agrees with the language.

7 Atty. Small said some other items were put in including the borrowing. She said the tax bill
8 section was removed. She said under "Duties of the Council on the Budget", the 2009
9 Commission removed the language about being an equitable proportion. She said this language
10 on Section 4, the 2009 draft took out a good section of the first paragraph and it was decided
11 by staff to leave that paragraph in. Atty. Small said she believed the 2009 Commission didn't
12 believe this paragraph was necessary, but noted that paragraph talks about taxing for special
13 benefits. She said it is basic language about the ability to tax for special purposes. Atty. Small
14 said staff looked at taking part of this paragraph out, but decided against this because the
15 paragraph flows better if the entire section was left intact. Atty. Small said there could be
16 multiple taxing districts, and this was taken out but the Charter says there is one taxing district,
17 so staff decided to leave this in.

18 Ms. Morgenstein said she believed it was fairly widely known that people who reside at Masonic
19 don't pay into the Board of Education portion of the taxing. She said if she reads this as
20 everyone being taxed fairly, she didn't believe this fits with this. Atty. Small said she would have
21 to research this. Ms. Morgenstein said this may not be enforceable. Atty. Small said this was a
22 court case and this group believed they fell within a tax exemption based upon earlier case law.
23 Chairman Knight had some small questions regarding the changes the Commission voted on the
24 transfers. He said this Commissions language read a little differently than what is printed in
25 Section 7 – D where it was changed from \$200 to \$500. He said our Minutes read differently.
26 He said the language this Commission voted on in the page 9 of the Nov. 17, 2015 Minutes. He
27 said there were two motions, with one motion amended and read that "amounts requested
28 above \$500 or another amount as may be amended, instead of established, by Ordinance" He
29 said this applied to both of them.

30 Vice-Chair Tatta asked about Section 5 – Tax Bills and why this section was removed. Atty.
31 Small said this section doesn't need to be in the Ordinance and is covered by State Statute.
32 Vice-Chair Tatta said she was worried about the seven days. Atty. Small said she will confirm
33 this in the Statute. Ms. Kohl noted on page 2, line 12, starts with the words "Section 7, Chapter
34 3", this wording should be reversed to "Chapter 3, Section 7" pointing out it is easier if the
35 chapter is mentioned first. Ms. Kohl said on the same page, for clarity, the sentence that begins
36 with "as of the effective date of this Charter, certain services facilities and improvement are
37 note deemed of general benefit...", Ms. Kohl suggested making this a new paragraph. She also
38 suggested the first sentence of the next paragraph should be part of the new paragraph..."and
39 then should the Council fail to adopt a budget after holding such public hearing or hearings"

1 that should start a new paragraph, noting the entire section regarding special services or
2 benefits to a particular segment will be in one paragraph instead of the end of one and the
3 beginning of another. Ms. Kohl said on page 3, section 7 (sub-section D) the fourth line: "been
4 approved and voted by the Council", she wondered if "and voted by" was needed or could it
5 just state "been approved by the Council".

6 Atty. Small said the "and voted by" was not needed. Ms. Kohl said in the same sentence, "
7 each order drawn upon the Treasurer" and asked if orders are drawn on the treasurer or
8 treasury of the Town. Atty. Small said she will speak with Finance. She said she believes it
9 should be treasurer, but will check.

10 Atty. Small will send another draft to be voted upon-NO ACTION TAKEN.

11 **d. Chapter XVI – The Classified Service**

12 Chairman Knight said a few small changes were made and didn't believe any questions were
13 asked of Atty. Small. Vice-Chair Tatta asked on Section 2, page 35, line 18 of the actual
14 Charter, about part-time basis for a total of not more than 20 hours per week. She asked if this
15 should still be in the Charter and was this still current. Mr. Corrigan asked on line 23 and page
16 24 on page 35, that the sentence "and" be removed . Chairman Knight said this was on page 10
17 of the Minutes.

18 Chairman Knight asked Atty. Small to run this by Personnel. Vice-Chair Tatta asked under
19 "Public Utilities" noting in the current Charter on page 25, the last few lines of Section 1, which
20 beginning with "on or after the effective date of this Charter the Town Departments of Water
21 and Sewer shall be consolidated---" and wondered if this was taken out. The Commissioners
22 noted this was removed.

