

THESE MINUTES ARE SUBJECT TO APPROVAL BY THE CHARTER REVISION COMMISSION

The Charter Revision Commission held a meeting on Tuesday, September 9, 2014 in the Council Chambers at the Municipal Center, 3 Primrose Street, Newtown, CT. Chairman Jeff Capeci called the meeting to order at 7:00pm.

Present: George Guidera, Kevin Burns, Jeffery Capeci, Robert Hall, Tom Long, James Ritchie, Deborra Zukowski, Dan Wiedemann, Eric Paradis

Also Present: John Kortze, Mary Ann Jacob, George Benson, Rob Sibley, Jean Leonard Chairman of EDC and Michele Embree Ku

VOTER COMMENTS: Mary Ann Jacob spoke about an e-mail she received from Mike Solaris about his concerns about bifurcating the budget not being part of the charge as well as concerns about public comment and how it is managed.

MINUTES: Mr. Wiedemann moved to approve the minutes of the regular meeting of 8/25/14, Mr. Long seconded. Ms. Zukowski made the following change: The second bullet under Announcements, Third line should read-Ms. Zukowski also agreed, noting that the more standard approach for addressing issues Mr. Hall raised would likely be better received by the public. Motion unanimously approved with correction.

COMMUNICATIONS – Mr. Capeci received an e-mail from Mike Salaris (Attachment A).

NEW BUSINESS

Discussion with Board of Finance related to charge items – Chairman of the Board of Finance Mr. Kortze spoke about changes to the charter regarding the BOF. The BOF strongly views their role as advisory and firmly believes that the ultimate authority should be the Legislative Council.

The LC is a political body and the BOF is an apolitical body and that structure is important. In the end, the will of the people should prevail.

- The BOF doesn't feel it is their role to weigh in if there should be a town meeting or not but they encourage the CRC to look at it. The merits and the mechanics of how the town functions, is it useful, isn't it useful.
- Section 2-40 – Their recommendation is to provide seamlessness and continuity between terms. Most boards in town can be filled in a host of different avenues, in the end the board itself should eventually vote on it.
- Consider staggering terms not unlike the BOE. In their view four year terms where half were elected every two years for continuity.
- In the Town Charter it is not clear who the Town Financial Director reports to. They suggest that it should be the First Selectman or the Board of Selectman. Consider having one point of report.
- The Town Financial Director is the fiduciary of the Town funds as whole and should be made more clear or at least referenced in the charter.

- Section 5-01B7 – The BOF does 95% of the work on the CIP and deals with it annually. The current charter says biannually. Things change annually and it needs to be addressed annually.
- Section 5-40 – it would be helpful if the BOF has legal resources. There has been instances where the BOF has needed legal resources and would like the funds to do so.
- Section 6-12 – There are statues that come down such as establishing a BOE non-lapsing account and the charge to the BOF to seek out efficiencies between town departments. They encourage the CRC to look at the new statues to see if they need more clarity.
- Section 6-14B – They strongly recommend that they consider institutionalizing what they have been able to accomplish in the past few years. If the budget fails, the BOF should have as seat at the table and provide input to the Legislative Council in an advisory role.
- Section 6-12B – They suggest a balance of line items on July 1. If the referendum fails the Council may reduce a budget. Their goal is to have a starting point and a public vote from the BOE and the BOS as to how that reduction was applied. It is their view, if you are going to work throughout the year, you can only do that if you have a voted on starting point.
- One of the things they would like the CRC to consider is the definition of a town department. In one area it does not refer to the BOE and in another it does. That needs to be cleaned up.
- Consider, when it comes to regulations, it would be helpful to understand what town department can write a regulation and what impact that has on everyone else. With the caveat that is has Council final approval.
- Section 7 –The BOF plays a role in the legislative process but the ultimate authority is the council and it should stay that way.
- Special appropriation and an emergency appropriation – consider looking at that language.
- Recommend that they consider language where there is a more formalize approach to intercommunication. One of the things they hear is they spend a lot more time on the education budget than the BOS budget which couldn't be more from the truth. The reason for that is that they meet twice a month where the First Selectman and the Financial Director have a seat at the table. They have a standing seat and recommend they formalize a similar relationship with the BOE. The BOE has 2/3rd spending and no representation. They feel that should be changed.
- Grants – The current charter specifically states an impact statement needs to be provided to BOF and LC. Consider making that a more formalized process. There needs to be a clear understanding when that grant runs out, what is the impact to the town.
- Mr. Hall – The charter revision he served on two years ago investigated how towns function in terms of their BOE and BOS budgets. One of the things that seemed to be most successful was where the BOF and the BOE had one or more joint meetings early in the year to formulate mutual approaches in the budget. Would putting such a provision in the charter be a benefit? Mr. Kortze replied that the intent is well made, but the practicality is different. That is why he suggested that there be a liaison or some type of representative from the BOE on an ongoing basis.
- Mr. Hall – We could have in Newtown a BOF that had a function where it could pass a budget to the LC and the LC could decrease it but not increase. Mr. Kortze replied that even when

