

1 **CHARTER REVISION COMMISSION**

2 **SPECIAL MEETING**

3 **AUGUST 30, 2016**

4 **Room 315-Wallingford Town Hall**

5 **45 S. Main Street**

6 **Wallingford, CT**

7 **MINUTES**

8
9 **PRESENT:** Chairman Stephen Knight; Vice-Chair Christina Tatta; Commissioners Patricia Kohl;
10 Robert Swick; Mark Gingras; Tom Corrigan; Jonathan Chappell; Mayor William Dickinson;
11 Corporation Counsel Janis Small; Sal Amadeo, Purchasing Director.

12 **NOT PRESENT:** Commissioners Jim Pyskaty; Sam Carmody; Jim Seichter.

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

15 Chairman Knight took the agenda in the following order:

16 4. Discussion and Possible Action concerning topics submitted by Commission Members –
17 Purchasing.

18 Chairman Knight explained this was a topic brought up by Commissioner Corrigan regarding the
19 possible elimination of the \$2,000 bid limit and why Mr. Amadeo was asked to attend tonight's
20 meeting. He said there was general agreement among the Commission that this could be
21 eliminated, but when the Charter was opened, it was found the Purchasing Ordinance had a lot
22 more to it and there was a question of how to arrange the language to take care of what the
23 Commission believed what was already inserted in the purchasing ordinance: an actual dollar
24 limit.

25 Atty. Small said the bid limit would be set by Ordinance. She noted State law keeps increasing
26 the amount of the bid limit. She said the Ordinance would give the Town Council flexibility to
27 set this amount at a different level. Chairman Knight noted that a lot of verbiage was eliminated
28 in Chapter 7, Section 4 in 2009 Charter. Atty. Small said there was an attempt to simplify the
29 language. Chairman Knight asked Atty. Small if there were any specific items which were
30 important or redundant. He cited purchase requisitions noting much of the language was
31 crossed out. Mayor Dickinson noted that every word means something, especially with

1 purchasing. Chairman Knight said the Commission is trying to create a framework for the Town
2 Government, leaving an Ordinance to specify.

3 Atty. Small cited central storerooms as an example, noting this was taken out because they no
4 longer exist. Commissioner Morgenstein pointed out there seems to be a lot of verbiage
5 regarding disposal. She said a more streamlined framework is needed without details. Atty.
6 Small said the 2009 version attempted to accomplish this by simplifying the language.

7 Commissioner Gingras suggested the Purchasing Dept. look at the 2009 version before the
8 Commission takes any action. He suggested any proposals be made to the Commission or Atty.
9 Small before a vote takes place. Commissioner Kohl said it appeared that any verbiage removed
10 in the 2009 version was appropriate for a job description and not necessarily for use in a
11 Charter. Atty. Small said the 2009 Charter Revision Commission was tackling getting the Charter
12 in a form where changes could be made. She said an employee of Program Planning took the
13 old Charter and whited out the line numbers, which made changes easier. She told the
14 Commission she would present a red line version to them sometime next week with the gender
15 changes and other changes made. She offered to include Purchasing in the red line version.

16 The Commission agreed to table this item.

17 2. Discussion and possible action concerning Question #3 (Board of Ethics) of the 2009
18 proposed revisions to the Town Charter.

19 Chairman Knight referenced the 2009 version which is Chapter 18, pages 32-35. He suggested
20 taking the elements of the explanation and see if there is interest in replicating what was put in
21 the 2009 version.

22 Chairman Knight read the explanation: "The Town Charter provides for the appointment of
23 members of the Board of Ethics by the Mayor, with confirmation by the Town Council. The
24 proposed revised Charter provides for the appointment of board members: 1-two members
25 appointed by the Mayor; 2-Two members appointed by the Town Council; 3- one member
26 appointed by the four members that were appointed by either the Mayor or the Town Council".

