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TOWN OF NEWTOWN

Charter Revision Commission

**TOWN OF NEWTOWN CHARTER REVISION COMMISSION MEETING
WEDNESDAY, OCTOBER 29, 2014
NEWTOWN MUNICIPAL CENTER, NEWTOWN, CT**

PRESENT: James Ritchie, Tom Long, Deborra Zukowski, Jeff Capeci, Robert Hall, Dan Wiedemann, Kevin Burns, Eric Paradis (7:40)

ABSENT: George Guidera

ALSO PRESENT: Chairman of the Library Board of Trustees Robert Geckle, 1 Press

CALL TO ORDER: Mr. Capeci called the meeting to order at 7:33 with the Pledge of Allegiance.

VOTER COMMENT: None

MINUTES: MR. LONG MOTIONED TO APPROVE THE MINUTES OF THE OCTOBER 7, 2014 REGULAR MEETING. SECOND BY MR. WIEDEMANN. APPROVED.

COMMUNICATIONS: Mr. Capeci stated Police Commission Chairman Paul Mangiafico is doing research regarding the duties of constables and will report back. Chairman of the Edmond Town Hall Board of Managers Jim Guliano will bring questions to the Board of Managers and report back to the Commission. They are both expecting to report at the November 12th meeting.

NEW BUSINESS:

Discussion with CH Booth Library Board of Trustees Chairman Robert Geckle Charter Changes specific to Section 4-110. Mr. Geckle reports they formed an ad committee to review their bylaws. This has precipitated reviewing parts of the charter. Regarding this section, they will retain "as is" in the by-laws, making changes later based on the outcome of the Charter Revision. A Special Act 108 in 1931 established library as an association. Library has gone from being solely funded by the Hawley trust to being 85% funded by taxpayers. As a result, 1/3 of the trustees became political appointments. Their recommendation is up to 16 trustees with flexibility. Eight of the trustees, a minimum of 50%, will be appointed by the Selectmen because the Library is mostly taxpayer funded. They would like to remove language regarding terms, term limits and rotation to allow the trustees the ability to change these without having to change the Charter. They would like to change terms from 3-3 year terms to 2-4 year terms. They are also offering back up language in the event it is determined the language on terms stays in the charter.

Mr. Geckle stated they have language in by the by-laws regarding attendance and the Commission may want to consider adding language to the Charter as it had been issue on various boards/commissions.
Attachment

Mr. Hall clarified Mr. Geckle is asking to self-regulate on several points. He asked if the board has sought an opinion on whether an entity within a municipality can self-regulate. Mr. Geckle clarified they are asking to set the number of directors and terms. He has had informal discussions with board members who are attorneys and with the town attorney. Mr. Hall had concerns with the number of trustees being determined by the body itself. Mr. Geckle clarified the number of town appointed trustees would be set at eight. The flexibility would be in number of trustees the board appoints. Ms. Zukowski asked for clarification on the Library's sources of income. Mr. Geckle stated finding is 85% from the town, 15% from Friends of C H Booth Library, fund raising and a small amount from the Mary Hawley trust and other trusts.

Mr. Long asked why 16 members instead of 18. Mr. Geckle said the number and flexibility is based on practices of other library boards. They have also changed their quorum language. Mr. Geckle clarified they are asking for the Charter language to say up to 16 trustees and a set number of 8 Selectmen appointed and to remove language from the Charter regarding terms.

Mr. Paradis asked for clarification on the absentee issue. Mr. Geckle said currently Library boards appointed trustees are terminated if they miss 3 meetings without cause. They are unable to do that with BOS appointed trustees. Consider addressing the absentee issue in the charter across the board. Ms. Zukowski asked who decides how many people will be on the board above the 8 appointed by the BOS. Mr. Geckle said the terms would be revolving. Currently there are 9 members with 3 years terms rotating 3 each year. Ms. Zukowski asked what is to prevent the 8 BOS appointed trustees from voting to limit number of members to 8. Mr. Geckle said they have language that a simple majority cannot vote that kind of change. Ms. Zukowki asked could the 16 member board vote to change to 12 members, then the 12 members could vote the number down to 8 being as 8 out of 12 is a 2/3 majority. Mr. Geckle said technically that could happen, but very unlikely. The point is the BOS should have more representation on the board because taxpayers fund 85% of the budget.

