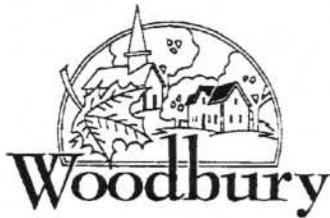


TOWN OF WOODBURY

Office of the First Selectman

281 Main Street South

Woodbury, Connecticut 06798



First land deed from the Indians
April 12th 1659

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BOARD OF SELECTMEN SPECIAL MEETING MINUTES

Monday, May 11, 2015

Shove Conference Room

3:00 p.m.

PRESENT: First Selectman William J. Butterly, Jr., Selectman Overton, Selectman Perkinson, Town Attorney Paul Jessell, Charter Revision Commission Chairman William Drakeley (with CRC members), three residents

1. Call to order – First Selectman Butterly called the meeting to order at 3:00 p.m. and asked for a brief delay while staff obtained another document from the office.
2. Discuss 2013-Established Charter Revision Commission's Report and comments heard at the Public Hearing April 30, 2015 and possible action on Recommendations to Charter Revision Commission - First Selectman Butterly explained the time limitations noted by Attorney Jessell after the Board of Selectmen's hearing that was held on April 30th--option for BOS to hold another public hearing, option for the BOS to send their recommended revisions back to CRC today or hold another special meeting later that week, fifteen days from final public hearing (Friday) to respond, BOS can accept all revisions, accept some or make suggestions for changes, then back to CRC who have thirty days to accept or reject any BOS recommended changes, then fifteen days after the commission has accepted or rejected the changes, the BOS may either vote to approve or reject the charter revisions in total or in part, if rejection, the electorate may petition for a referendum. First Selectman Butterly reiterated that it was his idea to initiate a charter revision in order to unify the town but he did not plan on it becoming divisive. Fiscal Officer Manuel Gomes was asked to attend regarding "Transfers" discussions. First Selectman Butterly complained about the revision "Section 703. Transfers and Additional Appropriations A.2. last sentence, inserted "exceed \$20,000 or the amount provided by the Connecticut General Statutes Section 7-348." (language that had been provided by Attorney Carl Landolina). First Selectman Butterly, expressed his opinion that this revision could be a deal breaker, and cited other towns that had not been following this "transfer" language. Attorney Jessell further explained other legal cases having to do with this matter in which "rulings of budgets are a matter of local charters" and towns that have limits when transferring. Discussion followed regarding the negative consequences if the revision went into effect and conclusions that the \$20,000...revision is not a workable number. Clarification on this section noted that the amount is based on the "total Annual Budget" (which includes Reg. 14)—wording that was left out. First Selectman Butterly recommended that the "transfer" wording be left as is (no revisions). Selectman Overton emphasized that he did not feel persuaded and thought it absurd to use the amount based on the total Annual Budget.

The following actions and discussions were based on Attorney Jessell's May 7, 2015 memo regarding his analyses of the proposed revisions. His memo language appears italicized.

Section 101 and 102.

The words "general laws" and "laws" in those two sections have been changed to "General Statutes." Query whether the more general language had been used in these paragraphs, which outline the basic incorporation of the Town and its general powers, in order to account for the operation of any Special Act of the state legislature now existing or which might later be enacted. MOTION: Selectman Overton moved to recommend that the language in Section 101 and 102 remain as is (rejected proposed change). SECOND: Selectman Perkinson. MOTION PASSED UNANIMOUSLY.

Section 105 B.

It is suggested that the word "taking" be re-inserted after the word "or" in the first sentence. MOTION: Selectman Perkinson moved to reinsert "taking" and leave remaining revision in place. SECOND: Selectman Overton. MOTION PASSED UNANIMOUSLY.

Section 105.C.15, 16 & 17.

Town staff has recommended that these not be included as being unnecessary. The CRC Attorney made the same recommendation at the October 7, 2014 meeting, unless Chapter 7 was amended to address those specific situations. It does not appear that Chapter 7 was amended in those respects. MOTION: First Selectman Butterly moved to remove Section 105. C. 15, 16, 17 of our Section 105 C. SECOND: Selectman Perkinson. MOTION PASSED UNANIMOUSLY.

Section 202.B.3.a.

