

Town of Ridgefield
Charter Revision Commission Regular Meeting
Tuesday, May 29, 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:

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

Agenda

1. Approve the Minutes from Charter Revision Commission Special Meeting on May 5, 2018.
2. Bart Van de Weghe – Board of Ethics.
3. Discuss and possibly vote on number of elected members and election schedule of an independent Inland Wetlands Board.
4. Review, discussion and possible vote on remaining open proposals.
5. Kickoff discussion of approach to drafting report for BOS.
6. Any other business.
7. Adjournment.

The meeting was called to order by CRC Chair Jon Seem at 7:00 p.m. He asked if there were any members of the public who wished to speak about an item not specifically on the agenda. No one came forward.

1. Approval of Minutes of May 5, 2018 Special Meeting.

Mr. Steinman proposed three minor corrections to the unrevised/unapproved minutes of the Regular Meeting.

Mr. Shapiro moved and Mr. Steinman seconded a motion to approve the unrevised/unapproved minutes of the May 5, 2018 CRC Special Meeting, with the proposed minor corrections. Motion carried 8-0.

2. Bart Van de Weghe – Board of Ethics.

Bart Van de Weghe, Chairman of the town's Board of Ethics, joined the meeting to discuss the draft revised text for Article XI of the Charter that had been provided to

him for comment. That draft text had been provided to members of the CRC. Mr. Van de Weghe distributed copies of an annotated version of that draft text. He explained that he had distributed Mr. Steinman's draft text to the members of the Board of Ethics and had received comments back from members, so the annotations represented the collective comments of himself and other members of the Board of Ethics.

Speaking about the new draft of Article IX prepared by Mr. Steinman, Mr. Van de Weghe commented very favorably on the drafting effort. He stated that the redrafting is actually a very, very good and timely drafting exercise. He said that it represents a good pulling together of principles in a more organized fashion and a tightening of the language.

The CRC and Mr. Van de Weghe discussed the annotated comments on the document that Mr. Van de Weghe had provided. Mr. Van de Weghe stated that some of the comments were substantive and some were purely wordsmithing. He said that he had tried not to do too much wordsmithing. The comments by Mr. Van de Weghe discussed at the meeting included the meaning of the term "household member" (Sections 11-2(b) and 11-2(c)); whether having "any substantial financial interest in, direct or indirect," suggests that simply having an interest that might generate a conflict places a person in violation of that provision (Section 11-3(1)); consideration of including non-financial/personal/private interests as conflicts of interest (Section 11-3(1)); clarification of the distinction between "direct" and "indirect" financial interest (Section 11-3(3)); consideration of substituting "as authorized by law" for "regarding corruption, criminal activity, conflict of interest, malfeasance or other similar impropriety" (Section 11-3(3)); the scope of the prohibition against a town official or employee appearing "on behalf of another person or entity before the Town or any of its constituent entities" (Section 10-3(4)); and the lack of clarity in alternate uses of "financial," "material," and "substantial financial" interests (Section 10-3(10)).

Much of the discussion was with Mr. Steinman, the author of the draft text. Other CRC members also discussed these issues, including how to treat the application of ethics rules to specific situations. The CRC members also discussed the proposed penalty provision of up to \$250 in Section 11-7 of the draft text.

Mr. Steinman explained that the process of revising the Charter with respect to Article XI would involve repealing the current Article XI and adopting a new Article XI.

At the close of the discussion among the CRC members and Mr. Van de Weghe, Mr. Seem noted that Mr. Van de Weghe will collaborate with Mr. Steinman on possible changes to the draft text of Article XI and then Mr. Steinman will submit a revised draft of Article XI for review by the CRC. Mr. Seem suggested that any member of the CRC with comments on draft text for Article XI should send them directly to Mr. Steinman.

3. Discussion of a Proposal to Change the Name of the Commission for the Disabled and Change Some Text Regarding People With Disabilities.

Christina Calabro, Secretary of the Commission for the Disabled, joined the CRC to discuss the proposal by that commission made in a May 14, 2018 email from Ms. Calabro that was distributed to the CRC. The proposal is to change the name of the Commission for the Disabled to "Commission for Accessibility" and to change reference to "the disabled" in the text of Section 5-7 of the Charter to "people with disabilities".

There was some discussion about whether "accessibility" is a term widely enough understood as meaning accessibility, broadly construed, in the context of people with disabilities. Mr. Shapiro suggested that the new name of the commission be "Commission for Accessibility for People with Disabilities". Ms. Calabro explained that alternative names had been considered by the Commission for the Disabled, and the preferred name is the one recommended, "Commission for Accessibility".

