

1 **CHARTER REVISION COMMISSION**

2 **SPECIAL MEETING**

3 **SEPTEMBER 1, 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 Robert Swick;
10 Mark Gingras; Jonathan Chappell; Patricia Kohl; Jim Pyskaty; Tom Corrigan; Sam Carmody.

11 **NOT PRESENT:** Commissioners Jim Seichter and Gina Morgenstein

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

14 **1. Approval of Minutes – Not Available at time of Meeting.**

15 Chairman Knight said he spoke to Corporation Counsel Janis Small who, in her memo, stated
16 that changes made to the attached section (Purchasing Agent), are the changes made by the
17 2009 Charter Revision Commission and were acceptable to the Purchasing Agent. Chairman
18 Knight said this gets rid of everything in the charge. He said Atty. Small will write up language
19 eliminating the \$2,000 bid limit. He said the Commission could consider adopting the rest of the
20 changes at a later date.

21 Chairman Knight said Atty. Small also commented on many issues discussed this past
22 Wednesday night. He passed around copies to the Commission.

23 **2. Discussion and Possible Action concerning topics submitted by Commission**
24 **members.**

25 Commissioner Kohl created the document which listed the revision of the topics to date made
26 by Commission members. Vice-Chair Tatta read each topic. Chairman Knight asked the
27 Commissioner who requested the discussion to give introductory information and its location in
28 the Charter.

29 **Chapter 2 – Section 9 – “Removal of Elected and Appointed Officials” –**
30 **Commissioner Chappell.**

1 Commissioner Chappell said this was more of a question, noting the section of the Charter read
2 there was a possibility of removing elected officials. He noted that Atty. Small, in Section 1 of
3 her memo, agreed with Commission Chappell that this couldn't be done and said he didn't
4 believe this needed to be discussed. He noted he was not looking to have anyone removed.

5 Commissioner Kohl said the wording is located on page 4 of the Charter book. Commissioner
6 Chappell summarized this chapter and noted it should be as simple as taking out "any
7 appointed official", on line 88, with everything else remaining the same. Commissioner Chappell
8 said he didn't believe an elected official could be removed, noting that is what a recall election
9 accomplishes. He noted the appointing authority for an elected official would be the voters. He
10 cited a hypothetical situation where a Mayor of a city gets arrested while in office, there are
11 ways to fill the gap, i.e., a Deputy Mayor. Commissioner Chappell said someone put in by the
12 voters has more protection, than someone appointed by the Mayor, noting the Mayor can
13 remove that person. Commissioner Corrigan suggested leaving in a way to remove a corrupt
14 elected official. He said there should be some way to removing this person instead of waiting
15 for the next election. Commissioner Chappell said he believes there is no way that a town
16 removes that person; noting the police could arrest the person and put them in jail. He said
17 symbolically he agrees that maybe there is a reason to leave the language in. Commissioner
18 Chappell said he didn't believe we had the Charter power to remove an elected official.

19 Commissioner Gingras cited the former Providence, Rhode Island Mayor Buddy Cianci as an
20 example of an elected official who was arrested and removed.

21 Commissioner Kohl said she looked at Atty. Small's memo to the 2009 Charter Revision
22 Commission which stated there was no Statute which specifically gave the power of removal of
23 elected municipal officials to the municipality's legislative body. The memo went on to state
24 there is no specific case which deals directly with this issue, but it is clearly established that a
25 municipality has no inherent legislative authority and only has such powers as are specifically
26 delegated by the State Legislature and cited the "Simons v. Canty" case. Commissioner
27 Corrigan said as much as he would like elected officials to live under the threat of removal, this
28 can't be done. Chairman Knight said this shouldn't be in the Charter because it is misleading.

29 Commissioner Kohl said Atty. Small's memo goes on to state that "any appointed official may be
30 suspended from his or her position by the appointing authority without pay or without a
31 hearing". Commissioner Kohl said Atty. Small's memo also points out that "suspension without
32 pay is not legal in as that it amounts to a punishment before the official is to have been found
33 to have committed wrongdoing". She said Atty. Small's memo also notes that " the right to an
34 appeal to a Superior Court cannot be created by a revision in the Charter, it must exist pursuant
35 to Statute. This paragraph should be removed."

