TOWN OF ELLINGTON

PO Box 187
55 Main Street
Ellington, Connecticut 06029
(860) 870-3100

2024
Charter Revision Commission

Thomas Palshaw-*Chair*
Cynthia Soto-*Vice Chair*
Warren McGrath-*Secretary*
Jamison Boucher
Joseph Burns
Peter Hany Jr
Thomas Modzelewski

Charter Revision Commission Special Meeting Minutes

August 7, 2024
Ellington Town Hall
Nicholas J. DiCorleto Jr. Meeting Room

Members Present: Tom Palshaw-Chair, Tom Modzelewski, Joseph Burns, Jamison Boucher, Peter Hany Jr., Warren McGrath and Cynthia Soto

Others Present: Jack Turner and Mary Cardin*, Board of Selectmen; Matthew Reed, Town Administrator; Liz Nord, Board of Finance; Wil Duchesneau

**Attended via zoom*

I. CALL TO ORDER

Mr. Palshaw called the meeting of the Charter Revision Commission (CRC) to order at 6:00 PM.

II. ROLL CALL

Roll call was taken.

III. CITIZEN FORUM (non-agenda items)

Wil Duchesneau, 200 West Road, shared that he feels that the Charter should be gender neutral. Mr. Palshaw thanked Wil Duchesneau for his comments and explained that due to the time constraint of getting these questions on the November 2024 ballot, the Commission focused on the highest priority revisions for recommendation at this time. He asked Wil Duchesneau to forward his suggestions to the Commission so that they may be included in the report so that the Board of Selectmen can consider them with the next Commission.

IV. APPROVAL OF MINUTES

Ms. Soto asked that the minutes be amended to state that Mr. Modzelewski had a nay vote on the motion to send Section 1024 - Town Administrator Subsection (c) Removal of the Town Administrator to the Town Attorney to inform the Commission of what legal implications the words "just cause" can have.

MOVED (BURNS), SECONDED (MODZELEWSKI) AND PASSED UNANIMOUSLY TO APPROVE THE AMENDED MINUTES OF THE JULY 31, 2024 CHARTER REVISION COMMISSION MEETING.

V. DISCUSSION ITEM(S)

a. Review Legal Opinion of "For Just Cause"

The Town Attorney's response to the CRC's question regarding "just cause" was provided to the members via email prior to the meeting for their review. The Town Attorney's comments were taken into consideration and discussion was held. Ms. Soto shared comparable Towns' Charters that do not include the "just cause" wording. An extensive discussion was held regarding the personnel rules as well. The CRC decided it was not necessary to include the words "just cause" in Section 1024 - Town Administrator Subsection (c) Removal of the Town Administrator. Ms. Cardin asked that the Town Attorney's email response be shared with the Board of Selectmen for their review [ATTACHED].

MOVED (BOUCHER), SECONDED (MCGRATH) AND PASSED UNANIMOUSLY TO REMOVE THE WORDS "JUST CAUSE" FROM SECTION 1024 – TOWN ADMINISTRATOR SUBSECTION (C) REMOVAL OF THE TOWN ADMINISTRATOR.

b. Discussion and Vote to Submit Final Report Draft Dated 8-7-24

Ms. Soto shared a portion of the Town of Bolton's Charter that she felt should be included under Section 1024 – Town Administrator, which included the following language: "The Town Administrator shall be bound by the provisions of the Town's Ethics Policies and Ordinances and shall at all times conduct themself in a professional and nonpartisan manner." Members agreed that this suggestion be included in the Appendix for the next CRC's consideration.

MOVED (BOUCHER), SECONDED (MODZELEWSKI) AND PASSED UNANIMOUSLY TO FORWARD THE CRC FINAL DRAFT REPORT [ATTACHED] TO THE BOARD OF SELECTMEN.

MOVED (SOTO), SECONDED (BOUCHER) AND PASSED UNANIMOUSLY TO RECESS THIS MEETING AT 6:36 P.M.

Chairman Palshaw called the meeting back in session at 6:48 P.M. He thanked all members for their participation and hard work.

c. Set Next meeting Date

No future meeting date was set.

VI. ADJOURNMENT

MOVED (MCGRATH), SECONDED (MODZELEWSKI) AND PASSED UNANIMOUSLY TO ADJOURN THE MEETING OF THE CHARTER REVISION COMMISSION AT 6:50 PM.

