

Minutes of The East Lyme Charter Revision Commission Public Hearing - 06/06/23

Date and time: 06/06/23 06:00 pm to: 06/06/23 07:43 pm

Present: Brooke Stevens, Recording Secretary, Marc Salerno, Jeffrey McNamara, Wayne Blair , Anna Johnson, Maryanna Stevens , Barry Sheckley, Vivek Purohit, Timothy Hagen , Jay Ginsberg, Larry Fitzgerald

CC: Kevin Seery, First Selectman, Tracy Collins, Town Attorney

Location: East Lyme Middle School, 31 Society Road, Niantic, CT 06357

Topics


1. Call to Order & Pledge of Allegiance

Note Chairman Salerno called the Charter Revision June 6th, 2023, Public Hearing to order at 6:00 p.m. and led the Pledge.

Note First Selectman Seery spoke to the charge the Charter Commission was entrusted with.

2. Presentation of Charter Revision Draft Report

Note see attached draft report.

 [2587_001.pdf](#)

Note The Charter Commission presented their Draft Report and rationale for the record.

2-1. CHARGE 1. Consider possible elimination of automatic budget referendum provision in Section 7.3 of the Charter

RECEIVED FOR RECORD
EAST LYME, CT
2023 JUN 13 A 7:54
Kevin Seery
TOWN CLERK

Mr. Fitzgerald read the Commission recommendation and rationale:

RECOMMENDATION

The CRC recommends amendment of the automatic budget referendum to limit automatic referendum to circumstances in which the proposed annual town budget represents a 5% or more increase over the prior year's adopted-annual town budget. When the proposed increase is less than 5% of the prior year's adopted annual town budget, the annual town budget will be voted on at the annual town meeting. Note that pursuant to Charter Section 7.1.3 in the event a referendum is not "automatic" the annual Town budget can be petitioned to a referendum. Section 7.1.3 provides the threshold number of signatures to trigger a referendum.

Section 7.3 - Annual Budget (Automatic Referendum) - is revised to remove the words "Automatic Referendum" from the title and to reflect that the vote on the annual town budget may occur at the annual town meeting or referendum, depending on the level of budget increase and whether the budget vote is petitioned to referendum. A cross-reference to the possible automatic referendum in Section 7.3 is included in Section 7.1.

RATIONALE

The recommendation is made in response to the significant expense and low voter turnout experienced with budget referenda. By way of example, the 2023 proposed budget increase was less than 5% of the 2022 adopted budget increase and the referendum cost is \$8,625.00.

2-2. CHARGE 2. Consider possible merger of the Planning Commission and Zoning Commission.

Ms. Johnson read the Commission recommendation and rationale:

RECOMMENDATION

The CRC does not recommend this change.

RATIONALE

This decision was made for the following reasons:

Each commission already has a significant workload. The Zoning Commission meets twice per month and the Planning Commission meets once per month. Combining the commissions would be too burdensome and may result in fewer people willing to run and serve on a combined commission.

The Planning Commission spends a significant amount of its time updating the Plan of Conservation and Development which is the basis for its decisions and referrals to Zoning. There is a concern that the POCD would not receive the necessary focus with a combined commission.

There is no indication that the current structure is problematic. Historically, when policy or regulations changes are being considered that impact both planning and zoning regulations, the commissions have formed joint subcommittees to address the issues.

2-3. CHARGE 3. Consider possible amendment of Section 2.7 to provide four-year terms of Selectmen and two or four-year terms of First Selectman.

NOTE: Ms. Stevens read the Commission recommendation and rationale:

RECOMMENDATION

The CRC recommends amending the Charter to allow for four-year terms for the First Selectman and for staggered four-year terms for the First Selectmen. The proposed amendment provides that at the next regular municipal election in November 2025, a First Selectman and two other Selectmen will be elected to terms of four years, and three other Selectmen will be elected to serve terms of two years. In all subsequent municipal elections the term of the First Selectman and other Selectmen will be four years.

RATIONALE

This decision was based on the following:

A four-year term may be more attractive with respect to attracting talented candidates. Running a campaign every two years is expensive and time-consuming, detracting from the ability to govern. Four-year terms will allow the Selectmen to focus more on setting and enforcing policy rather than campaigning.

It takes years for the First Selectman to implement and shepherd through policy changes, especially long-term planning. Additionally, developing relationships with commissions, department heads and other municipal, regional and state agencies is a slow process. Four-year terms allow for a more appropriate amount of time for this development to occur.

