

**PUBLIC HEARING – AD-HOC ADVISORY CHARTER REVISION COMMISSION – WESTERLY LIBRARY
WEDNESDAY – MAY 18, 2016 – 5:30 P.M.**

1. 5:30 P.M. CALL TO ORDER

Present: Lawrence Cioppa, Chair
Chris Lawlor, Filer
James Angelo
Richard Dudley
John Formica
Christian Lund
Nina Rossomando
Paula Ruisi

Absent: Stephen Turano

Also Present: Donna Giordano, Town Clerk
Benjamin Delaney, Recording Secretary

2. 5:30 P.M. APPROVAL OF MINUTES

Motion by Mr. Lund, Seconded by Mr. Lawlor, to approve [the minutes of the May 11, 2016 regular meeting]. (Voted unanimously)

Motion by Mr. Lawlor, Seconded by Mr. Dudley, to approve [the minutes of the May 14, 2016 public hearing]. (Voted unanimously)

3. 5:32 P.M. REPORTS

A. Town Clerk

Ms. Giordano noted the email from the Town Solicitor regarding the Commission's question on the ability of the Town Council to submit Charter revisions. She stated for Mr. Angelo the Town Council may submit revisions and it was unknown if they would. She cited the Constitution of Rhode Island enables the Town Council, as the local legislative body, to put forward proposed changes.

4. 5:33 P.M. UNFINISHED BUSINESS

A. 9-1-8 Constables and 9-1-9 Suspension and Disciplinary Action

Ms. Giordano stated the Chief of Police had not yet received responses from the Town Manager and Town Solicitor.

Mr. Angelo stated his understanding all non-sworn in police officers were constables. Constables did not have arresting power or the ability to carry a weapon unless having been through the police academy or qualified through the Rhode Island Police Officers Commission on Standards and Training (POST).

Mr. Lund stated the text at the end of section 9-1-8 appeared to be a note.

Motion by Mr. Lund, Seconded by Mr. Dudley, to delete the partial statement “shall, while on assigned duty, have the powers of regular police offices and” [from 9-1-8 Constables]. (Voted unanimously)

Mr. Cioppa stated for Mr. Formica state law and the collective bargaining agreement currently dictate reductions in rank and suspensions of officers.

Motion by Mr. Dudley, Seconded by Mr. Lawlor, to eliminate [“reduce in rank, or suspend any police officer below the rank of Chief. The Chief may”] and to add [“The disciplinary procedure shall follow Rhode Island General Law, the Law enforcement Officer’s Bill of Rights, and the Collective Bargaining Agreement.” to the end of the section]. (Voted unanimously)

B. Rescinding of Motion on 13-1-4 Duties

Motion by Ms. Rossomando, Seconded by Mr. Dudley, that [the Commission] rescind the motion on 13-1-4 Duties of the Solicitor.

Ms. Rossomando, responding to a question by Mr. Cioppa why she felt the motion should be rescinded, stated the proposed revision was a detailed job description and would usurp the roles of the Town Council, Town Manager and Human Resources. She stated the current language in the Charter was similar to the language in other charters.

Ms. Ruisi stated she preferred having additional detail in the section.

Mr. Angelo noted the Commission had previously discussed and voted on the proposed revision and stated the revision was a statement of work and no new argument to rescind the motion was made. He noted the Town Council had previously changed job descriptions and a statement of work was needed to be included in contracts for the Town Solicitor. He confirmed for Mr. Lawlor the Town Solicitor had sent an email noting concerns regarding the proposed revision.

Mr. Cioppa stated the Town Solicitor may have misinterpreted the proposed revision and clarified the revision included language to require the Town Solicitor to protect the Town Council from making illegal decisions.

Mr. Dudley and Ms. Rossomando noted they were absent from the meeting in which the motion was voted on and Mr. Dudley stated the revision was a detailed job description which should be included in contracts.

Mr. Angelo questioned how the proposed revision could be made sure to be included in a contract.

Ms. Rossomando cited the existing language of 13-1-4 Duties.

Mr. Lund noted the Commission would likely request the Town Solicitor to attend a future meeting and would be an opportunity for him to further explain his concerns regarding the proposed revision if the Commission’s motion was not rescinded.

Mr. Lawlor noted the proposed revision was made regarding concerns the Town Council was not following through and making sure.

