

Town of Ridgefield
Charter Revision Commission Regular Meeting
Monday, July 30, 2018 – 7:00 p.m.
Town Hall Large Conference Room
400 Main Street, Ridgefield, Connecticut
APPROVED MEETING MINUTES

*These minutes are a general summary of the meeting and are not intended to be a verbatim transcription.

Members Present in Town Hall Conference Room:

E. Burns, W. Davidson, J. Egan, E. Geisinger, C. Hancock, J. Seem, J. Shapiro, P. Walsh

Member Present by Phone in Ogunquit, Maine:

L. Steinman

Agenda

1. Approve the Minutes from Charter Revision Commission Regular Meeting on June 25, 2018.
2. Discuss BOS July 25th Vote on CRC Draft Report.
3. Any other business.
4. Adjournment.

The meeting was called to order by CRC Chair Jon Seem at 7:00 p.m. Mr. Steinman participated in the meeting by phone from Ogunquit, Maine, and via a conference phone in the meeting room at Town Hall. Mr. Steinman could hear all eight members of the CRC convened in Town Hall and speak to all those eight members; and all of those eight members could hear Mr. Steinman and speak to him.

Mr. Seem asked for public comment.

Michael Autuori spoke. He requested that the CRC continue to recommend the separation of the Inland Wetlands Board ("IWB") from the Planning and Zoning Commission ("PZC"), and he requested that the CRC change its recommendation from an elective IWB to an appointive IWB.

1. Approval of Minutes of June 25, 2018 Regular Meeting.

Ms. Burns proposed a minor correction to the unrevised/unapproved minutes of the June 25, 2018 CRC Regular Meeting.

Mr. Walsh moved and Mr. Davidson seconded a motion to approve the unrevised/unapproved minutes of the June 25, 2018 CRC Regular Meeting, with one proposed minor correction. Motion carried 9-0.

2. Discuss Board of Selectmen July 25, 2018 Vote on CRC's Draft Report.

Mr. Seem noted that he had received and distributed to members of the CRC a letter dated June 27, 2018 from First Selectman Rudy Marconi transmitting to the CRC the recommendations of the Board of Selectmen ("BOS"), voted upon at the July 25, 2018 special meeting of the BOS, in response to the CRC's Draft Report. Mr. Seem noted that that letter has as an attachment a copy of Part 1 of the Draft Report, Outline of Approved Revision Proposals, and that Mr. Marconi, in his letter, addressed each of the 12 proposals in that attachment in the order contained in that attachment and then addressed an additional BOS recommendation. Mr. Seem proposed to the CRC meeting that the CRC consider the recommendations in that letter in the order set forth in that letter, except for the recommendation concerning the separation of the IWB from the PZC, which he proposed be considered last.

The CRC considered first the BOS recommendation concerning the text of new language for Section 4-5 of the Charter. Mr. Shapiro noted that in the letter from Mr. Marconi, the BOS adopted as its recommendation the text proposed by the CRC in the Draft Report, except that the BOS eliminated from that text a proviso that limited the situations in which a person cannot run for more than one elective office to a situation "where the terms of such offices overlap." Mr. Shapiro briefly explained how one election can have on the ballot the remaining one year of a full five-year ZBA term on the Board of Appeals on Zoning ("ZBA") as well as a full five-year term beginning about a year after the election, and that those two terms do not overlap.

Two members of the BOS who were in attendance at the meeting, Maureen Kozlark and Robert Hebert, were asked whether the BOS considered the relevance of the deleted proviso to the ZBA situation. Both commented that the ZBA situation was not discussed at the BOS meeting.

Ms. Burns moved and Mr. Hancock seconded a motion to recommend, in the Commission's Final Report (the "Final Report"), the same changed text for Section 4-5 of the Charter that was recommended in the Commission's Draft Report (the "Draft Report"). Motion carried 9-0.

Next, the CRC discussed proposed text for Subsections (a), (b), and (c) of Section 10-1 of the Charter, noting that the only difference in the recommendations of the BOS and the recommendations in the Draft Report concern the third paragraph of Section 10-1(c), the subject of which is approval of capital items under \$100,000 at the Annual Town and Budget Meeting. Ms. Burns stated that she believed that the BOS is correct in rejecting the recommendation in the Draft Report to add to that paragraph text requiring a minimum number of qualified voters.

Mr. Davidson moved and Ms. Burns seconded a motion to accept for purposes of the Final Report the portion of the recommendation of the Board of Selectmen contained in the third numbered subparagraph under “(c)”, which is in numbered paragraph 2 in the July 27, 2018 letter from Rudy Marconi to Jonathan Seem (“BOS Recommendations Letter”), to remove reference to a “minimum number of qualified voters” from the recommended text in the Draft Report concerning the third paragraph of Section 10-1(c) of the Charter, which concerns capital items under \$100,000. Motion carried 9-0.

Next, the CRC discussed the use of the term “line item” in that third paragraph of Section 10-1(c) of the Charter.

