



## **2021-22 Charter Revision Committee – Board of Representatives**

Bradley Bewkes, Co-Chair

Jeff Curtis, Co-Chair

# **Report of Special Meeting**

**Date:** Wednesday, June 21, 2023  
**Time:** 6:00 p.m.  
**Place:** *This meeting was held remotely.*

The 2021-22 Charter Committee of the Board of Representatives met as indicated above. In attendance were Committee Co-Chairs Bewkes and Curtis and Committee Member Reps. Boeger, Ley, Matheny, Pollack, Shaw, Sherwood, and Stella. Also present were Reps. Berns, Campbell, de la Cruz, Garst, Goldberg, Grunberger, Jacobson, Miller, Morson, Pierre-Louis, Summerville, Walston, and Weinberg; Commission members Lombardo, Larobina, Michelson, Pramberger, Loeb, and Williams; and Attorneys Steve Mednick and Richard Roberts.

Chair Bewkes called the meeting to order at 6:01 p.m.

<b>Item No.</b>	<b>Description</b>	<b>Committee Action</b>
1. <a href="#">CR31.008</a>	REVIEW; Draft Report of the 19th Charter Revision Commission and Scheduling of Board of Representative's Public Hearing on the Recommendations. 06/07/23 – Submitted by Reps. Curtis and Bewkes	<b>Report Made</b>

Thomas Lombardo, the Chair of the Charter Commission, read the [transmittal](#) from the Charter Commission into the record.

The Committee reviewed the transmission with the Commission members and Attorney Mednick. Items discussed included the following:

### **<sup>1</sup>Preamble**

- There is a difference between the petition requirements and the abridgement of rights of citizens. The Land Use provisions were granted by the General Assembly about 70 years ago. There are no inherent rights because the City is an instrumentality of the state and not a sovereign entity. The State has determined that owners are entitled to file petitions. The City does not have the ability to expand that authority.
- The intent of the Preamble was to relate to the inclusivity resolution of the Board of Representatives. Much of the text comes from other municipalities. The word “revolutionary” in the preamble does not have any particular significance and does not relate to the Revolutionary War or taking revolutionary action.

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<sup>1</sup> Video Time Stamp Pt. 1 - 01:02:57

## <sup>2</sup>Section C1

- In C1-50-1, the Commission raised the voting threshold to 2/3 of the entire membership rather than of those present and voting because the threshold for taking someone's property needs to be higher; this permits members to vote no by not attending or not voting, or by not taking a public stand. This is true in other sections of the revisions as well. The Commission's goal was to put the onus on Board members to take a stand.
- The term "property" in C1-50-1 would include a partial taking, but the language could be clarified to include all or a partial taking
- A vote by 2/3 of the entire membership would be 27 votes
- Perhaps the threshold should be 3/4 of the members present and voting instead

## <sup>3</sup>Section C2

- The requirements in C2-10-3 (1) for 5 years of experience is because the BOR may need someone with specific expertise. The person does not need to have the same experience as the Corporation Counsel. Why not let the BOR select any candidate they want for a specific issue, e.g. – with only 4 years of experience in CT or a resident of Norwalk? The Charter Commission did not believe that someone with less than 5 years of experience would have sufficient acumen.
- The Commission believed that the BOR needs its own counsel; this was based on a charge from the Charter Committee. Mr. Mednick stated that most legislative bodies have the ability to hire their own attorneys where there is a conflict with the Corporation Counsel or a dispute with the executive. In other Cities, the legislative body has the ability to transfer funds to hire counsel. The charge from the BOR and in discussions with members of the Board, they said that the Corporation Counsel might not be on the same side as the Board of Representatives.
- The threshold to hire an outside attorney was reduced to a majority because the Commission did not see a need for a higher threshold; this is not as serious as taking someone's land.
- Estimate of the costs of this provision were considered and discussed with members of the Board and the idea of having an individual working for the Board, or retaining a law firm, at a cost of about \$250,000 (\$175,000 plus benefits) was discussed by the Commission.
- The client of the Corporation Counsel is the entire City and has fiduciary duties to the entire City, including the Board of Representatives as well as the Mayor> In the event of a conflict, as in High Ridge, the BOR would hire an outside counsel. The current provision relies on the Corporation Counsel to identify a conflict. This new provision gives the legislative body the ability to make an independent assessment as to when a conflict exists and to seek independent advice when they disagree with Corporation Counsel
- In C2-10-3(c) was any discussion given to the ramifications of the Board engaging an attorney and the costs getting out of hand? C2-10-3(e) permits the BOR to transfer funds for counsel. 95% of the work should be done by corporation counsel. This should not be a license to hire an attorney for everything.
- Corporation Counsel has a fiduciary duty to represent the corporate entity, which is the City. 99% of the time Corporation Counsel can represent both the executive and legislative branch.
- The Board of Representatives has the right to hire counsel in the event it determines there is a conflict or it doesn't like the advice of Corporation Counsel

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<sup>2</sup> Video Time Stamp Pt. 1 - 01:15:10

<sup>3</sup> Video Time Stamp Pt. 1: - 01:39:56

- The Board of Representatives needs to be prudent in exercising its ability to retain counsel. There is nothing in the language that prevents the Board from acting imprudently. Ultimately they would be held to task by the voters
- This provision includes the ability to hire staff counsel, not outside counsel to handle a particular legal matter. If Corporation Counsel is required to provide legal advice to the executive and legislative branch, what is the rationale for the legislative branch to have its own staff counsel? The Commission's decision was to make this discretionary rather than mandatory by a majority vote.