(Motion voted 6-2 with Mr. Cioppa, Mr. Lawlor, Mr. Angelo, Mr. Formica, Mr. Lund and Ms. Ruisi against)

Mr. Lawlor stated the revision had been thoroughly discussed.

Mr. Formica and Ms. Ruisi stated the revision was not a job description.

Mr. Lund stated the revision had been thoroughly discussed and was not a job description.

Mr. Angelo stated the revision could be used as a job description or statement of work.

Mr. Cioppa stated the revision was not a job description.

5. 5:53 P.M. NEW BUSINESS

A. Review of Public Hearing

Ms. Ruisi stated she liked the suggestion of Linda Bongiolotti to have elected membership for the Planning Board and Zoning Board of Review.

Ms. Giordano clarified state law required members on both boards to be by appointment.

Ms. Rossomando recommended the Commission discuss comments of all speakers and noted comments from Jack Armstrong regarding the initiative for referendum.

Mr. Cioppa stated the revision was drafted to be difficult and not impossible.

Mr. Lund, noting a comment by Charles Marsh, stated his concern there were no ordinances for a public safety director to enforce.

Ms. Ruisi noted Councilor Gagnier had stated an agenda item could be added for discussion at a Town Council workshop with support from two or more councilors.

Ms. Giordano stated the Charter could include a public safety director without immediately having a public safety director appointed. She stated for Ms. Ruisi the Architectural Review Board was suggested for establishment by a previous commission as an advisory group mainly regarding commercial properties.

Mr. Lund cited 13-3-1 Town Sergeant as an example for the text to establish such a position.

Ms. Rossomando suggested an advisory board alternatively be established to bring environmental safety and public welfare concerns to the attention of the Town Council.

Ms. Ruisi questioned how such a board could be structured to 'have more teeth.'

Mr. Lawlor cited Mr. Marsh's diagram of the proposed organization of public safety.

Mr. Lund recommended the position be established under Chapter III Other Officials and have a board be established at a later time.

Motion by Mr. Lund, Seconded by Mr. Lawlor, to make an addition to the Charter of a Director and Department of Environmental Safety. Powers and duties of [the Director] shall be as prescribed by law and ordinance [and the Director] shall be appointed by the Town Manager.

Ms. Giordano stated for Ms. Ruisi the Town Council could approve the establishment of the Department and the employees of the department were appointed by the Town Manager.

(Motion voted 7-1 with Mr. Angelo against)

Mr. Angelo stated the position was redundant as the State of Rhode Island had cognizance over environmental safety.

Mr. Lawlor and Ms. Rossomando stated their disagreement with Robert Lombardo's comment the Town Manager should be a resident of the town.

Ms. Giordano stated the requirement for residence was abolished by the state.

Mr. Lund stated he felt it was beneficial for an individual to not live in the community in which they worked.

Ms. Giordano clarified for the Commission the Town Council, by ordinance, could not provide funding for the legal expenses regarding an ethics violation which a councilor was found guilty of.

Ms. Ruisi stated her agreement with Mr. Lombardo's concerns regarding the Town Solicitor reporting to the Town Council and Town Manager and the requirements of the Finance Director.

Mr. Angelo citing an example, stated a Town Solicitor should not advise a town to appeal to the Supreme Court in a case in which they or their firm would benefit from.

Ms. Ruisi stated her concern regarding educational requirement for the Town Solicitor.

Mr. Lawlor noted the Town Manager's clarification a position's job description had to mirror relevant text in the Charter. He stated the result was broad descriptions in the Charter allowed broad requirements in job descriptions and there should be a higher educational requirement for the Finance Director

Mr. Dudley stated his agreement with Mr. Lawlor, stating the job description should be more detailed than the Charter.

Ms. Ruisi stated she had similar concerns regarding the Substance Abuse Task Force.

Mr. Cioppa stated educational requirements may eliminate qualified individuals.

The Commission was in consensus to review position qualifications as the existing Charter was reviewed.

Ms. Rossomando and Ms. Ruisi, citing comments by Gina Fuller, noted their unfamiliarity with the Recreation Board, Department and Director.

Mr. Angelo, citing a case in which the recommendation of a Zoning Official was overturned by the Zoning Board of Review, stated his concern a board may not perform due diligence and suggested the Commission review boards.

Ms. Rossomando stated review of boards was not within the purview of the Commission.

