



TOWN OF MIDDLEBURY

Charter Revision Committee

MINUTES

CHARTER REVISION COMMITTEE MEETING

Thursday, January 12, 2012 – 7:00 p.m.

Town Hall Conference Room

Present: Michael McVerry
Brenda Carter
Carole Cipriano
Dr. Carrie Falk
Patricia Fahey
Stephen L. Ferrucci, III
Arlene McAullife
Stephen Ruccio
Robert Flanagan

Also Present: Edward B. St. John, First Selectman
David Cappelletti, Board of Finance
Attorney Stephen L. Savarese
Barbara J. Whitaker, Recording Clerk
Heidi Shea
Marj Needham, Reporter – Bee Intelligencer

Excused Samantha Pacileo

Absent: Joseph Martino

Call to Order with Pledge of Allegiance

The meeting was called to order by the Chairman with the Pledge of Allegiance. The Chairman said that when Charter revision process was started a few years ago; most of the changes were approved with the exception of the Fire Commission. With that, the Chairman opened the discussion to David Cappelletti to share his thoughts on what changes should be made to the Charter.

Approval of Minutes of December 17, 2011 Meeting

The minutes will be approved at the next meeting.

Discussion and Consideration

Discussion of Various topics with Edward B. St. John, First Selectman

Mr. St. John stated that he felt a lot of work done on the last revision of the Charter; and that there were many discussions on the budget process and procedures.

Mr. McVerry shared with Mr. St. John that Mr. Cappelletti said that there are inconsistencies in the statutes and the Charter and that Mr. Cappelletti was invited to share his thoughts with the Committee this evening as he wasn't available to attend the last meeting. Mr. St. John said that he is confused about what those issues are.

Mr. McVerry asked if Mr. St. John had comments on the Health District. Mr. St. John said that the Health Department worked very well before when he was in office. Mr. St. John said that now the Town has been in a health district he doesn't see the Town being able to assume the same people back in those same positions.

MINUTES - CHARTER REVISION COMMITTEE MEETING

Thursday, January 12, 2012 – 7:00 p.m.

Town Hall Conference Room

Page 2

There was some discussion about putting the revised charter on the ballot. Mr. McVerry said that if the work is finished by the end of March it would be too late to be on the November ballot.

Mr. St. John stated that the property maintenance ordinance will move in dual process with Planning and Zoning and come back to the Board of Selectmen; and then there will be some public forums. Mr. McVerry said that they were approached about an ordinance and they felt that this was something that could not be placed in the Charter. Mr. St. John said that the Charter should be made as plain and simple as possible; he cautioned the Committee not to make the Charter too complex.

Mr. McVerry MOTIONED to add Mr. Cappelletti discussion on State statutes and the Town's Charter to the Agenda to discuss finance board concerns on the charter, SECONDED by Mrs. Carter. Unanimous approval.

Mr. McVerry stated at the public hearing Mr. Cappelletti indicated that there were some discrepancies with the State statute and the Town's charter. Mr. Cappelletti said that the definition of what a capital account is and what a reserve account is. He brought the attached materials with him. Mr. Cappelletti said that at one time there were capital accounts and then reserve accounts. Now they have capital reserve accounts. It is defined in state statute; but not in the Charter. He feels that this would be to clarify what the Board of Selectmen can do and what the Board of Finance's responsibility is.

His recommendation is that there are capital accounts and reserve accounts so that the first Selectman cannot spend money at will. For the last two years that has been happening. Money set aside in a capital account for a certain period of time or until it is abandoned (i.e., a three year period); and it would automatically reserve back to the capital account. He is requesting definitions in the charter of the various funds. He said that the confusion is that one is that there are new people on the board and they do not understand what these are; sometimes with six year terms if something was done more than six years ago, people do not know what is going on and they forgot what it was. Mr. Cappelletti said that there is money set aside for the first Selectman to spend at will; he just wants to be clear on the monies that are reserved for future use.

Mr. Cappelletti also said that the Board of Finance should have the ability to transfer monies and adjust the appropriation of money.

Mr. McVerry suggested that a subcommittee be formed to review what Mr. Cappelletti and Michael McCormack presented. They will look at finance information received tonight, last month and four years ago. This subcommittee will consist of Brenda Carter, Steve Ruccio and Mike McVerry.

Review and Comparison of Current Charter and Draft Revised Charter

Mr. Ferrucci researched and discussed with the Committee the attached section of the Waterbury Charter Section 4-4.