the BOF is done with the budget, there are things that are still developing and there needs to be the ability to adjust.

- Mr. Long asked if a threshold of a grant is recommended. Mr. Kortze replied that if they look at every grant, it will be too much.
- Ms. Zukowski asked what his thoughts are on doing to the BOF as was done with the BOE, moving it to a 7 person board. Mr. Kortze believes that anyone on the BOF will speak highly on the working relationship. The 6 number board has not been an issue. The only trouble is a quorum. Jeff Capeci questioned if would it affect the board being apolitical or would it upset the balance. John Kortze replied that it needs to stay apolitical. 6 do that a little more but leaves that to the CRC to debate. The process should be void of personality.
- Mr. Long asked about hiring of an auditor. The BOF believes that they should have a role. Right now it is the council that appoints the auditor but it should be at least at the recommendation of the BOF.

Discussion with Land Use Agency and Economic Development Commission related to charge items – Rob Sibley, deputy director of land use presented.

- The typical property disposition is cumbersome. Over the years they have become the holding entities for a lot of different properties that are now being considered to be a burden or a benefit to private property owners. Engineering costs, municipal liability, zoning conformity, and health issues are all concerns. Disposition of property, in Land Use as a zoning officer you have the ability to with private properties, do a lot line revision adjusting the property line where the adjustment does not create a new buildable lot. When it comes to the town and a private property they do not have a process similar to that. They have a process similar to open space. Lot line revision would be a proper tool but the process is not in the town to adjust with private land. There is a need to be able to have the ability to review this process. There are two sections that need to be modified to make this happen. They are looking for the ability to tweak the land processes in the charter that have minimal impact for the town but a positive impact on private property.
- Ms. Zukowski asked if there are the instances where the value of the property swap is not equitable. Some of the properties are difficult for the town to have and wants to get rid of. Are the cases where you would give the property without getting something in return? Mr. Sibley replied yes. There are properties that the town has that are headaches. When you change the property line you change the plausibility of having a healthy community.
- Mr. Benson – We have land that is no use to the town but would be to the private property owner. Most of the things they do help people and helped to improve their well and septic or straighten out property lines. It is a continued problem on the shoreline.
- Mr. Sibley explained that the process for a preexisting non conforming property in the charter would be typical to a tax foreclosure. You end up with a piece of property that is underwater financially and is contaminated. If someone comes along and says, I would love to sink in some money in to the property but they don't see getting their money back out because they have to sink money into back taxes makes it undesirable.

- Ms. Zukowski – originally there was a state act that came in that creating the FFH Authority. It was necessary because it was the only way the town could control who came into the town property. The state act basically says this act is in effect until a time that the charter becomes such as it can handle this problem. Mr. Benson replied that they can work with the CRC with that.

Mr. Hall moved to add consideration of the bi laws to the agenda, Mr. Wiedemann seconded, motion unanimously accepted. He will be revising the rules he wrote using the LC rules as a guide, to say a show of hands and not a paper ballot.

Mr. Ritchie requested that a vote on a motion will not be made the same night but would be acted on at the next regular meeting allowing members to reflect on it. By doing so it lends a little bit more likely hood that what is being put forward to the voters will pass. Concerned was expressed that putting something in the rules could tie their hands. There is nothing prohibits them from doing it whether it is in the rules or not. The major issues in the charter will be evolving and will not be knocked off in a short amount of time. Mr. Paradis suggested that if a member requests time to reflect, then the vote it tabled.

Ms. Zukowski expressed concern about the word debate. Can this be changed from debate to discussion?

Putting a time frame on voter comments gives the option to the chair. It is at the chair's discretion to hold the time limit or let it go. Mr. Paradis said that there should not be a time limit. It is not a privilege for them to speak it is the other way around.