Mr. Cioppa stated his understanding the issue regarding fields was due to the long-term commitment and funding for the project(s).

B. 8-1-1 Town Assessor

Mr. Angelo, citing the Town contracts with Vision Government Solutions (Vision) to perform property assessments and revaluations with a computer model the state does not validate and with data from building permits entered in by the Town Assessor who is responsible for Vision's work in the town, stated contracts with a mass appraisal company superseded the Town Assessor.

Ms. Giordano stated her belief the Town Assessor had oversight over Vision's work in the town.

Mr. Angelo stated there was no oversight. He also stated for Ms. Ruisi the first contract was signed in 2009 and for Mr. Lawlor seven mass appraisal companies were registered by the state.

Ms. Rossomando questioned if a sentence should be added requiring a mass appraisal company the Town contracts with to be vetted by the state.

Mr. Angelo stated the Department of Revenue considered the state statute on vetting permissive and the Department of Business Regulation considered licensing such companies beyond its authority. He stated for Ms. Ruisi the Town Assessor had access and the ability to edit files and did not perform the assessment.

Mr. Dudley noted the contract maintains the Town Assessor as the position responsible for assessment in the town.

Mr. Angelo stated he would draft a revision for the Commission to discuss at the May 25, 2016 regular meeting.

8-1-3 Board of Assessment Review – Appointment, Vacancies

Mr. Angelo stated concerns regarding the Board of Assessment including due diligence and the current Chair's occupation as an attorney. He clarified the Board included three members, one alternate member, the Town Assessor, the Assistant Town Assessor and a staff member of the Town Assessor's Office and stated all Board members spoke at meetings.

Ms. Rossomando questioned if the Town Assessor, Assistant Town Assessor and staff member were advisors for the Board.

Mr. Angelo stated the Town Assessor acted in a similar role to the Zoning Official at Zoning Board of Review meetings. He confirmed he would draft a revision for the Commission to discuss at the May 25, 2016 regular meeting.

C. New Business from the Floor

Ms. Rossomando requested confirmation the Commission was in consensus regarding the organization of the proposed revision to the Finance Department.

Mr. Cioppa, citing a diagram, summarized the revised organization.

Ms. Rossomando noted the Finance Director was not included in the diagram.

Mr. Cioppa stated the position was titled Municipal Financial Officer.

Ms. Rossomando stated the Charter referred to the position as Finance Director and her understanding there would be a Finance Director, reporting to the Town Manager, a Municipal Financial Officer and School Financial Officer and the individual holding the position of Finance Director would simultaneously hold the position of Municipal Finance Officer. The Finance Director would be responsible for integrating the municipal and school budgets for submission to the Town Manager.

Mr. Cioppa clarified the Finance Director would be retitled as Municipal Finance Officer.

Mr. Lawlor, citing 11-1-7 Budget and recent budget deliberations, proposed a revision to the Charter which would add a requirement for the School budget format and detail to meet requirements set by the Board of Finance.

Ms. Rossomando noted the state required certain formatting for the school budget and her understanding the Board of Finance had requested the School budget's format to be formatted similarly to the municipal budget.

Mr. Lawlor clarified for Ms. Rossomando only the school budget submitted to the state must be

in a specific format and for Mr. Cioppa the revision would require the School Committee's budget meet the presentation requirements of the Board of Finance.

Ms. Rossomando stated it would be disruptive when turnovers occurred on the Board of Finance.

Mr. Lawlor stated a lack of detail was more disruptive.

Motion by Mr. Lawlor, Seconded by Mr. Dudley, to amend 11-1-7 Budget [with] the wording [being] "The School Committee shall submit a proposed budget in the prescribed format and with line item details as required by the Board of Finance to the Municipal Finance Officer on or before the first Monday of February of each year. The proposed budget shall include line item comparisons to the prior year's actual and budgeted amounts as well as the actual amounts for the two years prior to the previous year. The allocations of the amounts appropriated shall be determined by the School Committee and be prepared consistent with a Uniform Chart of Accounts ("UCOA") as promulgated by the Rhode Island Department of Elementary and Secondary Education ("RIDE")."

Ms. Rossomando stated she believed the Finance Director should be retained and restated her understanding of the Department's organization.

Mr. Angelo stated the Town Manager was the position with final say.