MINUTES - CHARTER REVISION COMMITTEE MEETING

Thursday, January 12, 2012 – 7:00 p.m.

Town Hall Conference Room

Page 3

Dr. Falk and Mrs. Fahey will take the Waterbury Charter Provision and try to conform it to the Town of Middlebury. Mrs. Carter also talked about changing the time frame from when the Selectman takes office and the election.

With regard to the discussion of raises for the First Selectman, Mr. McVerry said that there is concern about the compensation of the Selectmen and the First Selectman in particular and the raising of that salary. The public has given feedback about that issue. Attorney Flanagan said that the 27th amendment of the constitution might be good for the Town to adopt. This would mean that you cannot give yourself a raise without knowing that you will be elected. Mr. Flanagan will work on clarifying this because there has to be language on when the Board of Finance delineates on this. Mr. Ruccio suggested that other Town's procedures on this are looked into.

Attorney Savarese said that the Charter doesn't require for a second opinion. He would like the Commission to consider some expansion of the authority to allow for some challenge to the Town Counsel's opinion. He said that it upset the Board of Finance to have an opinion that they believed was wrong; they solicited another opinion which challenged his opinion.

Mr. Ruccio said that they felt in order to get an opinion that was unbiased for the Board that they had to get an opinion that was not someone who was hired by and working for the First Selectman. That is why they took the route that they did. Mr. Ruccio said that they went by State statute that allowed them to hire a lawyer. Mrs. Carter said that this was a unique situation and she hopes this won't happen again.

Dr. Falk said that if there was good communication from the beginning this would not have escalated to the point that it did.

Mr. Flanagan said that opinions are not binding; but should be paid attention to. In larger cities you do have it where almost every board and commission has their own Town Counsel.

Mrs. Needham asked if the Charter could state that a Town Committee should follow Robert's Rules. The committee said that they would consider this.

The next meeting will be on the January, 26th.

Adjournment

Dr. Falk MOTIONED to adjourn, SECONDED by Mr. Ferrucci. Unanimous approval.

These minutes are submitted subject to approval.

Respectfully submitted,

Barbara J. Whitaker

Barbara J. Whitaker
Recording Clerk

...dermen, may make
...iation or appropri-
...y be required in the
...y emergency affect-
...neral health, safety,
...e of the public or to
...nal judgment which
...dered against the City

...e any appropriation is
...ant to either Sections
...bove, the Board of Al-
...all conduct a public
...which any elector or
...of the City shall have
...nity to be heard. No-
...ch hearing shall be
...newspaper having a
...circulation in the City
...an ten (10) nor less
...s) days prior to such
...rovided that if in the
...pinion of the Board
...n any emergency un-
... (d) above is so grave
...re immediate action,
...hearing may be dis-
...h by such unanimous

...ppropriation made un-
...visions of Sections (c)
...ove shall be financed
...orrowing as may be
...o fund the same, pro-
...the amount of such
...shall be included in
...part of the next tax
...otherwise prohibited
...Board of Aldermen
...rize borrowing from
...y accounts or funds,
...orrowing shall be lim-
... (50) percent of the
...ounts receivable bal-
...the commencement
...year in which the bor-
...ade or fifty (50) per-
...e available funds,
...figure is smaller.

...appropriation remaining unex-
...ended and unencumbered at
...the close of the fiscal year shall
...lapse. Appropriations for perma-
...nent improvements shall not
...lapse until the purpose for which
...the appropriation was made shall
...have been accomplished or
...abandoned; provided any such
...project shall be deemed to have
...been abandoned if three (3)
...years shall elapse without any
...expenditure from or encum-
...brance of the appropriation for
...the project. The Board of Appor-
...tionment and Taxation and Direc-
...tor of Finance shall review such
...appropriation to verify its termi-
...nation.

... (f) Any payment made in vio-
...lation of the provisions of this
...Charter shall be illegal and ev-
...ery official authorizing or making
...such payment, and every person
...receiving such payment or any
...part, shall be jointly and sever-
...ally liable to the City for the full
...amount so paid or received.

Section 7.11. Procedures of the Chapter.

The procedures established by Sections 7.1 to 7.10 inclusive of this Chapter shall prevail over any conflicting procedures established by Chapter 4.

Section 7.12. Budget-Making Authority.

For the purposes of this Charter and the laws of this State, the Board of Aldermen shall be deemed to be the budget-making authority and the legislative body of the City and shall have all the powers and duties of such authority.