Mr. Egan moved and Ms. Burns seconded a motion to recommend revising the Charter to change the name of the Commission for the Disabled in Sections 5-1 and 5-7 of the Charter to the "Commission for Accessibility" and, in the second sentence of that Section 5-7, to change "the disabled" to "people with disabilities". Motion carried 5-3 with one abstention.

4. Discussion and Possible Vote on Number of Elected Members and Election Schedule of an Independent Inland Wetlands Board.

Mr. Seem noted that there are several approaches to dealing with remaining issues concerning an independent Inland Wetlands Board (IWB). He asked Mr. Shapiro to explain the issues as he sees them.

Mr. Shapiro said that there are really three major decisions to be made. The first is the number of members of the elected IWB and, as a related matter, whether there should be alternates. He spoke briefly of the range of terms of the town's current elected boards and commissions. The second, he said, is the length of the term of members of the IWB. He noted that except for the Board of Zoning Appeals

members and alternates, a four-year term is pretty standard in the town. The third is whether the terms of all elected members of the IWB should end at the same time, as is the case only for the Board of Selectmen, or whether the terms should be staggered, as is the customary practice in the town. He noted that staggered terms would also require a transitional electoral arrangement.

Mr. Steinman explained that he had come forward with several proposals, each of which has some possible problems. One that he thought was worth considering was proposing that upon approval of the Charter change to make the IWB independent, the IWB member positions be filled by appointment until they can be filled by election at the November 2019 election. That would have the advantage, he said, of getting an independent IWB up and running sooner.

Ms. Burns made a proposal of having a seven-member IWB elected to four-year terms, on a staggered basis, with no alternates, and with a transitional procedure in which four of the seats would be filled in the November 2019 election for a term of four years and three seats would be filled in November 2019 for a term of two years, with those two-year seats coming up for election in November 2021 for full four-year terms. The newly elected IWB would take office on the second Tuesday following the 2019 election, per the Charter.

Mr. Steinman moved to recommend revising the Charter to provide that the newly independent Inland Wetlands Board have seven members each elected to a four-year term, with staggered terms such that four are elected in one municipal election and three are elected at the next municipal election, and with the November 2019 election electing four to four-year terms and three to two-year terms as a transitional arrangement.

Ms. Burns expressed support for the concept, that had been articulated by Mr. Steinman, of having members of the IWB appointed after the November 2018 election who would serve until those IWB members elected in November 2019 begin to serve two weeks after the election.

Mr. Seem summarized Mr. Steinman's motion, which had not been seconded. Mr. Steinman then withdrew his motion in order to permit further discussion of the possibility of making the independent IWB effective immediately after the approval of the Charter change in the November 2018 election by having members of the IWB appointed following that election for a term of about one year. The members of the CRC discussed the idea of having an appointed IWB for a year. No members other than Ms. Steinman and Ms. Burns spoke in favor of that idea.

Mr. Walsh moved and Mr. Hancock seconded a motion to recommend revising the Charter to provide that the newly independent Inland Wetlands Board have seven members each elected to a four-year term, with staggered terms such that four are elected in one municipal election and three are elected at the next municipal election, and with the November 2019 election electing four to four-year terms and three to two-year terms as a transitional arrangement. Motion carried 9-0.

5. Review, Discussion and Possible Vote on Remaining Open Proposals

Proposal to Make Changes in Sections 10-1(a), 10-1(b), and 10-1(c) of the Charter.

Mr. Davidson referred to his May 28, 2018 email that had been distributed to the CRC members by Mr. Seem. Attached to that email was a draft of a proposed revised version of Sections 10-1(a), 10-1(b), and 10-1(c) of the Charter. Mr. Davidson explained that his proposal includes a concept of a Master Budget Schedule. He also explained that under his proposal the newspaper would publish notice of where the full budget is available, such as at the office of the Town Clerk, which could make hard copies available for distribution, and on the town's website. He explained that this would substitute for the current requirement that the budget be published in the newspaper, which is expensive. He noted that there are about 9,800 family units in the town and the circulation of The Ridgefield Press is about half of that, suggesting that half the families get the Press.

Mr. Steinman noted that we need to see if there is any state requirement that the budget be published in a newspaper. Mr. Davidson volunteered to find out.

Mr. Davidson explained that he used the language proposed by Dave Ulmer, Chairman of the Board of Finance, to provide that the meeting may "decrease as a whole without regard to any specific line item the Board of Education's budget."

Mr. Davidson also pointed out that his proposal includes a provision that the Annual Town and Budget Meeting only has authority to decrease or delete an item from the town budget or decrease the Board of Education budget if the attendance at the meeting is at least 4% of the registered town electors. Mr. Davidson observed that four percent is about 930 voters.