New members have a learning curve with respect to BOS responsibilities and the manner in which those responsibilities are carried out. With two-year terms, a new member may face a reelection campaign before they have fully acclimated to their new role. Four-year terms would allow the Selectmen more time to effectively learn and impact policy decisions.

Providing for staggered four-year terms for Selectmen allows for continuity on the BOS while also allowing the public to change the constitution of the BOS should they disagree or not like the direction of the BOS. Minority representation can still be obtained with staggered four-year terms. It provides consistency with the other town boards and commissions.

2-4. CHARGE 4. Consider possible removal of Town Clerk and Tax Collector from elective offices and add said offices to administrative offices.

Note: Mr. Purohit read the Commission recommendation and rationale:

The CRC recommends that the offices of Town Clerk and Tax Collector cease to be elective offices (as set forth in 2.8.1), and that the positions transition to being hired administrative officers. (see new 5.4) This change is consistent with existing Town employees.

The CRC further recommends and has included revisions to Charter Sections 4 and 5 to distinguish between elective, appointive and hired town officers.

RATIONALE

Restructuring the way the Town Clerk and Tax Collector are chosen will help ensure stability and continuity of positions with highly qualified persons. Both positions require prospective candidates to possess certain certifications and qualifications.

If these positions are transitioned to administrative officers, compliance with the required credentials is more certain. By way of example, under the existing Charter, a Town Clerk and Tax Collector can be elected and not possess the required certifications to perform their statutorily mandated job duties.

Under the existing Charter, a Town Clerk or Tax

Collector who has been elected to a four-year term but can no longer perform their work duties or is absent from work indefinitely, can continue to hold their position and be paid for up to four years.

Reorganization of Charter Sections 4 and 5 will clarify which town officers are appointed for a certain term and which are hired as town employees.

2-5. Charge 5. Consider the possible exemption from the residency requirement set forth in Section 4.1.2 certain appointive officers, such as Director of Emergency Management, Dog Warden, etc., and the administrative officers described in Sections 5.3-5.7.

Note: Mr. Hagen read the Commission recommendation and rationale:

RECOMMENDATION

The CRC recommends removing certain residency requirements for appointive and hired officers contained in the Charter, including but not limited to those officers identified in Charge 5.

Note that the elective and appointive board and commissions residency requirements remain. (See revised Section 4.5.3)

The Charter Section 5 administrative officers are the Assessor, Director of Health, Building Official, Building Inspector, Fire Marshal, Animal Control Officer, Town Counsel, and the Town Meeting Moderator. The Director of Health is now Ledge Light and the Assessor is a hired position and not appointed. The Building Official (currently in Section 5.5), according to State statute must be appointed to a four year term and this position has been moved to Section 4.6 'Appointed Officers.' The three proposed remaining Appointed Officers are the Town Counsel (Charter Section 5.2) and Town Meeting Moderators (proposed Charter Section 5.3). The Commission recommends deleting the residency requirement for Town Counsel and keeping the residency requirement for the Town Meeting Moderators

Note: RATIONALE

Three of the officers referenced in Charge 5 have been abolished: Constables, Special Constables and Dog Warden, leaving only the Tree Warden and the Town Director of Emergency Management.

Deleting the residency requirement for all of the above-listed town officers (excluding the Town Meeting Moderator) will increase the available talent pool for positions that require expertise. The hiring authority may consider residency as a factor in candidate selection.

2-6. CHARGE 6. Eliminate references to constables and special constables in the Charter

Note Mr. McNamara read the Commission recommendation and rationale:

RECOMMENDATION

The CRC recommends deleting the references to Constables and Special Constables in Section 4.6.1 of the Charter. In addition, the CRC recommends removing the reference to the Dog Warden in Section 4.6.1.

RATIONALE

Constables and the Dog Warden have been eliminated by Ordinance.

2-7. CHARGE 7. Consider the possible amendment of Section 6.3.4 to provide that if the Board of Finance does not act on requests for special appropriations or transfers of funds within a specified time, the result is automatic approval.

Note Mr. McNamara read the Commission recommendation and rationale:

RECOMMENDATION

The CRC recommends instituting automatic approval of requests for Board of Finance approval of special appropriations and transfers of unexpended funds upon the failure of the Board of Finance to act on such a request within thirty days of submission. Proposed new text appears in proposed Sec. 6.3.5 (renumbering occurring due to new proposed section added in response to Charge 8).

