

BOARD OF SELECTMEN SPECIAL MEETING

Tuesday, July 12, 2022

2:00 pm

Via Webex 1 and In Person in the

1st Floor Conference Room, Independence Hall 725 Old Post Road, Fairfield, CT

A recording of this meeting can be found here: https://www.youtube.com/watch?v=sB_qL7AmkOI.

FINAL MINUTES

MEMBERS PRESENT: First Selectwoman Brenda L. Kupchick, Selectman Thomas M. Flynn, Selectwoman Nancy E. Lefkowitz

OTHERS PRESENT: Attorney Steven Mednick, Town Attorney James Baldwin, CRC Commissioner John Wynne, CRC Commissioner Pamela Iacono, FairTV

1. CALL TO ORDER

First Selectwoman Kupchick called the meeting to order at 2:00 pm.

2. PLEDGE OF ALLEGIANCE

First Selectwoman Kupchick led the Pledge of Allegiance.

3. PUBLIC EXECUTIVE SESSION

TO HEAR, CONSIDER AND ACT UPON BOARD OF SELECTMEN RECOMMENDATIONS FOR FURTHER CONSIDERATION BY THE CHARTER REVISION COMMISSION (SEE ATTACHED RESOLUTION)

First Selectwoman Kupchick said that yesterday the BOS finished identifying items to send back to the CRC. She said today, the BOS will review and discuss the draft list of items and then vote on each item to send back to the CRC.

The BOS went through the resolution article by article, and the votes are below. The full and detailed discussion on these items can be accessed through the link to the meeting recording above.

RECOMMENDATIONS TO THE CHARTER REVISION COMMISSION, PURSUANT TO C.G.S. §7-191(b)

WHEREAS, the Charter Revision Commission (hereinafter, "Commission") submitted its draft report to the Town Clerk on June 20, 2022 ("Draft Report"); and,

WHEREAS, the Board of Selectpersons has engaged in public meetings with members of the Commission and has conducted a Public Hearing on the Draft Report in accordance with C.G.S. §7-191(b) and considered and reviewed said Draft Report; and,

WHEREAS, the Board of Selectpersons generally accepts the substantial content of the Draft Report favorably; and,

WHEREAS, pursuant to C.G.S. §7-191(c) the Board of Selectpersons, as the appointing authority of the Charter revisions is authorized to make recommendations to Commission for modifications of the Draft Report; and,

WHEREAS, the Board of Selectpersons does have a number of issues in the Draft Report that should be added, modified or deleted.

NOW, THEREFORE, BE IT RESOLVED BY BOARD OF SELECTPERSONS OF THE TOWN OF FAIRFIELD: That the Charter Revision Commission consider the following recommendations and alterations to its Draft Report:

Item 1: Article I, §1.4: Review Definitions: Including, but not limited to the definitions of “Board and Commission”, “Contract”, “Ordinance” and “Regulation” adding a definition for “Vacancy” and “Appointing Authority” (Article VI, §6.4.A) as well as a general review of the definitions necessary to ensure clarity and consistency.

Selectman Flynn made a motion to approve Item 1. Selectwoman Lefkowitz seconded the motion. The motion carried unanimously.

Regarding the WHEREAS clauses listed above, Selectwoman Lefkowitz made a motion to remove the third WHEREAS clause above “(WHEREAS, the Board of Selectpersons generally accepts the substantial content of the Draft Report favorably; and,)”.

First Selectwoman Kupchick seconded the motion for discussion purposes.

Attorney Mednick explained the meaning of the third WHEREAS.

Regarding the third WHEREAS clause listed above, Selectwoman Lefkowitz made a motion to strike the word “substantial” from the third WHEREAS.

The motion carried unanimously.

Item 2: Article I, §1.4(8): Elected Town Official. Please consider including the RTM within the definition as an Elected Town Official and making modifications throughout the Charter accordingly.

Selectwoman Lefkowitz made a motion to approve Item 2. Selectman Flynn seconded the motion. The motion carried unanimously.

Item 3: Article I, §1.5. Please review “Standards of Conduct” in order to determine whether these provisions should be Ordinances rather than Charter provisions.

Selectwoman Lefkowitz made a motion to approve Item 3. Selectman Flynn seconded the motion.