Mr. Shapiro noted that Mr. Davidson's email stated that the 4% of registered town electors could instead be 2% or 3%. Mr. Shapiro suggested adopting the 2% figure as a more modest change from the current Charter, which has no threshold.

There was discussion about the requirement that the budget be made available 10 days prior to the Annual Town and Budget Meeting. Rudy Marconi, First Selectman, noted that the Board of Education budget was not made available until the Friday prior to the Monday, May 5, 2018, Annual Town and Budget Meeting.

Mr. Hancock noted that there are no teeth in the current Charter or Mr. Davidson's proposed revision if the Board of Education fails to make its budget available 10 days prior to the Annual Town and Budget Meeting.

Mr. Steinman reported that in developing this provision, consideration had been given to requiring that if they did not submit the budget on time they would be compelled to have the current year's budget amount be the budget amount for the coming year. Mr. Hancock said that it is a great idea. Mr. Davidson said that even without such a provision in the Charter, the Board of Finance could say to the Board of Education that if you do not get your budget in by tomorrow we will make next year's budget the same as this year's budget. Mr. Walsh noted that the 10-day advance period already appears in the Charter, so we do not need a Charter amendment for that, but the possibility of teeth for not complying with the time frame is another matter.

Mr. Davidson said that he would be against putting in the constitution of the town a sort of "got you" penalty if the Board of Education does not meet the deadline. He said that the Board of Finance can already do this. Mr. Steinman said that the Board of Finance does not have the political will to do it.

Mr. Davidson suggested that the CRC work its way through the proposal and then come back to see if the CRC wants to add something punitive if the town or Board of Education does not meet time requirements.

Mr. Hancock asked Mr. Marconi whether he is in favor of a consequence if the time requirements are not met. Mr. Marconi responded that if the proposal includes a consequence, the proposal will not go anywhere.

Mr. Walsh observed that everything that the CRC is trying to do regarding Charter changes is already expressed in the Charter except for the teeth, so the CRC should be spending its time on the teeth. He noted that the Board of Finance already notes how the budget is to be presented.

Mr. Marconi commented that the Chairman of the Board of Finance had noted that this year's Board of Education budget was one of the worst he has ever seen in terms of transparency and trying to determine what it actually meant.

Mr. Shapiro said that having teeth would get people up in arms and people would feel that it is an anti-school and anti-Board of Education amendment.

Mr. Davidson went on to discuss proposed changes in Section 10-1(c). Mr. Seem asked if everyone was satisfied with the proposals for Sections 10-1(b) and 10-1(c).

Mr. Egan said that he does not believe that changes to Section 10-1(a) are necessary but he agrees with the changes proposed for Sections 10-1(b) and 10-1(c).

Mr. Steinman said that the Charter could be worded so that the failure to make the budget public in a timely manner would trigger a right to have a lawsuit. Mr. Shapiro said that there are many people who are supportive of the Board of Education, so that having a provision that includes an embedded right to sue will kill the proposal. Mr. Shapiro said that since we have a democratically elected Board of Finance, it is their job to deal with this, and if the Board of Finance feels that the Board of Education is defying their required time frames it cannot redound to the benefit of the Board of Education in getting their budgets approved by the Board of Finance.

Mr. Seem summarized by saying that he is hearing two or maybe three voices in favor of teeth but the rest are not in favor of teeth.

The CRC concluded the discussions of this topic with Mr. Seem suggesting that Messrs. Davidson and Steinman get together to come up with a revised version of the Section 10-1 proposal, and he noted that they can consult with Mr. Marconi, Mr. Ulmer, and Kevin Redmond, the town's Controller.

Ms. Burns stated her support for continuing to have a requirement to publish in the newspaper, because newspapers need these types of notices in order to survive.

Mr. Seem moved to the next item in the list, which was a proposal by Joe Savino that rules on how town budget items are advertised and posted be clarified, and that how the public can change proposed capital and operating budgets be clarified. He concluded that Mr. Savino's proposal is being considered as part of the item just discussed by the CRC.

Create Consistency in Length of Terms for All Appointive Positions Under Article IX of the Charter.

