


**TOWN OF CROMWELL
CHARTER REVISION COMMISSION
TOWN COUNCIL CHAMBERS
41 WEST STREET, CROMWELL, CT 06416
MAY 18, 2022 7:00 p.m.
MINUTES**

RECEIVED FOR RECORD
May 24, 2022 12:56P
JoAnn Doyle
TOWN CLERK
CROMWELL, CT 

Present: Chairperson Jennifer Lepore, Ann Grasso, Marie Roberto, Mike Cannata,
Geoff Oryell, Phil Gagnon (arrived at 7:17 p.m.)

Also Present: Town Attorney Kari Olson

Absent: Lou Menendez

A. CALL TO ORDER

Chairperson Jennifer Lepore called the meeting to order at 7:04 p.m.

B. APPROVAL OF MINUTES

Motion to approve minutes of the May 11, 2022 Public Hearing made by
M. Cannata, A. Grasso seconded. *All were in favor; the motion passed.*

Motion to approve minutes of the May 11, 2022 Meeting made by
M. Cannata, M. Roberto seconded. A. Grasso abstained. *All others were in favor;
motion passed.*

C. APPROVAL OF AGENDA

Motion to approve the May 18, 2022 agenda made by M. Cannata,
G. Oryell seconded. *All were in favor; the motion passed.*

D. PUBLIC COMMENTS

The Commission discussed an email sent to Mr. Cannata from Ms. Alice Kelly (attachment one), which refers to the subject of setting the dollar amount required to go to automatic referendum. Mr. Cannata doesn't think it's a bad idea. A million dollars is a lot of money and if they have it automatically go to referendum, it's fine by me. Chairperson Lepore asked Attorney Olson if that is something that's possible to automatically go to referendum? Attorney Olson said she has dealt with other towns that have done it by ordinance. She also asked the Commission if one million dollars would be the ceiling that they would want. She stated that the Commission may want to get more information on that, because you really don't want to spend the money to go to referendum for every snowplow contract, or something like that. Mr. Oryell suggested five million dollars. Ms. Roberto also agreed and asked how much we've gone to referendum for in the past; what's the largest amount? Sometimes they're covered by budget, such as the addition to the library. Ms. Grasso suggested checking with Finance Director, Marianne Sylvester, to see what the dollar amount is that would be normal during a budget season and then see what is extra of that and look at that number. Attorney Olson mentioned that the Town Council itself has the authority to call something to referendum. They

don't have to wait for a petition. If they feel something is of great importance that should go to a referendum, they can call for a referendum. Ms. Grasso said she would leave it to either the Board of Finance or to the Town Council and she thinks that is what Ms. Kelly is asking for. The forcing of it to a referendum at a higher number has more power, than leaving it to somebody to make that motion and either the Council or the Board of Finance. The Commission unanimously agreed to some sort of minimum dollar amount required to go to automatic referendum. Chairperson Lepore will refer back to the Finance Director to get some data on this.

The Commission discussed the handout from the 5-11-22 Public Hearing from Ms. Diane Wiegert (attachment two). It is about whether there is anything in the Charter regarding climate change, regarding encouraging sustainable energy uses, and noting that in the near future, laws will likely be passed regarding climate change, and they have a right to see something proactive addressing sustainable energy. Chairperson Lepore talked about how this would possibly be addressed in the Charter and asked Attorney Olson if she has ever seen something like that. Attorney Olson said that she has not seen that in a Charter. There are ordinances, zoning regulations and general statutes that address sustainable energy and the encouragement of it. She has yet to see it in a Charter as a matter of policy. Perhaps a general statement could be put in the Charter that the Town will promote and encourage regulations, ordinances and policies that promote climate change and sustainable energy. There isn't anything you could put in a Charter that would mandate something specific; this is still a work in progress.

Mr. Cannata stated that he would think this would belong in the state building code, not in the Charter. He suggested that when the zoning regulations are rewritten, this idea could be something implemented into the new regulations.