Mr. Capeci asked if the change is made, how the extra trustees will be removed. Mr. Geckle said it would happen by attrition. No one would be forced off. Terms would change as they expire.

Mr. Paradis asked if an odd number of trustees would be more helpful. Mr. Geckle said it has never been an issue. Sixteen members and 4 years terms is divisible. Also will recommend after someone has served their limit, they can return to the board after one year.

Ms. Zukowski asked who manages the Hawley fund. Mr. Geckle said it is a trust and is managed by an investment advisor; there is an audit once a year and is reviewed by the trustees finance committee.

Mr. Geckle noted the trustees have several standing committees: Nominating/Governance, Personnel, Policy, Finance, Fund Raising, Buildings & Grounds and Historical.

Ms. Zukowski asked for Mr. Geckle's thoughts on the Library Board being elected positions. Mr. Geckle said it is unusual for Library Boards Associations to be elected. It would happen where the library is a town entity, receiving 100% funding from the town. A change to elect trustees would probably require a change to the act that established the association.

UNFINISHED BUSINESS

Rules of the Charter Revision Commission: No updates.

Charter Property disposition Sections: 7-90 and 7-90D. Mr. Hall reviewed his updates to this section. He added four major items as discussed at the last meeting; a professional appraisal before the town sells property; circulating to Conservation, EDC, Parks & Rec and Planning & Zoning; the five acre question; and how to dispose of open space land that is not needed or has no value as open space.

Mr. Ritchie asked about the term real property verses land. Mr. Hall said real property includes all improvements.

Mr. Ritchie asked in Section E, what is the requisite number of votes. Mr. Hall stated if Planning & Zoning voted against something, the Legislative Council would require a 2/3 vote to pass (super majority), where as if P & Z approved an action, the Council would only need a simple majority to pass unless stated otherwise in the charter.

Ms. Zukowski asked how the concerns of George Benson and Rob Sibley (Land Use) have been addressed. Mr. Hall stated the Legislative Council or the Selectmen can initiate the transfer of land, the Council approves it. There is a mandatory referral by P & Z by Statute with a time limit of 35 days. It is recommended it be circulated to the various boards and commissions for the disposition of open space and town owned land.

Ms. Zukowski asked that the process be written up and sent to George Benson and Rob Sibley for comment.

Ms. Zukowski asked why the word "leasing" was removed from the language. Mr. Hall stated leasing should be less complicated and in the power of the Selectmen and Council.

Ms. Zukowski asked about open space over 5 acres. Mr. Hall said it cannot be sold. Ms. Zukowski asked if that should be absolute. Mr. Hall thinks it is a bad policy for a developer to be required to give 15% of land to the town for open space and then the town sell it for money.

Ms. Zukowski stated if a developer came in and wanted some open space and offered much more land in exchange, she would like the public to be able to vote on it. Bob said if the open space is acquired by ordinance or resolution it can be undone.

Ms. Zukowski said open space should not be sold without exchange. She stated the language on public highways, the limit of \$5,000 appropriations, the Board of Selectmen being able to authorize a board or commission to act on their behalf and bids needs further discussion and clarification.

Mr. Capeci asked Ms. Zukowski to prepare a "gap analysis" of items needing to be addressed.

Attachment

Reorganization of the Charter: Ms. Zukowski stated when people go to the charter; they are generally looking for specific information. Therefore she organized the charter in two parts; organization and processes. Definitions have been added. Regarding boards, they included membership, rules and duties, including eligibility, terms and term limits, and minority representation. They could add language on absences. Mr. Long noted the filling of vacancies for elected and appointed positions will be reviewed. Ms. Zukowski would like guidance on numbering of sections. *Attachment.*

Charter Charge Items Categorized Under Board Composition. Mr. Paradis stated their idea to replace members is to model the Legislative Council process. They discussed why the Fire Commission is listed separately in the Charter, four year staggered terms for the Board of Finance, minority representation following state statute and how big can the majority party be.

Questions on the First Selectman's salary, the language needs clarification. Discussion on boards/commissions; should they all be listed in the Charter.