While the May 16, 2014 memo from the CRC Attorney was not available, the reasons for the change to this section are not clear. Neither the prior language nor the revised language are wrong. The old language simply referred to section 402.J.1.b., while the new language, by default, refers to section 402.J.1.a. Perhaps a more complete change would be to leave the proposed change in 202.B.3.a., and add a new 202.B.3.c. which would track the language of the original subsection a. The current 202.B.3.c. would become 202.B.3.d. MOTION: Selectman Overton moved to leave as is (rejected proposed change). SECOND: Selectman Perkinson. MOTION PASSED UNANIMOUSLY.

Section 204.B.1.b.

It has been suggested that the words "published in a newspaper having circulation in the Town" be removed and the section be rewritten as follows: "The Notice shall be published on the Town Bulletin Board, and, when available, on the Town website, and as otherwise required by the General Statutes." There have been several attempts to remove the statutory requirement that legal notices be published in a newspaper. In the event the statutes are changed, does Woodbury nonetheless want to continue to require newspaper publication because it is called for in the Charter? MOTION: Selectman Overton moved language for 204. B. 1. b. "The Notice shall be posted on the Town Bulletin Board and when available on the Town website and as otherwise required by the Connecticut General Statutes published in a newspaper having circulation in the Town. SECOND: First Selectman Butterly. MOTION PASSED UNANIMOUSLY.

Section 302.F.

The Tax Assessor had requested that the Board of Assessment Appeals be altered by adding two alternates. The CRC proposed to increase the number of regular members of the Board of Assessment Appeals from 3 to 5. In general, the reason for having alternate members of a board or commission is to better ensure that a quorum is available so that the board or commission's duties can be fulfilled. Increasing the number of members actually increases the number that must be present in order to have a quorum. In addition, the use of alternates helps to ensure that there are always 3 members hearing appeals as opposed to only 2 members. Because the work of the board of assessment appeals must be accomplished within fairly definite timeframes, loss of meetings through lack of quorum can be problematic for the Town. MOTION: Selectman Overton moved to keep "three" and add "two alternates". SECOND: Selectman Perkinson. MOTION PASSED UNANIMOUSLY.

Section 306.

The Board of Selectmen may want to look at the issue of limiting the number of consecutive years an individual may serve as Chairman of a board or commission, if only because it has generated significant comment on both sides of the question. MOTION: Selectman Overton moved to insert after "chairman" (at the end of the sentence) "to become effective on January 1, 2018 such that on that date a new chairman shall be elected." SECOND: Selectman Perkinson. VOTE TAKEN: Selectman Overton – yes; First Selectman Butterly – yes; Selectman Perkinson – no. MOTION PASSED.

Section 402.G.

The need for mandating 2 joint meetings of the Board of Selectmen and the land use boards and land use officials every year has been a matter of some concern. While the annual joint meeting does serve a valuable purpose, there is no common feeling that additional meetings are necessary. The section as originally written provides for additional meetings if needed. MOTION: Selectman Overton moved to leave as is (rejected proposed change). SECOND: Selectman Perkinson. MOTION PASSED UNANIMOUSLY.

Section 402.I.I.c.

The requirement that the ordinances be codified is a matter of some concern only because of the cost of the initial codification. In the event that the Board of Selectmen and the Board of Finance determine that the money is available, and once codification is in place, there is no reason to think that the updating of the codification will be a problem since ongoing update costs are relatively minor. Certainly this need not be dealt with in the Charter. This particular section of the Charter relates most specifically to the manner in which new ordinances are filed and published, i.e. notice to the public of new ordinances. MOTION: Selectman Overton moved to delete "codified" and leave as is (rejected proposed change). SECOND: First Selectman Butterly. MOTION PASSED UNANIMOUSLY.

Section 402.K.1.

The addition of the requirement of a hearing on the sale, lease or disposition of Town owned real property does comport with the requirements of General Statutes §7-163e (note that the actual statute number does not have parenthesis around the "e"). However, subsection (b) of the statute provides three exceptions to the hearing requirement as follows: "The provisions of subsection (a) of this section shall not apply to (1) sales of real property, except parkland, open space or playgrounds, if the fair market

value of such property does not exceed ten thousand dollars, (2) renewals of leases where there is no change in use of the real property, and (3) the sale, lease or transfer of real property acquired by the municipality by foreclosure." Is it the intent to require a public hearing in all cases, or only where required under section 7-163e? Perhaps add the language "unless such public hearing is not required pursuant to section 7-163e(b)." MOTION: Selectman Overton moved to accept the revision but add "unless such public hearing is not required pursuant to Section 7-163 e (b)" at the end. SECOND: First Selectman Butterly. MOTION PASSED UNANIMOUSLY.

Section 402.K.2.