36 Vice-Chair Tatta said she agreed with what everyone was saying and noted her only concern
37 was that if this went to ballot she would be concerned how people would see this and wonder

1 why an elected official would be able to be arrested, but not an appointed official.
2 Commissioner Chappell suggested taking out the last two paragraphs but leaving the rest as is,
3 with the knowledge that the Commission may be powerless to remove an elected person.
4 Commissioner Swick asked if this has always been in the Charter. Chairman Knight suggested
5 asking Atty. Small how to re-write this section to comply with her memo and to word this in
6 such a way to say "elected official if allowed by State Statute". He said therefore, because it
7 isn't allowed by Statute, the Commission is off the hook. He asked for a motion. Commissioner
8 Chappell suggested this item be tabled and ask Atty. Small to rewrite Chapter 2 – Section 9.

9 The Commission reached a consensus.

10 **Chapter 3 – Section 9 – Referendum. "Any Ordinance or Resolution-- discuss terms**
11 **and if it is appropriate" – Commissioner Chappell.**

12 Commissioner Chappell said the way this reads, there can be a referendum on a resolution
13 noting the terms "Ordinance" and "Resolution are not the same. He said he doesn't have a
14 concern and doesn't believe this has been an issue where a Resolution has been made on
15 something miniscule and someone has gathered enough signatures to overturn the Resolution.
16 Chairman Knight noted there have been two Referendums in recent memory and neither one of
17 them had anything to do with an Ordinance, but with an act of the Town Council.

18 Commissioner Chappell pointed out that Ordinances are Statues on a local level, but Resolutions
19 are not as formal and don't have to be published in the newspaper. He said it has not been
20 made easier to have a Referendum on anything, and if the Commission starts striking out items
21 to have a referendum on, this may be too restrictive.

22 No Action Taken.

23 **Chapter 3 – Section 10 – "Town Council Investigation –Should it have more**
24 **guidance" – Commissioner Chappell**

25 Commissioner Chappell wondered if there is more guidance on what the Council can do. He
26 noted he has seen other charters which grant the Council subpoena powers, which violate law
27 and if there should be an additional sentence or two. Commissioner Gingras said the word
28 "investigate" allows the Council to bring an employee in front of them and doesn't say they
29 have subpoena powers. He wondered if three members were too restrictive. Chairman Knight
30 pointed out there is a 6-3 Council which enables the minority party to investigate and if made a
31 larger number, it might require someone from the other party, and could be a real issue and
32 restrictive. Commissioner Chappell suggested leaving everything status quo.

33 Commissioner Kohl noted the current charter as least three members, but said the 2009 Charter
34 Revision Commission changed this to one-third of the members. She said it might be prudent to

1 change this to one-third of the members so if there ever were more Town Councilors, it would
2 still have to be one-third, or it could be left as is.

3 No Action Taken.

4 **“Change Appointing Authority from Advisory Commission regarding Planning &**
5 **Zoning-Additional Enforcement Officers”**

6 Commissioner Kohl said there was a memo dated July 21, 2016 from Mr. Hutt entitled
7 “Conservation Commission/ Environmental Planner position”. She read part of the memo which
8 states “additionally, with respect to the language in Chapter 8, Section 3A page 17, line 31, of
9 the Charter, which states in part that the Planning & Zoning Commission may, at its discretion,
10 appoint such additional enforcement officers as deemed appropriate and/or necessary. It is
11 unnecessary for this sentence to be in the Charter as it is covered by State Law, and I have
12 confirmed this with Corporation Counsel Janis Small”.

13 Commissioner Gingras suggested the wording: “as deemed by State Statute”. Chairman Knight
14 said it isn't known what the State Statute reads and said he doubted the Planning & Zoning
15 Commission could appoint on their own power.

16 Chairman Knight entertained a motion.

17 Commissioner Kohl: Motion that based upon Mr. Hutt's memo dated July 21, 2016, the following
18 sentence should be removed from the Charter – Chapter 8, Section 3, under “Building
19 Inspection” – remove the sentence –“the Planning & Zoning Commission may at its discretion,
20 appoint such additional enforcement officers as deemed appropriate and/or necessary”.