Mr. Steinman reported on having had a meeting with Mr. Davidson and Mr. Marconi and some town staff. He referred to a proposal that he sent by email dated May 29, 2018 that Mr. Seem forwarded to the full CRC, which includes as an attachment the full proposed text of Article IX of the Charter marked to show proposed changes. He noted that the proposed text for Section 9-2 would provide, "Except as otherwise set forth in this Charter, mandated by State statute, or provided by contract, administrative officers and department heads shall be appointed in the manner as provided and shall serve at the pleasure of the appointing authority." He explained that the idea that all positions "shall serve at the pleasure of the appointing authority" is a new one for the Charter. He then noted that he added a sentence saying, "Such appointments shall be subject to renewal every four years in the same manner as their initial appointments." He explained that the rest of the amendments would be to delete all language relating to terms. He pointed out that he missed one reference to a term in Section 9-3 that Mr. Davidson noticed. He said that there was another question about Constables. He suggested that the CRC should first focus on the basic proposed change to see if it has support.

Mr. Walsh questioned the "subject to renewal" language. Ms. Geisinger asked what happens after four years. Mr. Steinman said that the sentence is there because there was some interest in having it. Mr. Shapiro suggested that it be "subject to review" rather than "subject to renewal" or perhaps the sentence should be eliminated. Mr. Steinman said that he is not fighting for that sentence.

Mr. Marconi suggested that in Section 9-13, "Town buildings" should be removed because buildings are not under the jurisdiction of the Director of Public Services Department. Mr. Walsh noted that the language "as assigned" means that we can leave a particular item of responsibility as part of the text, such as buildings, even though it is not currently assigned to the Director of Public Services Department.

Mr. Steinman returned to the text concerning Constables, which now permits up to seven and forbids appointing more than five from one political party. A suggestion was made that no more than three-quarters of the Constables could be from one political party.

Mr. Davidson moved and Mr. Shapiro seconded a motion to recommend revising the Charter to make the revisions to Article IX of the Charter recommended by Mr. Steinman in his draft of Article IX attached to his May 29, 2018 email, subject:

“Revisions to Article IX of the Charter,” presented to the Charter Revision Commission, with the following three changes from that draft: (1) eliminating the second sentence in Section 9-2 of said draft that begins “Such appointments shall be subject to renewal . . .”, (2) changing the second sentence of Section 9-3 of said draft to read “Persons appointed to fill vacancies in said administrative offices shall serve for the unexpired term vacated if such office has a fixed term, or shall serve at the pleasure of the appointing authority.”, and (3) changing the second sentence of Section 9-7 of said draft to read “No more than three-quarters of the Constables shall be from any one political party.” Motion carried 9-0.

Proposal to Provide for Appropriations and Transfers of Unexpended Capital Project Balances for Specified Uses.

Mr. Walsh moved and Mr. Steinman seconded a motion to recommend, subject to the lack of objection by bond counsel, revising the Charter to change Sections 10-2(d) and 10-2(e) of the Charter to Sections 10-2(e) and 10-2(f), respectively, and to insert a new Section 10-2(d) in the Charter that reads as follows: “Appropriations or transfers of unexpended capital project balances shall be determined by the Board of Finance. In accordance with General Statutes, such funds may be used for payment of debt servicing, payment of approved capital projects, payment into the general fund, or payment into the Capital Reserve Fund per Section 10-2(c).” Motion carried 9-0.

Proposal to Establish a Definition of “line item” for Purposes of Section 10-1(c) of the Charter.

Mr. Walsh moved and Mr. Davidson seconded a motion to decline to recommend revising the Charter to establish a definition of “line item” for purposes of Section 10-1(c) of the Charter. Motion carried 9-0.

Proposal to Change “plan of development” to “Plan of Conservation and Development” in Section 4-11 of the Charter.

Ms. Burns stated that she had a comment regarding text in Section 4-11 of the Charter concerning the Planning and Zoning Commission (PZC). She noted that her comment does not pertain to the IWB. She explained that she noticed that the text of that section refers to a “plan of development” rather than to a “Plan of Conservation and Development,” which, she explained, is the currently the correct term. Rebecca Mucchetti, Chair of the PZC, who was in attendance at the meeting, concurred that “plan of development” should be changed to “Plan of Conservation and Development.”

Ms. Burns moved and Mr. Davidson seconded a motion to recommend revising Section 4-11 of the Charter by changing “plan of development” to “Plan of Conservation and Development” wherever “plan of development” appears in that section. Motion carried 9-0.

