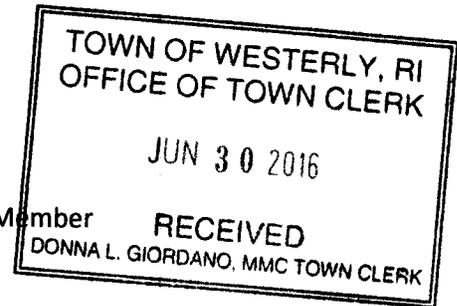


Minority Report to: Westerly Town Council
Date: June 30, 2016
Written by: James Angelo, Charter Revision Commission Member
Report purpose: To Present A CRC Minority Report



1 Purpose of Report

- 1.1 To present conclusions and recommendations re: the Town Charter and Town Council's policies, methods and procedures when deciding, or not, to comply with the authority of the Town Charter.
- 1.2 To address topics/subjects not included in recommended Charter revisions as proposed by the Charter Revision Commission.

2 Background

- 2.1 During the regular weekly meetings of the Commission along with the 2 additional public meetings held at Westerly Public Library certain topics were introduced by the public that are not necessarily included as part of the Commission's recommended Charter revisions.
- 2.2 Some of the items contained in this report may be considered outside the scope of the Commission's initial charge by the Westerly Town Council. However, the below items are considered relative to the charge given to the Commission by the Town Council.

3 Discussion

- 3.1 It is doubtful that Westerly Town Councils start out with the intention of deliberately violating the town charter. Never the less violations of the town charter do occur from time to time. While the reason/(s) for the violation may vary, a violation is a violation. Expediency and exigency are not the only reasons for effecting a charter violation. It is recognized that amending the charter is a long and protracted process, as it should be. However, acting first and then seeking ratification well after the fact, if at all, sends the unintended message that the end justifies the means. More importantly the present procedure of violating the charter first then seeking possible ratification later, if at all, shows that the Town Council not only considers that a violation of the charter to not only be acceptable but, in doing so the procedure demonstrates a complete disregard for the charter and its authority. Further, whether intended or not, charter violations by the Town Council leave follow-on councils with a fait accompli. While violations of the Town Charter may be challenged in Court, the potential of a challenge, from any quarter, is in all probability extremely unlikely.
- 3.2 Town Council salaries and pensions are not addressed as part of the Commission's majority report. The reason(s) for the omission by the Commission remains unclear. What is clear is that the Town Council's salaries and pensions are a fact of life and they are presently administered by the Town Council itself with little or no public input. Dual compensation (a.k.a. double dipping), per se, is not illegal, however, numerous federal and state dual compensation rules and regulations

have been put in place in order to prevent abuse. With the possible exception of town councilmen who receive pension compensation from the state pension plan (ERSRI) local town council pension rules are administered by the Town Council. Thus, Town Council salary and pension administration may be considered self serving.

- 3.3 Article XIII Section 8. of the Constitution of the State of Rhode Island states that, "The legislative body of any city or town may propose amendments to a charter which amendments shall be submitted for approval in the same manner as provided in this article for the adoption of a charter except that the same may be submitted at a special election..." The Constitution is silent Re: the matter of the legislative body proposing its own charter amendment/(s) at the same time as those amendments are being proposed by a charter revision commission. As I read the Constitution it appears that it was never the intent of the drafters of the Constitution to allow two separate sets of charter amendments to be proposed to the electorate at the same time despite the opinion of the Town Solicitor to the contrary.

4 Recommendations

- 4.1 When deciding that a major change with respect to the administration, organization, operation or maintenance of town government is in order a responsible Town Council would first determine the overall impact that the implementation of such a change would have on the Town Charter, if at all. It is recognized that the charter may be silent on the matter/(s) under consideration. Also, it is understood that the charter is not all inclusive nor, is it intended to be. However, after a due diligence study has been completed and it has been determined that the proposed action will have an impact on the Town Charter then a responsible Town Council will proceed in an appropriate fashion.

Accordingly, it is recommended that a town ordinance be passed that requires a full and thorough review of all of the implications and ramifications surrounding a proposed action by the town council. If and when it has been determined that the enactment of an ordinance or resolution has a high probability of impacting the Town Charter the Town Council may decide to implement a change even if such an act would be in counter to the Town Charter. When such an action is taken it is done so with the understanding that the action must be ratified by an amendment or change to the Town Charter by the Council that initiated the action. The responsible sitting Town Council that initiated the charter impacting action shall ratify their action by initiating a Charter Revision in accordance with the Home Rule Article specified by the R I State Constitution not later than the next town-wide election. To do otherwise results in the dilemma faced by the current Charter Revision Commission. Thus, a non-elected, part time, appointed committee/commission will be required to recommend changes to the charter in order to resolve, rectify or ratify actions already initiated by elected officials. Compounding the situation is the fact that some or all of the recommendations made by a Charter Revision Commission may not be acceptable to the voters in a general election.

- 4.2 Regarding Town Council salaries and particularly pensions administered by the Town Council and in an effort to assuage public sentiment , it is recommended that the Town Council pass an

ordinance adopting the state's pension rules and regulations as they apply to the salaries and pensions of elected town officials.

- 4.3 The suggestion by the Westerly Town Council that it may propose its own set of charter amendments at the same time as those being proposed by the Westerly Charter Revision Commission is dysfunctional and counterproductive. The suggestion by the Town Council only serves to confound and confuse this important undertaking while at the same time undermining the efforts of the duly constituted Charter Revision Commission. By its announcement that it may offer its own set of amendments concurrently with those of the Commission the Town Council demonstrates a complete lack of understanding of the spirit, intent and purpose of the State's mandate to review the Town Charter every 7 years. The review of the Town Charter is not meant to be a competition, a display of one-upmanship or an assertion of authority. In the future if the Town Council moves to propose its own set of charter amendments it may do in a timely manner as prescribed by the State Constitution.

James A. Angelo 6/30/16