VOTER COMMENT - NONE

ANNOUNCEMENTS – NONE

Having no further business, the meeting was adjourned at 9:35pm

Respectfully Submitted,
Arlene Miles, Clerk

Attachment A – E-mail from Mike Salaris

Subject: Re: Charter Revision Committee

From: Mary Ann Jacob (mjacob4404@charter.net)

To: mike.salaris@gmail.com;

Cc: george-ferguson@earthlink.net; lundquist.paul@gmail.com; jeff@thecapecis.com;
roberthall01@earthlink.net;

Date: Friday, September 5, 2014 6:23 AM

Mr. Salaris,

I think I've been clear that I hear your frustration. You are asking me to remove Mr. Hall because you don't think he supports your position and has expressed a desire to limit public participation to a certain area of the agenda, and timeframe. I can't help you with that, I don't have the authority, nor frankly do I think it's warranted. As I have said already, there is no evidence you are not being allowed to share your concerns fully with the commission and Mr. Hall is one of nine votes. He is allowed to disagree with your position. Nobody questions your dedication to Newtown, and I know we all share that dedication. However, people won't always agree on what is the best path for our community. That in and of itself does not warrant their removal from the process. Thank you again for your concerns.

Mary Ann

On Sep 4, 2014, at 11:43 PM, Mike Salaris <mike.salaris@gmail.com> wrote:

Ms. Jacob,

My issue with Mr. Hall is that he's **not** talking about bifurcation or a binding vote, or any of the facts presented, but rather how to make it more difficult for voters to express their opinion. Mr. Capeci, as chairman of the Legislative Council at the time, was also involved with the decisions made in 2012. However, I have not mentioned Mr. Capeci because he does appear to be listening and has been focused on the discussion whereas Mr. Hall just wants to end the discussion.

I'm not sure I understand your comment "My elected position as council chair does not include making judgments about the actions of other elected or appointed officials". Since the Charter Revision Committee was appointed by the Legislative Council, not elected by voters, who, if not the Legislative Council, is responsible for them?

I am frustrated. I love Newtown. Newtown is the only hometown I've ever known. My sister and I were students in the Newtown school system for all 12 years. My mother worked for the Newtown Police Department for 20 years when we were growing up. My sister was an EMT and, up until this year, for the last seven years, my wife taught 4-5 grade at St Rose. I brought my family back here, from Reston Virginia, in 1999 just so my kids could grow up in Newtown. I care very deeply about this town. My only motivation in pursuing the binding vote issue is because it's what's best for the town. I have no political motivations whatsoever and could care less about Republicans or Democrats. My only concern is for my neighbors.

Binding bifurcation is a complex issue. It's doubtful that many voters really understand the implications. While I would much rather not have to be the person that raises this issue, there just isn't anyone else.

I am not an attorney and I don't know the specifics of the laws surrounding local government. However, I am a data guy, and I can tell you the risk to education is real and that its most severe at

the high school level. Please don't ignore it.

Thank you,

Mike Salaris

From: Mary Ann Jacob [<mailto:mjacob4404@charter.net>]

Sent: Thursday, September 04, 2014 9:23 PM

To: Mike Salaris

Cc: george-ferguson@earthlink.net; Paul Lundquist; Jeff and Tanya Capeci and Family; roberthall01@earthlink.net

Subject: Re: Charter Revision Committee

Good Evening Mr. Salaris,

Certainly, if you think the Code of Ethics has been violated then you should exercise your right as a taxpayer to notify the Board of Ethics. My elected position as council chair does not include making judgments about the actions of other elected or appointed officials. I would however personally speak in favor of Mr. Hall's or any other member of the commission's right to speak freely about their opinions about bifurcation. He is of course only one of the nine appointed officials charged with moving this commission forward.

As I stated in my last email, I am confident in Mr. Capeci's ability to chair the commission and determine what rules are appropriate and fair. At this point I have not seen any evidence that public comment has been stifled. I expect you, and other voters should and will be able to speak freely during one or both of the public comment sections of the meeting depending on the agenda. In the absence of any evidence to the contrary I don't see any issue. I would suggest you let the process unfold and air any concerns you have to Mr. Capeci in the event something changes.

I do understand and hear your personal opinion that the binding, bifurcated budget hurts education. Please know that your voice, as well as all the other taxpayers voices who choose to contribute to town conversations play an important role in how the representative government works here in Newtown. I know that it is frustrating when your voice does not result in the immediate changes you may desire, but that does not mean elected officials are not listening to you, but that you are one of many voices they hear and weigh on a regular basis.