Respectfully submitted,

Rebecca Einsiedel

Rebecca Einsiedel
Recording Secretary

CHARTER REVISION COMMISION 2024
REPORT TO THE ELLINGTON BOARD OF SELECTMEN. FINAL DRAFT 8-7-24

Commission Members: Thomas Modzelewski, Warren McGrath, Cynthia Soto, Jamison Boucher, Peter Hany Jr., Joseph Burns, Thomas Palshaw (Chair)

A. INTRODUCTION

CGS 7-188 permits municipalities to organize their government by Charter. There is also a requirement in Charter, Chapter 1308, to periodically review that charter. This Commission was convened to meet that requirement.

There have been significant changes in the last 5 years. The Town Administrator's position was created and filled in accordance with the provisions Sections 1001, 801, 1203 of the existing charter. Missing however is how that position fits within the structure, and processes of the town. That is just one example, as there are other sections of the charter in need of updating and clarification.

Due to the large number of suggested changes, and the relatively short period of time available to have all the amendments properly considered, this commission may recommend only the most important amendments at this time, and to further recommend the town convene another commission to continue the process next year. See Appendix A

Items marked with an asterisk (*) are considered core questions. If one (*) question is included on the ballot then all (*) questions should be included as they are interrelated.

Recommended changes are printed in **BOLD.**

B. REFERENDUM QUESTIONS: Shall the Ellington Charter be amended as recommended below?

C. CHARTER AMENDMENT RECOMMENDATIONS

(1) SECTION 603 PROCEDURE

Delete references to the Auditing Committee. **"The Board of Selectmen shall appoint an Auditing Committee consisting of not less than three (3) of their members whose duty it shall be to oversee and review all claims and charges against the town except those incurred by the Board of Education."**

REASON: Outdated provision.

***(2)** SECTION 801 THRU 803 FIRST SELECTMAN

***SECTION 801 GENERAL**

At each biennial town election a First Selectman shall be chosen by the electors of the town as provided in Chapter III of this Charter. The First Selectman shall be the chief executive officer of the town and shall receive such compensation as shall be recommended by the Board of Selectmen and approved in the annual budget. Said First Selectman shall be a full voting and participating member of the Board of Selectmen and shall preside, when present, at meetings of said board. The First Selectman, or another Selectman designated by the First Selectman shall be an ex-officio member of all other town boards, commissions, and agencies and shall receive such advance notification of any such meeting as is given to the members of said bodies. He or she shall have the full right of participation in discussions but shall not have the right to vote.

*SECTION 802 DUTIES

The First Selectman shall have all of the powers, duties, and responsibilities conferred upon that office by law, which are consistent with this Charter. The First Selectman shall have all the powers necessary or incidental to the discharge of the First Selectman's duties and responsibilities set forth in the town's Position Description 109. The First Selectman, as the chief elected official, may represent the town at local, regional, or statewide meetings, events, or various committees or task forces.

The First Selectman, under the general policy direction of the Board of Selectmen, shall be responsible for:

a. Providing guidance to the Town Administrator in the coordination and administration of the town agencies and departments, except those functions expressly reserved or delegated to such agencies by CGS.

b. The implementation of ordinances, resolutions, policies, and other actions voted by the Board of Selectmen, or at Town Meeting.

c. The continuous review of current and future needs of the town. The First Selectman may require reports and information submitted by the Town Administrator, or agencies reporting to the administrator.

d. Preside over the meetings of the Board of Selectmen, when present, and prepare the agenda in conjunction with the Town Administrator.

*SECTION 803 APPOINTMENTS AND TERMS

Repeal Section 803

REASON: Replaced by Section 1024(d).To incorporate the Town Administrator into the organizational structure of the town, and to establish the First Selectman's position as part time.
AUTORITY: CGS 7-188

*(3) SECTION 1001 OFFICERS AND DEPARTMENTS

There shall be the following administrative officers and departments for the town: **Town Administrator,** Town Clerk; Finance Officer; Tax Collector; Assessor; **Emergency and Risk Manager** ; Director of Public Works; Building Official; Town Engineer; Town Attorney; Constables; Director of Health; Director of Recreation; Fire Marshal; Animal Control Officer; Director of Human Services; **Youth Services Director; Senior Center Director**; and Town Planner. The Board of Selectmen may recommend to the town meeting pursuant to the provisions of Section 703 of this Charter the creation of such additional or the elimination of such existing administrative offices and departments as it from time to time may deem appropriate and necessary to the best interest of the town. All administrative officers and department heads and their deputies and assistants shall receive compensation fixed by the Board of Selectmen; provided, however, no compensation shall be based upon any fees collected by them and all such fees collected by them shall be paid to the town treasury.