The CRC has proposed that the word "appraised" be added to this section. This section deals with the sale of tangible personal property of relatively little value. In practice, when a department head wants to sell property (old trucks, equipment or the like), they will provide to the Board of Selectmen some evidence of value such as Kelly Blue Book or some other recognized valuation service. The requirement of an appraisal may well incur additional costs, in some cases costs in excess of the value of the property to be sold. Rather than deal with that issue in the Charter, perhaps it would be better to develop a policy, much like the existing purchasing policy, to spell out the methods of determining these values. MOTION: Selectman Overton moved to leave as is (rejected proposed change). SECOND: Selectman Perkinson. MOTION PASSED UNANIMOUSLY.

Section 402.M

The CRC has removed the Town Counsel description from section 801.B. and has severely shortened the description. This will be discussed in more detail in the discussion of section 801, *infra*. However, in the event that the Board of Selectmen agree that this change be made, the existing wording will prove unworkable. The First Selectman, both by statute and under the Charter is the chief executive officer and the chief administrative officer of the Town. Under the proposed language, only the Board of Selectmen can authorize the Town Attorney to provide legal services or provide a written opinion to an officer, agency, board or commission. Under the prior language, it was the First Selectman or the Board of Selectmen which could make those decisions. It would be unduly burdensome and could lead to serious problems to require that the Board of Selectmen act every time a legal opinion or legal assistance is required by the Town. There are many times that the First Selectman or a board or commission requires a quick answer from the Town Attorney which would not be possible under the proposed wording. MOTION: First Selectman Butterly moved to take out (rejected proposed addition). SECOND: Selectman Perkinson. AMENDMENT: First Selectman Butterly moved to recommend to the CRC if they don't take our recommendation and they keep it in, they should amend to read at the end of the last sentence, "and authorized by the First Selectman or the Board of Selectmen." SECOND: Selectman Perkinson. MOTION PASSED UNANIMOUSLY. VOTE ON MAIN MOTION: MOTION PASSED UNANIMOUSLY.

Section 702.A.

The sole change was changing the title of this section. The question that has arisen is whether it is the Chairs of the boards or commissions or the Town staff that prepare and propose the budget. For example, does the Zoning Commission Chair file the budget, or the Zoning Enforcement Officer or Land Use Administrator? The section remains about propose budgets, and the body of the paragraph identifies the filers. Why make the change? MOTION: Selectman Overton moved to leave as is (rejected proposed change). SECOND: Selectman Perkinson. MOTION PASSED UNANIMOUSLY.

Section 702.B.1

In the first line, add the word "it" before the word "deems." In the 5th line, add the word "the" before "Capital." Substantively, at the end of the last sentence, add the words "so far as is practicable." The fact is that, while the Board of Selectmen and the Fiscal Officer make every effort to have the budget to the Board of Finance expeditiously, there are factors that could make the timing somewhat later. For example, when a new First Selectman and a new Board of Selectmen take over, there can be learning curve issue that causes some delay. More importantly, it is often impossible for the Board of Selectmen to present a complete budget by March 1. By way of one example, seldom does the Board of Selectmen get its final insurance numbers by March 1. Therefore, the suggested language would provide a target date, with allowance for circumstances beyond the Board of Selectmen's control. MOTION: Selectman Overton moved, in Section 702. B. 1, to insert "it" between "as" and "deems" in the first line and insert "the" between "and" and "capital" in line five; Section 702. C. 1., line two, delete "March 1" and insert "March 31". SECOND: Selectman Perkinson. MOTION PASSED UNANIMOUSLY.

First Selectman Butterly called for a three minute recess at 4:55 p.m.

Section 702.C.1.d.

There are two specific questions regarding the setting of the First Selectman's salary as part of the Annual Budget. First, the language states that the salary cannot be reduced during the current term of office. Does this mean that any reduction would take place on the date the new First Selectman is sworn in in December, or would it still occur on July 1, that being the start of the fiscal year. Second, presumably the salary could be increased during the term. Is that intentional? There is some argument that could be made that the salary should be neither increased nor decreased during a term to avoid any appearance of collusion. The sitting First Selectman would still know before the election cycle that his salary would be increased were he to run again. MOTION: Selectman Overton moved to change in the second line, "set" to "approve" with a note to the CRC that the Board of Selectmen will work on a process to establish a salary for the First Selectman and stipend salaries for the Selectmen. SECOND: Selectman Perkinson. MOTION PASSED UNANIMOUSLY.

