

CITY OF STAMFORD 17TH CHARTER REVISION COMMISSION

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MINUTES

Thursday, November 3, 2011

7:00 p.m. – Republican Caucus Room

4th Floor, Government Center

888 Washington Boulevard, Stamford, CT 06904-2152

The 17th Charter Revision Commission of the City of Stamford met as indicated above. Present were Commission Co-Chairs Freccia and Sandak and Commissioners Fedeli, Gwozdziowski, Grebey, Jachimczyk, Lucas, McManus, Nabel, Okun, Robins, Roseman and Sherer. Excused were Commissioners Williams and Kriftcher. Also present were Annie Summerville, Clerk of the BOR; Rep. Layton; Michael Larobina, Director of Legal Affairs; and Michael Toma and Ken Povodator of the Law Department.

1. Co-Chair Sandak called the meeting to order at 7:00 p.m.
2. The Commissioners introduced themselves and gave a brief biography.
3. Legal Overview of Charter of the City of Stamford and Freedom of Information Act (FOIA) issues – Michael Larobina, Esq., Director of Legal Affairs; Ken Povodator, Esq. and Michael Toma, Esq., Department of Legal Affairs.

Co-Chair Freccia introduced Messrs. Larobina, Povodator and Toma. Mr. Povodator began by reviewing the history of Stamford's charter:

- The Charter dates back to the late 1940s, when Stamford consolidated its town and city governments (before Consolidation, the City of Stamford was within the Town of Stamford). Language from the 1947 Charter remains in today's charter. The State of CT approved the consolidation, approved the proposed charter, and the Stamford voters approved it by referendum in 1949.
- During the mid 1950's, the General Assembly enacted Home Rule Acts, which allowed charter creation and revision to be handled by each municipality.
- In 1965, Connecticut adopted a new constitution, and this constitution contains a provision that requires the General Assembly to stay out of the business of local municipal government.

- Charter Review is required every ten years, but can be held more frequently, even yearly.
- A Charter is similar to a constitution. It sets the framework for what the City can do and who can do it. It does not spell out details – details are decided by ordinances.
- The Charter is not meant to be easily or frequently changed.
- The Commission cannot do anything that Home Rule Laws do not authorize. For example, Stamford cannot institute a city sales tax because the State does not authorize municipalities to impose taxes.
- Title 7 of the State Statutes deals with municipalities; there is a separate chapter that deals with Home Rule. Section 7-148 contains a 5-7 page list of powers that municipalities have.

Co-Chair Sandak noted that legal counsel will be acquired to represent the Commission, and one of counsel's responsibilities will be to make certain changes proposed are authorized by state law.

Co-Chairs Sandak and Freccia also noted that transparency in the Commission's activities will be the rule.

Mr. Povodator continued with a review of Stamford government operations:

- Four organizational charts (see attached) were provided to the Commissioners, covering the 4 divisions that were created in the 1995 Charter: Administration; Operations; Legal Affairs; and Public Safety, Health & Welfare. Each division is headed by a Director, and the four Directors report directly to the Mayor.
- The Mayor is the chief executive officer of the City, and the four Directors constitute the Mayor's cabinet.
- The Board of Finance (BOF) has functions related to finance. The primary stated function in the Charter is supervision of the City's fiscal policy and budgetary process, it is involved in some contract processes, and it has some audit capabilities. It is supposed to be a limited function body.
- The Board of Representative (Stamford's legislative body) enacts ordinances and resolutions. The BOR is widely charged with responsibilities because it enacts ordinances.
- Authorities can be and have been created by the BOR. They can only be created under the authority granted by state statute. Examples are the Golf Authority (Sterling Farms) and the Water Pollution Control Authority.
- The Board of Education is considered to be a joint city/state entity because it fulfills both state and local functions. The Board of Education is covered under Title 10 of the State Statutes. The Board of Ed is largely autonomous. The City is required to fund the Board of Education at a level that allows it to perform its function. When the Mayor, the BOF and the BOR review the BOE's budget, they review it at a line-item level and can make small reductions. After the BOE budget is approved, neither the Mayor nor the BOF or BOR can dictate how the

- There are statutes with respect to collective bargaining for the BOE employees and other statutes for public employees. These statutes are very detailed, with strict time tables, etc.

Mr. Povodator went on to describe the budget process:

- There are two parts to the city's operating budget: the capital budget and the operating budget.
- The Planning Board has a role in preparing the capital budget. The Mayor submits a proposed budget to the Planning Board; the Planning Board reviews it in great detail and sends it back to the Mayor; the Mayor then forwards it to the BOF; finally, the BOR acts on it. The Mayor is not limited in what he sends to the BOF, however, he must note the Planning Board's actions.
- The Operating Budget is prepared by the Mayor and submitted to the BOF, and then the BOR. The BOR and the BOF can only reduce the budget; nothing can be added to it after the Mayor submits it. The Mayor is also required to submit a two year projection with the annual operating and capital budgets.
- Mr. Povodator explained how the mill rate is calculated. There are four taxing districts. (All four include costs for general city services (GCS), such as tax collection). The chart below shows the services included in the mill rate for each district.