Ms. Grasso discussed the use of diesel fuel in trucks and Chairperson Lepore suggested that a general policy statement could be put in the Charter that the Town encourages the use of climate-friendly materials in building and a commitment to sustainable energy.

Attorney Olson suggested leaving this for ordinance regulations.

E. OLD BUSINESS

Attorney Olson has responded to some questions from the May 11, 2022 meeting. The Commission discussed Attorney Olson's responses.

Section 6.01. Town Elections. Subsection (c) Conduct of Elections.

The Commission referred to the second to the last sentence, which is a bit cumbersome. Attorney Olson stated that that sentence is consistent with state law. Attorney Olson agreed that this sentence can be made into two sentences. She stated that these sentences are very consistent with the Charter's authority.

Chairperson Lepore noted that Mr. Gagnon joined the meeting at 7:17 p.m.

Ms. Roberto asked for clarification of the general term "ordinances shall be consistent with law" as to what "law" means. Attorney Olson said it means the ordinances have to be consistent with all state and federal laws and what this is basically saying is that it recognizes the fact that

you do not have the power to overrule state law regarding elections. Ms. Grasso also suggested putting a period after "Charter" and starting the next sentence with "The elections authority...". The Commission agreed with this change.

Section 6.02. Minority Representation.

Attorney Olson suggested keeping the statutory references here and including, after the first reference, to what will now read, "Section "9-167a of the Connecticut General Statutes and other relevant provisions as amended." The Commission agreed with this change.

Sec. 9.01. Conflicts of Interest.

Chairperson Lepore stated that there was quite a bit of discussion regarding the Conflicts of Interest provision contained in Section 9.01. It appears that any elected or appointed member of any board or commission, or any employee of the town need only report a conflict of interest to the Town Council. It seems that if someone is a member of the Planning and Zoning Commission and there is a conflict, it should be brought to the Planning and Zoning Commission and they should be required to recuse themselves. Is there some requirement that the Town Council also be notified? If someone recuses themselves, is that enough to protect against potential conflicts of interest? Another question that came up is whether we should require people sign a conflict of interest policy upon election/appointment. Chairperson Lepore also asked if other towns use the language in our Charter or if there are some with more detailed language regarding conflicts of interest.

Attorney Olson responded by saying that many towns have a conflict of interest code or policy in addition to a Charter reference, and have officials sign off that they received and read it. That is not really a Charter question, but a policy you may want to take up with the Council. Here, the conflict is reported to the Town Council and the person is disqualified from acting on the matter. In addition, specific to land use boards, there is a statutory prohibition for anyone who has a conflict of interest from hearing a matter. I do not think that Section 9.01 needs to be modified to address who gets notified, as it is implicit in the rule and by state law that the Planning and Zoning Commission has to recuse.

Ms. Grasso mentioned that she reviewed the Town of East Hampton's Charter and their Code of Ethics is in their Charter. Ms. Roberto stated that she doesn't think it should be combined. The Commission reviewed a page from the Town of Cromwell Employee Handbook regarding conflict of interest, and also reviewed the Town of Cromwell Elected and Appointed Ethics Statement (attachments three and four). Attorney Olson said both documents state that if you have a conflict of interest, you need to step away. Chairperson Lepore referred to Section 9.01 stating that if you do have a conflict of interest, financial, direct or indirect, that that would disqualify you from participating in any discussions of that particular contract or issue; which is essentially recusal.

Attorney Olson stated that the Charter addresses direct financial conflicts of interest; it doesn't get into the personal conflicts of interest. She suggested to the Charter Revision Commission to leave the door open to propose ordinances, policies or rules that more broadly govern conflicts of interest.

Mr. Cannata's issue with this was the reporting. He stated that he had never seen any Planning and Zoning Commission member notify Council. Mr. Cannata asked that in the future, if anyone

is going to recuse themselves for a financial interest on the Planning and Zoning level, Inland/Wetlands level or any land use board level, should they, as a matter of course, notify the Town Council as well? Attorney Olson stated that was correct, according the Charter as it's written today. Attorney Olson suggested to make sure that this is not singular and it is clear that this is the minimum that is required when there is a conflict, but other rules and ordinances can be created. Ms. Grasso said it would be helpful that it is up to the chair to be sure and that the recusal happens at the board level, because that is where the decisions are actually being made. Attorney Olson said the important thing is that the person who feels conflicted, steps away. If a person forgets to notify the Town Council, but they do the right thing - that is more important.