Mr. Capeci suggested begin by listing all boards/commissions and how they were established. Mr. Wiedemann stated regarding vacancies, they want to be consistent and streamline the process, model the Legislative Council. Regarding the composition of the Board of Education, Mr. Wiedemann stated we are guided by state statute.

Mr. Long stated they discussed the concept of allowing boards to fill their vacant positions and four year terms for the Board of Finance.

Mr. Hall noted currently a number of boards are given 30 days to fill a vacant position and if not filled, the Selectmen make the appointment. Mr. Long stated the consensus was to follow that example.

Ms. Zukowski stated any content approved will be fitted into the new document. She noted they will not break up paragraphs but parts can be repeated in other appropriate sections/cross references. Mr. Capeci suggested using cross referencing to avoid being redundant.

Ms. Zukowski suggested having mission statements for boards and commissions. Mr. Hall stated caution is needed to avoid conflicts. Mr. Long suggested where language already exists, to separate it out.

VOTER COMMENT: None

ANNOUNCEMENTS: Mr. Capeci said November is the month to consider their 2015 calendar. He would like to schedule two meetings a month. Their deadline is August.

ADJOURNMENT: There being no further business, the meeting was adjourned at 9:34pm.

Respectfully Submitted,

Carey Schierloh, Clerk

These are draft minutes and as such are subject to correction by the Charter Revision Commission at the next regular meeting. All corrections will be determined in minutes of the meeting at which they were corrected.

Attachment A: Proposed changes from Library Board of Trustees

Attachment B: Library By-laws

Attachment C: Charter Property disposition Sections: 7-90 and 7-90D

Attachment D: Reorganization of the Charter

CHARTER REVISION PROPOSAL

BY-LAWS COMMITTEE

Original

4-110 TRUSTEES OF THE CYRENIUS H. BOOTH LIBRARY

(a) There shall be a Board of Trustees of the Cyrenius H. Booth Library consisting of 18 persons who shall be residents and electors of the Town.

(b) The Cyrenius H. Booth Library shall be operated by the Board of Trustees and the Trustees shall have the status, powers and duties set forth in Special Act No. 108 of the 1931 session of the General Assembly as amended by Special Act No. 110 of the 1959 session of the General Assembly, which acts shall remain in full force and effect, except to the extent superseded or revised by this Charter.

(c) The Trustees shall serve 3 year terms with the term of 6 Trustees expiring on July 1 each year. Of the 6 Trustees to be appointed each year, a number established by the by-laws adopted by the Board of Trustees, but not less than 2, shall be appointed by the First Selectman, with the approval of the Board of Selectmen. The balance of the 6 to be selected shall be elected by the vote of the remaining Trustees present and voting at a meeting warned for the purpose. No Trustee shall serve for more than 9 consecutive years except to complete a term for which the Trustee shall have been elected, and thereafter said Trustee shall be ineligible to serve as Trustee for a period of 2 years.

(d) Vacancies shall be filled in accordance with the by-laws of the Board of Trustees, except that vacancies in offices filled by appointment of the First Selectman shall be filled by appointment of the First Selectman, with the approval of the Board of Selectmen.

Proposed Amendment:¹

4-110 TRUSTEES OF THE CYRENIUS H. BOOTH LIBRARY

(a) There shall be a Board of Trustees of the Cyrenius H. Booth Library consisting of up to 16² persons who shall be residents and electors of the Town; 8³ trustees shall be appointed by the First Selectman with the approval of the Board of Selectman.

(b) The Cyrenius H. Booth Library shall be operated by the Board of Trustees and the Trustees shall have the status, powers and duties set forth in Special Act No. 108 of the 1931 session of the General Assembly as amended by Special Act No's. 1951-158, 1959-110, and 1965-49, which acts shall remain in full force and effect, except to the extent superseded or revised by this Charter.

(c) Trustee terms⁴ and the filling of vacancies shall be in accordance with the by-laws of the Board of Trustees, except that vacancies in offices filled by appointment of the First Selectman

¹ The goal is to simplify the Charter and place greater control and flexibility in the Board through the By-Laws in relation to term lengths and limits.

² Sixteen (16) is being recommended as the maximum number to balance manageability and efficiency of the Board with sufficient membership to perform the necessary work of the Board. The term "up to" 16 persons provides flexibility in the event we do not have 16 members and do not have or need additional candidates.