REASON: Update Section to the current status of Departments.

*(4) SECTION 1002 APPOINTMENT AND ELIGIBILITY

Replace the words "**Section 803 of this Charter**" with "**Section 1024(d) of this Charter"**

REASON: To incorporate the Town Administrator into the organizational structure of the town.
AUTHORITY: CGS 7-188

(5) SECTION 1008 **EMERGENCY & RISK MANAGER**

The Board of Selectmen shall appoint an Emergency and Risk Manager who shall serve for an indefinite term. The Manager is responsible for the functions outlined in Ellington Position Description 710, including the review of and adjustments to the Town Emergency Plan as filed with the State Office of Emergency Management. He or she shall meet the qualifications described in the Town of Ellington Position Description 710.

REASON: Section 1008 is outdated.

(6) SECTION 1012 TOWN ENGINEER

The Board of Selectmen **shall** appoint **a Town Engineer through in accordance with SECTION 1111 and as recommended by the Director of Public Works and Town Planner. The town, in the alternative, may hire an exempt town employee as the town engineer.** The Town Engineer shall be a licensed civil engineer. The Town Engineer shall serve for an indefinite term. All powers and duties of said Town Engineer shall be prescribed by the Board of Selectmen.

REASON: To ensure that the purchases of services comply with the town's procurement policy Section 2.

***(7) SECTION 1024 TOWN ADMINISTRATOR (NEW)**

(a) Qualifications

The Town Administrator shall be chosen on the basis of their executive and administrative skills, character, education, training, experience, and shall meet the qualifications listed in the Ellington Position Description 108.

(b) Appointment

The Town Administrator shall be appointed by the Board of Selectmen. The Administrator is an exempt position of indefinite term. The compensation and benefits shall be in accordance with the town classification, policies and Section 1205 of this Charter

(c) Removal of the Town Administrator

The Town Administrator may be removed by a 2/3 vote of the entire membership of the Board of Selectmen. At least thirty (30) days before the proposed removal of the Administrator, the Board of Selectmen shall adopt a resolution stating their intention to remove the Administrator and the reasons therefore. A copy of the resolution shall be served on the Town Administrator who, within ten (10) working days, may demand a public hearing, in which case the Administrator shall not be removed until such hearing has been held. The Board of Selectmen may suspend from duty the Town Administrator upon passage of the resolution provided that the salary and benefits of the Administrator shall continue until removal from office. The action of the Board in removing the Town Administrator shall be final.

(d) Duties and Responsibilities

The Town administrator shall be the Chief Administrative Officer of the Town of Ellington and is responsible to the Board of Selectmen for the supervision, direction, and administration of all departments, agencies, and offices listed in Chapter 10 of this charter. The Town Administrator may perform the duties of any officer under his or her authority, subject to the approval of the Board of Selectmen.

The Town Administrator may, subject to the approval of the Board of Selectmen, appoint or remove any administrative officer, or town employees in accordance with the provisions of CGS, provisions of Chapter XII of this Charter, or other rules and regulations concerning town employees. (Excludes employees under the Board of Education)

The Town Administrator may, with the approval of the Board of Selectmen, enter into contract or agreements with the United States government, or any agency there of, with the State of Connecticut or any agency or political subdivision there of, any person, body politic, or corporation.

The Town Administrator shall be responsible to the Board of Selectmen for the functions called out in the Town of Ellington Position Description 108 as approved or amended by the Board of Selectmen. The Town Administrator shall work collaboratively with the First Selectman.

REASON: To incorporate the Town Administrator into the town's organizational structure.
AUTHORITY: CGS 7-188

*(8) SECTION 1109 EXPENDITURES AND ACCOUNTING

(b) No voucher, claim, or charge against the town, except those against the Board of Education, shall be paid until the same has been audited by the Finance Officer and approved by him or her for correctness and validity. Payment of all claims against the Board of Education shall be authorized by the Superintendent of Schools or his or her agent. Payment of all approved claims against all other town accounts shall be authorized by the First Selectman. Said authorization shall be valid when countersigned by the Finance Officer acting as the Treasurer provided, in the absence or inability to act of the First Selectman or Finance Officer, **the Town Administrator** shall substitute temporarily for said First Selectman or Finance Officer.