Section 702.D.6.

The timeframes for the Board of Finance Meeting are very tight. Questions could arise as to whether there could be adequate notice to the public of the meeting. It might also be better to add to the new language, in the third line after the word "public" the words "and the Board of Selectmen" so that the Board of Finance could at least hear the Board of Selectmen on where its recommendations for cuts might be based on its closer knowledge of the operation of the various departments. In practice, second and subsequent budgets have generally had Board of Selectmen input even if not specifically required in the Charter. A technical matter, in the third to last line of paragraph 702.D.6. it provides "Notwithstanding anything to the contrary contained herein this Section 702(d)(5) . . ." That phrase should either end after "herein" or the language should be changed to "in this Section 702(D)(6)." MOTION: Selectman Overton moved to insert on third line between "than" and "days", "seven business" and line five insert between "held" and "days", "twenty-one calendar". SECOND: First Selectman Butterly. AMENDMENT: Selectman Overton moved to change, in the line nine, "Section 702(D)(5) to Section 702(D)(6),". SECOND: First Selectman Butterly. MOTION PASSED UNANIMOUSLY. VOTE ON MAIN MOTION: MOTION PASSED UNANIMOUSLY.

Section 703.A.2.

This is the transfer limit issue which has generated such heated debate. Both the Chair of the Board of Finance and the Fiscal Officer are of the opinion that this limitation is unworkable and unnecessary. There is a legal opinion directly on this issue, and a response. MOTION: First Selectman Butterly moved to leave it the way it was plus insert the following wording after “(.0020)”, “of the total Municipal budget and of the total of the Region 14 budget.” SECOND: Selectman Perkinson. VOTE TAKEN: Selectman Overton – no; First Selectman Butterly – yes; Selectman Perkinson – yes. MOTION PASSED.

Section 707

The CRC has not recommended any change to this section. It has been discussed that the second and third sentences should be removed. The reports filed by the boards are done on a fiscal year basis, but the attendance provision in the Charter, section 608.A., is done on a calendar year basis. This leads to confusion and people claiming that they made the proper number of meetings based on a fiscal year measurement versus the calendar year. MOTION: Selectman Perkinson moved to remove in A., second and third sentences. SECOND: First Selectman Butterly. VOTE TAKEN: Selectman Overton – no; First Selectman Butterly – yes; Selectman Perkinson – yes. MOTION PASSED.

Section 708

The Fiscal Officer has indicated that a dual reporting situation could become untenable. The First Selectman and Board of Selectmen hire, and they should be the primary reporting body for this position. Something for discussion. MOTION: Selectman Overton moved to delete Section 708. Town Treasurer/Chief Fiscal Officer. (rejected proposed addition) and make Section 709, “708”. SECOND: Selectman Perkinson. MOTION PASSED UNANIMOUSLY.

Section 709

This is a change that is strongly opposed by some staff members and is believed by Town Counsel to be unworkable. No other Town Board has the right to retain its own counsel (Pension Board excepted). The Board of Selectmen is responsible for hiring Town Counsel and the Board of Finance has every right to request that Town Counsel issue an opinion on any issue it desires. The old Charter provisions for Town Counsel additionally gave the Board of Selectmen the power to hire additional counsel for specific boards if the facts warrant. In all cases, however, the Board of Selectmen hires the attorneys representing all of the Town Boards. So, for example, there is separate counsel for bonding, labor and land use. Those additional attorneys, however, are retained presumably because they have specialized knowledge in specific areas of the law and, in any event, all of them are hired by the Board of Selectmen. If the fear is that the Board of Finance will not be allowed to obtain a legal opinion if it is having a dispute with the First Selectmen/Board of Selectmen, there are two answers to that. First, the denial of a formal request for a legal opinion on a significant matter would be a major political issue for the First Selectmen/Board of Selectmen. Second, were that to happen, there is case law that permits boards to hire their own attorneys if the Town fails to provide for its needs in performing its functions. MOTION: Selectman Overton moved to remove “Section 708. Legal Counsel.” (rejected proposed addition) since case law exists. (but on the draft it is listed as “Section 709”) SECOND: Selectman Perkinson. VOTE TAKEN: Selectman Overton – yes; First Selectman Butterly – no; Selectman Perkinson – yes. MOTION PASSED.

NOTE: There was not any mention about this section in Attorney Jessell's memo: Section 710. Auditor. – MOTION: Selectman Overton moved to replace "contract with" with "designate" (in line one). SECOND: First Selectman Butterly. MOTION PASSED UNANIMOUSLY.