23 NO ACTION TAKEN

24 **e. Chapter XVII - Ethics and Conflict of Interest**

25 Chairman Knight pointed out that Atty. Small submitted a draft and Mr. Chappell did the
26 comments. Atty. Small said she removed all the edits. She noted Mr. Chappell added that
27 conflict of interest is also defined by State law, so she added a reference to this. Atty. Small
28 said the question is whether the Commission wants to shorten this up or leave everything in.

29 Mr. Chappell said interest is defined in State Law. He said this is shortened up and was
30 aggressive in removing procedural items because of the Ethics Code. Atty. Small said it is
31 awkward to have the Charter and the Code. Chairman Knight asked if there was a way to
32 eliminate this problem. Mr. Chappell said his goal was to get this out of the Charter, noting this
33 is in State Statute as far as the confidentiality of an Ethics Complaint. Atty. Small said this
34 keeps the conflict of interest language and the Contracts language.

1 Vice-Chair Tatta asked about the new Section D-Board of Ethics-noting a line was removed : "if
2 a regular member of the Board is absent or disqualified, the Chairman of the Board shall
3 designate an alternate to so act." Atty. Small said this doesn't need to be in the Charter. Vice-
4 Chair Tatta said in Section D, original #3, under the original Code of Ethics, there is a line
5 stating: "it shall be the responsibility of the Council to establish and maintain a Code of Ethics
6 for the Town of Wallingford". She said it appears this line was removed.

7 Atty. Small explained this is now up front in Section A. She said when she did the first draft, she
8 tried to re-arrange things. Vice-Chair Tatta noted in the very end, the Appeals Section was
9 removed. Atty. Small said this wasn't legal. Atty. Small said there didn't have to be a
10 mechanism for appeal in response to Ms. Kohl's question. Mr. Chappell said the judge would
11 look at the Statute and say there is no administrative appeal right to Court. Atty. Small said this
12 would have to be in the Statute, because the Town can't say the Court has jurisdiction over
13 something because we want it. She noted that if someone is dissatisfied, would end up suing
14 the Town.

15 Vice-Chair Tatta asked about the Council writing the Code of Ethics and was concerned if it was
16 not spelled out in the Charter which they can't change, does it become self-serving. Atty. Small
17 said this is why it is important that the Conflict of Interest and the Section on Contracts and
18 Gifts remain in the Charter, so this can't be stripped away. She said this can't be contradicted
19 by language. Mr. Chappell said there is a petition procedure to try to overturn an Ordinance. He
20 said a lot of Ethics Code by Ordinance are generated by a model, which gets tweaked. He said
21 a lot of them look alike. Vice-Chair Tatta asked if there was a State Code of Ethics that governs
22 this also, as well as the Town. Mr. Chappell said the State Statute references other State
23 Statutes which is more about the confidentiality, the complaint, and probable cause findings. He
24 said it is easier to do by Ordinance. He said the Charter should be a short framework and
25 outline.

26 The Commission complimented the work of Atty. Small and Mr. Chappell regarding their work
27 on the Charter Revision. Chairman Knight said now people understand this more, whereas
28 before, having the two different documents probably led to some confusion from the public. Ms.
29 Kohl asked under Section B-"Conflict of Interest" second paragraph, the third line, "The
30 Chairman or Agency, Commission or Board". She wondered if "or" should be "of". Mr. Chappell
31 said this may have been wrong in the original. Ms. Kohl verified that wording was in the
32 original. Mr. Gingras asked if there was an agency within the Town Government or are they all
33 Boards and Commissions. Ms. Kohl asked if the word "agency" was even needed. Atty. Small
34 noted this paragraph talks about employees also. Mr. Gingras said if there are agencies in the
35 Town, this sentence is correct. He said a lot of this has been changed over with the new
36 version. Ms. Kohl said a lot of the sections in the Charter spoke about Departments, Agencies,
37 Commissions and Boards. Atty. Small said she believed this was meant to be broad. Chairman
38 Knight said in the event we wanted to establish an Agency, the language is in there for this.

1 Mr. Gingras suggested leaving the word in. Atty. Small suggested saying "of the" Agency,
2 Commission or Board. Mr. Gingras said that if "or agency" is left in, that means if there is a
3 possibility of an agency and is covering all bases, and said it was correct in do this with "or
4 agency". Atty. Small pointed out that if one reads the rest of the sentence, it is talking about
5 the need to tell the person in charge, whatever one is a part of, there is a conflict.