³ Given that the Town funds the vast majority of our budget and this issue is on the radar for Charter Revision we think we should offer to increase the number of appointed members.

⁴ Although removing details on term lengths and limits by deleting par. (c) from the original, adding this language makes it clear that we have the authority to address these issues in the by-laws. This is important given some of the inconsistencies between the Special Acts and the Charter.

shall be filled by appointment of the First Selectman, with the approval of the Board of Selectmen.

THE CYRENIUS H. BOOTH LIBRARY
NEWTOWN, CONNECTICUT 06470

BYLAWS FOR THE TRUSTEES OF
THE CYRENIUS H. BOOTH LLBRARY

(as amended through March 11, 2014)

1. Name. The name of this corporation is, as set forth in Special Act No. 108 of the 1931 Session of the Connecticut General Assembly, The Trustees of the Cyrenius H. Booth Library. This corporation may be referred to as The Cyrenius H. Booth Library or, hereafter as The Library.

2. Aims and Purposes. The Library was established pursuant to the provisions of the Last Will and Testament of the late Mary E. Hawley and the provisions of the said Special Act No. 108 for the purpose of erecting, equipping and maintaining a free public library in Newtown, Connecticut, which may be hereafter referred to as the Town.

3. Tax Exempt Status.

(A) This corporation shall be at all times conducted as an "Exempt Organization" within the meaning of the provisions of Section 501(c) of the Internal Revenue Code, as amended, and the regulations promulgated thereunder. Any reference herein to any provision of the Internal Revenue Code of 1954, as amended, and the Regulations promulgated thereunder, and shall be deemed to mean, such provision as now or hereafter existing, amended, supplemented, or superseded, as the case may be. This corporation shall not have or exercise any power or authority, either expressly or by interpretation or operation of law, nor shall it directly or indirectly engage in any activity which would prevent it from qualifying and continuing to qualify as an Exempt Organization under Section 501(c) (3) of the Internal Revenue Code or as an organization, contributions to which are deductible under Section 170(c) (2) of such Internal Revenue Code and Regulations.

(B) This corporation's purposes shall be confined to those which are strictly scientific, educational and charitable, and for the public benefit, and not for pecuniary profit nor for the benefit of any individual or special interest group but rather for the benefit of the general public at large.

(C) All of this corporation's assets and earnings shall be used exclusively for the purposes set forth in its Certificate of Incorporation and these Bylaws, including the payment of expenses incidental thereto, and no part of the net earnings of the corporation shall inure to the benefit of any member, director, officer of the corporation, or any private individual (except that reasonable compensation may be paid for the services rendered to or for the corporation affecting one or more of its purposes), and no member, director, officer of the corporation, or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation. No part of the activities of the corporation shall be the carrying on of

propaganda or otherwise attempting to influence legislation, and the corporation shall not participate in or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

(D) In the event of the termination, liquidation, dissolution or winding up of this corporation, whether voluntary or involuntary, in any manner or for any reason whatsoever, no member shall be entitled to any distribution or division of its remaining property or its proceeds, and the balance of all money and other property received by the corporation, shall be distributed as provided for by the laws of the State of Connecticut, particularly Section 33-484 et seq. of the Connecticut General Statutes, provided that such distribution of the remaining assets of the corporation shall be made only to one or more organizations as has, or have at the time of such distribution, qualified as exempt organizations under Section 501(c) (3) of the Internal Revenue Code, as amended.

(E) This corporation shall not have any objectives, nor shall it engage in any activities, which would cause it to be characterized as an "Action Organization" as that term is defined in Regulation 1.501(c) (3) under said Internal Revenue Code.

4. **Membership.** All of the business, properties and management of the corporation shall be controlled by the Board of Trustees, which may be hereafter referred to as the Board.

5. **Trustees.**

(A) The activities and property of the Library shall be managed and controlled by a board of eighteen Trustees who shall be residents and electors of the Town,

(B) One-third of the members of the Board shall be persons appointed in conformance with the Charter of the Town of Newtown.

(C) Each year at the Annual Meeting four Trustees shall be elected to serve for a term of three years and each year two Trustees shall be appointed pursuant to sub-paragraph (B) above.