#### **<sup>4</sup>Section C3**

- In C3-10-4, why add the line of succession? This was in response to an email from President Curtis. He asked for a more fluid and expeditious transition. It is unusual to elevate the Minority Leader to the position of Mayor.

#### **<sup>5</sup>Section C5**

- In C5-20-20 – Why do the Corporation Counsel and the Personnel Director need to live in the City? There was an incident several years ago when I-95 collapsed and the Police Chief could not get back to the City. During a hurricane, there was a discussion of who needed to come into the City to work. The Personnel Director had the ability to contact the individuals who were needed. Corporation Counsel needs to be a resident.
- There is a grandfather provision for the residency requirement.
- Is the need to be present in person still necessary given the current state of technology and a more virtual environment for a Personnel Director or Corporation Counsel. Addresses and telephone numbers of police officers cannot be transferred over the internet.
- It is valuable to have people present on the 6<sup>th</sup> floor during an emergency
- C5-20-2 – This provision increases the required experience for Corporation Counsel to 10 years. The Commission felt a person with less experience doesn't have the necessary skills. Maybe the same requirement should be included for counsel hired by the BOR?
- C5-20-5 (b)(6) – Request for other information in annual report of Corporation Counsel. Who makes this request? Is it a resolution of the Board of Representatives or Board of Finance? Is it the chair of the Board? This is not contained in the Charter provision. A methodology would have to be established in the Rules of Order or in an ordinance.
- C5-20-20 (e) - who are "appointing authorities"? This depends on if there is an appointing authority other than the Mayor. If there is none, then this sentence is unnecessary.
- C5-20-5 – The annual report of the Corporation Counsel – did the Commission estimate how many hours would be needed to create this report? It is a relatively time consuming activity. New Haven requires this report; this information should be up to date in the office

#### **<sup>6</sup>Section C6**

- C6-00-3 – The 120 day time frame refers to a vacancy or expiration of a term. The Mayor is notified of the vacancy by the Town Clerk. If the Mayor doesn't make the nomination, the President of the Board must make the nomination; the goal is to end the process; there would be no holdover situation; everyone needs to do their job
- The Appointments Committee considered a different proposal which was rejected by the Commission. This may be in the [Appointed Boards Committee's final report](#).

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<sup>4</sup> Video Time Stamp Pt. 1 - 02:19:22

<sup>5</sup> Video Time Stamp Pt. 1 - 02:24:58

<sup>6</sup> Video Time Stamp Pt. 1 - 02:55:12

- Is this a sufficient problem in Stamford? The holdover provision can't be eliminated because Boards and Commissions need to have quorums to do their works, but there are some long term holdovers.
- There should be a simpler way to resolve this.
- C6-30-001 – if both co-owners sign a petition, it counts as 2 signatures under the High Ridge decision; this was a choice by the Commission; there is no current definition
- Did the commission consider whether this was giving less power to single owners (assuming joint owners would agree with each other) ?
- Was the commission concerned that permitting e-signatures reduces the investment of the signatories and those collecting the signatures?

[Due to the absence of Attorney Roberts and Commissioner Loeb, the land use sections were held for later discussion]

- C6-100-1 – Must the individual have all of these qualifications? The goal is to have a mix of these experiences on the Commission. This language should be changed from “and” to “or”
- C6-120-3 – Is “Disposition” defined? Does it include a lease for kayak rentals or an easement for an underground utility line. This probably requires an additional look. It is not a defined term and could be defined regarding things that don't interfere with the use of the parkland or enhance the use of the parkland Subsection (d) does include long term leases in transfers
- The question regarding a public referendum for other property, such as school property was included in the charge; there is another provision regarding the disposition of land in C1-50-3; there was no discussion about a public referendum, but it is not easy to dispose of land
- C6-140-8(14) The language regarding a violation of the Code of Ethics was changed back after the public hearing
- C6-130-4 – What is the rationale for this? There were severe conditions at the Brennan Golf Course about underinvestment. Chair Freedman suggested that since the Golf Authority pays a rental to the City, it would be an idea to transfer those rental payments to Brennan. Chair Freedman did not agree with this in the public hearing. The Commission made a field trip to the golf course. There was a letter of agreement from Sterling to use their rental payments in this manner. It is about \$175-200,000 per year. If the BOR felt that there was a different condition that needed to be addressed, the BOR would need to use the funds for Brennan.
- C6-170-1 – why are the ADA and DEI commission together? The current DEI person is the ADA coordinator for the City