RATIONALE

Instituting automatic approval of requests to the Board of Finance after thirty days will provide for efficiencies in Town operations by avoiding delays in projects caused by the Board of Finance's failure to act. By way of example, the existing Charter provides that the Board of Finance shall act on all requests for special appropriations or transfers of unexpended funds within 30 days of receipt but does not provide a remedy if the Board of Finance chooses not to act or excludes it from the agenda entirely.

2-8. CHARGE 8. Consider the possible amendment of Section 6.3 to provide that projects funded entirely by grants from the State of Connecticut which do not require an appropriation of town funds need not be approved by the Board of Finance or a Town Meeting.

Note Mr. Salerno read the Commission recommendation and rationale:

RECOMMENDATION

The CRC recommends the addition of a new Section 6.3.4 to the Charter providing that those projects funded entirely by State, Federal and private grants need not be approved by the Board of Finance or a Town Meeting.

The proposed change provides that special appropriations for said grants do not need special town meeting approval other than in situations in which the acceptance of said grant has a future impact on the operating budget. An example of an instance when the acceptance of a grant will require town meeting approval "because of future impact on the operating budget" is if the town receives a grant to hire a police officer, that hire will increase the operating budget for the following year and therefore a special town meeting would be required.

RATIONALE

Historically, town meetings in East Lyme have been called to vote on appropriations of town funds. As projects funded solely with State, Federal or private grants do not include appropriations of town funds, it is consistent to add a new Charter section as recommended.

2-9. CHARGE 9. Consider the possible amendment of Section 6.3.1 to provide that the current dollar threshold of \$10,000 for special town meetings be raised.

Note Mr. Sheckley read the Commission recommendation and rationale:

RECOMMENDATION

The CRC recommends that the threshold for expenditures requiring town meeting approval in Section 6.3.1 be increased from \$10,000 to \$100,000 as follows-

"The Board of Selectmen, when requested by any town department and after approval by the Board of Finance, may make special appropriations from cash surplus or any approved contingency fund in amounts not to exceed an aggregate amount of one hundred thousand dollars per town department in each fiscal year. Any funds approved by town meeting shall not be included in the aggregate limit for the fiscal year."

The Commission also recommends that Sections 3.3.1.5 and 7.7 regarding thresholds requiring town meeting approval for the purchaser and sale of real estate be raised to \$100,000.00. This recommendation appears in Section II, B -3 on Page 9 herein.

RATIONALE

The increase in these expenditure thresholds provides for efficiency in Town operations and cost savings by reducing the need for town meeting approval of certain appropriations. Approval by the Board of Finance is still required in all instances.

2-10. CHARGE 10. Consider the possible addition of an appointive "Operations Officer" to assist the First Selectman in the performance of his or her administrative duties.

Note Mr. Blair read the Commission recommendation and rationale:

RECOMMENDATION

The CRC does not recommend this revision.

RATIONALE

An Operations Officer or a similar position should be a hired position with decision-making done by the First Selectman and should not be included in the Charter. The CRC believes there is value in creating this role but the First Selectman should decide whether to establish this position for his administration, and the position should not have a set term of office.

2-11. CHARGE 11. Consider the possible amendment of Section 3.4.3 to eliminate newspaper publication when allowed by law and substitute electronic and website notice.

Note Mr. Blair read the Commission recommendation and rationale:

RECOMMENDATION

The CRC recommends amendment of all Charter references to publication requirements, to instead provide that publication shall be "as required by law and shall include publication on the Town's website. In addition to Section 3.4.3, this revision would also apply to Sections 3.4.2, 6.1.5 and 7.3.

RATIONALE

Connecticut law still contains newspaper publication requirements, so the Charter publication requirements cannot be amended in a manner that would violate current law. However, the Town will want to take immediate advantage of any future law that eases the cost of publication burden on the Town. By providing that the Town will comply with all applicable statutory publication requirements, a change in the law regarding newspaper publication would not necessitate a Charter revision to eliminate newspaper publication. Instead, the Charter would provide immediate relief from those requirements. Paper copies will remain available in Town Hall as is the current practice. By way of example, in accordance with current law, the Town must publish an entire copy of a new or amended Ordinance before it takes effect. Current Ordinance Section 95-20 regarding underground storage of hazardous substances is six typewritten pages and simply to amend in accordance with the existing Charter it will cost many thousands of dollars to publish.

2-12. CHARGE 12. Consider the possible amendment of Section 2.5.4 to provide that an appointee to a vacancy in an elective office shall serve the remainder of the term that was filled.