(D) No Trustee shall serve for more than nine consecutive years, except for completion of a term in progress. Any Trustee who has served the maximum permissible consecutive years shall be ineligible for reelection or reappointment until the expiration of at least two years from his or her last day in office.

(E) Failure to attend three consecutive meetings of the corporation without reasonable excuse therefore shall be considered equivalent to resignation.

(G) The Board may, by an affirmative vote of no less than ten Trustees, confer the status of Trustee Emeritus on former Board members. The Board may designate the status of Honorary Trustee on community members in recognition of service to the Library.

(H) Trustees Emeritus and Honorary Trustees shall be entitled, upon annual written request, to receive notices and minutes of Board meetings, and to attend Board meetings with the privilege of the floor, but shall not be entitled to vote. Honorary or Emeritus Trustees need not be residents or electors of the Town. Honorary and Emeritus Trustees may serve for life.

6. Vacancies on Board of Trustees.

(A) Any vacancy shall be filled by the election or appointment, as hereinafter provided, of a successor Trustee who shall serve for the unexpired term of the Trustee who created the vacancy.

(B) Upon the occurrence of any vacancy among those Trustees appointed by the First Selectman, a successor Trustee shall be appointed in conformance with the Charter of the Town of Newtown.

(C) All nominations resulting from the occurrence of a vacancy among those Trustees elected by the Trustees, shall be referred to the Nominating Committee, which may also propose additional nominees.

(D) Not less than seven days before the next regular meeting of the Board the Nominating Committee shall cause to be mailed to the Board a list of all nominees, along with their resumes, together with any recommendations or comment which the Committee may wish to make. Voting by ballot to fill the vacancy or vacancies shall take place at the next regular meeting next following the filing of the report of the Nominating Committee. At such meeting no further nominations may be made from the floor,

7. Meetings of the Board of Trustees.

(A) Regular meetings of the Trustees shall be held at the Library or at such other place in the Town of Newtown as may be specified in the notice of the meeting at eight o'clock p.m. on the second Tuesday in January, March, May, July, September and November of each year. At the discretion of the Board, additional regular meetings may be held in intervening months.

(B) The Annual Meeting shall immediately precede the regular July meeting.

(C) Special meetings may be called by the President or at the written request of five members, which request shall specify the object of such meeting.

(D) Fifty percent of the currently serving members of the Board of Trustees at the time of each meeting shall constitute a quorum for the transaction of business at any meeting of the Trustees. *(amended March 11, 2014)*

(E) Not less than three (3) days' written notice of any regular meeting shall be given. At least two days written or oral notice shall be given of any special meeting

(F) At all meetings of the Board of Trustees, the President shall preside. In the absence of the President, the Vice-President shall preside, and if both are absent, a chair shall be chosen by the Trustees present.

8. Officers. The officers of this corporation shall be a President, a Vice-President, a Secretary and a Treasurer. The Board of Trustees may elect other officers with powers and duties not inconsistent with these Bylaws.

9. Officers' Election and Terms. The officers shall be elected annually on the 2nd Tuesday in July by the Board of Trustees from among their number and shall serve until the next annual meeting of the corporation.

10. Officer Vacancies. Any officer of the Corporation may resign at any time by delivering a written resignation to the Secretary (or in the absence of the Secretary, then to the President). Notice of such resignation shall be given to all Trustees and the said vacancy shall be filled by vote of the Trustees at the meeting next following the giving of such notice.

11. Duties of Officers. The duties of the officers of this corporation shall be such as ordinarily appertain to the respective offices they hold.

(A) The President shall preside at meetings of the Board of Trustees and of the Executive Committee, and is an ex officio member of all committees except the Nominating Committee. The President shall have the usual powers of supervision and management as may pertain to the office and shall perform such other duties as may be designated by the Board.

(B) The Vice-President shall assume the duties of the President in the absence of the President, and such other duties as are assigned by the Board. In the event of a vacancy in the office of the President, the Vice-President shall serve as President, with all the powers and duties of that office, until a successor is elected.

(C) The Secretary shall keep the minutes of all meetings of the Board of Trustees and the Executive Committee; preserve the records of the meetings of the Board; provide notice of meetings of the Board in accordance with these Bylaws and the Freedom of Information Act; maintain a current list of the Trustees and their terms; and perform such other functions as designated by the Board.