Attorney Olson suggested adding this to Section 9.01: "Nothing in this section shall limit the power of the Town Council from adopting ordinances, regulations and various policies regarding employees, elected and appointed officials regarding the conflict of interest and ethics rules consistent with state and federal law." The Commission agreed to add this sentence.

Chairperson Lepore asked Attorney Olson about the last section of the Charter, Section 11.06. Usage, which presently states "When the context so requires, the masculine gender shall include the feminine and the singular shall include the plural, and the plural the singular." The majority of the Commission wants to change this to state "When the context so requires, the masculine gender shall include *all genders*. . ." Is this permissible?

Attorney Olson said yes, but I might go one step further and get rid of "When the context so requires..." since I can see no context in which it would not be required. She suggested that the prefix should be, "As used in this Charter, the masculine gender shall include all genders and the singular..."

Mr. Gagnon asked if changing this would conflict with whatever is approved at the state level. Attorney Olson responded by saying generally the statutes are interpreted as written. Where it says "he" it means person; it means anybody of any sex or gender, or pronoun. Mr. Gagnon asked that if we put "all genders", for example, and some part of the Charter conflicts with that, do we have to go back and fix that in the next Charter Revision Commission five years from now? Attorney Olson said that if it is worded "As used in this Charter, the masculine gender shall include all genders, and the singular shall include the plural, and the plural the singular, this would apply to everyone, and will not create any more work for the Charter Revision Commission. The Commission agreed to this language for Section. 11.06. Usage.

The Commission went on to revisit other sections of the Charter with Attorney Olson.

Section 2.05 Prohibitions. Subsection (a) Holding Other Office. Mr. Cannata has a question about someone being on the Planning and Zoning Commission and being on the Town Council. This section specifically prohibits that, correct? Attorney Olson stated that is correct and it is for compensated and elected positions of the Town.

Section 2.08. Investigations. Chairperson Lepore asked if there is anything regarding independent investigations and authorizing the Town Council, or is that just implicit? Attorney Olson said that she would argue that it is implicit. Obviously, it would be subject to whatever

the Council's obligations are vis-à-vis pairing up with consultants and that type of thing. Attorney Olson suggested changing the word "make" in the first sentence to "conduct". Mr. Oryell asked if there is a way to put a referendum vote or petition in this section, so that if the Town feels like the Town Council is not reacting, that someone could petition. Attorney Olson said that under Connecticut **General Statute 8.79**, there is the right to petition the Town Council. The Commission agreed to change the word "make" to "conduct" in the first sentence. Chairperson Lepore called a recess at 8:17 p.m. and called the meeting back to order at 8:23 p.m.

Section 3.02. Removal. In light of what has come to light this past week, Ms. Grasso wanted to look at this section again. Ms. Grasso stated that she didn't have a clear comment on how to change it. The Commission did change it somewhat, with the voting and we said we would wait to see Town Manager Salvatore's contract, and asked if that had happened. Attorney Olson said that she did provide Chairperson Lepore comments that changing subsection (b), at this point, according to Attorney Ken Weinstock, would run afoul with the Town Manager's current contract. Attorney Weinstock is the labor and employment attorney for the Town. Attorney Olson said, as an upside if you left this in, it is giving a potential Town Manager due process rights and could make coming to Cromwell more attractive.

Mr. Oryell asked Attorney Olson if there was any way for the people of the Town to go about at least starting the removal process? I'm not saying vote to remove someone, because that would never happen, but is there a way to start the process if they don't feel the Town Council is doing what they should be doing? Attorney Olson stated that they could petition under Connecticut General Statute Section 7.7. They could petition the Town Council and ask the Council to address the issue. You have to remember that there is a labor and employment aspect to this, too - it is much more nuanced. Attorney Olson suggested if the Commission were to revise the Charter in a way that it would be consistent with the Town Manager's contract, then they would need to consult with Attorney Weinstock.

