

**REGULAR MEETING – AD-HOC ADVISORY CHARTER REVISION COMMISSION – TOWN CLERK’S LIBRARY
WEDNESDAY – MAY 25, 2016 – 5:30 P.M.**

I. 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
Stephen Turano

Also Present: James Silvestri, Town Council President (entered 5:31 p.m.)
Mario Celico, Town Council Vice President (entered 5:31 p.m.)
Donna Giordano, Town Clerk
Benjamin Delaney, Recording Secretary

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

Ms. Rossomando noted two corrections to the minutes of the May 18, 2016 regular meeting: that “Ms. Rossomando” be corrected on page four and that Mr. Dudley and Ms. Rossomando stated they were absent from the April 20, 2016 meeting on page two.

Motion by Mr. Dudley, Seconded by Mr. Formica to accept the minutes as amended. (Voted unanimously)

III. 5:31 P.M. UNFINISHED BUSINESS

A. Review of 8-1-1 Town Assessor and 8-1-2 Duties of Assessor

Mr. Angelo noted the second sentence of the Commission’s rewritten 8-1-1 should be corrected as “the Assessor may be assisted in making such appraisals and reappraisals by mass appraisal companies contracted by the Town” and “true” should be replaced with “fair” in the Commission’s rewritten 8-1-2. He summarized what mass appraisal companies were and how their appraisals were conducted.

Ms. Rossomando questioned if the proposed text made the Assessor legally liable and Mr. Angelo confirmed it would. He also confirmed for Ms. Rossomando the state was not vetting companies. He stated the responsibility to vet accrued to the Town.

Ms. Rossomando questioned if the Assessor would be able to vet such companies and if instead the Town Council should seek to urge the state to vet.

Mr. Angelo noted the mass appraisal company contracted by the Town had been contracted since 2009. He confirmed for Mr. Cioppa the proposed text reflected the current situation and would be

flexible to allow for changes to the situation. He stated for Mr. Lund automobiles and boats were assessed and their assessment was governed by state regulations.

Motion by Mr. Angelo, Seconded by Mr. Lund, that [the Commission] accept 8-1-1 with the [addition of] “may be” in the third line. (Voted unanimously)

Motion by Mr. Angelo, Seconded by Mr. Formica, that [the Commission] adopt 8-1-2 Duties of Assessor as written with the exception of the word “true” changed to “fair.”

Mr. Lund questioned Mr. Angelo if he had considered guidance for validation by the Assessor.

Mr. Angelo stated how the validation was carried out would be up to the job description. He clarified for Ms. Rossomando an individual or individuals who sought to bring a legal case regarding an appraisal would be suing the Town and the Assessor was not responsible for licensing the contracted mass appraisal company.

Mr. Turano, noting the state was responsible for vetting mass appraisal companies, questioned how the Assessor would vet a mass appraisal company.

Mr. Angelo clarified the Town should be vetting companies it enters into contract with and the Assessor should vet mass appraisal companies as the position is responsible for the contract.

Mr. Turano stated his objection was due to a responsibility of the state being put on the Town.

Mr. Formica stated some form of vetting procedure was needed.

Mr. Lund stated he interpreted vetting as reviewing submitted requests for qualifications (RFQs) and requests for proposals (RFPs).

Council President Silvestri stated his belief a contract with a mass appraisal company would follow a regular bid process which included vetting. He clarified for Ms. Ruisi the Town Assessor reported to the Town Manager.

Ms. Rossomando stated the proposed text appeared to include more than a common procedure for vetting a contractor.

Mr. Angelo stated vetting would not be conducted if it was not included in the Charter.

Mr. Formica stated the responsibility of vetting the contractor belonged to the individual issuing the contract.

(Motion voted unanimously)

B. Review of 8-1-3 Board of Assessment Review – Appointment, Vacancies and 8-1-4 Duties

Motion by Mr. Angelo, Seconded by Mr. Lund, that 8-1-3 Board of Assessment Review – Appointment, Vacancies shall be as written with the exception of the striking out of “of which no more than two shall be of the same political party.”

Mr. Angelo questioned what constituted a political party and who would be responsible for vetting individuals.

Ms. Rossomando stated she assumed the Town Council would vet individuals as they were

responsible for appointments. She stated the intention was to maintain impartiality.

Ms. Giordano confirmed for Mr. Angelo the Board of Assessment Review was composed of individuals registered as a member of a political party.

Mr. Dudley questioned if unaffiliated was considered a political party.

(Council President Silvestri exited)

(Motion voted 3-6 with Mr. Cioppa, Mr. Lawlor, Mr. Dudley, Ms. Rossomando, Ms. Ruisi and Mr. Turano against)

Mr. Lawlor, Mr. Dudley and Ms. Rossomando stated the text was needed to prevent accusations the Town Council was choosing only the party in the majority.