Selectwoman Lefkowitz said she would like to add a line to the above sentence giving the CRC the ability to modify the Standards of Conduct language so it’s not limited in a binary way and to feel more modern.

First Selectwoman said Standards of Conduct is already in the Charter. Selectwoman Lefkowitz asked if this should be moved from the Charter to ordinance. Town Attorney James Baldwin said the proposed language is verbatim to the existing language in the current Charter. He said it's a question of whether language can be supplemented or improved by ordinance which he said it can. He said it doesn't extinguish RTM's right to add or modify the terms.

Selectman Flynn clarified that this is a vote by the BOS to send back to the CRC to decide if Standards of Conduct should be in the Charter or not and assuming it stays in does the CRC want to change any of the language of the Standards of Conduct in any form.

Selectwoman Lefkowitz feels the Standards of Conduct language can be made more inclusive. Town Attorney Baldwin suggested Selectwoman Lefkowitz give the CRC specifics on what language she would like to see in the Standards of Conduct.

The motion failed unanimously.

Item 4: Article I and Generally. Please review (a) §1.6 "Rules of Order and Civility (general review of provision based on public testimony and comment); (b) §1.7 Open Meetings and Public Records (for redundancy); and (c) Diversity, Equity and Inclusion (whether a standard of Town-wide application can be developed). In furtherance of the discussion on "open meetings" please consider removing the "open meeting" requirement from Article III, §3.4.B. In the alternative establish a public meeting standard that establishes a context under FOIA, including the necessity, from time to time of executive sessions.

Selectwoman Lefkowitz made a motion to approve Item 4. Selectman Flynn seconded the motion.

The motion carried unanimously.

Item 5: Article I, §1.6.C(1). Counsel recommends review order to consider authorizing the RTM to adopt rules which supersede Robert's Rules; in effect utilizing Robert's as a default in the event there is no rule or a rule requiring parliamentary interpretation.

First Selectwoman Kupchick made a motion to approve Item 5. Selectwoman Lefkowitz seconded the motion.

Attorney Mednick said the language is redundant and is already in the current Charter.

The motion failed unanimously.

Item 6: Article II, VII and VIII. Please consider reformatting current charts for readability and consistency.

Selectwoman Lefkowitz made a motion to approve Item 6. Selectman Flynn seconded the motion. The motion carried unanimously.

Item 7: Article II, §2.3.A(1) and (2), §2.3.C(1)(a) and (b) and throughout the Charter. Please review the necessity of separating the First Selectperson from the Board of Selectpersons.

Selectwoman Lefkowitz made a motion to approve Item 7. Selectman Flynn seconded the motion. The motion carried unanimously.

Item 8: Article II, §2.3.B and C.1(c) and Article III, §3.2.A(1)(c). Please review the issue pertaining to the number of RTM members.

Selectman Flynn made a motion to approve Item 8. Selectwoman Lefkowitz seconded the motion.

There was a discussion on keeping the membership at 40, decreasing the number of RTM members and not much supporting documents showing why membership should be decreased.

The motion carried unanimously.

Selectwoman Lefkowitz made a motion to add a recommendation for the CRC to consider allowing the RTM to hire its own outside counsel. There was no second.

Item 9: Article II, §2.6.D. Please review the issue of filling a vacancy on the Board of Selectpersons

First Selectwoman Kupchick made a motion to approve Item 9. Selectwoman Lefkowitz seconded the motion. The motion carried unanimously.

Selectwoman Lefkowitz made a motion to add a recommendation to the CRC to look at the terms of the BOS and the number of members which she thinks should be increased to five. First Selectwoman Kupchick seconded the motion.

The motion failed 1-2-0 (Selectwoman Lefkowitz in favor).

Item 10: Article III, §3.3.G. Please review the issue of defining the role of the Parliamentarian.

Selectwoman Lefkowitz made a motion to approve Item 10. Selectman Flynn seconded the motion. The motion carried unanimously.

Item 11: Article III, §3.6.B. Please review the issue of the time-frame for holding of referenda.

Selectwoman Lefkowitz made a motion to approve Item 11. Selectman Flynn seconded the motion.