(D) The Treasurer is responsible for overall financial functions of the Library and is Chairperson of the Finance Committee. The Treasurer is responsible for, but not limited to, the following:

- (a) Review the operation of the library's accounting functions and systems of internal accounting controls and recommend changes, where necessary.
- (b) Review the library staff's accounting of receipts, deposits, disbursements and investment activities, monthly.

- (c) Relationship and interaction with Newtown Board of Finance and other town officials with respect to budget, funding and related financial issues.
- (d) Liaise with independent Certified Public Accountants engaged to perform the annual audit or such other services directed by the Board of Trustees; recommend, with the Finance Committee, the appointment of the independent Certified Public Accountants
- (e) Coordinate, with the Library Director, the annual audit by independent Certified Public Accountants.
- (f) Participate in and oversee the Library Director's preparation of the annual budget.
- (g) Participate in and oversee the Library Director's preparation of monthly financial reports.
- (h) With the Finance Committee, participate in the supervision and periodic review of the status, security, and performance of the Library's investments; oversee the administration and safekeeping of the library's bequests and financial assets and review all responses to required Federal and State tax filing and notices concerning finances from federal and state agencies.
- (i) Direct the functions and activities of the Finance Committee.
- (j) Relationship and interaction with financial institutions, including banks, trustees and others providing financial and related services to the Library.
- (k) Present to the Board, on a monthly basis, financial and analytical reports conveying financial status and results of operations.
- (l) Periodically report to the Board of Trustees on relevant financial matters.
- (m) Review and analyze financial performance of investments with periodic reports to the Board of Trustees.
- (n) Authority to sign financial documents of the Library, in accordance with directives of the Board of Trustees.
- (o) Authority to sign disbursement checks of the library.

The Board of Trustees had the ultimate responsibility for the fiscal matters of the Library and is not bound by the recommendations the Treasurer.

12. Compensation. No member of the Board of Trustees, no officer of the corporation and no member of any committee of the corporation shall be paid for his or her services as such.

13. Committees.

(A) **The Executive Committee** shall consist of the President, Vice-President, Secretary and Treasurer of the corporation and three (3) trustees to be selected annually by the President. The Executive Committee shall have all the powers of the Board of Trustees to transact business of an emergency nature between board meetings, and such other powers as the Board may delegate to it from time to time. All transactions of this committee shall be reported in full at the next regularly scheduled meeting of the Board. All payments of bills for the maintenance, support and upkeep of the library building and grounds, including the purchase of books and supplies, shall be under the direction of the Executive Committee and signed by any one of the officers of the corporation together with any other signatories as may be added from time to time by the Board of Trustees.

(B) **A Nominating Committee** of five Trustees, none of whom shall be officers, shall

be elected at each Annual Meeting. The Committee shall elect its own chair. It shall be responsible for making continuing efforts to search for possible nominees to fill vacancies on the Board as they occur, with a view to bringing to the Board diversity of skills and interests.

At the regular meeting preceding the Annual Meeting the Nominating Committee shall present a slate of officers to be voted on at the Annual Meeting in July, in accordance with Section 9 of these Bylaws. The Committee shall also have the duties provided for under part 6(C) (Vacancies on Board of Trustees) of these Bylaws.

(C) **Standing Committees.** There shall be the following standing committees appointed by the President:

- (a) Finance Committee
- (b) Art and Historical Committee
- (c) Building and Grounds Committee
- (d) Long Range Planning Committee
- (e) Fund Raising Committee
- (f) Personnel Committee

(D) The Board of Trustees or the President may from time to time appoint such other committees as may be deemed necessary or advisable. Any such committee shall perform such duties as may be delegated to it and shall serve at the pleasure of the Board. Members of such committees need not be members of the Board of Trustees.

14. **Employees.** A Library Director shall be appointed annually and shall receive such salary as shall be determined by the Trustees. The Library Director shall have general charge of the library, historical rooms and grounds and shall generally fill the duties of the Chief Operating Officer of Library, subject to the direction of the Board. The Library Director shall attend all meetings of the Board of Trustees.

The Board of Trustees shall have the final authority in personnel decisions.

In the event of the death, resignation or removal of the Library Director or any other employee, the President may fill the position by temporary appointment until the next meeting.