Mr. Cioppa stated the text prevented the perception of bias and Ms. Ruisi stated her agreement.

IV. 5:54 P.M. NEW BUSINESS

A. New Business from the Floor

Ms. Ruisi stated the Commission conducted open meetings which were audio recorded and stated meetings should be transparent.

Mr. Cioppa apologized for questioning the release of a communication.

Ms. Ruisi stated she had reviewed several positions for consistency between job descriptions and qualifications in the Charter and found some were inconsistent.

(Council President Silvestri reentered)

Ms. Ruisi noted her concern the Director of Development Services was identified as having the responsibility of code enforcement and the job description was focused on grant writing. She questioned if any other positions could enforce codes and noted any abuses of variances or ordinances had to be brought to municipal court. She stated an ordinance allows fines up to \$500.00 per day and she was unaware of any violators being fined. She also stated the qualifications and responsibilities of the Assistant Zoning Official were not listed in the Code of Ordinances or Charter.

Mr. Cioppa cautioned detailed responsibilities and duties may limit what a position may be able to do.

Ms. Ruisi noted the Town spent more on litigation due to a lack of code enforcement.

Ms. Rossomando noted the Commission had voted to revise the Charter to include the position and duties of Director of Development Services and the Town Council had not approved funding for a position to assist in code enforcement in the fiscal year 2016-2017 budget.

Ms. Ruisi clarified for Ms. Rossomando her concern was in regard to all positions in the Development Services Department including the Solicitor for the Planning Board and Zoning Board of Review.

Motion by Ms. Ruisi that [the Commission] put in the Charter [for] every party that is in the Development Services Department, that there be consistency between their job description, the ordinances [including] the ordinance for those positions and for it to be in the Charter, including the Assistant Solicitor.

The motion was deferred to the Commission's next meeting to allow preparation for its amendment.

Ms. Rossomando stated it was the responsibility of the Town Council to ensure what is in the Charter is followed and to ensure ordinances and job descriptions are in accordance with the Charter. She noted it may be reasonable to include the Assistant Town Solicitor for the Planning Board and Zoning Board Review in the Charter and questioned if concerns regarding code enforcement could be resolved in the Charter.

Ms. Ruisi stated a lack of consistency between the Charter and job descriptions and qualifications failed the functioning of the Charter and Town.

Mr. Lund noted the Commission had previously discussed consistency of qualifications among positions or administrators in different departments and if they were needed.

Mr. Lawlor noted the Commission had addressed qualifications for some department heads and questioned the number of positions which needed qualifications in the Charter.

Ms. Ruisi noted her concern some qualifications for certain positions had become preferences and stated there should be consistency.

Mr. Cioppa recommended the Commission review the Charter and identify positions for discussion at the next meeting.

Ms. Ruisi stated she felt it was important to be provided in writing whether the Town Council planned to submit rebuttal questions to the Charter's proposed revisions for the election ballot.

Mr. Cioppa noted the Town Council could not discuss or propose revisions until it received the Commission's report and clarified the Council could not discuss the Commission's revisions with the Commission as it would be considered an interference. He noted all ballot questions must be submitted to the state by August 1, 2016.

Mr. Angelo questioned if the Town Council would hold public meetings to discuss any revisions it may propose and if it would be self-serving to propose revisions.

Mr. Lawlor noted it was the responsibility of voters to make the decisions on revisions and the Commission was doing its job to put forward its proposed revisions for vote.

Ms. Rossomando stated the League of Women Voters of Rhode Island had proposed recording a roundtable discussion on the Commission's revisions with former members of the Commission [the Commission would be disbanded by the time of the recording] for public televising.

Mr. Cioppa and Mr. Lawlor, who had volunteered to participate in the roundtable, confirmed for Mr. Angelo they would speak as individuals and not as representatives of the Commission.

Mr. Angelo noted there may also be a minority report.

Mr. Cioppa stated for Mr. Formica he planned for the Commission to finish its review of the Charter and then review the drafted Commission's report page-by-page to ensure its accuracy, including the accuracy of the minority report.

Ms. Giordano stated the Commission's report was due on July 11, 2016.

Mr. Cioppa confirmed for Ms. Ruisi the Commission could meet more than once per week if needed. He stated the report would be sent to the Commission once all motions were made and would be over thirty pages.

Mr. Cioppa stated he had reviewed the Charter due to concern some positions may be limited

by their duties in the Charter. He noted his concern the duties included for 12-4-1 Director of Development Services may be limiting.

Motion by Mr. Cioppa, Seconded by Mr. Lawlor, that a (d) be added [in 12-4-1 Director of Development Services] worded “shall do other tasks needed and requested by the Town Manager.” (Voted unanimously)

Mr. Cioppa requested the Commission to review duties of positions in the Charter to ensure no positions were too limited by their duties.