Attorney Olson thinks that this section shouldn't be in the Charter, that it should be part of the contract. She also said the more you try to put in the Charter, the more peril you face down the road if there's a provision that suddenly doesn't work and you're trying to get rid of it.

Ms. Roberto asked Attorney Olson how much of subsections, (c), (d), (e) and (f) actually needs to be in the Charter, how much of this is ordinance rather than Charter, and can it be simplified rather than expanded, while kept in at this level? Ms. Roberto stated that she would like to keep this at a high level and to make sure that we are putting the onus on the Town Council. Attorney Olson suggested deferring this to Attorney Weinstock.

Mr. Gagnon said that if the Commission is conflicted about the current Town Manager's contract, we can't do anything right now, unless we have Attorney Weinstock. Chairperson Lepore said she would be happy to speak with Attorney Weinstock about this.

Chairperson Lepore summarized Ms. Roberto's point stating that this should be in a contract. We're not suggesting that the Town Manager should not have these protections, rather that they should be in a contract rather than a Charter. Chairperson Lepore understands Attorney Olson's point that flip-flopping and determining what is in the contract is dependent on the Town Council.

This is something that the Commission can think about and Chairperson Lepore can discuss this with Attorney Weinstock. Mr. Gagnon mentioned that you can discuss this with him, but until the current Town Manager's contract is up, what can we do? Attorney Olson said that this will not affect the current contract. Mr. Gagnon suggested leaving this section as is.

Mr. Oryell asked a question about the Town Manager being the head of Human Resources for the Town and asked who else is in an HR position. Mr. Gagnon said that in 2011, the HR position was eliminated and folded in to the Town Manager position. A part-time HR Coordinator was added later.

Ms. Grasso went back to Ms. Roberto's point about taking these sections out of the Charter and making it less robust. Ms. Grasso doesn't think this will hurt the Town Manager's current contract. It may benefit, going forward, because it allows more flexibility in realms that are not specifically in the Charter, keeping the Charter at a high level. We want to be very careful because we are looking at this Charter in a way that is for everybody – not just in this specific instance.

Chairperson Lepore stated that she would consult with Attorney Weinstock regarding subsections c-f of Section 3.02.

Section 5.06. Board of Finance. Attorney Olson will provide information on scenarios regarding the number of members and staggered terms, and get back to the Commission.

F. NEW BUSINESS

Article VIII

ANNUAL BUDGET AND FINANCIAL PROCEDURES

Section 8.01. Fiscal Year.

No changes or additions.

Section 8.02. Submission of Preliminary Estimates to the Town Manager.

No changes or additions.

Section 8.03. Proposed Budget.

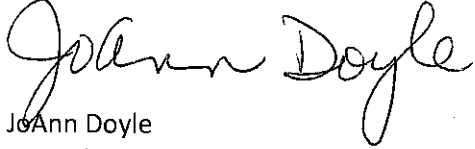
Subsection (a)

Chairperson Lepore mentioned that there was some previous discussion about changing the order, basically flipping the Board of Finance and the Town Council. The Commission felt that the Town Council should have the last look at the budget before the voters, rather than the Board of Finance. Mr. Cannata said his goal is not so much who has the final say, but in effect, to force dialogue between the two. Ms. Roberto agrees; that's the real key here. Even if the forced opportunity for dialogue means that the budget is presented, not just by a Board of Finance member, but also Town Council member, to the public. It doesn't look like it's just the Board of Finance to the public, and there's some cognizance on the part of Council members. The Commission is going to wait to finalize their decision until they get more into Article VIII.

G. ADJOURNMENT

Motion to adjourn made by Chairperson Lepore, seconded by M. Cannata. *All were in favor; the motion passed.* Meeting adjourned at 9:00 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "JoAnn Doyle". The signature is written in black ink and is positioned above the printed name and title.