...paper having a substantial circula-
...tion in the City. Within five (5)
...days after the closing date for
...bids, the bids shall be opened
...publicly by the Purchasing Agent
...and the Board of Apportionment
...and Taxation (or the Finance
...Committee if the authority to
...award contracts has been dele-
...gated). The Board of Apportion-
...ment and Taxation (or the Fi-
...nance Committee if the author-
...ity to award contracts has been
...delegated) shall award the con-
...tract for the purchase to the low-
...est responsible bidder; provided
...however, the City may reject any,
...all or any part of any bids. If the
...authority to award contracts has
...been delegated, the Finance
...Committee shall award contracts
...only by unanimous decision and
...if a unanimous decision cannot
...be reached the matter shall be
...determined by the Board of Appor-
...tionment and Taxation. The
...Board of Aldermen may estab-
...lish such other regulations for
...purchases and bidding as it
...deems appropriate.

2. When any purchase involves an expenditure in excess of One Thousand Dollars (\$1,000.00) and does not exceed Four Thousand Nine Hundred and Ninety Nine Dollars (\$4,999.00), the Purchasing Agent, or in the case of the Board of Education, an agent designated by the Board of Education, shall obtain a minimum of three written proposals for the purchase of the item and shall make such purchase from the lowest responsible vendor, unless the Purchasing Agent, or in the case of the Board of Education, an agent designated by the Board of Education determines other-

...such manner as the Board of Al-
...dermen directs.

(d) The Director of Finance shall record the amount of each authorized purchase and each contract for a future purchase as a encumbrance against the appropriation from which it is paid or to be paid.

(e) Each charge and prospective charge against at the City shall state the Department and the appropriation against which it is to be charged. The Director of Finance or his agent shall audit and approve as correct and valid each charge against the City and shall authorize payment of all approved charges in writing. At the end of each month the Board of Apportionment and Taxation shall review the charges against the City for the preceding month and may make recommendations to the Mayor concerning charges against the City.

(f) The Director of Finance shall prescribe the time at which and the manner in which persons receiving money for the account of the City shall be paid.

Section 7.15. Petty Cash.

The Director of Finance may, with the approval of the Mayor, establish and maintain petty cash funds, from which funds purchases of goods or services may be made in such modest amounts as the Board of Aldermen may establish by ordinance. The Purchasing Agent shall keep records of the amount, purpose, and payee of each item purchased with such funds.

Section 7.6. Borrowing.

The City shall have the power to issue bonds and notes in ac-

...official. The Boa
...create the comp
...efits of any elec
...ing his term of o

7.17.2. Employee

The Board of
...establish by ordi
...pensation, includ
...of each employ
...whose compens
...efits are not ot
...lished through co
...ing.

Section 7.18. Ar

The Board of
...annually delega
...dent certified pu
...or firm of accoun
...books and acco

CHAP MERIT SYSTEM

Section 8.1. Merit

...lished.
...The City sha
...system for all e
...classified servic
...described in Se

All such emp
...appointed on th
...and in conform
...nized principles
...nel administrati
...employee shall
...cept for good ca
...formity with re
...ciples of public p
...istration.

The rules of th
...shall provide tha
...the Charter sha
...disciplinary acti

Section 8.2. The

the orderly conduct of the business of the City, or to avoid an unforeseen emergency and thereby prevent the serious impairment of the public business, such certification to be provided by the board or commission having the subject matter thereof in charge, or, if there is no board or commission in charge of the subject matter, then as certified by the Director of Purchases and the City Auditor.

In any instance in which it is proposed to renegotiate and conclude any alteration of terms, conditions or consideration due in a contract, as set forth in subparagraph (e) above, and a certificate has been provided as required under this section of the Charter, then and in that event, such actions of renegotiation and alteration may be pursued in accordance with all other applicable provisions of this Charter.

The restrictions enumerated herein are only applicable to a Mayor who shall not have been "re-elected" and shall apply only during the period of the term of office on and after the date of the municipal election in which it is determined that said Mayor will not continue in office, until the November 30th at midnight next following the date of such municipal election.

Sec. 4-5. Vacancy in Office of Mayor⁸³.

If a vacancy shall occur in the office of Mayor, the President of the Board of Aldermen shall at once become Mayor for the unexpired portion of the term and he shall have all the rights and powers and duties of such Mayor, and the term of office as president of the Board of Aldermen and member thereof shall then expire. If the person elected as Mayor shall for any reason fail to qualify and assume his office, the newly-elected Board of Aldermen shall elect the Mayor from their number.

Sec. 4-6. Acting Mayor⁸⁴.