6 Chairman Knight entertained a motion as amended.

7 **Motion: A motion by Mr. Chappell that the Commission accept the proposed draft**
8 **handed out tonight by Atty. Small of Chapter 19, Ethics and Conflict of Interest, with**
9 **the one amendment in Section B, third line down from the bottom of the second**
10 **paragraph to say "to the Chairman OF the Agency instead of OR, of the Agency,**
11 **Commission or Board". Mr. Gingras seconded the motion.**

12 **Roll Call Vote: Corrigan-yes; Swick-yes; Gingras-yes; Pyskaty-yes; Kohl-yes;**
13 **Chappell-yes; Carmody-yes; Knight-yes; Morgenstein-yes; Tatta-no**

14 Vice-Chair Tatta explained her no vote stating she felt weird letting the Council who would then
15 be held to this, having them write their own Code of Ethics.

16 **VOTE: 9 Ayes-1 Nay-(Tatta).**

17 **f. Chapter XVIII: Transition and Miscellaneous Provisions**

18 Chairman Knight said he didn't remember anything on Transition and Miscellaneous Provisions
19 that the Commission needed to do. Atty. Small said she believed something was done. She said
20 Section 8, 10 and a Statute which was removed.

21 **2. Review of recent memos/correspondence from the Law Department**

22 Chairman Knight said he was going through some emails and found an email from Mr. Chappell
23 to Atty. Small dated November 11. Chairman Knight read the memo for review to the
24 Commission: "Hi Janis, a couple of things the Commission asked me to reach about: the Dept.
25 of Law Section:

- 26 1. Privilege Issues: are there some written opinions that don't go in the book; do others
27 have access, e.g., the Mayor or do you think the language needs clarification;
28 2. Do you think the date of submission for the annual report should be changed to
29 1/31".

30 Atty. Small said it made sense to change the date because it is supposed to be through the end
31 of the year, but it is due then. She said it is done now, but didn't know if Town Atty. Farrell
32 reviewed the version and signed off on it. She said changing the date to 1/31 is not a bad idea.
33 Mr. Chappell said this date is in Chapter 6, page 13, line 25.

1 Atty. Small spoke about the history of the book. She noted there are legal opinions in books
2 which go back to the 60's and 70's. She said she believes the original intent in creating this,
3 was that if the Law Department was issuing a confidential opinion for anyone in the Town, that
4 the Council would be able to access them.

5 Mr. Chappell said everything written by the Attorney could potentially be a privileged document
6 not subject to Freedom of Information. He said this read like the expectation of something one
7 would put into a book which is totally at odds with how the Corporation Counsel operates. He
8 said this seems like it has to be changed or taken out. Atty. Small said she hasn't spoken to
9 Town Attorney Farrell about this. She said she would have to do the research anyway, so isn't
10 sure of the books values. She said she can't rely on this information, because it is too old. Atty.
11 Small noted that most of our opinions are public and the amount of legal opinions that are
12 protected are small. Mr. Chappell said he wouldn't want a situation where someone argues the
13 Town waives the privilege because there is a provision the Charter.

14 Atty. Small said she will consult with Town Attorney Farrell and draw up some language.
15 Chairman Knight asked if the submission date 2009 changed to Jan. 31. Atty. Small said she
16 recommended this.

17 **Motion: A motion by Vice-Chair Tatta that in Chapter 6, Dept. of Law, that we**
18 **change line 24 which begins with "he shall annually honor before the 31st day of**
19 **December, make a written report to the Mayor on all matters completed during the**
20 **preceding year" that the date is changed to before the 31st day of January. Mr.**
21 **Gingras seconded the motion**

22 **Roll Call Vote: Chappell-yes; Carmody-yes; Morgenstein-yes; Swick-yes; Kohl-yes;**
23 **Pyskaty-yes; Gingras-yes; Corrigan-yes; Tatta-yes; Knight-yes**

24 Chairman Knight read the question regarding the Assistant Town Attorney or Corporation
25 Counsel needed changing. He said it was noted that Atty. Einhorn was on the letterhead as the
26 Assistant Town Attorney. Ms. Kohl noted there is nothing in here about an Assistant Town
27 Attorney. Atty. Small said it appears when the full-time position to created, prior to that; there
28 was Town Attorney and Assist. Town Attorney, and even when the Charter was changed, this
29 wasn't picked up on. Atty. Small said she will confirm this. She noted when the group worked
30 on this, had a big thing about having a separate term, the Corporation Counsel being separate
31 from the Town Attorney. Atty. Small said Atty. Einhorn should probably be assistant Corporation
32 Counsel.