Ms. Rossomando thanked Mr. Dudley for his summary of motions and noted motions which were not in the summary: a motion on 2-1-13 and 11-1-13 regarding the signing of an attestation at the time of taking an oath of office, a motion on 11-1-8 to include what was included for the Town Council for the School Committee and a motion on 12-1-1 regarding the size of the Planning Board.

Mr. Angelo stated pensions for the Town Council was not currently addressed in the Charter and noted Westerly was the only municipality in the state which offered such pensions.

Motion by Mr. Angelo, Seconded by Mr. Formica, that [the Commission] put in the Charter an article removing pensions for Town Councilmen.

Ms. Giordano stated for Mr. Dudley the pensions were a result of state law and there had been a question regarding whether the law was limited to councilors serving only in 1971 or all councilors serving in 1971 and after. A former councilor serving for twenty years had been advised by the state they were eligible for a pension and the Town Council adopted an ordinance on pensions. Councilors were eligible for a pension after ten years and for a different rate after twenty years.

Mr. Angelo stated pensions were not addressed in the Charter.

(Council President Silvestri and Council Vice President Celico exited)

Mr. Cioppa noted the motion was not retroactive.

Ms. Rossomando noted the Commission’s proposed revision limited councilors to two consecutive terms.

Ms. Giordano clarified the ordinance provided pension eligibility for councilors serving for ten consecutive years. She confirmed for Mr. Turano pensions were the result of a state statute.

Mr. Turano questioned if the state statute overrode the Charter.

Mr. Angelo stated the state statute does not require councilors to receive pensions.

(Council President Silvestry reentered)

Ms. Giordano clarified for Mr. Turano the current ordinance on pensions resulted from the councilor who was confirmed eligible for a pension by the state.

Mr. Cioppa stated his opinion pensions for councilors should be addressed by ordinance.

Mr. Dudley stated councilor pensions may be an issue brought forward through the voter initiative referendum.

Ms. Rossomando stated her belief the revision on term limits for councilors would pass, which

would prevent councilors from serving the minimum number of consecutive years needed to be eligible.

Mr. Lund questioned if pension eligibility needed to be addressed in the Charter if the Charter would not negate the ordinance.

(Motion voted 3-6 with Mr. Cioppa, Mr. Lawlor, Mr. Dudley, Mr. Lund, Ms. Rossomando and Mr. Turano against)

Mr. Cioppa, Mr. Lawlor, Mr. Dudley, Ms. Rossomando and Mr. Turano stated pensions should not be addressed in the Charter.

Ms. Rossomando stated the motion would be irrelevant with the passage of the proposed term limits.

Mr. Lund and Mr. Turano stated the existing ordinance should be addressed.

B. Temporary Amendments

Mr. Cioppa recommended the Charter be revised to be gender-neutral in its wording.

Mr. Angelo stated the Charter included a statement addressing gender-neutrality.

Mr. Cioppa clarified the statement was that all gender-specific language was deemed to be gender-inclusive and stated he would not like gender-specific pronouns to be included in the Charter.

Motion by Mr. Lund, Seconded by Mr. Lawlor, that the wording in the Charter be gender-neutral.

Mr. Cioppa stated the form of gender-neutrality would be decided by the individual writing the revisions in the Charter. He confirmed for Mr. Dudley and Mr. Turano there would be one related ballot question as the motion was in regard to all references.

(Motion voted 7-2 with Mr. Angelo and Mr. Turano against)

Mr. Angelo and Mr. Turano stated their votes sufficed as their reasons.

Mr. Lund, regarding Mr. Cioppa's noting that a procedure for implementing staggered terms for councilors had not been proposed, stated his belief the Town Solicitor would provide the wording on the procedure.

Council President Silvestri noted his understanding such a procedure would not need to be in the Charter.

Mr. Cioppa confirmed for Mr. Dudley councilors serving a consecutive term after a two year term could serve for six consecutive years and confirmed for Council President Silvestri there was only a limit on the number of consecutive terms allowed to be served.

C. Review of Charter

8-1-4 Duties

Mr. Angelo, citing the current chair of the Board was an attorney, noted his concern whether the individual holding the chair was speaking as the chair, as an attorney or as a solicitor. He noted all other quasi-judicial boards had a solicitor.

Motion by Mr. Angelo, Seconded by Ms. Ruisi, under [8-1-4] Duties, the chair of the Board of Assessment Review shall not be an attorney.

Mr. Angelo stated for Ms. Rossomando an attorney as chair was judge and jury and restated it was not known if such an individual would be speaking as chair, an attorney or a solicitor. He confirmed for Mr. Lund the issue would be presented with any attorney.

Mr. Dudley stated barring attorneys from the position may be an issue of discrimination based on profession.

