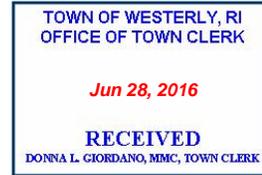


**REGULAR MEETING – AD-HOC ADVISORY CHARTER REVISION COMMISSION – TOWN CLERK’S LIBRARY
WEDNESDAY – JUNE 15, 2016 – 5:30 P.M.**

I. 5:30 P.M. CALL TO ORDER

5 **Present:** Lawrence Cioppa, Chair
Chris Lawlor, Filer
James Angelo
Richard Dudley
John Formica
10 Paula Ruisi
Stephen Turano



Absent: Christian Lund
Nina Rossomando

15 **Also Present:** Donna Giordano, Town Clerk
Benjamin Delaney, Recording Secretary

II. 5:30 P.M. APPROVAL OF MINUTES

20 Mr. Turano requested his question to the Town Solicitor regarding what the general public could do about Town officials who did not follow the Charter and the Solicitor’s response noting the proposed recall be added to the minutes.

Mr. Dudley requested “never” in the motion on 11-1-1 School Committee be corrected to “members.”

25 **Motion by Mr. Lawlor, Seconded by Mr. Dudley, to approve the minutes [of June 8, 2016 as amended]. (Voted unanimously)**

30 *[Upon review, the minutes of the June 8, 2016 meeting included Mr. Turano’s question and the Town Solicitor’s response]*

Mr. Cioppa stated for Ms. Ruisi the Commission had not yet proposed to specify a period of time an individual would need to wait before running for an office after serving two consecutive terms in that office.

35 **III. 5:31 P.M. REPORTS**
A. Town Clerk

Commission members confirmed for Ms. Giordano they received Ms. Giordano’s forwarded email from Cathy Brayman, Deputy Town Clerk and Clerk to the Board of Canvassers, regarding the process for staggered terms.

IV. 5:32 P.M. UNFINISHED BUSINESS

A. Motion to Rescind the Code of Ethics

5 Mr. Angelo, noted the Town Solicitor’s comments at the previous meeting regarding the proposed code of ethics and noted three questions: whether the Commission would insert anything into the Charter, whether ethics would be addressed elsewhere if not and who would be the designated enforcer and how would enforcement be done.

10 Mr. Cioppa stated he believe the proposed possible motion on a code of ethics provided to the Commission for discussion under New Business would mandate the Town Council to create a code of ethics for officials by ordinance. He confirmed for Mr. Angelo the mandate could be included in the Charter.

Motion by Mr. Angelo to rescind the motion passed at the April 13, 2016 meeting concerning the Code of Conduct (ethics).

15 Mr. Cioppa confirmed for Mr. Dudley the Commission’s motion that there be an attestation signed at the time of oath of office to include the State of Rhode Island Code of Ethics and the Town of Westerly code of conduct could remain as the Commission would be inserting a requirement for the creation of a code of ethics by the Town. He stated all other motions relating to the municipal code of ethics could likewise remain.

20 **Motion Seconded by Mr. Lawlor.**

Ms. Ruisi stated the Town of Narragansett had no violations cited or means of enforcement regarding their municipal code of ethics.

25 Commission members recommended if the motion passed, the Commission’s previous motion on a code of ethics be left in the Commission’s Report as reference.

Mr. Turano requested it be noted the Commission rescinded the previous motion under advice of the Town Solicitor.

30 **(Motion voted unanimously)**

B. Unfinished Business from the Floor

None.

35 **V. 5:37 P.M. NEW BUSINESS**

A. Discussion –Requiring Establishment of an Ethics Commission and Ethics Code by the Town Council

Mr. Cioppa cited a suggested motion for discussion and noted the suggested deadline for the Town Council to pass an ordinance establishing a code of ethics (December 31, 2017) would allow the Town Council just over a one-year period.

40 Mr. Formica recommended a July 1, 2017 deadline as it would be the start of a new fiscal year. The Commission stated its agreement of a July 1, 2017 deadline.