6. Kickoff Discussion of Approach to Drafting Report for Board of Selectmen.

Mr. Seem proposed that in 2018 the CRC consider following the same structure for its Draft Report as the 2014 CRC used for its Draft Report. He summarized, explaining that the 2014 Draft Report began with an opening letter that described the formation of the CRC, the members of the CRC, and the high-profile issues reviewed by the CRC and what the CRC recommended on those issues. He noted that this place within the Draft Report would be an appropriate location to discuss a process for reviewing other forms of government and perhaps the formation of a task force to review that. He said that the letter would be followed by a table that would be a summary of the Change Review Tracker that isolates all of those items that were approved. It would show who made the proposal, when the CRC voted on the proposal, and the vote. Another table, he said, would be a version of a portion of the Tracker in the Draft Report that would show everything that was not approved by the CRC. The next section of the Report would be those provisions of the Charter where the CRC is making changes to the wording of the Charter. In 2014 it consisted, for each section of the Charter with a proposed change in text, of providing first the existing text of that section, followed by a red-lined version of that section showing the proposed change in text, and then followed by a clean copy of proposed new text for that section. Mr. Seem made it clear that the CRC does not have to follow this format, but that he wanted to share the format used in 2014 because he thought it worked well.

Mr. Steinman recommended a section explaining what the CRC did and why. He stated that it is important for the CRC to explain the reasoning and justification for the changes the CRC is making, because without such an explanation there is no reason for anyone to support the changes. He said that he views this as a critical component of the Draft Report. He proposed that the Draft Report should be a document that contains advocacy of the changes recommended by the CRC.

Mr. Shapiro asked how best to create a simple record, in the Draft Report, of the reasons for the actions taken by the CRC. Mr. Steinman said that the essence of the debate should be included in the Draft Report, especially on more complicated items. He said that if we do not fill the vacuum of explaining reasoning, others will fill that vacuum, and those others will be the people opposed to the recommendations made by the CRC.

Mr. Seem noted that in his view the CRC should simply explain what the actions are, and people can consult the minutes for more detail. Mr. Burns disagreed. She said that some issues were addressed extensively in minutes of several meetings so the minutes do not provide a concise summary for the Board of Selectmen.

Mr. Walsh said that he sees the CRC's role as summarizing and recommending, rather than advocating. Mr. Steinman acknowledged that maybe his expression of his view contained an inappropriate description of his approach by using the word "advocacy". Mr. Seem said that our obligation is just to report, but without the color that is in all the minutes.

Ms. Geisinger stated that in 2014, there was an article published in The Ridgefield Press, shortly before the vote, co-authored by her and fellow 2014 CRC Commissioner Edward Tyrrell, explaining each provision and the reasoning.

Mr. Shapiro said that an "advocacy piece" comes off as too strong a term but an "explanatory piece" is appropriate for the Draft Report, with a paragraph on each item explaining the essence of the rationale of those CRC members who voted for it, and there could be a dissent in the Draft Report as well. Mr. Hancock expressed agreement with the value of this approach in explaining the rationale in order to permit the Board of Selectmen to make an intelligent choice. Mr. Walsh said that he is not in favor of a minority report. He said that people who read the report will see the votes, which were sometimes 5 to 4. Mr. Davidson agreed that a minority report section is unnecessary. Ms. Burns expressed the view that with the structure of the Draft Report proposed by Mr. Seem, there is a way to include in the Draft Report some text that explains the reasons for the recommendations.

Mr. Seem suggested that he, Ms. Burns, and Mr. Shapiro get together prior to the next CRC meeting in order to move the process of preparing the Draft Report forward.

Mr. Seem noted that prior to finalizing the Draft Report, the CRC needs to hold a public hearing.

Mr. Walsh moved and Ms. Geisinger seconded a motion to schedule a public hearing on June 18, 2018, at 7:00 p.m. Motion carried 9-0.

Mr. Steinman moved and Ms. Geisinger seconded a motion to schedule a Special Meeting of the Charter Revision Commission on June 18, 2018, immediately following the Charter Revision Commission Public Hearing. Motion carried 9-0.

There was a discussion of the timing of developing the Draft Report and having it available prior to the June 18, 2018 Public Hearing. Mr. Shapiro read a portion of Section 7-191(a) of Connecticut General Statutes, which provides that the Public Hearing be held after the Draft Report has been completed but prior to the submission of the Draft Report to the appointing authority, which in this case is the Board of Selectmen. There followed a brief discussion of giving the public a reasonable opportunity to read the Draft Report prior to the Public Hearing.

7. Any Other Business.

There was discussion of dates of next CRC meetings. A Special Meeting of the CRC the evening of June 7, 2018 was proposed, which would make the dates of the next four CRC meetings June 7, 11, 18, and 25, 2018.

Mr. Walsh moved and Mr. Hancock seconded a motion to schedule a Special Meeting of the Charter Revision Commission on June 7, 2018, at 7:00 p.m. Motion carried 9-0.

8. Adjournment.

Mr. Walsh moved and Mr. Hancock seconded the motion to adjourn at 10:15 p.m. Motion carried 9-0.

Respectfully submitted,
Joe Shapiro, Recording Secretary