Mr. Angelo clarified his concern was only regarding an attorney chairing the Board and not being a member of the Board. He also clarified for Ms. Ruisi his concern was in regard to potentially weighted opinions.

Mr. Turano stated his agreement with Mr. Dudley.

Ms. Ruisi noted attorneys may still serve as members.

Mr. Angelo stated for Mr. Cioppa an attorney serving as a Board member and stating an opinion was different than an attorney serving as chair.

Mr. Dudley questioned if the chair had additional powers compared to other members.

Mr. Angelo stated he was unsure and the Board looked to the chair for direction.

Ms. Ruisi stated Mr. Angelo's concern was similar to her concern regarding the Town Council looking to the Town Solicitor for direction.

(Motion voted 2-6 with Mr. Cioppa, Mr. Lawlor, Mr. Dudley, Mr. Formica, Mr. Lund and Mr. Turano against and Ms. Rossomando abstaining)

Mr. Cioppa, Mr. Lawlor, Mr. Dudley, Mr. Formica, Mr. Lund and Mr. Turano stated barring an attorney from the chair was an issue of discrimination.

Ms. Rossomando, upon request from Mr. Turano, stated she did not have enough information to render a yea or nay and the vote should not be postponed.

Mr. Turano noted abstentions may block a motion being passed if a vote were close.

8-1-7 Right of Appeal

Mr. Angelo, noting individuals appealing in superior court required an attorney, stated damages were difficult to prove and it was difficult for individuals seeking to appeal to find an attorney.

Ms. Ruisi, citing Article IV of Chapter V of the Code of Ordinances, questioned if there was a Board of Review and Appeals.

(Council President Silvestri and Ms. Giordano exited)

10-1-1 Organization

Mr. Turano requested to rehash the Commission's proposed revision and stated his belief there was reasoning for the Public Works Department's organization. He summarized the organization of the Department.

Mr. Lund, citing personal experience, stated many public works likely would not be getting done if a Town Manager was acting in the position of a head of a Public Works Department

Mr. Turano noted his concern a Director of Public Works would require a new individual to be

hired.

(Ms. Giordano reentered)

Mr. Lund clarified Town Engineering was a separate department from Public Works and confirmed the Public Works Director was not required to be an engineer if there was a staff member who was an engineer.

Mr. Turano announced his intent to make a motion to rescind the Commission's previous motion on 10-1-1 Organization at the June 1, 2016 meeting.

Mr. Lund summarized the role of the Town Engineer for Ms. Rossomando

The Commission confirmed no representative from the Public Works Department was requested to attend the meeting.

13-1-2 Qualifications

Mr. Dudley stated the Commission's proposed revision did not include a requirement for the Town Solicitor to have a degree from an accredited law school.

Ms. Rossomando, citing charters of other municipalities in the state, recommended the amendment include a requirement for the Solicitor to have been practicing in Rhode Island for five years.

Motion by Ms. Rossomando, Seconded by Mr. Angelo, to add to 13-1-2 [Qualifications] "The Solicitor and any Assistant Solicitors shall be graduates of an accredited law school and who have been in practice in the state of Rhode Island for a minimum of five (5) years." (Voted unanimously)

13-2-2 Qualifications

Ms. Giordano clarified the Judge of Probate was historically a political appointment.

13-3-6 Advisory Boards or Commissions

Motion by Mr. Angelo, Seconded by Mr. Lawlor, that [the Commission] amend 13-3-6 to include the word "committee" so that it reads "advisory boards, commissions or committees." (Voted unanimously)

13-2-1 Qualifications

Ms. Giordano confirmed for Mr. Angelo the Judge of Probate was consistent with the Town Council.

15-1-1 Amendment of Charter

Mr. Cioppa cited 15-1-1 (b) clarified how the passage of two opposing revisions to the Charter would be resolved.

Mr. Turano, citing 15-1-1 (a2) questioned if the Town Council could submit its own revisions if it had established a Commission.

Mr. Cioppa stated his belief the section was in reference to potential petitions the Town Council may receive.

Mr. Turano clarified his question was whether the Town Council could both appoint a Commission and submit its own proposed revisions. He and Mr. Angelo stated they did not believe the question had been answered by the Town Solicitor.

The Commission requested the Town Solicitor provide in writing the reference(s) to state statute and the Rhode Island Constitution allowing the Town Council to appoint a Commission to propose Charter revisions and submit its own proposed revisions for a ballot

Ms. Giordano noted the Rhode Island Constitution gave legislative bodies the authority to propose Charter revisions.

V. 7:28 P.M. ADJOURNMENT

Mr. Cioppa stated an up-to-date Commission's report would be sent out upon receipt of the meeting's minutes.

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

Minutes for the May 25, 2016 regular meeting submitted by:



Benjamin Delaney