Here is the info from the state statutes on Commission makeup...

From Chapter 99 CT General Statutes:

Sec. 7-190. Commission: Appointment, membership, duties, report, termination. (a) Within thirty days after such action has been initiated by vote of the appointing authority or by certification of a petition, the appointing authority shall by resolution appoint a commission consisting of not fewer than five nor more than fifteen electors, not more than one-third of whom may hold any other public office in the municipality and not more than a bare majority of whom shall be members of any one political party, which commission shall proceed forthwith to draft a charter, or amendments to the existing charter, or amendments to

the home rule ordinance, as the case may be.

Thank you for your continued participation.

Sincerely,

Mary Ann Jacob

On Sep 4, 2014, at 4:44 PM, Mike Salaris <mike.salaris@gmail.com> wrote:

Ms. Jacob,

Thank you for such a prompt response.

Perhaps you can help me reconcile the Purpose and Standards of our Code of Ethics with the situation at hand. Specifically, when Mr. Hall's recommendation from last year was called into question, he clearly demonstrated his inability to act independently, impartially or even have regard for the people of Newtown. Mr. Hall's actions only confirm that he is unable to put the good of the town above his personal or partisan considerations. To ignore this issue now will only taint all the work done by the other members of the Committee for the remainder of their term.

Is Mr. Hall/the Charter Revision Committee going to change the rules regarding voter participation to change the current process in which voters are allowed to comment in any way?

While I understand your desire to further amend the Charter, the changes that were implemented in 2012 have left us in a precarious position that can be very risky to the education budget and prevent the Legislative Council from doing their best for the people of Newtown. Dodging this issue simply to avoid potential controversy is not the appropriate approach and only highlights that the best interests of the Town do not come before personal or partisan considerations.

As you are well aware, the last Charter revision was rushed through, without an adequate review of the facts and, as a result, key decisions, such as whether or not to make the vote binding and whether a binding vote would have an adverse impact on the education budget, were based on nothing more than conversations with two people from towns that don't even have a binding vote.

Furthermore, the 2012 changes take away a taxpayers ability to base his vote on the most current information available. They also put us in a position where it is statistically likely that all contingency money will be off the table before we've approved the budget. This is simply not good for the Town and should take a priority over any efforts aimed a simply clarifying existing wording of the Charter.

Lastly, in your letter you mention the State statute that dictates the makeup and balance of the committee. Can you please share that statute?

Thank you again for your prompt response,

Mike Salaris

From: Mary Ann Jacob [<mailto:mjacob4404@charter.net>]

Sent: Wednesday, September 03, 2014 5:45 PM

To: Mike Salaris

Cc: george-ferguson@earthlink.net; Paul Lundquist; Jeff and Tanya Capeci and Family; roberthall01@earthlink.net

Subject: Re: Charter Revision Committee

Good Afternoon Mr. Salaris,

Thank you for your email. I was present for your first two appearances, but did not stay through the entire second meeting and missed the third. I have caught up via video tape. The process to choose members of the commission was a very public one and we appealed a number of times for interested voters to apply. I personally feel the commission has a good balance of experience and new people as well as the appropriate balance of party affiliation that is required by state statute. Each member has only one vote and a variety of opinions and points of view ensure a fair and balanced discussion. I have complete faith in Mr. Capeci as the chair and I'm sure he will ensure all voters are heard.

During their discussion I heard them talk about possibly letting invited guests to speak to their areas of expertise first, whether or not they were bound to adhere to the council rules regarding public articulation and its applicability and other relevant items. Mr. Capeci specifically said that if there was only one person to speak then time wouldn't be an issue, which is how we run council meetings. I also heard Mr. Capeci defend your right to speak to bifurcation as part of the first public participation. The discussion over all seemed fair and balanced in my opinion. Your comments are part of the public record and will continue to be as long as you choose to participate.

The commissions first obligation is to the charge they were given and time permitting they will also address any other areas of concern they deem appropriate. At the charter Revision Charge committee meetings and at the full council meetings discussing the charge we had quite a bit of discussion regarding what items would go in this charge and what would not. Our main focus for this current revision was the state mandated review of the overall charter. We wanted the document rewritten so it can be better understood and inconsistencies and mistakes corrected. We were very concerned that adding a highly controversial subject of any kind at this time would possibly derail the other work we felt needed to be done.