Selectwoman Lefkowitz said this is an opportunity to add a line that's more inclusive for the entire community to create longer amount of time for people to get to the polls.

The motion carried unanimously.

Selectwoman Lefkowitz made a motion made a motion to add a review by the CRC of a reapportionment of voting districts. Selectman Flynn seconded the motion.

Selectwoman Lefkowitz explained this motion refers to providing clarity to the RTM on that body voting on polling locations and to hear from RTM members on this.

The motion failed 1-2-0 (Selectwoman Lefkowitz in favor).

Item 12: Article IV, §4.2.B(1)(a). Please (a) review the provision pertaining to the approval of Board of Education by the Board of Selectpersons; and (b) consider lowering the threshold from \$100,000 to \$50,000.

Selectwoman Lefkowitz made a motion to approve Item 12. Selectman Flynn seconded the motion.

Selectman Flynn asked if the attorneys and the CRC will make sure any of the language is consistent with State Statute requirements. Attorney Mednick answered yes. Selectwoman Lefkowitz said there is concern around the added level of oversight of the BOE by the executive body on purchasing and contracts and asked that this can be looked at broadly under either Item 12 or Item 13. First Selectwoman Kupchick said that may not be correct and there are two issues here. She clarified there was one issue raised that there is basic language in the existing Charter that states BOE items go through the Town's Purchasing department and another issue regarding additional language relating to State Statutes that were clarified among the attorneys and BOE attorneys. Attorney Baldwin said he will make sure sections pertaining to contracts are consistent with State Statutes.

Selectman Flynn said he respects the separation of the Town and BOE and the Town shouldn't go over the line of the BOE's independence, but at the same time, he stated the Town has a fiduciary responsibility when approving BOE contracts with requested Town funding so nothing falls between the cracks.

The motion carried unanimously.

Item 13: Article IV, §4.3.B(5) and (8). Please review (a) the capital plan issue in sub-par (5) and compare to sub-par (6) for redundancy and coordinate with the budget function in Article IX; and, (b) the staffing issues in sub-par (8).

Selectman Flynn made a motion to approve Item 13. Selectwoman Lefkowitz seconded the motion.

There was a discussion surrounding the timing of reviewing the operating budget and capital planning which led to amendments regarding Items 13 and 24.

Selectwoman Lefkowitz made an amendment to add Item 24 (Item 24: Article IX. Please review the budget timeline) to the discussion on Item 13 and to change the word "staffing" to "reporting" and add sub-par (paragraph) 4 to Item 13. Selectman Flynn seconded the amendment which carried unanimously.

Selectman Flynn made a motion to amend Item 24 to read "Please review the budget and Capital planning timeline". Selectwoman Lefkowitz seconded the amendment which carried unanimously.

The amended motion carried unanimously.

Item 14: Article IV, §4.3.C(3). Please review the "Mediation and Resolution clause in order to achieve clarity of purpose.

Selectwoman Lefkowitz made a motion to approve Item 14. Selectman Flynn seconded the motion and suggested removing the word, "Resolution". The motion carried unanimously.

Item 15: Article IV, §4.3.F: Town Administrator. Please consider: (a) Delineation of duties; (b) Appointment or approval by the Board of Selectpersons; (c) change of title to Chief Administrative Officer. (d) codify reporting obligation to the Board of Selectpersons; or, (d) other ways and means to clarify the role in government.

Selectwoman Lefkowitz made a motion to approve Item 15. Selectman Flynn seconded the motion.

Selectman Flynn made a motion to amend Item 15 by removing “(b) Appointment or approval by the Board of Selectpersons;” and “(d) other ways and means to clarify the role in government.”

Selectwoman Lefkowitz said she will support the amended motion, but wants to be sure her position is clear that the CRC should review this recommendation as written in its entirety for the purposes of conversation and evaluation and to look again at the rationale of having this appointment approved by the Board of Selectpersons.

Selectman Flynn said his rationale in removing these two items is because they are redundant.

First Selectwoman Kupchick seconded the motion for the amendment which carried 2-1-0 (Selectwoman Lefkowitz opposed).

The amended motion carried unanimously.

Item 16: Article V, §5.2.F and Article VII, §7.17. Please review the elimination of the Constables as elected Officials.