21 Commissioner Gingras – Second

22 Vote: Swick-yes; Corrigan-yes; Gingras – yes; Carmody-yes; Chappell-yes; Kohl-yes; Pyskaty –
23 yes; Tatta-yes; Chairman Knight-yes.

24 Motion passes

25 Commissioner Kohl spoke about another memo from Atty. Small noting there is a sentence up
26 above the one just deleted, beginning on line 28, which reads: “the Building Inspector who shall
27 be the Enforcement Officer of the Planning & Zoning Commission.” She said she believes Atty.
28 Small had written a memo stating the word “the” should be changed to “an” - “the Building
29 Inspector should be “an” Enforcement Officer.”

30 Chairman Knight entertained a motion

31 Commissioner Kohl: Motion that the following amendments to the Charter be made under
32 Chapter 8, Section 3, “Building Inspection” in the phrase “a Building Inspector who shall be

1 "the" Enforcement Officer, that "the" be changed to "an" to read "a Building Inspector who
2 shall be "an" Enforcement Officer".

3 Vice-Chair Tatta – Second

4 Vote: Tatta-yes; Swick-yes; Pyskaty-yes; Corrigan-yes; Carmody-yes; Gingras-yes; Kohl-yes;
5 Chappell-yes; Chairman Knight-yes.

6 Motion passes.

7 **Board of Education – "In depth discussion as it relates to Charter and Budget –**
8 **Commissioner Gingras.**

9 Commissioner Gingras said he was concerned the Commission would go too deep into the
10 weeds involving the Board of Education management situation and putting this into the Charter.
11 He said this has been discussed and settled that the Commission would stay away from the
12 Board of Education. Chairman Knight noted that whatever is currently in the Charter, the
13 Commission would not delve deeper into this. He said it might be worth reviewing what the
14 2009 Charter Revision Commission came up with.

15 No Action Taken

16 **Second half –"How Much Input does the Board of Education have on curriculum,**
17 **textbooks, etc., Chapter 11, Section 1".**

18 Commissioner Corrigan said since he has never attended a Board of Education meeting, he
19 wasn't sure what power they have over curriculum and textbooks. Commissioner Swick said
20 wondered if the Board of Education is bound by the curriculum development heads of each
21 department which pick the textbooks. He said he didn't know how this works in the Town's
22 Charter.

23 Commissioner Chappell said the curriculum is written from the bottom up which involves
24 teachers and a curriculum writing team which comprises of teachers and an administrative
25 team. He said this ultimately works its way up to the Supt. of Schools and then to the Board of
26 Education, which approves the curriculum. He said he doesn't see this as a Charter issue, the
27 Board of Education has control but there are mandates. He said the policy has been adjusted
28 the past few years, and there is high-level control.

29 Chairman Knight had a question on the third paragraph which reads "annually, or on or before
30 the last day of September, the Board shall prepare and submit to the Mayor, a report of the
31 Dept. of Education for the preceding Fiscal Year, and said shall include in detail-----.
32 "Additional copies shall be provided for all members of the Town Council"

1 Chairman Knight said he didn't remember ever seeing this (report). Commissioner Chappell said
2 he believes the report does happen.

3 No Action Taken

4 **Chapter 10 – Public Safety – Are the terms obsolete, etc., need input from powers**
5 **that be – Chappell.**

6 Commissioner Chappell said at the last meeting there were some ordinance code sections which
7 used a lot of the verbiage such as "Civil Preparedness". He said Homeland Security seems to be
8 the updated term. Chairman Knight said in the 2009 version, this was changed because of a
9 change in structure as well as terminology, i.e. the office of emergency management, which he
10 said made sense to him. Commissioner Kohl said she wasn't sure of there was an office of
11 emergency management. She said she believed the Fire Chief is the director of emergency
12 management but wondered if this was the same as civil preparedness covered by the
13 Ordinance. She said the Ordinance talks about appointing an advisory council of resident
14 electors to assist the Fire Chief. Chairman Knight said certain departments have come together
15 to plan. Commissioner Gingras suggested before the next meeting or the meeting after, that
16 the respective department heads look through this 2009 charter to ensure the most current
17 terms are being used. He said these types of terms can be put into the new Charter to make it
18 up to date. Chairman Knight suggested discussing this topic with Mayor Dickinson.