### **<sup>7</sup>Section C8**

- Mr. Mednick noted that a [presentation](#) he had done regarding the changes to this section was distributed to the full Board
- C8-30-1 (c) joint public hearings – 3 days is the current public notice requirement; this could be changed

### **<sup>8</sup>Section C6 [continued from prior discussion]**

- C6-30-004 – would this requirement not to vote at the same meeting as a public hearing is held apply to all public hearings or just the first public hearing? What if a public hearing is continued over the next month, etc. It is possible that nobody will be at the second hearing. If there is testimony given, the Board members should have an

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<sup>7</sup> Video Time Stamp Pt. 1 – 03:59:45

<sup>8</sup> Video Time Stamp Pt. 1 – 04:04:40

opportunity to consider testimony before voting. There would still be a public hearing, even if nobody showed up.

- C6-30-4 – Master Plan is what other towns call as a Plan of Conservation and Development – the Plan of Conservation and Development is updated every 10 years, and may be a new document, not an amendment, so the previous wording makes more sense
- Conformance of petitions to the Special Act. Would it be consistent with the Special Act to have the same numbers for proponents and opponents? Are we tied to the proportions. The Commission felt it was important to stick to the proportions and percentages consistent with the Special Act. Could the base number (e.g. the 300) be increased? That number was chosen because it is in the Special Act.
- C6-30-004 – what is the basis for this proposal not to vote at the same meeting at which a public hearing is held? Do other municipalities have similar requirements? This was designed to allow members of the agencies to ruminate on public comment they heard in the public hearing, with the perception that they had made up their minds in advance. No other municipality has this provision. There is a public perception that the Boards don't listen to the public.
- C6-30-7 – Where did the number of 300 landowners from anywhere in the City come from (of a total population of 130,000)? C6-40-9 has a provision for the signatures of 300 landowners. Petitions from the Zoning Board and Planning Board are made consistent. The commission did not consider the possibility of potential discriminatory effects created by a small group of people being able to file a petition.
- C6-30-004 – The BOR has a public comment session during its meetings. Did the Commission consider applying this type of rule to the BOR regarding voting at the same night as public hearings to its public comments session? There was a discussion about having no decision on the same day as a public hearing for all Boards and Commissions. The Commission chose to focus this provision on the Land Use boards
- C6-30-005 – The public outreach requirements – what are the standards for bona fide public outreach? Is there a meaningful litigation risk if a member of the public believes bona fide public outreach is not satisfied? Since this is prior to any submission, there probably is minimal risk.
- C6-30-7 – The population of Stamford in 1950 was 74,000. Is 300 signatures from 1953 analogous to 300 signatures with a population of 140,000? Maybe this should have been considered?
- The petition provisions were added in the 1953 Special Act. This will be circulated to the Board.
- The goal was to stay close to Special Act in order to avoid potential challenges
- Part of the goal was to make the process clearer
- The Commission wanted to make access to the Board of Representatives easier for the petitioners; the Zoning Board is 5 individuals with a great deal of power and there is frustration within Stamford about zoning. Access to the Courts would be expensive.
- There were no electronic signatures at the time of the Special Act
- Would increasing the 300 number violate the special act in proportion to the increase in landowners? It would be defensible with clearly articulated reasons.
- Residents would have the option of petitioning the BOR or going to Court
- In C6-40-9 the 300 landowners signature threshold applies only to a change that applies to more than one zone.
- The Commission felt that a change may have an impact beyond the specific zone or there may be only one or two owners in the area affected, e.g. traffic impacts
- There is a cost to the taxpayers of these appeals
- Condominium owners are defined as landowners; the current charter has no definition of landowners

- The 10 day period to collect signatures is in the Special Act; it probably should be kept at 10 days.

**<sup>9</sup>General Questions re: Commission:**

- How were the members of the Board of Representatives selected as people to speak with? Members of the Board chose to attend. The meetings were noticed and Board members could attend.
- Commission members let the Co-Chairs know which committees on which they wanted to serve. People were chosen based upon experience and interest
- At least 4 of the 5 members of the Land Use Committee have publicly challenged development projects. Did that raise any concerns about assignments to the Land Use Committee?
- How many residents who have not held public office has the Commission spoken to?
- Can the report of items not acted upon be made available before the next meeting?
- How were the decisions regarding which charges were prioritized made?

Co-Chair Bewkes adjourned the meeting at 11:52 p.m.

Respectfully submitted,  
Bradley Bewkes, Co-Chair

This meeting is on video ([Pt. 1](#) and [Pt. 2](#))

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<sup>9</sup> Video Pt. 2 Time Stamp 01:06:00