Selectwoman Lefkowitz made a motion to approve Item 16. First Selectwoman Kupchick seconded the motion.

First Selectwoman Kupchick said she doesn't think this should go back to the CRC. She said the Constables deal with sensitive matters and the Probate Court should have a say in who handles the sensitive issues they deal with daily. She said to leave this the way it is. Selectman Flynn said to continue to have Constables who the Probate Court wants to work with.

The motion failed 0-3-0.

Item 17: Article V, §5.5. Please review whether there is a continued role for the Board of Finance on the issue the assessment system?

Selectman Flynn made a motion to approve Item 19. Selectwoman Lefkowitz seconded the motion.

Selectman Flynn said with the advancement in technology, this system is no longer needed and in conflict with what the State is requiring.

The motion failed 1-2-0 (Selectwoman Lefkowitz in favor).

Item 18: Article V, 5.7.B(1). Is there a difference between a Master Plan and POCD?

Selectwoman Lefkowitz made a motion to approve Item 18. Selectman Flynn seconded the motion.

The motion carried unanimously.

Item 19: Article VI, §6.1.A. Please review whether the Elector requirement should attach to the position of Town Attorney.

Selectman Flynn made a motion to approve Item 19. Selectwoman Lefkowitz seconded the motion.

The BOS discussed the Town Attorney not needing to be an elector of the Town. Selectwoman Lefkowitz would like to change language to say “may be” which she stated for the record but wasn’t voted on.

The motion carried unanimously.

Item 20: Article VI, §6.10. Please review whether the Board of Selectperson, by majority vote, may also introduce Ordinances creating Boards and Commissions and clarify the authority of the Board of Selectpersons introduce Ordinances of this nature.

Selectwoman Lefkowitz made a motion to approve Item 20. Selectman Flynn seconded the motion. The motion failed unanimously.

Item 21: Article VII, §7.5. Please review the status of the Town Treasurer.

Selectwoman Lefkowitz made a motion to approve Item 21. Selectman Flynn seconded the motion. The motion failed unanimously.

Selectwoman Lefkowitz made a motion to have the CRC reevaluate the Chief of Staff position as an appointed Town Officer and remove it from the Charter. There was no second.

Selectwoman Lefkowitz made a motion to include as an officer appointed by the Board of Selectpersons a Diversity Equity Inclusion (DEI) Officer. Selectman Flynn said all three of the BOS tried to put this position in this year’s budget, but it was not approved by another town body. First Selectwoman Kupchick said she had included this position in her proposed budget this year, but the Board of Finance didn’t approve it. She said she will continue to try to institute this position in her budget. Selectwoman Lefkowitz said she doesn’t agree with this characterization on how the position not approved was played out. There was no second.

Item 22: Article VIII, §8.16. Please continue to review additional requests from the Board of Library Trustees and CFO.

Selectwoman Lefkowitz made a motion to approve Item 22. Selectman Flynn seconded the motion. The motion carried unanimously.

Item 23: Article IX, §9.1.A. Please consider moving the cooperation provision to Article I.

Selectwoman Lefkowitz made a motion to approve Item 23. Selectman Flynn seconded the motion. The motion carried unanimously.

Item 24: Article IX. Please review the budget timeline.

Item 24 was already discussed along with Item 13.

Item 25: Article IX, §9.3.B. Please re-evaluate the role of the FS as convener of the Joint Meetings.

Selectman Flynn made a motion to approve Item 25. Selectwoman Lefkowitz seconded the motion.

Selectman Flynn made a motion to amend Item 25 to say Joint “Budget” Meetings. Selectwoman Lefkowitz seconded the amendment which carried unanimously. The main motion, as amended, carried unanimously.

Item 26: New. (a) Please consider creating an on-going body to consider government reform measures; (b) Adding a DEI Officer; (c) Addressing Open Space and DEI; (d) DEI Commission.

Selectwoman Lefkowitz made a motion to approve Item 26. First Selectwoman Kupchick seconded the motion.

The motion failed 1-2-0 (Selectwoman Lefkowitz in favor).

Item 27: Generally. Please continue to review and approve (a) all errata, scrivener’s corrections [including, but not limited to Article III, §3.2.A(1)(d) and (e)] and restored language for final approval by the Board of Selectpersons; and, (b) the effective date provisions (Article X, §10.5) in order to facilitate the implementation of any revisions.