Mr. Cioppa, responding to Ms. Ruisi’s question if a date should be stipulated for the

establishment of an Ethics Commission, recommended the date be decided by the Town Council.

Mr. Lawlor noted for Ms. Ruisi it may not be possible to stipulate that the present Town Council establish an Ethics Commission as it would not be voted on by the public until the November 2016 elections.

5 Discussion was held regarding stipulating a deadline for the establishment of an Ethics Commission.

Motion by Mr. Turano, Seconded by Mr. Lawlor, to include in the Westerly Town Charter to mandate that the Town Council create by ordinance, no later than July 1, 2017, a town-wide code of ethics that applies to all elected and appointed officials, and employees if necessary, as well as an Ethics Commission whose principal duties shall be to receive and hear complaints and enforce the provisions of the ordinance.

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Mr. Cioppa and Ms. Giordano clarified for Mr. Dudley the Town Solicitor would be responsible for inserting the language into the Charter.

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(Motion voted unanimously)

B. Discussion – Violation of the Charter as a Grounds for Recall

Motion by Mr. Angelo, Seconded by Mr. Turano, to amend section 5-1-4 Recall Elections passed at the April 13, 2016 meeting to add “Grounds for recall include violation of the Westerly Town Charter.”

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Mr. Dudley noted the motion on 5-1-4 Recall Elections currently included violation of the State of Rhode Island Code of Ethics.

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Commission members clarified for Mr. Angelo petitions would initiate the action of recalling.

(Motion voted unanimously)

C. Discussion – Revisions to Duties of the Solicitor

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Mr. Cioppa clarified there were two suggested motions regarding amending 13-1-4 Duties; one motion would eliminate “protecting the rights of individuals to receive fair and equitable treatments as prescribed under the law.”

Mr. Angelo stated a definition of “individuals” would be needed if “protecting the rights of individuals...” was kept, noting the Town Solicitor had recommended “individuals” be clarified if the Commission chose to maintain the wording. He stated he considered “individuals” to be individuals seeking employment or membership on a board, committee or commission.

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Mr. Cioppa clarified for Mr. Dudley the first suggested motion deleted the sentence regarding “individuals” and the second suggested motion only added “subject to and only insofar as such duties are not inconsistent with the Solicitor’s obligations as set forth by the Rhode Island Supreme Court Rules of Professional Responsibility.”

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Mr. Angelo stated for Ms. Ruisi he believed the Town Solicitor was excluded from involvement

in employment situations as those situations were handled by the Human Resources Department

Mr. Cioppa stated his agreement a definition of “individuals” would be needed if “protecting the rights of individuals...” was kept. He confirmed for Mr. Dudley the wording following “protecting the rights of individuals...” would be kept and “subject to and only insofar...” would be added at the end.

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Motion by Mr. Angelo, Seconded by Mr. Lawlor, to amend section 13-1-4 Duties passed at the Commission’s April 20, 2016 meeting to delete the words “protecting the rights of individuals to receive fair and equitable treatment as prescribed under the law” [and] to add at the end the words “subject to and only insofar as such duties are not inconsistent with the Solicitor’s obligations as set forth by the Rhode Island Supreme Court Rules of Professional Responsibility.” (Voted unanimously)

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D. Discussion – Implementation of Staggered Terms for the Town Council

Mr. Cioppa stated he had spoken with Ms. Brayman regarding a suggested motion and cited the suggested motion. He noted he had posed the question what would occur if the fourth and fifth highest vote-getting candidates were tied and it was suggested both candidates would then be awarded two-year terms, resulting in three members holding four-year terms and four members holding two-year terms. He recommended “If candidates four (4) and five (5) are tied, both shall be awarded two-year terms.” be added prior to “In all subsequent...”