19 Commissioner Kohl suggested changing the term to "emergency management" and leaving out
20 the word "office". Chairman Knight said he is concerned about the advisory council of resident
21 electors, noting he is not aware of this body. He said this should either be taken out of the
22 Charter or made relevant. Vice-Chair Tatta said the Commission could request the Mayor come
23 to a future meeting to discuss this topic.

24 Commissioner Gingras suggested the Mayor contact the Department Heads to find out if there
25 are current names.

26 No Action Taken.

27 **Civil Defense – Is it necessary and how often used.**

28 Discussed above

29 **Mayor Election and Qualification – Is the word "Qualification" correct – typically**
30 **refers to background and standards that have to be met – here it seems to apply to**
31 **qualifying of vote – Chapter 5 Section 1**

32 Commissioner Corrigan said that if one looks at the bottom of page 11, it seems to imply
33 something that it may not need, but if one goes to the next line, it discusses the qualifying of
34 an election. He said when the phrase "election and qualifications" are seen, it is semantics, he

1 asked if it should say certification rather than qualified. Chairman Knight said he liked the idea
2 of changing the word to "certified". Commissioner Swick said both words should be certified, on
3 page 12, line 3.

4 Commissioner Chappell said qualification is found on page 3 and states a person has to live in
5 town. He said in that case the word "eligibility" not "qualification" is used. Commissioner
6 Gingras said he takes a different stance on the word qualification. He cited an example of a
7 mayor having a major stroke on January 1 before taking office, would that person still be
8 qualified. He said he looks at this not from the certification as is this person now qualified to be
9 mayor. Commissioner Corrigan said line 3 is past tense and noted that elected and eligible can
10 take on two different meanings.

11 Vice-Chair Tatta read the definition of qualified – "having the qualities, accomplishments, etc,
12 that fit a person for some function, office or the like; having the qualities, accomplishments,
13 etc., required by law or custom for getting, having or exercising a right, holding an office or the
14 like". Commissioner Kohl said the word is used in other sections and on page 10, chapter 3,
15 Section 11 – Council Appointments – last sentence: "such appointees may continue to serve
16 until their successors are appointed and qualified".

17 Chairman Knight pointed out the Council does conduct interviews for the purpose of qualifying
18 potential appointments, so this may fit. Commissioner Corrigan noted that maybe this is correct
19 or means something different in each case.

20 No Action Taken.

21 **Bid Limit Process – Should the \$2,000 bid limit be raised –** discussed previously.

22 **Chapter 15 – Section 7 – Increase Mayoral approval of \$200 Transfers per line item**
23 **within department.**

24 Commissioner Chappell noted on page 33, line 146, it seems that no matter who the Mayor is,
25 we trust him or her to transfer more than \$200 to another line item. He said \$200 seems low
26 for the Mayor. The Commission will ask Atty. Small what number is reasonable and should it be
27 changed or left alone.

28 No Action Taken

29 **Standardize/clarify language regarding appointment/removal of department heads**
30 **or employees – Commissioner Kohl**

31 Commissioner Kohl said this was a question for Atty. Small. She said she was looking through
32 the various chapters regarding the appointing of department heads, and noticed there were
33 differences in how they were worded and wondered if the language could be standardized. She

1 cited the Police and Fire Chief as an example: "the mayor shall appoint and may remove,
2 subject to the provisions of the general statutes".