Mr. Davidson moved and Ms. Burns seconded a motion to decline to accept for purposes of the Final Report the recommendation contained in the third numbered subparagraph under “(c)”, which is in numbered paragraph 2 of the BOS Recommendations Letter to add, twice, the word “line” prior to the word “item” in the third paragraph of Section 10-1(c) of the Charter, which concerns capital items under \$100,000.

Discussion followed about the meaning of “line item” as opposed to simply “item” within the context of that paragraph. Ms. Burns said that she believed that the term “item” is more appropriate because “line item” is more confusing in that context. Ms. Kozlark and Mr. Hebert were asked to comment. Ms. Kozlark said that she believed that such items are normally referred to as “line items”. Mr. Hebert concurred.

The motion made by Mr. Davidson and seconded by Ms. Burns was defeated by a vote of 4-5.

Mr. Steinman moved and Mr. Walsh seconded a motion to accept for purposes of the Final Report the recommendation contained in the third numbered subparagraph under “(c)”, which is in numbered paragraph 2 of the BOS

Recommendations Letter to add, twice, the word “line” prior to the word “item” in the third paragraph of Section 10-1(c) of the Charter, which concerns capital items under \$100,000; and to accept for purposes of the Final Report the recommendation contained in the final sentence of that third numbered subparagraph regarding machine voting at a referendum. Motion carried 6-3.

Next, the CRC members noted the next four paragraphs in the BOS Recommendations Letter.

Mr. Walsh moved and Ms. Burns seconded a motion to retain in the Final Report the text recommended by the Commission in the Draft Report for each of the four items referenced in numbered paragraphs 3, 4, 5, and 6 of the BOS Recommendations Letter. Motion carried 9-0.

Next, the CRC discussed the recommendation of the BOS with regard to Article XI of the Charter, Standards of Conduct. It was noted that the CRC in its Draft Report had prepared entirely new text for Article XI, Standards of Conduct, and the BOS Recommendations Letter recommended retaining the existing text of Article XI and adding at the end additional text permitting Article XI to “be deleted in its entirety upon the adoption of an ordinance to be approved at a special Town Meeting.”

Ms. Kozlark and Mr. Hebert both commented on the Article XI text proposed in the Draft Report and on the proposal regarding Article XI contained in the BOS Recommendations Letter. Both noted that the proposed redraft of Article XI was on the whole very good and a substantial improvement on the existing Article XI, but that there could be a few areas of concern in the new text recommended in the Draft Report.

Ms. Burns asked whether it is common for standards of conduct to appear in an ordinance rather than in a charter. Mr. Steinman said that it is not unusual for standards of conduct to appear in the code of a municipality rather than in its charter. It was noted that an ordinance is simpler to modify than a charter.

Several members of the CRC expressed their preference for the text proposed for Article XI by in the Draft Report over the existing text of Article XI or the text recommended in the BOS Recommendations Letter for Article XI.

Mr. Shapiro said that he is comfortable with the concept of including standards of conduct in an ordinance rather than in the Charter. However, he expressed some concern that the town would not get around to adopting new standards of conduct

by ordinance, and that under the proposed text for Article XI of the Charter made in the BOS Recommendations Letter, the existing inadequate Article XI text would remain in place on a long-term basis. Mr. Shapiro moved that the Final Report recommend retaining the existing text of Article XI , providing that at any time Article XI may be replaced by a standards of conduct ordinance approved at a Town Meeting, and providing that if no such ordinance shall be adopted by January 1, 2021, then on that date the text for the Standards of Conduct recommended in the Draft Report shall become the operable Article XI Standards of Conduct provision within the Charter.

Mr. Davidson suggested that things should not be made too complicated. Mr. Shapiro's motion was not seconded.

Ms. Burns moved and Mr. Egan seconded a motion that the Final Report recommend the new text for Standards of Conduct, Article XI of the Charter, that is contained in the Draft Report. Motion defeated 4-5.

Mr. Walsh moved and Mr. Hancock seconded a motion to accept for purposes of the Final Report the recommendation in numbered paragraph 7 of the BOS Recommendations Letter, which concerns Standards of Conduct, Article XI, including the recommended text in that paragraph 7, but to substitute in that text for clarification "a standards of conduct ordinance" in place of "an ordinance". Motion carried 5-4.

Next, the CRC discussed the proposal new paragraph of text to add to the Charter as a new Section 10-2(d) as recommended by the BOS in the BOS Recommendations Letter, in lieu of the proposed text for the new Section 10-2(d) recommended by the CRC in the Draft Report. It was noted that under the operative interpretation of the current Charter text, it is the BOS that determines appropriations or transfers of unexpended capital project balances. It was further noted that in the text recommended in the Draft Report, that determination would be made by the Board of Finance. However, in the text proposed in the BOS Recommendations Letter, that determination is to be made by the BOS "in consultation with the Board of Finance."

Mr. Shapiro stated that he preferred the text recommended by the CRC in Draft Report to the text recommended by the BOS, but that if the CRC were to include its original recommendation in the Final Report, the BOS would likely reject it, leaving the current language in place which does not even require that the BOS consult with the Board of Finance. He concluded that text requiring some consultation with the Board of Finance is better than the current text which is interpreted to require none.

Ms. Kozlark noted that, in practice, the BOS already consults with the Board of Finance on these matters.