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Motion by Mr. Angelo, Seconded by Mr. Lawlor, to amend the motion passed on the March 9, 2016 meeting, 2-1-1 Number, Selection, Term, to add the words “Beginning with the election in 2018, the four candidates with the highest number of votes shall be awarded four year terms and the three candidates shall be awarded two year terms. If candidates four (4) and five (5) are tied, both shall be awarded two-year terms. In all subsequent elections, members shall be elected to four year terms. (Voted unanimously)

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E. Review of Commission’s Report

Mr. Cioppa noted Ms. Rossomando had submitted her corrections prior to the meeting as she would not be in attendance at the meeting.

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Executive Summary

Mr. Cioppa stated the executive summary had been reworded to state the Commission was established by the Town Council in February 2016 due to the lack of a resolution number. He stated for Mr. Angelo the Commission had not previously reviewed the report.

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Terms of Council Members

Mr. Cioppa stated members voting against passed motions at the first meeting did not provide reasons for their no votes and requested members confirm all such reasons were sufficiently noted in the report commentary.

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Mr. Angelo noted the meeting minutes were the official record for the Commission and the Commission’s Report served as background information.

Mr. Cioppa noted the Commission’s Report was also submitted to the state. He stated for Mr. Turano motions made at the present meeting would be inserted into the report.

Mr. Turano requested the Commission make note where motions passed at the present meeting would be inserted.

5 Mr. Cioppa stated the motion made at the present meeting regarding 2-1-1 Number, Selection, Terms would be inserted under Terms of Council Members and accompanied by the relevant commentary.

Council Vacancies

10 Ms. Giordano confirmed for Mr. Cioppa “next general election” would be understood as ‘next Town election.’

Recall of Elected Officials

15 Mr. Cioppa stated for Mr. Dudley grounds for recall were included elsewhere in the report and could be relocated to be under the section.

Mr. Turano clarified the Commission had previously reviewed pages one (1) through twenty-five (25) of the report.

Ethics

20 Mr. Cioppa confirmed the report would be updated to reference previous motions and the motions made at the present meeting.

Finance Department

25 Mr. Cioppa confirmed all position titles of the Director of Finance were revised to be uniform as Director of Finance.

Ms. Giordano confirmed for Ms. Ruisi the public will have access to the report.

Department of Development Services

30 Mr. Cioppa requested the Commission confirm the commentary sufficiently represented both reasons for and against proposing the insertion of the Department into the Charter. He stated for Ms. Ruisi some of the discussion at the June 8, 2016 was redundant from previous discussions and was already included in the commentary. He confirmed for Mr. Lawlor the titles of the Minimum Housing Official and Building Inspector Official were respectively updated as Property Maintenance Official and Building Official.

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Finance Department

Mr. Cioppa clarified for Mr. Turano, who cited the organizational diagram, the municipal and school sides would each be headed by a Director of Finance.

40 Mr. Angelo clarified for Mr. Turano the two directors are to coordinate the budget and the municipal Director of Finance submits the draft budget to the Town Manager.

Mr. Cioppa stated for Mr. Lawlor and Mr. Dudley he would review the report to confirm all references of “Chief Financial Officer of the School Department” were revised to “School Director of

Finance.”

Ms. Ruisi noted the importance of the report’s layout and length in regard to its convenience of access to information for the public. She recommended the diagram be resized.

5 Discussion was held regarding the layout of the report.

Mr. Cioppa stated a revised draft would be provided to the Commission for review and requested members send back their corrections with a pages and paragraph numbers cited.

10 Mr. Cioppa and Mr. Turano confirmed proposed term limits for the School Committee, Planning Board and Zoning Board of Review were included in the report.

Mr. Angelo recommended the report commentary elaborate on “individuals” in the rescinded motion regarding duties of the Town Solicitor.

15 Mr. Cioppa stated for Ms. Giordano and Ms. Ruisi he would review to confirm “...shall serve for an indefinite term” under Town Solicitor would be struck out. Ms. Giordano noted the Town Solicitor’s term was recently revised to be indefinite as the Town was seeking the position to be more full-time.