27 Commissioner Morgenstein asked about the current on the Board of Ethics and their makeup.
28 The Commission discussed if any changes were necessary to the present Town Charter
29 regarding how the Board of Ethics members are appointed. Mayor Dickinson said currently both
30 Executive and Legislative branches are involved in the appointments. He said this proposal
31 could change this to: two appointed by the Mayor; two appointed by Town Council and one
32 elected between the four appointed people.

33 Commissioner Morgenstein said she liked this idea, noting this shouldn't be political and should
34 allow for diversity. She said ethics is subjective and are getting appointees from one place,
35 there would be a certain mindset, but with the two;two and one, there would be a different way

1 of thinking. Commissioner Swick asked how many times the Ethics Board meets. Atty. Small
2 said it varies. Mayor Dickinson said the Board meets when required. Commissioner Corrigan
3 asked who was subject to this. Mayor Dickinson said it covers Town employee and anyone
4 within the governmental community. Commissioner Chappell asked Mayor Dickinson how often
5 one has to submit a name to be appointed. Mayor Dickinson said it isn't frequent and noted
6 there are currently two vacancies but noted the terms are for three years and are staggered.
7 Commissioner Chappell said does this come up enough to make this a political issue and noted
8 the present day constitution of the Mayor's office and the Town Council won't protect anyone
9 political because of the 6-3 Republican majority on the Council. Mayor Dickinson noted there
10 can't be more of a majority in one political party. He said he hasn't seen any problems with the
11 way things are now.

12 Commissioner Chappell pointed out the Ethics Board has limited jurisdiction, and hoped politics
13 was not the goal of someone on the Ethics Board. Atty. Small said she found the current Board
14 had thoughtful people. Commissioner Kohl said she wasn't in favor of changing the current
15 system noting she didn't see any problems and noted there is minority party representation and
16 the appointees have to be confirmed by the Council. She said she also wasn't concerned about
17 the differences in thinking or opinions, because the Board has to go by the Charter and the
18 Ethics Code and there is not a lot of personal interpretation.

19 NO ACTION TAKEN – Part A closed.

20 Part B-Qualification Requirements

21 Chairman Knight said the current Town Charter doesn't specify qualification requirements of the
22 current Board of Ethics members, and noted the proposed revised Charter prohibits members
23 from holding public office now or within the last three years; holding or having held an office in
24 any political party or be a member of any political committee for three years prior to
25 appointment; serving as a member of any political agency, Board or Commission or being a
26 Town Employee or making or have made a contribution to any appointing authority for three
27 years prior to appointment.

28 Commissioner Morgenstein pointed out the J.P. Venoit, is currently on a Town Commission. She
29 asked Atty. Small if they had a complaint of something that happened at a meeting that
30 someone was on the Commission of, would they stand down. Atty. Small said that person
31 couldn't participate. Commissioner Chappell said the way things are set up, no one in this room
32 would qualify to be a member of the Ethics Board. He noted this is a volunteer commission and
33 said volunteers are hard to assemble and in this case, would have to know the ethics code. He
34 said he didn't know why the requirements were made to be so minimal. He said looking at the
35 Ethics Code ordinance, the Council could change the Ordinance and would be concerned we
36 would have to live with this in the Charter. Atty. Small said if the Commission believes this
37 should be in the charter, it should be something no one has to think about and should be cast

1 in stone. Vice-Chair Tatta said this some parts are counter-intuitive and said the Board has to
2 have an understanding of the process and the requirements take out a lot of people who would
3 have an understanding of what goes on in government. She said the process is too limiting.
4 Chairman Knight said he didn't like the tone and said there is an inference that people who hold
5 or have held public office of served on an agency have an innate bias because they may have
6 made a political contribution. Commissioner Kohl said the proposal would be that anyone who
7 made a contribution to the Mayor or to the Council, and if there were two members appointed
8 by the Council, they couldn't make any contributions to any one on the Council. Mayor
9 Dickinson said this could cover confirmations.