Mr. Ginsberg read the Commission recommendation and rationale:

RECOMMENDATION

The CRC recommends that, except as otherwise required by law or the Charter, an appointee to an elective office vacancy will serve for the remainder of the term filled.

RATIONALE

The CRC made this recommendation for the following reasons-

This change would make East Lyme more consistent with other towns and prevent confusion at election time when a vacancy has been filled.

It may attract more qualified candidates as they won't immediately face reelection.

It is being recommended to towns by the Secretary of State.

2-13. CHARGE 13. Consider reinstating the Conservation Commission which will be comprised of members from both the Inland Wetlands Agency and the Commission for the Conservation of Natural Resources.

Mr. Ginsberg read the Commission recommendation and rationale:

RECOMMENDATION

The CRC does not recommend the reinstatement of the Conservation Commission.

RATIONALE

The CRC's decision is based on the feedback of the Charter Revision Subcommittee on commissions that the Commission for the Conservation of Natural Resources ("CCNR") tends to be ignored and has little impact on land use decisions including the town's Aquifer Protection Agency. The CRC believes that issues can be resolved without changing the commissions and agencies by undertaking the following-

The Inland Wetland Agency ("IWA") regulates all activities that may have an impact on a wetland or watercourse. IWA can and should accept recommendations and referrals from the CCNR. As is done with the planning and zoning commissions, a representative from each commission/agency can attend each other's meeting and report back to their respective commission. The CRC believes this will help alleviate some of the issues.

The Aquifer Protection Agency should accept referrals from the CCNR. It is recommended that the Aquifer Protection Agency consider adding language to its by-laws to notify and request feedback from the CCNR should a policy change be considered. This is the same process that the planning and zoning commissions practice.

Additional items to be considered: As open space acquisition recommendations are a primary duty of the CCNR, the CCNR should consider amending its by-laws to include taking a more active role in identifying land acquisition opportunities before the land is listed for sale publicly or is purchased by developers.

2-14. B. OTHER SUBSTANTIVE REVISIONS RECOMMENDED BY CRC

Note Mr. Salerno read number 1 & 2:

In addition to increasing the threshold addressed in Charge 9, and for the reasons set forth with respect to Charge 9, the CRC recommends that the thresholds for purchasing and selling real estate without town meeting approval as set forth in Sections 3.3.1.5 and 7.7 be increased from \$10,000 to \$100,000.

To ensure that the Charter is reviewed periodically and updated as necessary, the CRC recommends that Section 8.4 be revised to provide that the Charter may be amended at any time pursuant to the statutory framework, future amendments shall include a revision record of adopted changes, and that the Board of Selectmen must consider whether to appoint a Charter Revisions Commission at least once every 10 years commencing in 2033.

2-15. SECTION II- PROPOSED NON-SUBSTANTIVE REVISIONS

Note Mr. Fitzgerald read Section 1.6:

New Section: 1.6 entitled "Nomenclature Regarding Gender Neutral Terms"

The Commission had long discussions and voted to transition to gender neutral terms in the Town Charter, including changing the name of the "Board of Selectmen" to "Select Board" as some Town's in Massachusetts have done.

Thereafter, Town Counsel advised the Commission that "Board of Selectmen" is a legal term in Connecticut state statutes and the Charter Commission cannot make the change until the State legislature allows, Town Counsel researched the few other Connecticut Town's which incorporated gender neutral terms in recently adopted Town Charters and advised that until such time as the state statute changes, it is prudent the Commission amend the Charter to add Section 1.6 entitled "Nomenclature Regarding Gender Neutral Terms." In this way, when permitted, the change may not require another Charter Revision Commission.

The Commission regrets that it could not make the desired changes to this very important issue at this time.

Note Ms. Johnson read item 2:

-Effect of Charter- Existing Laws & Ordinances,
Section 1.4 is revised to add, "The purpose of this Charter is to advance the effectiveness and efficiency of Town governance."

Ms. Stevens read item 3:

-In addition to increasing the threshold addressed in Charge 9, and for the reasons set forth with respect to Charge 9, the CRC recommends that the thresholds for purchasing and selling real estate without town meeting approval as set forth in Sections 3.3.1.5 and 7.7 be increased from \$10,000 to \$100,000.

Mr. Purohit read item 4:

-Bureau of Assessment Appeals

Section 2.5.2 substitutes "Board of Assessment Appeals" for "Board of Tax Review" to reflect the current name of the Board; same change in Sections 8.2.6 and 8.2.7.

Mr. Hagen read item 5:

-Assessor authority to settle certain appeals

Section 3.3.1.3 memorializes the long-standing town practice of authorizing the Assessor to settle tax assessment appeals resulting in payment by the town of less than \$40,000.