District	GCS	City/Volunteer Fire	Sewers	Trash Pickup
A	Yes	City	Yes	Yes
B	Yes	City	No	No
C	Yes	Volunteer	No	No
CS	Yes	Volunteer	Yes	Yes

Director of Legal Affairs Michael Larobina gave a short commentary, stating:

- The Charter is the fountainhead of all authority, and the legislative body cannot pass any legislation that is in the slightest conflict with the Charter. The Charter controls.
- The General Assembly gave the municipalities the authority to create authorities. The BOR, for example, chose to create the Golf Authority. The DSSD is another authority created under its own enabling statute. These authorities have a tremendous amount of autonomy.
- He encouraged the Commission to have its legal counsel look at the case law regarding the BOF, in particular, the Ellington vs. BOE case, which has very clear language in the limitations it imposed on Ellington's BOF. There is language in our charter that is unclear with respect to BOF powers. The Ellington decision went as far as to say that once funds are appropriated to a department (e.g., the

- He encouraged the Commission to “have the courage” to look at the structure of city government. The current structure is from 1947 and does not serve the City well. The 1995 charter did not change the structure of government but primarily changed titles (e.g., from Corporation Counsel to Director of Legal Affairs; from Commissioner of Public Works to Director of Operations). He does not believe the structure is reflective of who Stamford is and its level of importance to the State (soon to be CT’s 3rd largest municipality, very successful, the economic engine for CT).
- Mr. Larobina questioned why the BOR has 40 members; why there is a BOF with every function (except setting the mill rate) duplicated by the BOR; why there are numerous boards and commissions that overshadow the BOR. He also stated that there is no consistency across administrations, causing disruption with each election change. He urged the Commission to look at a city manager form of government.

Mr. Sherer asked Mr. Larobina whether he knew of any cities similar to Stamford with a structure that the Commission could examine. Mr. Larobina responded that CT does not have any examples, and the Commission may have to look outside CT. Mr. Larobina continued:

- Stamford/BOR has no sovereign authority. The US Government derives its powers from the states, which could remove those powers at any time. Similarly, Stamford derives its power from the State, which sovereign power can be withheld from or delegated to the municipalities. The BOR can enact ordinances only when the State says it can.
- There is a hierarchy of authority: on the bottom are local ordinances, above that is the Charter, above that are state statutes and on top is the CT Supreme Court.
- There is a lot of case law in CT about municipalities.
- The City’s law department is available to assist in any way it can.
- Estimates for expanding city fire throughout Stamford are about \$15 million. The current setup charges residents for the exact services they receive.
- Municode.com has examples of other CT charters and codes.

The Commission took a 5-minute break at this time.

Mr. Toma gave a brief overview of FOIA (Freedom of Information Act):

- Each Commissioner is now a part of government and a public official and is required to comply with FOIA.
- FOIA’s purpose is to make sure that government runs in an open fashion. It is a basic right of CT citizens to know and observe how governments operate and how decisions are made.
- There are two main parts of FOIA: Records and Meetings.

- The public has the right to review and request basically every document that we possess or we have the ability to obtain. Exceptions to this rule generally do not pertain to this Commission, but a limited exception for preliminary drafts where the reasons for withholding of them from the public outweighs the public's interest in seeing them might apply.
- Notes taken at meetings are public documents, however there are no requirements to retain notes after they have fulfilled their purpose, even if that purpose is just to get through the current meeting.
- He recommended that everyone keep their notes in a single file so that if there is an FOIA request, the documents can be easily located; at the end of the Commissioner's service, the notes can be discarded. He also recommended being discrete in the use of emails. Emails are treated the same as any other document.
- It was suggested that charter business-related emails be copied to each commissioner's city email account so that copies will be retained by the city.
- If an email is deleted and unavailable, there are no repercussions from not being able to produce it. (This gets into another area – record retention.)
- If there is a FOIA request, no outside person goes through anyone's emails. You would search your own emails and produce the appropriate records.
- If anyone gets an FOIA request, they should forward it to the co-chairs.