(f) Upon the recommendation and request of the Board of Selectmen **(delete "during the last three (3) months of the fiscal year")** the Board of Finance may, by resolution, transfer any unencumbered appropriation, balance, or portion thereof from one department, commission, board, or office to another provided, however, that this provision shall not apply to the Board of Education. No transfer shall be made from any appropriation for debt service and other statutory charges.

REASON: To include the Town Administrator and add flexibility in closing completed accounts.

(9) SECTION 1111 PURCHASING

Purchases for the Town of Ellington, except the Board of Education and the Probate Court, shall be made under such rules and regulations as may be established by the Board of Selectmen. For any purchase **that exceeds the limits established in Ellington Ordinance 28-1**, the Finance Officer shall invite sealed bids unless the Board of Selectmen shall decide it to be against the best interest of the town. The Finance Officer shall provide a minimum of ten (10) days public notice to potential bidders by publication at least once in a newspaper having circulation in the town. The Finance Officer shall, with the approval of the requesting board, commission, committee, or department, award the purchase or contract to the lowest responsible bidder thereon or may reject any or all such bids or proposals. All such sealed bids or proposals shall be opened publicly. For any purchase less than **the established limit** or such other amount required by law, the Finance Officer or his or her designee shall negotiate directly with prospective suppliers prior to the Finance Officer awarding the contract.

REASON: To harmonize the Charter with the provisions of Ordinance 28-1 and Town of Ellington Purchasing and Financial Controls Policy as authorized by CGS 7-148v.
AUTORITY: Section 604 of this Charter

*(10) SECTION 1205 SALARIES

The Finance Officer shall prepare for the First Selectman **and the Town Administrator** a proposed standard, systematic schedule of pay for each class of positions in the classified service. The First Selectman **or the Town Administrator** shall submit the proposed pay plan to the Board of Selectmen with any changes he or she deems necessary and such proposed plan shall take effect when adopted by resolution of the Board of Selectmen. Amendments to the pay schedule may be adopted by the Board of Selectmen from time to time upon recommendation of the First Selectman **or Town Administrator**. For purposes of Chapter 113 of the General Statutes, as amended, the First Selectman **or Town Administrator** shall have the authority to recognize the exclusive bargaining agent for any unit of town employees and shall act as the bargaining agent for the town.

REASON: To include the Town Administrator with the supervising the Departments.

D. DRAFT SUBMITTED FOR THE 2024 CHARTER REVISION COMMISSION

SIGNED: _____

Thomas C. Palshaw, Chair

DATE: 8-7-24

APPENDIX A

OTHER POSSIBLE CHANGES

Because of the short time available to meet the requirements for voting the Charter changes during the 2024 election cycle, the Charter Revision Commission (CRC) was unable to address all of the submitted suggestions. The commission asks the BOS to convene another CRC to continue reviewing the Charter for the next election cycle.

SECTION 204 BREAKING A TIE

When any municipal election, other than a referendum, conducted pursuant to the provisions of this Charter results in a tie vote, with the consent of the tied candidates, the tie may be broken by the single toss of a coin by a third party agreeable to tied candidates. If the candidates do not agree, an adjourned election shall be conducted in accordance with the provisions CGS Section 9-332, as amended, to determine who shall be elected.

When a referendum conducted pursuant to the provisions of this Charter results in a tie, an adjourned election shall be conducted in accordance with the provisions of Section 9-332 of the General Statutes, as amended, to determine a question at referendum whether it shall be accepted or rejected.

This section shall not apply to questions at referendum or special election which, under the provisions of this Charter or the General Statutes, require a minimum number of electors voting in favor of such questions for approval.

REASON: Cost savings associated with elimination of need for a special election.
AUTHORITY: CGS 9-188

SECTION 207 VOTING DISTRICTS

"The voting districts for state wide elections in the Town of Ellington are established by the State Legislature. Unless otherwise provided pursuant to state law, local ordinance, or act of the local legislative body, there shall be a minimum of two (2) voting districts in town.

The places for holding elections and referenda are established by the Registrars of Voters."

REASON: Section 207 is outdated
AUTHORITY: Comply with CGS.