10 NO ACTION TAKEN

11 3-"C" - Chairman Knight said the proposed revised Charter provides for the investigation of any
12 allegation of unethical conduct, corrupting influence, illegal actions, violations of the Charter or
13 the Code of Ethics. Chairman Knight asked if the Commission members wished to entertain
14 inserting this language into the Charter.

15 Commissioner Chappell said he wasn't in favor of inserting this language into the Charter, but
16 believed this was a potential ordinance issue. Mayor Dickinson said he was concerned by the
17 verbiage, "corrupting influence" and "illegal action", noting that if there was an illegal action,
18 this would be a police matter.

19 Vice-Chair Tatta noted there are two additional parts to this section which states the Town
20 Charter provides for a hearing procedure which provides for evidentiary matters to be treated
21 the same as in judicial proceedings. The proposed revised Charter specifies that the uniform
22 administrative procedure acts shall be followed.

23 Atty. Small said this was an attempt for formal structure on how the Commission would proceed
24 with complaints. She said the administrative procedures act wouldn't apply to this. She said this
25 talks about declaratory rulings and petitioning for a variety of issues. Commissioner Kohl asked
26 about the evidentiary difference between judicial proceedings and the uniform administrative
27 procedure act. She said the entire section regarding review of decisions of the Ethics Board was
28 removed. She noted the current charter states that it shall not be reviewed by any local board,
29 and if there is an appeal it goes to the Superior Court. Commissioner Kohl said the appeals
30 section was removed. Atty. Small said one can't by Charter, provide for an appeal where the
31 Statute doesn't provide for an appeal. She said the entire purpose of a hearing procedure is
32 that one gets an opportunity to present one's argument. She said the Charter and Ordinance
33 provides for this. She said this is not a judicial proceeding, but provides for laypeople to do this.
34 She said the attempt in 2009 attempted to state this would be a more formal proceeding.

35 Mayor Dickinson noted that the more one dictates a prescribed legal hearing, the more potential
36 there is to find fault just on procedural matters, when the real attempt here is to deal with the
37 substance. Commissioner Chappell said he would like to see some language taken out of the

1 judicial proceeding. He said it would be worth getting language on how to soften this up and
2 leave this to the Board of Ethics. Vice-Chair Tatta suggesting removing the part which refers to
3 the State Statute. Commissioner Gingras noted that when these matters were approached in
4 the past, we have fallen back on State Statute. He suggested putting this in the body and state
5 "as prescribed by State Statute."

6 Atty. Small said the Ethics have been in here since 1981. She said she looked at what other
7 Towns had about this in their charters, but didn't find anything. She said in the 1990's the State
8 made a model Code of Ethics for Municipalities and everyone adopted these codes instead of
9 having them in their Charters. She said Wallingford has both and is ahead of the curve.

10 Vice-Chair Tatta noted one additional chapter which stated the Town Charter doesn't specify
11 that the Board of Ethics is required to issue a written decision. The proposed revised Charter
12 requires a written decision within 30 days of concluding the hearing. Commissioner Kohl said
13 the ordinance covers this by stating the Board shall file a memorandum of decision but doesn't
14 state a specific time period. Mayor Dickinson said he would be concerned, dealing with a
15 volunteer group, prescribing a number of days. Atty. Small said there should be a deadline in
16 the ordinance once the hearing is concluded.

17 NO ACTION TAKEN AT THIS TIME. THIS ISSUE WILL BE REVISITED AFTER COMMISSIONER
18 CHAPPELL AND ATTY SMALL CONFER.

19 3. Discussion and possible action concerning Question #7 of the 2009 proposed revisions to the
20 Town Charter.

21 "A" – Update and include Gender Neutral Language. Explanation: "Throughout the proposed
22 Revised Charter, language has been updated and revised. The Revised Charter has been
23 updated to be Gender Neutral. This question captures all changes made by the Charter Revision
24 Commission that are not specified in other questions."

