

CHARTER REVISION COMMITTEE

SPECIAL MEETING

JULY 7, 2016

WALLINGFORD TOWN HALL

ROOM 315

45 S. MAIN STREET, WALLINGFORD, CT

6:30 P.M.

MINUTES

PRESENT: Chair Stephen Knight; Vice-Chair Christina Tatta; Jonathan Chappell; Robert Swick; Jim Pyskaty; Jim Seichter; Sam Carmody; Tom Corrigan; Mark Gingras; Patricia Kohl; Gina Morgenstein.

Members of the Public: Patrick Birney, Robert Beaumont; Tom Laffin; Mary Heffernon; Mayor William Dickinson.

Chair Knight called the Meeting to order at 6:31 p.m. and the Pledge of Allegiance was recited.

1. Approval of Minutes of the June 23, 2016 Special Meeting.

On page 2, second paragraph, third sentence, should be “during that time period, no-one would have an idea “IF” instead of “OF”.

Mr. Swick made a motion to approve the June 23, 2016 Meeting Minutes as amended. Mr. Pyskaty seconded the motion.

Vote: Unanimous

Chair Knight took the agenda in the following order:

- 2b. Consider expanding the Public Utilities Commission beyond three members (Chapter XQV, Section 2).

Mayor Dickinson submitted his letter. He said by design, the PUC has limited authority and doesn't function separately from the Town. He cited an example when an attorney is hired, it must be approved by the Law Department and all Personnel matters go through the Personnel Department. Mayor Dickinson noted the Purchasing Office handles all PUC purchasing. He said this is by design and the utility structure is meant to be narrowly focused for the maintenance, repair and replacement of the distribution system for water, sewer and electric. Mayor Dickinson noted there some authorities such as

rate making, entering into contract for no more than 10 years and noted all of this is subject to a Town Council veto. He said there is very little independent action possible from the utilities. Mayor Dickinson pointed out the PUC can't adopt their own budget or transfer money from one line item to another without Mayoral recommendation or Council approval. He said the PUC is not a legislative group but is very narrowly focused.

Regarding the possibility of expanding the PUC beyond three members, Mayor Dickinson said since 1961, he has not been aware of where the utility has shown difficulty functioning with the current membership. He said the writers of the document wanted accountability and described a form of government which has fewer people to ensure accountability is very direct and certain. He said when more people are added, this produces less accountability. The Mayor spoke about the possibility of changing the time period for a veto and noted as a general rule, the current veto time period has worked well. He said in the past, the PUC had a liaison who would attend the PUC meetings. He believed if the appeal period was lengthened, the danger is in creating inefficiency and jeopardizing approvals by the PUC which need to take place in a timely manner.

Patrick Birney, PUC Commissioner, said what works doesn't need to be fixed. He cited PURA and the CT Appellate Court as examples by stating that the Public Utility Regulatory Authority, (PURA), is equivalent to the PUC . He noted that PURA is the regulatory body which oversees the for profit investor owned utilities in the State. He said PURA manages rates and services. He said they are a three-member board and is appointed by the Governor. He said PURA has not expanded. Mr. Birney said with the CT Appellate Court, the PUC is an appellate panel, the arbitrators of whether or not the rates should be changed. He said the Appellate Court panel is made up of three persons and appointed by the Governor. He said when there are three people, the focus is on the best way for a utility to operate and one cannot hide. He said three people command responsibility. He noted there have been no less than seven Special Meetings called by the Director of the PUC since he has been a member the past 15 months. He said these Meetings were called because of hedging authority and the forward market and our requirement and ability to purchase electricity down the road so rates will be stabilized for the rate makers. He said these meetings were called with less than 24-hour notice and there was always a quorum.

Mr. Birney said when a person is one of three, the job is taken seriously and one has to learn, has to come prepared and be ready. He noted Chapter 14, Section 13, allows for a plenary review of 99.9% of what the PUC does by the Town Council, so there is complete oversight on almost all of what the PUC does. He said the Council does not have veto power on the hiring of the Director. He urged the Charter Revision Committee to not recommend further expansion from three to five persons.