Mr. Toma spoke about Meetings and FOIA:

- All meetings are open to the public with very limited exceptions.
- The door to the meeting room must remain open.
- The press (and the general public) can come in, set up cameras and record, so long as they are not disrupting the meeting.
- Sub-committee meetings and committee meetings are treated exactly the same as full commission meetings.
- The public does not have the right to speak at meetings, unless the intent was to have public participation.
- The public does not have to give names or addresses, although it could be allowable to request speakers at a public hearing to give a name for record-keeping purposes. You cannot limit visitors or speakers to residents of Stamford. If someone does not want to give their name, it is best to just let them speak anyway.
- The public can bring signs and hold them up at a meeting. If they are chanting or disturbing the meeting, the best course is to call the police and ask that they be removed (as opposed to building security).
- The public can only be excluded if the Commission votes to go into executive session. There are limited reasons this can be done: 1) if the Commission wanted to talk about a particular individual (as opposed to a position) and that individual agrees; 2) pending litigation; 3) security strategy; 4) selection or purchase of property; 5) if you are going to discuss a document that is protected, such as the RFP.

- What constitutes a meeting? The presence of a quorum, without which business cannot be conducted. For the Charter Revision Commission, 8 members would constitute a quorum. If fewer than 8 show up for a meeting, the FOI Commission would not look favorably on the attendees meeting anyway and discussing commission business.
- An unplanned meeting of a few commissioners (less than a quorum) who hold a discussion relating to the Commission would not constitute a meeting.
- Members can participate by telephone; however, if there are written materials, or maps or other items on display, the remote member must have copies of the materials or be able to view the materials. A remote member may vote. The remote member must be able to hear everything at the meeting, and all members must be able to hear the remote member.
- If there are 3 members of a subcommittee and two of them are on a telephone call discussing commission business, this would constitute a meeting.
- The FOI Commission held that if a quorum of members is involved in discussing commission members via email, this constitutes a meeting.
- All meetings must be noticed with the Town Clerk at least 24 hours in advance.
- Agendas must be specific. Terms like “old business,” or “new business” should not be used.
- Minutes must summarize what happened at the meeting and be filed with the Town Clerk within 7 days of the meeting. They do not have to be verbatim. Videos are not substitutes for written minutes.
- Enforcement is handled by the FOI Commission, which hears complaints. The ultimate sanction is the FOI Commission invalidating the action that took place at the meeting. The FOI Commission could impose fines. If a member is acting within the scope of his/her responsibilities, there are no personal consequences as everyone is indemnified by the City of Stamford.
- If the Commission wants to take something up that does not appear on the previously-filed agenda, it will require a 2/3 vote.
- If the Commission holds a special meeting (which in this case would be any meeting not held on its previously-agreed weekly Wednesday night meetings), no business can be taken up other than what is on the filed agenda.

The Commission took a five-minute break at this time, reconvening at 9:25 p.m.

4. Rules of the Commission – Upon motion duly made and seconded, the Commission voted unanimously to adopt the rules of the board as proposed (see attached).
5. Discussion of Charter Review Process – Mr. Sandak described three phases in the Charter Review process:
 - The First Phase involves collecting items for the Commission to review. The Commission has received the charge from the BOR, it will be holding a public hearing, and it will be soliciting ideas from the public. (State statute requires the first public hearing be held prior to any substantive work being done.)

- The Co-chairs distributed a form (see attached) that will be used at the public hearing. The form will also be distributed to city department heads so that they can contribute ideas.
- Phase II will be taking all of these items and assigning them to committees. The last Charter Commission had the following committees: elective government; fiscal and budgetary; public safety; administrative; technical review; education and pensions and personnel. There will probably be similar committees this time.
- Phase III will be the actual committee work. The Commission will decide what information everyone wants, and consideration will be given to establishing a format for committee meetings.

After the committees have done their work, they will report back to the Commission on their findings and recommendations. At that point, a draft report will be provided to the BOR.

The BOR can accept or reject the draft report in whole or in part. The BOR will probably come back to the Commission with recommendations, and the Commission can revise its draft report, producing a final report. At that point, the Final Report is in the hands of the BOR for its action.

Commission members discussed what would happen if it couldn't complete the work within the time frame proscribed by the BOR. At that point, the Commission can go back to the BOR and ask for more time, or it will have to decide whether to go forward with a limited charter revision. The Commission could also ask to have another charter revision the following year.

6. Scheduling of Meeting Dates
 - a. General Meeting – The Commission will meet on Wednesday nights. There will be no meeting on Wednesday, November 9th. On Wednesday, November 16th, the Commission will meet with city officials to hear their recommendations. The same format will be used as for the public hearing.
 - b. First Public Hearing – The Commission agreed to hold the first public hearing in the Legislative Chambers, 4th Floor, on Monday, November 21, 2011 at 7:00 p.m. Members of the public will be asked to complete the form and will be given 3 minutes to speak.
 - c. Committee Meetings and assignments – This will be taken up after the public hearing on the 21st.

7. Upon motion duly made and seconded, with two corrections, the Commission voted unanimously to approve the minutes of the 10/24/11 meeting.

Upon motion duly made and seconded, the meeting was adjourned at 10:10 p.m.

Submitted by:

Vincent Freccia, III, Co-Chair

Jay Sandak, Co-Chair

This meeting is on [video](#).