Mr. Cioppa confirmed the report commentary would elaborate on “individuals” in the rescinded motion regarding duties of the Town Solicitor.

Department of Public Safety

20 Mr. Turano questioned if the creation of a Chief of Environmental Protection and Public Welfare would require the Town Manager to fill the position.

Mr. Angelo clarified the Town Council would pass the ordinances for the position to enforce before the position would be filled.

Ms. Ruisi noted Ms. Giordano had confirmed a placeholder could be inserted for the position.

25 Mr. Turano stated the insertion was establishing a new position and was not a placeholder.

Mr. Angelo noted, in regard to Ms. Rossomando’s questioning of the difference between the Chief of Environmental Protection and Public Welfare and the Department of Development Services, stated the Environmental Protection Chief was not yet filled.

30 Ms. Giordano noted, regarding 3-1-10 Water, Sewer and Any Other Enterprise Fund Budget, “June” should be corrected to “May.”

Mr. Cioppa confirmed for Ms. Ruisi staff recommendations were referenced in the report. He confirmed for the Commission he would make the changes noted and would provide an updated draft to the Commission.

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F. New Business from the Floor

Mr. Angelo read his statement provided to the Commission of his opinion on motions passed regarding the directors of Development Services and Finance. (See ACRC 06-15-16 Appendix I)

40 **VI. 6:32 P.M. ADJOURNMENT**

Motion by Mr. Turano, Seconded by Mr. Formica, to adjourn. (Voted unanimously)

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Minutes for the June 15, 2016 regular meeting submitted by:

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Benjamin Delaney

APPENDIX I – STATEMENT BY MR. ANGELO

5 “Since February 2016, the [ACRC] members have focused on past charter violations along with the prevention of possible future charter violations. At the start of the [ACRC]’s 2016 deliberations the [ACRC] was confronted with two existing major charter violations. These violations consisted of, first, the so-called consolidation of the two Town financial offices. Second, the establishment of a Town Hall municipal Development Services Department. The titles are very misleading – we’re not talking about organizations, we’re talking about two individuals. Another fact overlooked by the [ACRC] is that the so-called organizational function now called the Development Services Dept. was not established 4 years ago but, it was established 10 years ago, albeit known by a different name. Then as now this so-called department was established 10 years ago, by the then Town Manager, it was done in violation of the Charter. As soon as the Town Manager who was responsible for establishing the charter violation position left office the staff position was abolished by the Town Council. Four years ago the staff position was resurrected again, in violation of the charter, by the then Town Manager for the same reason as that of his predecessor. Make no mistake we are talking about a single position here and not a department or office.

20 In its review of the Town Charter the [ACRC] addressed both of the aforementioned charter violations in an inconsistent fashion by ratifying one violation while rejecting the other. The [ACRC]’s inconsistent decisions involving both cases appear to center on the individual personalities involved and not on organization-wide functions. In one instance the [ACRC]’s decision to ratify the existing charter violation was rationalized, as opposed to being justified, by stating its [the [ACRC]’s] position is being based on and in consonance with a vague, undefined, unverified and unpersuasive “universal trend” - whatever that means. There was little to no discussion concerning the operation, function or charge of the so-called and catch all term, Development Services Dept., however, it was all about the individual. There was no endorsement of the position by the Town Council. When interviewed by the [ACRC] Ms. Grzybowski gave a rambling discourse of the departments’ function admitting that she had no authority and that her primary responsibility was that of a grant writer. In the second instance the [ACRC] voted to “correct” the glaring charter violation by redefining the position of the town’s financial director after long and protracted discussion. In both instances the two primary personalities involved are both well and demonstrably inexperienced.

35 The lack of consistency in dealing with the two aforementioned organizations individuals diminishes the efforts of the [ACRC] by exhibiting a large degree of arbitrariness and capriciousness. A lack of consistency yields a loss of credibility. The message is clear here; it's okay to violate the Charter because the next [ACRC] will ratify the violations and that is made clear by the handling of these two positions.”