Mr. Beaumont, Chairman of the PUC, said there has been a three-person electric commission since 1899. He said he has been around the utilities all his life and noted the three-person board works well, noting that with three people, one cannot afford to not work together. He said there are a lot of unanimous votes, because staff makes excellent presentations and does their homework. Mr. Beaumont said the one time there wasn't total agreement was in regards to the Inflow and Infiltration ordinance and how this would be implemented. He said a former Commissioner was adamant about giving as

much of an incentive to the customers as possible. He said this was discussed for over three years. Mr. Beaumont said this is an extremely complex position in terms of what is being dealt with and that is why there is water, sewer and electric. He said he believes it would be a waste of money, an extra \$13,000, to expand this and with more people, there would be problems.

Mr. Beaumont said with the 15-day veto by the Town Council, he spoke about the Minutes not being sent out on time. He noted the Minutes were sent out and said this was the only period of time there was an issue. He said the Minutes are turned in the Friday after the Meeting and are turned into the Town Clerk's office.

Mr. Laffin, Town Council Vice-Chair said the concern came over recent quorums and rooted in a personal nature over a former PUC Commission member and was handled poorly. He said the cost is a consideration and is an issue because it is difficult to find people. Mr. Laffin said he had concerns on both sides about the motions. He said a meeting which occurred on May 17, the Council received the motions the next day, and the Minutes four business days later. He said there was an issue a year or two ago, where they came in a little tighter, but mentioned there was only one approved motion that one Councilor had a question about in the five years he has been on the Council and sparked all of this concern. He said by the time the Council received the Minutes, the Council only had two or three days to question. He said since then, the Minutes and Motions have been received within one or two days which is reasonable. Mr. Laffin said this was a cross between an operational issue and an oversight issue, but noted it was almost moot at this point, whether the Charter is changed or not. He said the Charter Revision Committee's duty is to work on the worst case scenario. He said a balance has to be found between operational and oversight issues.

Mr. Beaumont noted that in almost 17 years on the PUC, he hasn't known of any item voted in favor that was vetoed by the Town Council. He said the PUC very seldom gets guests from the Council ahead of time. Mr. Carmody asked what constitutes a quorum of the PUC. Mr. Beaumont said there must be two PUC members. Mr. Beaumont and Mr. Birney both noted they don't ever remember not having a quorum. Mr. Carmody said there were issues with member not being at the meetings. Mr. Beaumont said if he was on vacation in S. Carolina, the package would be sent to him and he would attend the meeting by phone. He said the PUC may consider using Skype in the future. Mr. Birney said in his 15 months on the PUC, the telephone has been used once during a meeting. Mr. Birney pointed out that business is being done around the world by telephone. Mr Laffin said he wasn't aware of any meeting where only one PUC Commissioner showed up. He said the concern came out of a general worry of whether this was a burden on the PUC. He said he trusted the PUC, the Mayor or administrative staff would handle this if there were an issue. Mr. Chappell said he was open minded in considering increasing the PUC from 3 members to five, but after hearing points which were raised, he is inclined to keep the PUC as it is. He said there is an important aspect to this job and noted it is hard to find people and that was one of his concerns.

Mr. Seichter an appointment to the PUC is done by the Mayor, and noted that when an appointment is made, it would be done in a thoughtful manner. He said he would hope there would be more than three

people in this Town that could have the expertise to be on the PUC. He said the expertise may be more than other commissions. He said from the standpoint of qualifications, there are a broad pool of people with experience. Mr. Seichter spoke about the call-ins and noted that communication at times could be difficult. He said with the vacancy, if something has to be acted upon quickly and someone is out of the country, what happens. He said these were the types of issues, which prompted him to consider expanding the PUC from three to five members. Mayor Dickinson said in 55 years there hasn't been a problem and worries about changing a document in the Charter out of fear that something might happen.

Ms. Morgenstein noted the PUC has been a two-member body since October and is a long term. She said when one is looking at two people which are the oversight of an important body, the expertise is deluded when a member hasn't been present since October and said this was a long time period. Mr. Birney said the resignation of the third PUC member took place in April. Ms. Morgenstein asked how many people in Town realize these positions exist, noting there are people in Town who may be interested. She said the public also brought the (three member) issue up. Mr. Beaumont said the PUC is a three-year appointed and if someone is interested, they submit their name to the Mayor and it goes to the Town Council.

Vice-Chair Tatta wondered what would happen if the two PUC members couldn't agree on an issue. Mr. Beaumont said that were the case, no action would be taken. Mayor Dickinson said people should stop looking at hypothetical situations and if it were a time-sensitive matter, he would hear about this immediately. Ms. Kohl said her concerns about making these changes is at the State level, one incident would happen and a person would propose a law which ended up being a knee-jerk law. She said she was also concerned about crafting a solution in search of a problem when there hasn't been a problem.