25 Chairman Knight noted this was already taken care of.

26 "B" – Revised Method of Appointment and Removal of Board/Commission members by the
27 Town Council. Explanation: The Charter provides for the appointment and removal of
28 Board/Commission members by the Mayor and the Town Council. The proposed Revised
29 Charter requires such appointments to be made within 60 days of becoming vacant and if either
30 fails to make the appointment, the other shall make the appointment. The proposed Revised
31 Charter requires appointees to regularly attend meetings and prohibits members from voting by
32 phone except in an emergency. Further, the proposed Revised Charter provides for the removal
33 of an appointed member by the Town Council for lack of attendance or just cause.

34 Commissioner Gingras said this is management's prerogative and said this shouldn't go in the
35 Charter and pass this over. Commissioner Chappell said he doesn't know if it is an all-inclusive

1 limit possible to come up with, for any or all appointments. He said one could make an
2 appointment in a day and a half, but with PUC, probably not. Commissioner Chappell said he
3 didn't know if putting in a hard deadline, one size fits all, would be pushing the appointing
4 authority to rush to do something or lose the power for not being able to find a willing person.
5 He said there were too many open questions. Vice-Chair Tatta said as far as appointees not
6 attending meeting, this is the reason why there are term limits. She said Commissioner Seichter
7 had spoken about prohibiting members from voting by phone except in an emergency.

8 Commissioner Gingras said he has run and still does run several boards where people phone in
9 but as Chair, he usually tells the people that this isn't a preferable way. He said there is body
10 language which isn't seen when one is calling in over the phone. He said this is a management
11 issue not a Charter issue. Atty. Small said there are FOI (Freedom of Information) rules which
12 require anyone phoning in at a meeting to have the same documentation that the people at the
13 meeting have.

14 NO ACTION TAKEN

15 "C" - Revisions to the Personnel, Purchasing and Land Use Sections and making the Town
16 Planner a position under the Charter and making the appointment of the Environmental Planner
17 by the Mayor whereas it is now done by the Inland Wetlands & Watercourses Commission.
18 Explanation: the proposed Revised Charter simplifies the wording of the purchasing and
19 personnel sections by removing duties not required to be specified in the Charter or are no
20 longer performed. Further, the proposed revised Charter creates a separate chapter for land
21 use, Boards and Departments. The Town Charter does not specifically provide for the position
22 of the Town Planner. The proposed revised charter provides for an appointment of a Town
23 Planner. The Environmental Planner under the Town Charter, is appointed by the IWWC. The
24 proposed revised Charter provides that the Mayor shall appoint the Environmental Planner.

25 Chairman Knight said the Commission dealt with the Environmental Planner issue. He asked
26 Atty. Small for background regarding the Land Use Sections. Atty. Small said the former
27 Commission in 2009 wanted to put everything in one section. She said they also mentioned the
28 Town Planner position for the first time. She noted when the words there "shall be" a position is
29 put in writing, it becomes difficult for this position to be eliminated. She said these positions
30 don't have to be in the Charter. Mayor Dickinson noted that to say there must be a position,
31 there can be a point where the position can't be afforded. He said if one uses that line of
32 thought, it would cover a number of other positions and could have a ripple effect and would
33 not like to see additional positions added.

34 Vice-Chair Tatta said she found it interesting that the Environmental Planner is mentioned in the
35 Charter and not the Town Planner. Atty. Small said she believed when this position was added,
36 it was going from part-time to full-time. Mayor Dickinson said a problem is created when
37 someone is reporting to a multi-member board and noted that there have been problems in the

1 past. Atty. Small said the Environmental Planner was changed to be appointed by the Mayor
2 which was just decided by the current Charter Revision Commission. Mayor Dickinson spoke
3 about Classified Service and how the job description is approved. Commissioner Morgenstein
4 asked about a State Statute regarding the Environmental Planner. Chairman Knight asked if
5 there was any language requirement that the Town have a Town Planner. Atty. Small said the
6 Town Planner wasn't a required position. Commissioner Gingras asked if the Town was required
7 by State Statute to have a Town Clerk. Atty. Small said a Town Clerk is responsible by State
8 law for a variety of things.