Selectwoman Lefkowitz made a motion to approve Item 27. Selectman Flynn seconded the motion. The motion carried unanimously.

Selectwoman Lefkowitz made a motion to see if there was anything in the Charter that hasn’t been discussed, deleted or captured by the deadline. Selectman Flynn seconded the motion. The motion carried unanimously.

Selectwoman Lefkowitz made a motion to review 2.3d and 4.2a. The provisions are consistent. First Selectwoman Kupchick seconded the motion. The motion carried unanimously.

Selectwoman Lefkowitz made a motion to add the term “or the Town” to 4-2,4-c as it was in the old Charter. Selectman Flynn seconded the motion. The motion carried unanimously.

Selectwoman Lefkowitz made a motion to add the term “willing” to the sentence in 4.3b (12). Selectman Flynn seconded the motion. The motion carried unanimously.

Selectwoman Lefkowitz made a motion to add an Item for the CRC to review the role and responsibilities of the Town Attorney. Selectman Flynn seconded the motion. The motion failed 1-2-0 (Selectwoman Lefkowitz in favor).

Selectwoman Lefkowitz made a motion under Town Attorney appointment and qualifications, Section 7.2A, to add “and approved by the Board of Selectmen”.

BE IT FURTHER RESOLVED: That the Board of Selectpersons authorizes the Town Attorney and Counsel to the CRC and Board of Selectpersons to continually review the document for errata and other non-substantive editorial revisions, subject to the approval of the Commission and final review and approval by the Board.

BE IT FURTHER RESOLVED: That the Board of Selectpersons ratifies the filing of the Draft Report to the Town Clerk on June 20, 2022, as consistent with the intent of the Board of Selectpersons as specifically addressed in its proceedings on August 30, 2021, clearly articulated to and understood by the Charter Revision Commission and the public during the first phase of the charter revision process; and, by the resolution in compliance with the statutory obligations set forth under C.G.S. §7-190(b).

Selectwoman Lefkowitz asked if the sentence “BE IT FURTHER RESOLVED: That the Board of Selectpersons authorizes the Town Attorney and Counsel to the CRC and Board of Selectpersons” is needed. She asked if this resolution would still work without this sentence.

Selectwoman Lefkowitz made a motion to remove the last two paragraphs (the BE IT FURTHER RESOLVEDs) to be separated out into their own resolutions. She said she’d have to reject the entire resolution if the resolution’s last two paragraphs are kept in.

Selectwoman Lefkowitz made a motion to strike the last two paragraphs and move them into their own separate resolution. First Selectwoman Kupchick seconded the motion.

Attorney Mednick suggested separating the sections of the resolution into parts A (votes on each article), B (the first “BE IT FURTHER RESOLVED”) & C (the second “BE IT FURTHER RESOLVED”).

Selectman Flynn made a motion to say, “be it resolved the BOS are voting to approve the Items that were approved in Part A. First Selectwoman Kupchick seconded the motion. The motion carried unanimously.

Selectman Flynn made a motion to call the first “BE IT FURTHER RESOLVED” Part B. First Selectwoman Kupchick seconded the motion. The motion carried 2-1-0 (Selectwoman Lefkowitz opposed).

Selectwoman Lefkowitz wanted to state for the record that she did support the recommendations in Part A, but is opposed to the language in Part B.

Selectman Flynn made a motion to call the second “BE IT FURTHER RESOLVED” Part C. First Selectwoman Kupchick seconded the motion. The motion carried 2-1-0 (Selectwoman Lefkowitz opposed).

Selectwoman Lefkowitz said for the record that she is not supporting the second “BE IT FURTHER RESOLVED” because she said it’s a mischaracterization. She said she has no interest in derailing the work of the CRC. Her full comments are on the recording.

The BOS thanked the CRC and the Attorneys for all their hard work. They also thanked the public.

4. ADJOURN

Selectwoman Lefkowitz made a motion to adjourn the meeting at 5:31 pm. Selectman Flynn seconded the motion which carried unanimously.

Respectfully submitted,

Pru O'Brien
Recording Secretary