Mr. Dudley stated his understanding the School Committee has agreed to present a line item detailed budget for future budgets and had not been able to include such detail in the past.

Mr. Lawlor stated a second point of the revision was to allow electors to see the Commission sought a resolution for a concern.

Mr. Cioppa clarified for Ms. Ruisi no diagrams would be included in the Charter and may be included in the Commission's report.

(Motion voted 6-1-1 with Mr. Lund against and Ms. Rossomando abstaining)

Mr. Lund stated the School Committee had confirmed it would work to provide the detail requested from the Board of Finance in future budgets.

The Commission was in consensus all originally noted concerns were addressed to-date.

D. Review of Charter

1-3-5 Intergovernmental Relations

Mr. Angelo stated the section was in consonance with federal and state law.

2-1-6 Presiding Officer

Mr. Lund noted the Commission had decided to maintain the appointment of the Council President by the Town Councilors.

2-1-3 Vacancies

Mr. Angelo, responding to Ms. Rossomando's question if a vacant seat should be filled by an individual from the same political party, stated he did not feel such a revision was necessary at the local level of government.

2-1-9 Powers of the Council

The Commission was in consensus no further revisions were needed regarding the removal of Board or Commission members.

2-1-11 Independent Audit

The Commission confirmed no further revisions were needed.

2-1-13 Code of Ethics

Mr. Cioppa noted the section was revised to include the School Committee.

3-1-2 Board of Finance

The Commission confirmed no further revisions were needed.

3-1-10 Water, Sewer and Any Other Enterprise Fund Budget

Mr. Cioppa confirmed for Mr. Angelo the Commission approved a proposed revision to include the appropriate accounting methods.

4-1-1 Appointment and Qualifications

Ms. Ruisi requested the section be discussed at a future meeting.

Ms. Rossomando noted the Town Council had previously drafted specific qualifications for the Town Manager.

The Commission was in consensus the geographic proximity of the Town Manager's residence to the Town did not need to be addressed.

4-1-3 Temporary Absence, Disability, Resignation or Death

Ms. Giordano confirmed the Commission did not need to revise the section.

4-1-4 Non-Interference with Manager

Mr. Cioppa stated he believed the Code of Ethics addressed councilor interference with Town staff.

Mr. Dudley noted the section stated councilors could not interfere with Town staff.

5-1-1 Time of Elections

Mr. Cioppa stated no further revisions were needed.

5-1-3 Procedures

The Commission confirmed the section was proposed to be eliminated.

6-1-2 Duties of the Town Clerk (b)

Mr. Cioppa confirmed a motion would be needed to address gender-specific pronouns.

7-1-1 Organization

Mr. Angelo stated for Ms. Rossomando the proposed revision would state “the Director of Finance, who shall be the Town Manager or [their] designee.”

Mr. Dudley stated the Commission had proposed to maintain the existing first paragraph and cited the Commission’s proposed revision.

Mr. Cioppa requested clarification on the title of the position.

Mr. Lawlor recommended the title be Finance Director.

7-1-2 Qualifications

Mr. Dudley cited the Commission’s proposed revision.

Mr. Cioppa noted the proposed revisions for 7-1-1 Organization and 7-1-2 Qualifications were voted on at the March 30, 2016 regular meeting.

Motion by Mr. Lawlor, Seconded by Mr. Dudley, to change 7-1-2 Qualifications to read “The Director of Finance shall have at minimum a bachelor’s degree in business, finance or accounting and shall have a working knowledge of municipal accounting and school accounting and taxation practices and shall have had experience in budgeting and finance control.

Mr. Angelo, responding to a concern noted by Mr. Cioppa, stated he did not believe the bar would be set too high for an individual to meet the qualifications of the position.

(Motion voted unanimously)

The Commission confirmed its understanding the Town Solicitor would consolidate the proposed revisions into as few ballot questions as possible. It confirmed for Ms. Giordano, citing questions from Cathy Brayman, Deputy Town Clerk and Board of Canvassers Clerk, the proposed recall addressed the number of qualified electors needed to start the process, the causes for recall and the number of days for signatures to be gathered.

Mr. Dudley stated the Commission’s proposed revision was similar to the recommended revision of the previous Commission.

ADJOURNMENT

Motion by Mr. Angelo, Seconded by Mr. Lund, to adjourn. (Voted unanimously)