9 Commissioner Gingras suggested wording "unless by State Statute any position is not in the
10 Charter; it's an appointed position by the Mayor, approved by the Town Council." Atty. Small
11 said this could be done in a generic way in the Land Use section. Chairman Knight asked if the
12 Commission is establishing a framework through the Town Charter and part of that framework
13 is that there are certain exercises like planning, economic development that should be
14 recognized in the basic documents of the Town.

15 Commissioner Gingras said if this is the case, all commissions and sections should be listed that
16 we believe will be in the Town Charter over the next five years. He said he doesn't believe this
17 should be all encompassing, but make it as encompassing as possible. He said the Mayor,
18 Purchasing and the Town Clerk have to be in the Town Charter, but beyond that, it could be
19 stated your position is still valuable, but doesn't have to be in the Town Charter. He said the
20 words "may" or "shall" can be used. Mayor Dickinson said this would be a major endeavor
21 which would completely change the Charter and would invite tension from the ranks of the
22 employees. He asked if this would be worth it. He said to start adding things in, questions will
23 arise.

24 Vice-Chair Tatta said she agreed with the Mayor and said she was concerned the Environmental
25 Planner was in the Town Charter, but not the Town Planner. She suggested possibly changing
26 the wording of the Environmental Planner position to "may" or take it out completely, not that
27 the job is eliminated but just not needed in the Charter.

28 Commissioner Gingras said there are three choices: limiting the Charter; broadening it, or no
29 changes. He said it may be more expeditious to let it go on. Commissioner Kohl asked if Inland
30 Wetlands was a statutorily required board and wondered if this is why the Environmental
31 Planner was put into the Charter. Atty. Small said she believes the timing was such that the
32 Environmental Planner was put in when the IWWC was being established.

33 Commissioner Chappell said the Commission was getting into the weeds on this and that we are
34 potentially opening up Pandora's Box. He asked if the Supt. of Schools was a Charter position.
35 He said he is certain there are a lot of positions not in the Charter that should be, but if we get
36 into this, we would be complicated this process.

1 Chairman Knight said he believed the groups' sentiment was to move on. Commissioner Gingras
2 asked for a list that states by Statute we must have these people, and if that is the case, these
3 people can be named. Commissioner Chappell suggested looking at "may" versus "shall".

4 Commissioner Morgenstein said information is missing and that list is needed to compare what
5 is required by State Statute and what we already have in the books. Chairman Knight noted
6 that most of the Town Charter is historical. He said there are things left in there because it was
7 someone's idea and said this is a political document. He said the Commission is not trying to re-
8 write the entire document, just improve it. He said the list would be a nice reference.

9 Commissioner Kohl said she is rethinking in light of what she heard from Atty. Small and the
10 Mayor. She wondered if the Commission wanted to rewrite this and take out names, would this
11 just create controversy where it is not necessary. Commissioner Chappell noted the difference
12 between the Environmental Planner and the Town Planner and asked if one or both required by
13 Statute and should there be a difference in the Charter. He said he doesn't want to do a
14 complete re-write and if there is a glaring difference, it could be as simple as changing "shall to
15 "may" for the Environmental Planner.

16 Mayor Dickinson asked about the concern regarding the Town Planner not being mentioned in
17 the Town Charter. Vice-Chair Tatta said her concern was the Environmental Planner says "shall"
18 and that we must have this. Mayor Dickinson wondered if this went to "may" would there still
19 be a reference to the Town Planner. Vice-Chair Tatta said not necessarily. Mayor Dickinson said
20 this is why one must be careful what is put in the Town Charter.