Chair Knight said he spoke with Director George Adair who brought up many of the same points as the Mayor. He said the PUC's authority is carefully proscribed with the Town Council and Mayor's office overseeing, which is a level of authority which resides within the Town Hall already.

Chair Knight entertained a motion at this time.

Vice-Chair Tatta: Motion that the Public Utilities Commission remain a three-member Commission

Ms. Kohl: Second

Vote: Swick-yes; Gingras-yes Corrigan-yes; Pyskaty-yes; Kohl-yes; Seichter-yes; Tatta-yes; Morgenstein-yes; Chappell-yes; Carmody-yes; Knight-yes

Motion approved

2c. Consider the Town Council's veto power of an action of the PUC to end 15 days after notice to the Town Council (Chapter XIV, Section 13)

Vice-Chair Tatta asked if the Council were to receive notification on day 14, what would happen. Mr. Laffin said a Special Meeting would have to be called which he pointed out can't always happen without proper notice. Mayor Dickinson said this would be regarded as an emergency meeting. Mr. Laffin noted for a veto, seven Town Council members would be needed. Mr. Chappell asked about the deadline is starting on the veto from the actual vote. Mr. Laffin said this became an issue to him because he wondered if this would be from the votes, or the notice of the motion or the notice of the Minutes, because one could argue, without the backup, no one would know why and would need to be cleared up. Mr. Chappell said that would seem to avoid the administrative delay of getting Minutes out. Mayor Dickinson said the list of motions and action taken has to be out before the full Minutes and that is notice right there and has to be done within 48 hours. Mr. Chappell said this could be earlier and wondered if this got over this, but wondered if this was worth discussing any longer because to him, it didn't appear to be an issue. Mayor Dickinson said FOI overrides everything. Ms. Kohl in legal matters, one has an appeal period which begins on the day of the ruling and doesn't see a need to change this because of one instance in all of these years and that was an opinion. Mr. Gingras said he concurred with Ms. Kohl, noting everything has worked so far. Mr. Seichter said he agreed and is comfortable with the 15 days.

Chair Knight entertained a motion.

Ms. Morgenstein: Motion that the 15-day requirement be left as is.

Mr. Corrigan: Second

Vote: Morgenstein-yes; Psykaty-yes; Kohl-yes; Carmody-yes; Chappell-yes; Gingras-yes; Corrigan-yes; Swick-yes; Seichter-yes; Tatta-yes; Knight-yes

Motion passes

Ms. Heffernon said she sent Chair Knight a letter regarding agenda item #6 which involves the discussion and possible action on recommendations submitted by the public. Chair Knight said he received Ms. Heffernon's letter and noted Mr. Pyskaty also raised some issues. He said he would rather have the Legal Dept. weigh in on this and develop some language. He said he would discuss her issues at the next CRC meeting on July 21.

2a. Consider the legality/effectiveness of the Building Inspector being Zoning Enforcement Officer (Chapter VIII, Section 3)

Chair Knight said the Committee members received the memo from Atty. Janis Small regarding this issue.

Vice-Chair Tatta: Motion that the wording of Chapter 8, Section 2, Building Inspector be changed to "a building inspector who shall be an (delete "the") enforcement officer of the Planning & Zoning Commission". The word "THE" was deleted and "AN" was added.

Ms. Kohl: Second

Vote: Swick-yes; Seichter-yes; Corrigan-yes; Gingras-yes; Chappell-yes; Carmody-yes; Morgenstein-yes; Kohl-yes; Pyskaty-yes; Tatta-yes; Knight-yes;

Motion passes

2d. Tabled Charge Items #4 and #11 pending input from Law Department.

Chair Knight said a memo on Charge Item #11 which involves considering integrating electronic publication in the Charter where appropriate. Chair Knight said Atty. Small gave language in the places where it needed to be changed. He said there were four sections. He asked if the Committee for input. Mayor Dickinson said he suspected they all had the same meaning because the Law can override the Charter, but noted the Law can be mentioned. Mr. Chappell said the first version was written by him for the Wethersfield Town Charter and implies in accordance with the Law one could not do an illegal act. He said the version he drafted was “or by alternative means established by the Council by ordinance”.

Mr. Chappell: Motion that the four sections in the charter mentioned in Atty. Smalls’ July 6, 2016 memo be changed to use the first alternative stating: “or by alternative means as established by the Council by Ordinance”.