At this point, stopping the work in process and having the council go back to rewriting the charge and then seating another commission would not allow us to meet the deadline of the November 2015 elections for a vote. That would mean another commission could not be seated until another council is seated and we have an obligation to review the charter this term. As I said earlier, the commission can address any item beyond what they have been charged with as long as they do in fact address the charge. The full council will not address the

charter revision changes until the time in the process comes for us to hear the initial recommendations from the commission and have public comment. I hope you will address your concerns to us when that happens. In the meantime, I am willing to let the process work with full confidence in the fairness of those appointed to serve.

Please know that I believe that voter opinion does matter, as I also believe that Mr. Hall does as well. I would be more concerned if every member of the commission agreed or disagreed on such an important topic which speaks to the diversity of the group. I want all commission members to speak freely using their experience both in and out of the town government. I do not see that by doing that any person should be removed. In addition, the choice of chair and vice chair is made by the other commission members, not by a mandate from outside the commission.

Sincerely,

Mary Ann Jacob

On Sep 3, 2014, at 4:32 PM, Mike Salaris <mike.salaris@gmail.com> wrote:

Ms. Jacob,

I am writing to you to make you aware of my recent experience with the Legislative Council's Charter Revision Committee. As you know, I've been presenting facts to the committee to show the impact of a binding bifurcated vote on education.

My two discussions on education were the result of a very significant effort to gather and document many key facts related to a binding bifurcated vote. Additionally, as I'm sure you're aware, this is a very complicated issue. So, rather than try to explain everything at one time, I broke the discussion into two parts. If interested, I would be happy to share these documents with the LC and attend a future meeting to present, discuss, or answer any questions you might have.

As someone who has been trained as an accountant and a CPA, has worked as an auditor for Price Waterhouse, and is currently a senior data analyst for an information services company, I believe I have exceptional facility with data that allows me to view the information in ways that may not have been provided in the past. My intent is to simply present the data-driven information I've collected here to everyone who might find it useful and insightful to aid decision making for the town.

Unfortunately, I'm beginning to sense that new ways of looking at information are perhaps not welcome. This in itself raises a warning flag in my mind, based on my own professional

understanding of conflicts of interest as well as my experience as an auditor which required that I abide by the concept of “independence in fact and appearance”.

However, what is most disturbing to me in my dealings with the Charter Revision Committee were the comments of the committee members after I spoke at the August 25th meeting, specifically, the Committee’s ten minute discussion regarding how to limit voter participation. That is simply outrageous! These are your constituents they are attempting to silence. As someone who has seen critical decisions in Newtown being based on nothing more than conversations, and has taken the time to assemble and summarize relevant facts and present a reasonable data-driven perspective, this response is simply unacceptable.

Furthermore, I feel that Mr. Hall’s response clearly demonstrates he is not interested in the facts. He appears only to defend his previous recommendation and is completely unable to be impartial as his only actions were to blatantly attempt to eliminate any discussion contrary to what he presented to the Legislative Council in 2012, when he was also a member of that Charter Revision Committee.

To understand my concern, please listen to Mr. Hall’s comments from the August 29, 2012 CRC presentation to the LC:

http://mikesalaris.com/Documents/Bob_Hall_2012.m4v

However, when confronted with facts contrary to his 2012 recommendation, Mr. Hall’s reaction was to attempt to silence the voice of your constituents by changing the rules to make it more difficult for voters to express their views and by controlling the agenda items at CRC meetings, even when those views are completely appropriate and relevant for discussion:

http://mikesalaris.com/Documents/Bob_Hall_2014.m4v

Because of Mr. Hall’s clear conflict of interest, as well as his desire to stifle voter’s thoughts, he should be removed from the 2014 Charter Revision Committee immediately.

Furthermore, to mitigate the appearance of impropriety, his replacement, as well as the vice-chair position, should be filled by either a Democrat or unaffiliated voter.

Additionally, if there are going to be rule changes, then I suggest that you prioritize the voice of your constituents and not members of the various boards and committees so as not to give the appearance of impropriety.

The facts regarding the impact of a binding bifurcated vote on education that have been provided to the CRC to date should, by themselves, be sufficient to add that item to the charge. However,

if they are not, I would be more than happy to address the CRC under a dedicated agenda item if there is a true concern of how the “voter participation” portion of the meeting is being handled.

Hopefully, this issue can be resolved quickly.

In closing, I would like to restate my offer to appear at any of your meetings to discuss further the statements made in this letter or at the prior Charter Revision Committee meetings.

Regards,

Mike Salaris

11 Country Squire

Sandy Hook, Ct.