16. **Amendments.** All amendments to, and alterations of, these Bylaws shall be proposed at a regular meeting of the Board of Trustees, and shall be continued until the next regular meeting before final action shall be had thereon. No amendment or alteration shall be made except by a majority vote of all the trustees.

7-90 ACQUISITION OR DISPOSITION OF REAL PROPERTY

METHODS OF ACQUISITION OF REAL PROPERTY

The Town shall have all the powers set forth in the Connecticut General Statutes to acquire real property and any interest in real property. These powers include acquisition of:

A. Real property, easements and any other interests in land, required to be dedicated to the town for open space or other purposes by the planning and zoning commission in connection with approval of the subdivision of land;

B. Real property for non-payment of taxes, including by foreclosure, by summary foreclosure or by public sale by the tax collector which does not produce a bid in excess of the amount of tax, interest and fees due and owing on said parcel;

C. Real property, easements and any other interests in land by purchase from the owner or by gift by the owner; and

D. Real property or an interest in real property by exercise of the Town's power of eminent domain.

SALE OR DISPOSITION OF REAL PROPERTY ~~ALREADY OWNED BY THE TOWN~~

The Town shall take the following steps in order to sell or otherwise dispose of real property, other than real property acquired for non-payment of taxes or for open space:

A. The First Selectman, with the approval of the Board of Selectmen shall have the right to propose the sale or other disposition of Town owned real property. The Legislative Council shall also have the right to propose sale or disposition of Town owned real property provided that said action is by a two-thirds vote of the entire membership of the Council. Before any further steps are taken or findings made by the Legislative Council, the Town shall have the property appraised by a licensed real property appraiser who shall submit the appraisal to the First Selectman in confidence.

B. If the First Selectman or the Legislative Council decide to continue the process after receiving the appraisal, ~~In order for the sale or disposition to move forward~~ the Legislative Council must find by a two-thirds vote that (A) the real property in question is excess land not needed for municipal purposes now or in the foreseeable future, or (B) the sale or disposition of the Town owned ~~land~~real property is for the purpose of facilitating acquisition of improved or unimproved land for a project already funded which is more suited to accomplishing said project than the ~~land~~real property already owned. Prior to making ~~saideither~~ finding the Legislative Council shall circulate the proposal for comment to all boards and commissions having a interest in the real property in question, at a minimum the planning and zoning commission, the parks and recreation commission, the conservation commission and the economic development commission, and shall hold a public hearing **--[I would propose a public notice section of the charter to which cross references may be made--“noticed in accordance with section ____” but in the absence of such a cross reference]--** notice of which shall be given by posting a notice in the town clerk’s office and on the town website at least 15 days prior to the date of the public hearing, and by publication in a newspaper having a substantial circulation within the Town twice, the first not more than 15 nor less than 10 days prior to the date of the public hearing, and the second not less than 2 days prior to the hearing.

C. If the disposition of a parcel of ~~land~~real property is in connection with a proposal to acquire other improved or unimproved land of equal or greater use for municipal purposes, and the ~~land~~real property already owned by the Town can be swapped for some or all of the land which the Town seeks to acquire, the value of the ~~owned~~landreal property being swapped shall be considered as an in-kind payment for which an appropriation is required.

D. If the Legislative Council finds that the real property is excess and not needed for town purposes, or that the sale or disposition will facilitate acquisition of land of greater use, the First Selectman shall refer the proposed sale or other disposition to the planning and zoning commission under the “mandatory referral” requirement of the Connecticut General Statutes. (Sec. 8-24 CGS)

E. Following action by the planning and zoning commission~~P&Z~~ on the mandatory referral, the Legislative Council must vote to sell or otherwise dispose of said ~~land~~real property by the requisite number of votes, with or without conditions, and if it so votes the First Selectman is authorized to take all steps necessary to sell or otherwise dispose of said real property subject to said conditions, if any in accordance with the procedure set forth herein.

SALE OF REAL PROPERTY ACQUIRED FOR NON-PAYMENT OF TAXES

A. After title to real property has been acquired by the Town for non-payment of taxes and all periods for redemption have expired, said real property shall be sold unless, within 90 days of title becoming absolute in the Town, the Legislative Council shall find by a two thirds vote of its entire membership that said real property should be retained for a specific town purpose. Prior to making said finding the council shall refer the proposed retention of title to the planning and zoning commission P&Z as a mandatory referral pursuant to Sec. 8-24 CGS.

