

Comments from Legislative Council members
Gary Davis, Kevin Fitzgerald and James Belden
in response to statement from Chairman Capeci
at the Legislative Council meeting of November 17, 2010

Mr. Chairman, I do have proposed changes to the minutes from our meeting of November 17 that relate to your comments directed at Kevin Fitzgerald, James Belden and me. Your comments raised serious issues concerning undue influence on the Charter revision process and the right of members of this Council to represent their constituents, to which I would like to respond on behalf of Kevin, James and myself in order to explain the changes we proposed to the minutes.

Kevin, James and I decided to write a letter to the Charter Revision Commission after reading in meeting minutes and media reports of the comments made by other town and education officials, including four Republican members of this Legislative Council. We felt that we had an equal right, and an obligation to our constituents, to provide a differing point of view. In signing this letter to the CRC, we were expressing our views as public officials representing the people who voted us into office, just as it was stated in meeting minutes and media reports that you and other Republican members from this Council had done. For some reason, however, you believe that our statements somehow violate something, but you offer no legal precedent or justification to support your position. You vaguely imply that our actions somehow circumvent processes outlined in a state statute, but offer no substantive explanation as to how our comments do that. It appears to be just your personal opinion.

Invariably, Council members who claim to speak as private citizens on issues that will come before this Council know full well that their "private views" will be the positions they will advocate as members of the Legislative Council. The fact is 50 percent of the Republican majority on this Council -- the group that controls what happens to any recommendation from the CRC -- provided similar comments to the CRC. These appearances by Republican legislative council members were noted as those of public officials. The minutes of the CRC meetings reflect that. The media coverage of these remarks reflect that. And yet, Mr. Chairman, you seem unconcerned that 50 percent of the majority party on this Council provided the same basic comments to the CRC. Instead, you publicly chastise the three non-Republican members of the Council for jointly signing a letter that offered a dissenting view on behalf of their constituents. Three people who as a group have little to no power to change the course of what this Council may decide as compared to this Council's overwhelming Republican majority.

You stated a concern that somehow the CRC would read into our letter that we represented a position of the full Council. We're not sure how they could. We are three members out of 12. We did not place our comments on Legislative Council letterhead. We did not indicate we were speaking for anyone other than ourselves on behalf of our constituents. The CRC had already heard from other Republican Council members stating viewpoints different than ours. The only reason anyone might have misinterpreted our letter, Mr. Chairman, was because after we sent you a courtesy copy, you decided to make an issue of it.

On the other hand, Mr. Chairman, you have made comments that could be construed by the public as representing the opinion of the full Council. You were invited to speak to the CRC as Chair of this Council. Based on minutes and media reports, you spoke as our Chairman, even though the view you presented is not necessarily shared by the full council. Certainly it is not our view. You were asked by the CRC to clarify a request for action on an issue raised by the Water and Sewer Authority. You signed a letter as Chair of this Council asking the CRC not to consider this request without first consulting this Council as to its opinion. Again, as our Chair, you speak for the entire Council. It is clear from the state statutes that a Charter Revision Commission can review any aspect of a Charter. Yet you unilaterally provided guidance to the CRC to directly influence how the CRC should carry out its business, essentially asking the CRC to not exercise the authority granted to it.

We think that an objective look at the facts clearly shows that it is not the three of us who have unduly tried to influence the CRC or demonstrated a lack of respect for the process.

In closing, we believe that all of us have the right, and obligation, as public officials to express opinions in representing our constituents. We should do so openly, honestly and transparently. We believe that all Council members should be allowed to state their positions, free of reprimand, regardless of whether they do it as public officials speaking as private citizens, or openly and honestly as members of this Council, and regardless of whether they speak at public meetings or provide written comments for public review.

We also believe that the role of the Council Chair is to facilitate the business of this Council, ensuring that all members, regardless of party affiliation, have equal opportunity to comment on issues, and are treated fairly and with respect, regardless of party affiliation or the positions they may espouse. The Chair should not be in the business of using his authority to try to discourage IPN Council members, or any Council members, from offering dissenting viewpoints on issues. As noted in the town's Code of Ethics, "officials and employees shall not allow partisan politics to interfere with the proper discharge of their duties."

Mr. Chairman, we respectfully disagree with the personal opinions expressed in your statement. We believe that if reference your statement is to remain in the minutes, it should include clarification that the statement is your opinion only, without any legal precedent or justification to support it, and it should reference all of the communications which the CRC recognized as coming from members of the LC.

We ask that our full remarks be made a part of the record for this meeting. Thank you.