Mr. McNamara read item 6:

-Appointed and Elected boards and officers.

Section 4.5.1, related to the oversight duties of the Parks and Recreation Commission, is deleted as it was replaced by Ordinance Section 96. (Ord. effective 6-19-1971 ; Ord. passed 12-21-2005; Ord. passed 4-20-2017.)

Mr. Salerno read item 7:

-Abolished/Reorganized appointive and hired positions

abolished reorganized appointive, and hired positions.

Section 4.5.2 is revised to delete the abolished Flood and Erosion Control Board, Economic Development commission, and Redevelopment Agency.

Mr. Sheckley read item 8:

Section 4.5.3 is deleted and replaced by a new 4.5.3 to reflect existing Charter residency requirements for Appointed Boards and Commissions. The Committee on the Care of Graves and Cemeteries is abolished. The Town Building Committee reference is moved to new Section 4.5.2 with other appointive board and commission references.

Mr. Blair read item 9:

Section 4.6.1 is revised to reflect the removal of references to appointive officer positions that have been abolished or merged out of existence (constables, special constables, dog warden) or become hired positions (Assessor, Fire Marshal). Tree Warden, Director of Emergency Management and Building Official are the only current appointive officers of the Town.

Mr. Ginsberg read item 10:

Section 5.1 is revised to remove the 4-year term reference for Administrative Officers. Town Counsel and Moderator are the only remaining revised appointed Administrative Officers. Terms are listed with description - in revised Section 5.2 and 5.3, respectively.

Mr. Fitzgerald read item 11:

Sections 5.3, 5.4, 5.6 and 5.7 are revised to eliminate the position of Director of Health, which has become part of Ledge Light Health District, and to move positions that are hired and not appointed to Section 5.4, entitled "Other Administrative Officers".

Ms. Johnson read item 12:

Section 5.4, entitled "Other Administrative Officers".

Section 5.4 - Other Administrative Officers - is revised to reflect that hired officers will include but not be limited to the Assessor, Town Clerk, Tax Collector and Fire Marshal. These positions do not have a set term of office. It also provides that the current elected Town Clerk and Tax Collector shall serve the balance of their current terms unless a vacancy occurs sooner.

Ms. Stevens read item 13:

Due Date for Taxes

6.2.2. is revised to reflect that the due date for taxes is July 1 (not July 15)

Mr. Purohit read item 14:

Transition,

The following obsolete sections should be deleted from the Transition section to avoid confusion- 8.2.3, 8.2.4, 8.2.15, 8.2.17, 8.2.18, 8.2.19, 8.2.20, 8.2.21.

Global clean-up,

Renumbering of sections and subsections was undertaken to reflect the changes otherwise noted herein.


Prior amendment dates in the body of the Charter have been removed to avoid confusion.

3. Public Comment

Note Mr. Salerno called for Public Comment.

3-1. Mike Schulz

Note Mr. Seery read correspondence from Mike Schulz into the record.

 [Schulz.pdf](#)

3-2. Gian Lombardo of 2 Hillcrest Road

Note Mr. Lombardo offered some of the following comments:

He'd like to speak against Charge #1 & #3.

He doesn't like the idea of reducing town participation.

We want citizen participation and voter participation to increase.

Would you consider getting rid of general elections if votes fell below 10%?

Changing the length of the term for First Selectman is a band aid, we need a Town Manager.

Voters should be allowed to weigh in.

It would be difficult to find people willing to make a commitment to 4 years.

Clinton made the move to a Town Manager several years ago and is doing quite well.

3-3. Anne O'Sullivan of 14 Greentree

Note Ms. O'Sullivan discussed transparency and said shouldn't people know where grant money is going? She asked why would they not have a dog warden? She added that she doesn't know what the salaries are for the new positions.

3-4. Kurt Aspin- Mr. Aspin did not provide his address.

Note Mr. Aspin said he doesn't agree with eliminating the budget referendum; this amount of money is too large not to have the voters weigh in on.

Note There were no further comments.

4. Adjournment

Decision MOTION (1)

Ms. Stevens moved to adjourn the June 6th, 2023, Public Hearing of the East Lyme Charter Revision Commission at 7:43 p.m.

Ms. Johnson seconded the motion.

Motion carried, 10-0-0.

Note A Regular Meeting of the Charter Revision Commission immediately followed.

Note Respectfully Submitted,
Brooke Stevens, Recording Secretary