B. In the absence of a finding that the real property should be retained for a specific town purpose the First Selectman shall take all steps necessary to sell or otherwise dispose of said real property in accordance with the procedure set forth herein.

SALE OR DISPOSITION OF REAL PROPERTY CONSTITUTING OPEN SPACE

A. Conditions Precedent. Circumstances may be found to exist where real property originally acquired as open space in connection with approval of a subdivision by the P&Z no longer has value for purposes of open space. It shall be presumed for purposes of this section of the Charter that at least ten years must have passed since the subdivision map was filed in the town clerks office before it could be found that said open space land no longer has value for purposes of open space, and that where said open space land, or said land in conjunction with other contiguous open space land, exceeds five acres there is open space value regardless of how much time has passed since the subdivision map was filed in the town clerk's office.

B. The Town shall make and keep an inventory of all open space land which has been held as open space for at least ten years which is, or is part of a larger piece which is, less than five acres in size, and said inventory shall be available for public inspection at the office of the First Selectman and at the land use department.

C. If a person offers to purchase a parcel of land on the ~~said list~~ inventory of less than five acre open space, or offers to swap other land to compensate for the loss of open space with or without further consideration, the First Selectman shall obtain an appraisal of the open space to be sold or swapped made by a licensed real property appraiser who shall submit the appraisal to the First Selectman in confidence. The terms of the proposed purchase or swap shall be circulated for comment to all boards and commissions having an interest in the real property in question, at a minimum the board of selectman, the planning and zoning commission, the parks and recreation commission, the conservation commission and the economic development commission, and ~~held~~ a public hearing shall be held by the legislative council, and the proposal shall be referred to the planning and zoning commission ~~P&Z~~ as a mandatory referral pursuant to Sec. 8-24 of the Connecticut General Statutes ~~CGS~~. Subsequent to a response from the planning and zoning commission ~~P&Z~~ or the expiration of the time within which a response is required without a response, the Legislative Council must find by a two-thirds vote of the entire membership that said land no longer has value as open space. If the Legislative council so votes the sale shall be conducted under the same procedure as provided for land already owned by the Town.

PROCEDURE FOR SALE OF REAL PROPERTY

A. The First Selectman, with the approval of the Board of Selectman, shall determine whether sale by public auction or private sale is in the best interest of the Town.

B. If the decision is to sell the real property at public auction, notice of such sale, including the terms thereof, shall be advertised in a newspaper having a substantial circulation in Newtown and the surrounding area at least twice, with the first such notice at least 30 days prior to the date the auction is to be held.

1. The successful bidder at the auction shall submit a deposit of ten percent of the successful bid immediately after the auction is ended, with the balance due within 30 days of the close of the auction, which date may be extended for up to an additional 30 days by the Board of Selectmen if it finds there are extenuating circumstances. If the successful bidder at auction is unable to make such 10% deposit immediately upon acceptance of his bid, said bidder and his/her agent shall be disqualified from future bidding at any re-auction of said real property. If said deposit is made but the successful bidder does not close within said time limits for any reason, time being of the essence, said deposit shall be retained by the Town as liquidated damages, and the Town shall be free to start the sale process again.

2. All other terms under which the sale is conducted shall be determined by the First Selectman with the concurrence of the auctioneer.

C. If the decision is made to sell the real property by private sale the price and terms of the contract of sale, subject to the terms of this paragraph, shall be established by the First Selectman with the approval of the Board of Selectmen and confirmed by affirmative vote of two-thirds of the entire authorized membership of the Legislative Council. Any such contract of sale shall contain a provision to the effect that if the buyer fails to close on the date set for closing in the contract (or as extended by agreement between the Town and the buyer) the Legislative Council may declare the contract terminated if not closed by a date certain, not more than 14 days from the date of the vote, time being of the essence. If the buyer fails to close by said "time of the essence" date the buyer shall be in breach of the contract and any deposit held by the town shall be retained by the Town as liquidated damages.

**Proposed Reorganized
NEWTOWN CHARTER
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DRAFT FOR DISCUSSION