33 Chairman Knight said a similar question arose about the Assistant Engineer or someone else in
34 the Personnel Dept. language on page 17. Ms. Kohl said she spoke to both Mayor Dickinson and
35 Jim Hutt, and noted the words on line 14, "subject to the approval of the Personnel Dept".
36 should be deleted. Atty. Small said the entire sentence could probably be re-worked. Ms. Kohl
37 said in the Engineering Dept., the Mayor suggested on line 13, where it talks about the papers

1 connected with engineering work performed in the interest of the Public Works Department,
2 adding "and the Town of Wallingford" after Public Works Department because not everything
3 the Town Engineer does is not necessarily only for Public Works. Atty. Small suggested adding
4 "in the interest of the Town of Wallingford".

5 Atty. Small will re-work this paragraph.

6 **3. Discussion and possible action concerning review of other Chapters of the**
7 **Charter**

8 Vice-Chair Tatta noted that in Section 8, page 40, Chapter 18, "Modification and Transfer of
9 Functions", she wanted to ensure this was eliminated since the Board of Selectmen was
10 eliminated. Atty. Small said she believed the Commission already voted to eliminate this.

11 Vice-Chair Tatta said on page 14, Law Dept., line 51, she circled the word "and" and noted that
12 maybe this should be "or". Atty. Small said she believed this word should be "or".

13 **Motion: A motion by Vice-Chair Tatta that under the Dept. of Law, Chapter 6, page**
14 **14, Section D, line 51, that the word "and" before sub-section D is changed to "or" ,**
15 **and on line 51, the last word of the line is "and" be changed to "or". Ms. Kohl**
16 **seconded the motion**

17 **Roll Call Vote: Corrigan-yes; Chappell-yes; Pyskaty-yes; Swick-yes; Gingras-yes;**
18 **Kohl-yes; Carmody-yes; Morgenstein-yes; Tatta-yes; Knight-yes**

19 Ms. Kohl said Atty. Small had given the Commission a draft on Chapter 2, Section 9, with two
20 options regarding the removal of appointed officials, noting she didn't recall if a vote took place
21 on this item. She said option 1 was a re-working of that paragraph and option 2 was to delete
22 the entire section and reference removal in Chapter 4. Atty. Small said she didn't believe the
23 Commission voted on what to do regarding the removal of appointed officials. Atty. Small
24 suggested taking this issue up at the next meeting.

25 Chairman Knight said the Commission has covered the book three or four different ways and at
26 this point there are a few small reviews to be done by Atty. Small and brought back. He said
27 the Commission would need to be brought up-to-date as far as all the changes that were voted
28 on. Atty. Small said she can put all this in the Nov. 18 draft. Atty. Small suggested the
29 Commission start reading the new draft and said she will have this done for the Feb. 2, 2017
30 Charter meeting.

31 Chairman Knight said there needs to be another meeting to ensure the Commission is on-track.
32 He said the Commission should see how close they are at the Feb. 2 meeting and possibly
33 schedule a Public Hearing for March. He said the Commission needs to see the draft from Atty.
34 Small and tighten up a few last items. Mr. Chappell said after the last Public Hearing, the
35 Commission has a chance to change things. Atty. Small said the final draft report goes to the

1 Council which has a public hearing which can request the Commission reconsider and if they
2 do, it comes back to the Commission, otherwise the Council votes on the document and it is put
3 up for voter approval at the election. Atty. Small said the Council will decided whether it will be
4 one question or 10 questions. Ms. Morgenstein said it is important to note we are looking at a
5 document from 1989 and can make a recommendation. Atty. Small said she didn't see why the
6 Commission couldn't make recommendations to the Council. Atty. Small said the goal is not to
7 try to confuse the voters and not make it difficult. Mr. Gingras said he would hesitate having the
8 Commission make recommendations to the Council.

9 **Adjournment**

10 **Mr. Gingras made a motion to adjourn the Meeting at 8:02 p.m. Mr. Pyskaty**
11 **seconded the motion which passed unanimously.**

12 Respectfully submitted,

13 Cynthia A. Kleist

14 Recording Secretary

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