604 Due date for capital projects? Change from **Dec 1** to **Dec 31**.

1006 SECTION 1006. TAX **AND REVENUE** COLLECTOR (name change)

The Board of Selectmen shall appoint a Tax **and Revenue** Collector who shall be qualified by training and experience and who shall serve for an indefinite term. Said Tax **and Revenue** Collector shall have all the powers and duties, **(**delete **not inconsistent)** consistent with the provisions of this Charter, conferred or imposed by the General Statutes on such officers and such powers and duties as may be prescribed by the Board of Selectmen. Said Tax **and Revenue** Collector may appoint and may remove, subject to the approval of the Board of Selectmen and pursuant to the provisions of Chapter XII of this Charter, all deputies, assistants or employees in his or her office.

1104 Public hearing verses public meeting? (Word change)
Change "adoption" wording? (Word change)
Add referendum language when to go to referendum by % of increase in budget?
(See original list)

1107 Use of electronic tracking tools? (Modernize the tracking system)

1010 DPW changes? (Reduce the wording, simplify the section, refer to position descriptions where able)

Chapter IX: Consider if any ad-hoc committees should be permanent.

Question: Shall a resident serving on any elected or appointed board, committee, department or office that is not in good standing (example; taxes not paid up to date) have their voting rights withdrawn from said board, committee, department, or office until such time as the defect is corrected.

It was also suggested that the following language be included to the Town Administrator Section 1024. "The Town Administrator shall be bound by the provisions of the Town's ethics policies and ordinances, and shall at all times conduct themself in a professional and nonpartisan manner.

Rebecca Einsiedel

From: Matthew Reed
Sent: Monday, August 5, 2024 1:21 PM
To: Rebecca Einsiedel
Subject: FWD: Just Cause

Becky,
Can you forward Dory's comments to the Charter Rev Comm, please?

MATTHEW REED | Town Administrator
Town of Ellington
55 Main Street | Ellington, CT 06029
(860)375-5390

From: Famiglietti, Dory <DFamiglietti@KKC-law.com>
Sent: Monday, August 5, 2024 12:20
To: Matthew Reed <mreed@ellington-ct.gov>
Subject: FW: AT-WILL EMPLOYMENT

In response to the Charter Revision Commission's question regarding "just cause" removal of the Town Administrator, I offer the following:

1. Most towns in CT that have a Town Administrator do not provide for "just cause" removal. Instead, the TA, like other appointed positions, serve at the pleasure of the Board of Selectmen or Town Council.
2. In CT, absent an explicit contractual or statutory protection, employees are terminable at will. No cause need be shown.
3. There are exceptions to termination at will if the termination will violate the state's public policy (ex: discriminatory action; termination in violation of the whistleblower statute, etc) or if there is an implied contract for employment.
4. If the Charter includes the "just cause" provision, then that would generally prevent termination unless the BOS establishes that the TA failed to perform his or her duties to the satisfaction of the BOS (hence, the right to a public hearing).
5. If there is no standard for removal in the Charter, then the TA would serve "at will" or at the BOS's pleasure.

I've attached an OLR Research Report on the topic for your reference. If you have any other questions, please let me know.

Dory

From: Famiglietti, Dory <DFamiglietti@KKC-law.com>
Sent: Monday, August 5, 2024 12:11 PM
To: Famiglietti, Dory <DFamiglietti@KKC-law.com>
Subject: Note+to+self+—+AT-WILL EMPLOYMENT

AT-WILL EMPLOYMENT
https://www.cga.ct.gov/2001/rpt/2001-R-0612.htm

To the Ellington Charter Commission:

August 7, 2024 Meeting

Proposal During Audience of Citizens

I stated at the meeting my concern that the Ellington Town Charter remains a document that is not gender neutral. The Charter went into effect in 1975 and fifty years later remains a document that remains gender specific.

I propose that the document can be easily reworded to correct this overdue fact. I went through the Charter identifying the all the places where the Charter is currently not gender neutral. The most common term was Board of Selectman. The name could be altered to Board of Selectpersons, or Board of Delegates, or Town Council as suggestions.

Elsewhere," he or she" could be restated as any of the following, "they or them" or "their" when possessive. The phrase "said person (s)"is another possibility.

The Charter of Ellington needs to reflect the time we live in.

In 1789 the "Framers of our Constitution," all white men, were able to write a gender-neutral document for an entire nation. Our town Charter has been neglected in this task.

Wil Duchesneau

200 West Road