3 Another example-the dog warden – the Charter language states "the mayor shall appoint and
4 may remove a dog warden (now animal control), whose duties shall be as provided in CT
5 General Statutes; Director of Civil Defense – "the mayor shall appoint any resident/elector of
6 the Town" Commissioner Kohl noted it doesn't say "shall appoint and may remove" just
7 "appoint". For Public Works, Commissioner Kohl said the language states "the mayor shall
8 appoint and may remove the Director of Public Works" but noted for Building Inspector, it
9 states "the mayor shall appoint and may remove, subject to such rules and regulations as
10 maybe adopted pursuant to the rules of Chapter 16 of this Charter, a building inspector"; under
11 Director of Recreation it states "a director of recreation who shall be professionally trained or
12 experienced in the planning and management of recreational activities, shall be hired in
13 accordance with Chapter 16 of the Charter. "

14 Commissioner Kohl pointed out that with different department heads, the language is different.
15 She noted that under the Director of Health, there is no provision for removal. She said this all
16 needs to be standardized so all of the language is the same. Chairman Knight suggested Atty.
17 Small look into this topic. Commissioner Chappell noted the Police Chief is protected by Statute
18 and may be the case for some, not all. Commissioner Kohl said Atty. Small's memo dated Sept.
19 1, sort of deals with this topic, under Item #3 "Terms for Department Heads" which states in
20 Chapter XVI, Section 2, the Chief of Police and the Fire Chief by state law, can only be
21 terminated for cause. The memo goes on to say the State Law governing the Dept. of Health
22 has a for cause provision, but technically serves a four-year term.

23 The Commission agreed to have Atty. Small research this topic.

24 Commissioner Kohl spoke about the Director of Public Works position, noting that the Charter
25 states "The Director of Public Works shall exercise his powers and discharge his duties under
26 the supervision of the Mayor". She said she wondered why this was specified for the Director of
27 Public Works and not for everyone else. Chairman Knight said the removal of the explanation of
28 authority will raise more questions than answer. Commissioner Gingras noted that a major
29 change may create more problems than answers.

30 No Action Taken on Public Works.

31 **Who is Subject to Classified Service and what determines eligibility? Are powers and**
32 **duties conferred by CT General Statute a factor - Kohl**

33 Commissioner Kohl had a question on why some department heads are exempted from
34 classified service and some have duties and powers conveyed by State Statute. Vice-Chair Tatta
35 said she thought when the Town Clerk is hired, instead of being appointed by the Town
36 Council, she becomes a classified employee. Chairman Knight said parts of some exemptions

1 are to eliminate some employees, like the Town Attorney, who is not subject to the complex
2 classified service employee rules. He said he believes some of the employees are exempt to
3 keep them out of the union. He asked the Commission if they have interest in making changes
4 if Atty. Small is requested to do research on this topic. Commissioner Kohl said she was fine
5 with moving on.

6 No Action Taken

7 **Standardized or clarified language regarding appointment – minority representation**
8 **on Boards or Commissions – Kohl**

9 Commissioner Kohl said the language should be uniform for various bodies which have minority
10 representation. She noted there is a State Statute which covers minority representation for how
11 many members for a board and how many can be from the same party. She said in the Charter
12 there are differences, i.e., Constables, no more from a bare majority can be from one political
13 party; Planning & Zoning, five resident electors from the Town, no more than three from the
14 same political party; Public Utilities Commission, three resident electors, no more than two
15 being from the same political party; Inland Wetlands – not less than five regular members and
16 three alternates, the number of commissioners and alternates required and minority
17 representation and their terms of office shall be defined by Ordinance. Commissioner Kohl
18 requested instead of having all the numbers, just reference minority representation according to
19 State Statute. Commissioner Chappell said in a lot of charters he has seen, there is a specific
20 section labeled minority representation which spells this out. He said this applies whether it is
21 stated or not, the Statute sets the maximum amount of number.

22 Commissioner Kohl referenced the Statute Section 90-167A which reads “except where provided
23 in subdivision 2, the maximum number of any board or commission whether elected or
24 appointed who may be members of the same political party, shall be as specified in the
25 following table: if membership is three, the maximum for one party is two; if the membership is
26 four, the maximum from one party is three; five is four; six is four; seven is five; eight is five;
27 nine is six and more than nine, two-thirds of the total membership.

28 Vice-Chair Tatta asked if this would change any of the Commissions. She wondered if there was
29 a benefit to changing this. Commissioner Gingras suggested leaving the wording the way it is in
30 the body copy but add the table. Commissioner Chappell wondered if Atty. Small could write
31 one or two simple sentences regarding minority representation to ensure going forward we
32 continue to comply. Chairman Knight said there is nothing in this chapter that spells this out.