Mr. Gingras: Second

Vote: Tatta-yes; Swick-yes; Seichter-yes; Corrigan-yes; Gingras-yes; Chappell-yes; Carmody-yes; Morgenstein-yes; Kohl-yes; Pyskaty-yes; Knight-yes.

Motion passed

Chair Knight noted that Atty. Small was not finished with Item #4 of the Charges which deals with Chapter IV Section 4 – Consider the continued need for Town Constables. He recommended this be tabled to the next meeting. Mr. Gingras asked Mayor Dickinson about the Constables. The Mayor said he personally has not used them, but believed they serve papers.

Chair Knight said that at the previous meeting, he had requested that each Committee member give him five or more items to discuss. He said he read the emails he received, and noted that one of the Charge Items was considering the term of elected officials to be four years, which he said was taken care of. He said it was decided no changes would be made regarding the terms of elected officials. Chair Knight said discussion arose among the public, that the Charter Review Committee consider discussing possible term limits for members of Boards and Commissions. Chair Knight said the discussion at the public hearing was that it might be possible to get more people interested in serving on the Boards and Commission if there were term limits. He said some of these Commissions, Boards and Committees seem to have lifetime memberships.

Mayor Dickinson said he was not a believer in having a vacancy somewhere would bring people forward. He said the difficulty in term limits is that we are almost saying the process that has been put into place doesn't work correctly. He cited elective office as an example, noting that what is really being said is that the public can't make an appropriate judgment in a democracy, and therefore, a person can't serve a number of years. The Mayor said this issue raises some awkward philosophical questions. The Mayor said we rely on the experience people develop. Ms. Morgenstein said she had a difference of opinion. She said when the same people in multiple places and for many years are making the same decisions, the ability to think outside the box and grow the system contracts. She said there are a lot of people in Town who watch the different meetings and she sees a certain group so she stepped out stating she wanted her voice to be heard. Ms. Morgenstein said new people joining in grows new ideas and proposed in her email grandfathering people who are here now that this really be considered as change is not frightening, it just means different people are discussing this.

Mr. Seichter said as far as elected officials, he believes all of them have a limit on their term, whether it be the Town Council or the Mayor. He said he would rather see people stepping out to get involved. He said he wants to see people who are active and want to be involved. Mr. Corrigan said he disagrees with term limits and said turnover is not a good idea. He said he didn't believe experienced members are immune to new ideas. Mr. Laffin said in the 14 years he has been involved with the Town government, it is not easy to find people to fill spots and this is not for a lack of effort. Ms. Morgenstein spoke about grandfathering and becoming vested in the Town. She said in the future, if the Mayor stays as an elected official, the taxpayers are paying for a pension which is a cost to the Town. Mr. Chappell said term limits are not something we should put in the Charter and was not something he was not ready to add.

Mr. Carmody said when there is a term limit and someone has to run for office every two years it gives people opportunity. He asked about other Towns and their term limits. Ms. Kohl said many Boards & Commissions need to have specialized knowledge. She said she is not in favor of term limits. Vice-Chair Tatta said if someone is doing a good job and they get re-appointed that is good, but if something happens, there are provisions for dealing with this. Chair Knight said he had the feeling this issue was something the Charter Revision Committee wanted to entertain regarding the establishment of term limits. He considered this issue closed.

Chair Knight said he wanted to develop the agenda in concert with all of the Committee members. He said this way the focus can be narrowed and prioritize what is to be done. Chair Knight said the Committee will take on the nine questions on the ballot and go through these. He said Question #1: "Shall the Charter be revised to provide for an override of a Mayoral veto by six votes of the Town Council, which now provides for seven votes" will be discussed. Chair Knight said he will also take on at the July 21 meeting Question #3 which deals with the Board of Ethics; Question #5 which asks "Shall the Charter be revised to provide for a veto by the Town Council of any action of the PUC by six votes where it now provides for seven votes".

Mr. Seichter suggested taking up Question #6 and having Mary Heffernon on the agenda. Chair Seichter said Ms. Heffernon will be on the agenda. The Committee decided on the following dates for August:

August 23 and August 30 (Tuesday); for September: Sept. 1 and Sept. 15 (Thursdays) in Room 315 in Town Hall at 6:30 p.m.

Adjournment

Mr. Chappell made a motion to adjourn the Meeting at 8:30 p.m. Mr. Seichter seconded the motion which passed unanimously.

Respectfully submitted,

Cynthia A. Kleist

Recording Secretary