Ms. Geisinger moved and Mr. Shapiro seconded a motion to accept for purposes of the Final Report the recommended text for new Section 10-1(d) of the Charter made in numbered paragraph 8 of the BOS Recommendations Letter, which concerns appropriations or transfers of unexpended capital project balances. Motion carried 6-3.

Next, the CRC members noted the next three paragraphs in the BOS Recommendations Letter.

Ms. Burns moved and Mr. Shapiro seconded a motion to retain in the Final Report the text recommended by the Commission in the Draft Report for each of those three items referenced in numbered paragraphs 10, 11, and 12 of the BOS Recommendations Letter. Motion carried 9-0.

Next, the CRC turned its attention to a recommendation of the BOS concerning Section 4-1 of the Charter that was not included in the Draft Report. Mr. Walsh noted that normally he would not be in favor of recommending a change in the Charter for the Final Report that was not an item discussed in the Draft Report, but in this case, he said, the proper name of the Board of Assessment Appeals is dictated by state statute.

Mr. Davidson moved and Mr. Shapiro seconded a motion to accept for purposes of the Final Report the recommendation in numbered paragraph 13 of the BOS Recommendations Letter, which is a recommendation to correct the text of Section 4-1 of the Charter by deleting "Board of Tax Review" and inserting in its place "Board of Assessment Appeals". Motion carried 9-0.

Mr. Seem next raised the issue of separation of the IWB and the PZC. Mr. Egan commented that he had voted against separating the two boards, but he stated that the CRC had voted as a commission to recommend separation, and it is unfair for the BOS to ask one of the members of the CRC to flip his or her vote.

Mr. Hancock said that he has not seen real evidence that the current system of combined IWB/PZC is not functioning well. He explained that he did not regard the specific situations cited by proponents of separation of justifying their case. He said that if it is not broken it should not be fixed; and it is not broken.

Mr. Shapiro stated that the current system is not broken, just mediocre. He stated that he sometimes uses the standard that if a system is not broken then it does not need to be fixed even if that system is only mediocre. But, he said, that is not the right standard for an important system, and the role that the IWB plays in our town is an important one. Therefore, he said, we need to look beyond Ridgefield to see what best practice is on how to constitute on inland wetlands board, and the best practice is to make it independent.

Mr. Steinman commented on the importance of creating the separation of the IWB and the PZC.

Mr. Walsh noted that much of the so-called evidence to support the separation of the IWB and PZC is simply opinion. He stated that the BOS appreciated the fact that the proposal to separate them is not supported by the facts. He noted that in making its recommendation, it was clear that BOS members read the minutes of CRC meetings on this subject.

Mr. Steinman noted that the CRC has a different role than the BOS. Ms. Burns stated that the proposal that the CRC made in the Draft Report is a reasonable proposal and should be supported.

Ms. Geisinger moved and Ms. Burns seconded a motion to continue to recommend, in the Final Report, that the Inland Wetlands Board become a separate seven-member board independent from the Planning and Zoning Commission. Motion carried 6-3.

Next, the CRC discussed the issue of an elective IWB versus an appointive one. Mr. Shapiro expressed the view that the CRC should support an appointive IWB in the Final Report. He said that while that does not conform to the BOS recommendation to keep the IWB and PZC together, it comes closer to reflecting views of a larger number of members of the BOS than the recommendation in the Draft Report. Mr. Steinman supported keeping the recommendation in the Final Report on elective versus appointive the same as in the Draft Report for legal reasons. Mr. Burns supported an appointive IWB.

Ms. Geisinger moved and Ms. Burns seconded a motion to recommend, in the Final Report, that the members of the Inland Wetlands Board be appointed rather than elected. Motion defeated 3-6.

Mr. Shapiro suggested that the CRC approve in its entirety the position of the CRC on this issue expressed in the Draft Report.

Mr. Shapiro moved and Mr. Davidson seconded a motion to retain for purposes of the Final Report, in their entirety, the recommendations contained in the Draft Report concerning the Inland Wetlands Board. Motion carried 7-2.

3. Any Other Business.

Mr. Seem opened a discussion of the process of preparing and finalizing the CRC's Final Report. He noted that the CRC would need to hold a special meeting in time to deliver a Final Report to the BOS prior to the date of the BOS special meeting, August 13, 2018. The CRC members discussed their availability to attend a special meeting in person or by phone. The best date and time were August 6, 2018 at 4:30 p.m., when all members were available and two members would need to participate by conference call. Mr. Seem undertook to set up the conference call.

Mr. Shapiro moved and Mr. Egan seconded a motion to schedule a Special Meeting of the Charter Revision Commission on August 6, 2018, at 4:30 p.m. Motion carried 9-0.

Mr. Seem said that he would work with Ms. Burns and Mr. Shapiro to prepare a draft of the Final Report and circulate it to CRC members so that the CRC would be in a position to finalize and approve the Final Report at the CRC's special meeting on August 6, 2018.

4. Adjournment.

On motion duly made and seconded, by a vote of 9-0, the meeting was adjourned at 9:15 p.m.

Respectfully submitted,
Joe Shapiro, Recording Secretary