33 The Commission agreed to ask Atty. Small where this language can be placed in the Charter.

34 **Determine whether Council or Mayor prescribes powers or duties and number of**
35 **employees in a department. Can language be standardized – Kohl**

1 Commissioner Kohl said she had questions because the language for different departments was
2 different. She said she knows the Council approves job descriptions and at some point, the
3 Council has to approve the number of employees because they approve the budget. She asked
4 if prescribed by the Council differ from as the Council shall by Ordinance prescribe. She asked
5 does the first refer to the Council's approval of a job description while the second requires an
6 ordinance and what determines when an ordinance is required.

7 Commissioner Kohl noted that under Building Inspector, it states "to perform such other duties
8 as prescribed by the Council or as required by the Mayor". She said there are also other
9 departments which specify hours and duties by ordinance or by the Mayor, but not by both of
10 them. She said under some of the department heads it says "the Department Heads shall
11 appoint and may remove subject to the provisions of Chapter 16, all other officers and
12 employees. She noted for the Town Attorney, it says the Town Attorney shall have such clerical
13 and other assistants as the Council may determine by Ordinance; under Town Engineer, it
14 states subject to the approval of the Personnel Dept., may appoint assistants necessary for the
15 operation of the department; under the Comptroller, it states with the approval of the Mayor,
16 shall appoint and may remove; under the sub ordinance of the Comptroller, shall have such
17 other powers and duties as the Council may prescribe. She asked why the Council prescribes
18 some and others are by Ordinance, and whether they mean the same. Chairman Knight said he
19 didn't know why this was written the way it was. He said by trying to standardize the language,
20 the Commission may be getting into controversial areas for no reason. He said if there were
21 things that made the job unwieldy or interfered with the department's functions; the
22 Commission should take a look at it, but if not, should leave it alone. Chairman Knight
23 suggested Commissioner Kohl check with the Mayor and pursuing this topic in the future.

24 **Minimum number of affirmative votes – Board of Education and Town Council –**
25 **Commissioner Chappell**

26 Board of Education – Chapter 11, Section 1

27 Commissioner Chappell noted the Town Council and Board of Education both comprise of nine
28 members, but the quorum requirement is five for Board of Education and six for the Council. He
29 pointed out the minimum amount of affirmative votes are the same for both. He said for the
30 Board of Education, there can be a meeting with five members out of nine, but not for the
31 Council. He added if there is a meeting of the Board of Education with five of nine present, they
32 all have to agree for the topic to pass. Commissioner Kohl wondered if these two sections
33 needed to be worded differently to untangle the quorum number from the number of
34 affirmative votes.

35 Vice-Chair Tatta said this was an interesting topic to bring up and suggested asking Atty. Small
36 to look into this. Commissioner Kohl suggested re-wording this in such a way for anything to
37 pass, other than a motion to adjourn, it always requires at least five affirmative votes and not

1 matter how many are in the quorum. She said the way the quorum is tied into the number of
2 affirmative votes could be misleading. Commissioner Chappell said the Board of Education the
3 night he was in attendance could not have had a meeting because they had five people
4 present. Commissioner Chappell asked if the Chair of the Board of Education or its members
5 have a problem with a quorum of six.

6 The Commission will ask Atty. Small for an opinion.

7 **Clean-up items**

8 Chairman Knight said every specific topic was discussed. He said as information is received from
9 Atty. Small, these matters will be re-visited and discussed again. The Commission agreed to put
10 the 2009 Charter against the original Charter and try to find what their thinking was. The
11 Commission will discuss Chapters, 1, 2, and 3 at the Sept. 15 meeting with the next working
12 meeting on October 6.

13 The Commission discussed the format for October 4, 2016 public hearing using Atty. Small's
14 redline version. Atty. Small suggested doing an opening statement explaining the Commission's
15 works and decisions.

16 **Adjournment**

17 Commissioner Gingras made a motion adjourn the Meeting at 8:14 p.m. Vice-Chair Tatta
18 seconded the motion which passed unanimously.

19

20 Respectfully submitted,

21 Cynthia A. Kleist

22 Recording Secretary

23

24

25

26

27

28

29

30