If the Mayor shall be prevented from attending to the duties of his office by absence from the City or by illness or by any other cause, the President of the Board of Aldermen of said City and, in his absence or disability, such President *Pro Tempore* as the Board of Aldermen may elect, shall act as Mayor until the Mayor or President of the Board, as the case may be, shall be able to assume the duties of the office. Such acting Mayor shall have all the rights, powers and duties of the Mayor except that for a period of thirty (30) days from the date when such acting Mayor shall assume the performance of the duties of Mayor, he shall not have or exercise any power of appointment or removal. If an acting Mayor shall perform the duties of Mayor for seven (7) consecutive calendar days, such acting Mayor shall be compensated from the first day of such duty at the rate of fifty (50%) per centum of the Mayor's salary prorated for such period.

Sec. 4-7. Assignment of Rights or Duties to Town or City Officers⁸⁵.

In the event that any duties or rights conferred by law on town officers are not by this Charter assigned to some officer of the City or Town of Waterbury, the Mayor is authorized and empowered to assign such rights and duties to such officer of the City or town as he may determine.

Sec. 4-8. Annual Reports of Departments and Recommendations Thereon⁸⁶.

The department heads and other appointees shall, annually on or before the fifteenth day of August, submit to the Mayor, Board of Aldermen and Finance and Audit

Selectman Pay language

Section ??

The monetary compensation of the Selectmen, including the First Selectman, whether by salary or stipend or per diem, shall not be varied without an election for said offices intervening. This section shall not apply to variations in benefits of any variety for any cause.

CHARTER

OF THE

CITY OF WATERBURY

**Hon. Michael J. Jarjura,
Mayor**

**Hon. Michael J. Dalton
City Clerk**

**Hon. Antoinette C. Spinelli
Town Clerk**

**Adopted by the Electors of the City of Waterbury
November 5, 2002; as further amended by said Electors on
November 2, 2004 (including implementation of sunset
provisions approved in 2002) and November 2, 2010**

Published pursuant to §1C-1 of said Charter

(7) to examine the affairs and conduct of any department, board, commission or office and require all officers to exhibit their accounts and papers and make reports to him and to have the same powers granted to the Board of Aldermen by §§3A-1(a)(1); and,

(8) to compel the attendance at any duly warned meeting of a member of any City board or commission by the issuance of a warrant signed by him as Mayor for the arrest of the body of such member for presentation at such meeting. Such warrant shall be addressed to the City sheriff of the City or any policeman thereof and shall contain the name and address of such member and a direction to the officer to arrest him for the purpose of forthwith presenting him at such meeting.

Sec. 4-4. Mayor Not Succeeding to a Subsequent Term in Office: Powers, Duties and Restrictions².

Notwithstanding any other provisions of this Charter, from the date of any regular municipal election (as hereinbefore defined) until the conclusion of the term of office (November 30th at midnight, next to follow the date of such election), an incumbent Mayor who shall not have been "re-elected" for a subsequent term in office, shall not:

(a) increase the pay, allowances, benefits of any person appointed by him to the unclassified service of the City, including but not limited to: (1) the Corporation Counsel; (2) each executive secretary to the Mayor; (3) all other members of the staff employed at that time by the Mayor; and, (4) the Director of the Budget;

(b) exercise the power of appointment for department heads or other appointees permitted by this Charter or Ordinances, unless the failure to exercise such power would allow the alphabetical listing of the three (3) highest ranking candidates of the civil service exam submitted by the Director of Human Resources to expire, pursuant to the provisions of this Charter or Ordinances pertaining to civil service;

(c) exercise any power of appointment or promotion with regard to municipal employment positions, whether such position is within the classified or unclassified service, as defined in this Charter, unless his power to do so is clear under the civil service provisions of this Charter or Ordinances as either "provisional and/or emergency appointments";

(d) exercise any power of temporary appointment or promotion with regard to municipal employment positions, whether such positions are within the classified or unclassified service, as the power of temporary appointments is defined within the civil service provisions of this Charter or Ordinances;

(e) initiate and conclude any contract with any person as such term may be defined in law, which contract is not certified as necessary to the normal operations of the City, in and through its various department and agency units, by the board or commission having the subject matter thereof in charge, or, if there is no board or commission in charge of the subject matter, then as certified by the Director of Purchases;

(f) renegotiate and conclude any alteration of terms, conditions or consideration paid or subsequently due for payment in the matter of any contract previously in force and effect, unless such is certified as necessary to avoid stoppage of