JoAnn Doyle
Recording Secretary

From: ALICE KELLY amk114@sbcglobal.net
Subject: Charter
Date: May 18, 2022 at 9:51:55 AM
To: Mike Cannata cannata-const@msn.com

Mike:

I feel that any bonding over 1 million dollars should be done by referendum. As the present charter, only the budgets go automatically to referendum. Therefore the upcoming middle school of 40 million will be decided at a public hearing meeting. To have all vote on such a large expenditure, it will have to go the petition way. How do you feel about that?

Alice

Date: 5/11/2022

To: Charter Revision Commission Public Hearing

From: Diane Wiegert

Geer St.

Public Hearing Comment

Has anything been put in the charter to address fighting climate change, encouraging sustainable energy usage?

In the near future the Federal and State governments should be handing down some rules, limits, regulations etc to address climate change.

Is Cromwell being proactive by putting a section in the charter to address sustainable energy both at the town level and for new development applications? Will Cromwell put in place a plan for reducing Cromwell's carbon footprint and have that addressed in the charter?

Tonight at 7pm there are two important meetings: this one and the Town Council meeting which I am attending.

Thanks for any consideration on this.

ARTICLE 8

Employee Conduct

8-1. General Policy.

Town employees are prohibited from engaging in any conduct that could reflect unfavorably upon Town service. Town employees must avoid any action that might result in or create the impression of using public office for private gain or giving preferential treatment to any person.

8-2. Political Activity.

All employees of the town shall be able to exercise their rights as citizens consistent with C.G.S 7-421. No employee shall engage in political activities while performing duties for which such employee is employed and receiving compensation from the Town.

8-3. Conflict of Interest.

In accordance with the Town's Charter (Section C1203), any elected or appointed Town officer, member of any Town board or commission and any Town employee who has or may have a significant financial interest, direct or indirect, in any contract, transaction or decision or any agency, agent, officer, board or commission of the Town, shall immediately disclose the nature and extent of that interest, in writing, to the Board of Selectmen, who shall record such disclosure upon an official record filed of its meetings.

Any such officer, member or employee shall be disqualified from any discussion, action or vote on any such matter coming before an agency, agent, officer, board or commission. Such officer, member or employee of the Town shall not in any way condone, promote, encourage, influence or otherwise attempt to affect action or matters which will or may result in a conflict of interest between his town duties and responsibilities and his private affairs or which are incompatible with the proper discharge of his/her other official duties and, to that end, no elected or appointed Town officer, member or employee shall grant any special consideration, treatment or advantage to any person or entity beyond that which is available to every other person or entity.

Violation of the provisions of this section shall be grounds for the immediate dismissal of any such officer, member or employee. Any such violation shall render such contract, transaction or decision voidable by the Board of Selectmen or by a court of competent jurisdiction.

8-4. Confidentiality.

During the course of employment with the Town, employees will have access to certain confidential information. Such confidential information may include information

Town of Cromwell Elected and Appointed Officials Ethics Statement

The Cromwell Town Council adopts this Ethics Statement to assure that all elected and appointed officials, while exercising their office, conduct themselves in a manner that will instill public confidence and trust in the fair operation and integrity of Cromwell's Town government.

The citizens and businesses of Cromwell are entitled to have fair, ethical and accountable local government. To this end, the public should have full confidence that their elected and appointed officials:

- Comply with both the letter and spirit of the laws and policies affecting the operations of government;
- Are independent, impartial and fair in their judgment and actions;
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless required by law to be confidential, in an atmosphere of respect and civility.
- Pledge themselves to creating an inclusive and nondiscriminatory environment.

The Elected and Appointed Official Ethics Statement is intended to be self-enforcing and is an expression of the standards of conduct for members expected by the Town. Members entering office shall sign below acknowledging they have read and understand the Elected and Appointed Official Ethics Statement. In addition, the Statement shall be periodically reviewed by the Town Council, Boards, Committees and Commissions, and updated by the Town Council as necessary.

I affirm that I have read and understand the Town of Cromwell's Elected and Appointed Official Ethics Statement.

Signature

Date