21 NO ACTION TAKEN

22 "D" & "E" – Chairman Knight said these were taken care of

23 "F" – Provide that a member of the Public Utilities Commission may not serve on Land Use
24 Boards or the Economic Development Commission. Explanation: The Town Charter provides
25 that a PUC Commissioner may not hold any other public office. The proposed revised Charter
26 provides that a PUC Commissioner may not hold an elected position or serve on any Land Use
27 Boards or Economic Development Commission.

28 Mayor Dickinson said it would be a great advantage to have someone on the PUC on the
29 Economic Development Commission noting that nothing can be done without Public Utilities if
30 talking about business parks. He said he never understood this. Atty. Small said a member of
31 the PUC was on the Economic Development Commission and this was not liked.

32 NO ACTION TAKEN.

33 "G" – Already discussed and acted upon.

1 "H" – Permit budgeting and certain appropriations in annual installments. Explanation: The
2 Town Charter provides that certain appropriations lapse at the end of the Fiscal Year. The
3 proposed Revised Charter provides that upon recommendation by the Mayor and approval by
4 the Town Council, specific acquisitions or projects may be budgeted in annual installments, and
5 shall not lapse until completed, purchased or abandoned.

6 Mayor Dickinson said this is totally unnecessary because this is already being done and more
7 language in the Charter would just be reinterpreted. Atty. Small said she believed the intention
8 was to clean up the language. Mayor Dickinson said this comes out of an interpretation. He
9 suggested checking with Comptroller Jim Bowes.

10 Vice-Chair Tatta asked about "certain ones" may lapse. Atty. Small explained that if she doesn't
11 spend money in one of her accounts, the money is gone. Mayor Dickinson noted that capital
12 items are treated differently and in addition, the Council takes action in adopting the budget to
13 carry over those items that are building up. Commissioner Morgenstein asked if this "use it or
14 lose it" will create a mindset of just use it instead of moving the money forward to the next
15 year. Mayor Dickinson said this deals with capital item. He said any operational line does end, it
16 has to be spent and it will not be given back. He said with a capital item, if some of the money
17 is spent within the three years, it won't lapse. Vice-Chair Tatta agreed with the Mayor and said
18 she didn't believe the new wording was necessary.

19 NO ACTION TAKEN AT THIS TIME

20 "I" – require a mandatory review of the Charter at least every 10 years. Explanation: the Town
21 Charter does not provide for a mandatory review of the Charter. The proposed revised Charter
22 provides for a mandatory review of the Charter at least every 10 years.

23 Commissioner Corrigan said the way things are done now is fine. Commissioner Chappell said
24 the Town Council with the required votes, can do this every year. Mayor Dickinson said every
25 time a time line is set, who sets the calendar.

26 **1. APPROVAL OF MINUTES – August 23, 2016**

27 It was noted Commissioners Pyskaty and Carmody did attend the meeting.

28 Page 9, line 5 should read has been "done" and should read "Fire Chief, PUC and Mayor".

29 Page 6, line 31, should be "criteria" not "criterion".

30 Page 8, line 2, instead of "given to" the State, it should be "given by" the State.

31 Page 2, at the beginning, "ideas have brought to Commission's attention" should be "have been
32 brought to the Commission's attention, thoughtfully".

33 Page 2, paragraph beginning with "Ms. Morgenstein" should be "fluid" process.

1 On page 3, second paragraph, should be "feel rushed" not "fill rushed"

2 Line 18 should be "see this being rushed" and also "know" should be "now".

3 **Motion: Commissioner Chappell moved to approve the August 23, 2016 Charter**
4 **Revision Commission Meeting Minutes as amended. Vice-Chair Tatta seconded the**
5 **motion.**

6 **Vote: Unanimous**

7 **ADJOURNMENT**

8 **Vice-Chair Tatta moved to adjourn the Meeting at 8:25 p.m. Commissioner Kohl**
9 **seconded the motion which passed unanimously.**

10

11 Respectfully submitted,

12 Cynthia A. Kleist

13 Recording Secretary

14

15

16

17

18

19