Chapter VIII

Staff has serious issues with removing all of the language related to the administrative offices in Section 810.B. As an initial matter, that language states affirmatively who appoints each position and gives an overview of the duties of the position. Staff relies on that information and in many cases that information has become important in making legal determinations regarding the duties and expectations of the positions and their relationship to their constituencies. With specific reference to Town Counsel, there are limitations imposed and powers granted to Town Counsel that otherwise become matters of interpretation in the future. While there is some benefit to simplicity, this language has been developed over a long period of time, and has worked well for years. That having been said, the following changes should be made if this language is to be reinserted:

1. *Remove number 4, Assistant Building Inspector; number 8, Director of Health; number 9 Assistant Director of Health; number 10 Town Sanitarian.*
 2. *Add new "Director of Senior Services. The Board of Selectmen shall appoint a Director of Senior Services who is professionally qualified by education and experience as specified in the job description on file with the Town Clerk. The Director of Senior Services shall oversee the management and use of the Senior Community Center and be an advocate for the elderly population of the Town of Woodbury. The Director of Senior Services shall have all the powers and duties conferred by the General Statutes and such other powers and duties as the Commission for the Elderly, the Board of Selectmen and the First Selectman may establish by order or instruction not inconsistent with law."*
 3. *Add New "Director of Social Services and Municipal Agent. The Board of Selectmen shall appoint a Director of Social Services and Municipal Agent who is professionally qualified by education and experience as specified in the job description on file with the Town Clerk. The Director of Social Services and Municipal Agent assists Town residents in utilizing social services and other government assistance programs and is an advocate for the residents of the Town of Woodbury. The Director of Social Services and Municipal Agent shall have all the powers and duties conferred by the General Statutes and such other powers and duties as the Commission for the Elderly, the Board of Selectmen and the First Selectman may establish by order or instruction not inconsistent with law."*
- MOTION: Selectman Perkinson moved delete in Section 801. General. B. the list of administrative positions and add back in the administrative positions' descriptions minus "Assistant Building Official", "Director of Public Health District or equivalent", "Assistant Director of Health", "Town Sanitarian" and add "Director of Senior Services" and "Director of Social Services and Municipal Agent" plus their descriptions as stated in Attorney Jessell's memo. SECOND: Selectman Overton. MOTION PASSED UNANIMOUSLY.

Section 502.B.5.a.

There has been some discussion regarding the addition of the word "current" to this section. There is an ongoing effort by Town staff to update job descriptions, but the process is painstaking and time consuming. The concern is that adding the word "current" may impose some additional requirement that job descriptions be updated on some regular (annual?) basis, which would be unworkable. In addition, in the case of union employees, changing and updating job descriptions could conflict with existing union contracts. Union job descriptions need to be modified as part of the negotiating process. MOTION: First Selectman Butterly moved to remove (rejected proposed change) the word "current" from Section 502.B.5.a. SECOND: Selectman Perkinson. MOTION PASSED UNANIMOUSLY.

Section 602.C.

Simple matter of changing the word "Council" to "Office" in the second sentence for consistency.
MOTION: First Selectman Butterly moved to insert "council" with "office." SECOND: Selectman Overton. MOTION PASSED UNANIMOUSLY.

Section 602.H, I & J.

In all of these sections, the suggestion from staff has been to change the wording in each paragraph from: "It may interview and make recommendations to the Board of Selectmen for appointment to the position of Director." to "The Chairman may be involved in the interview process and the (board/commission) may make recommendations to the Board of Selectmen for appointment to the position of Director." The feeling is that the interview process will become unwieldy and there are dangers of improper interview actions with a large number of interviewers. In Section 602.I. there has been a suggestion that "Commission for the Elderly" be changed to "Commission for Seniors" and the "Director of Elderly Services" be renamed the "Director of Senior Services." Also, in the last sentence of section 602.J., the word "whether" should follow the word "review". MOTION: Selectman Overton moved (in each H. I. & J.) to delete "It may interview and make recommendations to the Board of Selectmen for appointment to the position of Director." and insert "The Chairman may be involved in the interview process and the (board/commission) may make recommendations to the Board of Selectmen for appointment to the position of Director." SECOND: Selectman Perkinson. MOTION PASSED UNANIMOUSLY. MOTION: First Selectman Butterly moved to change the "Commission for the Elderly" to "Commission for Seniors". SECOND: Selectman Perkinson. MOTION PASSED UNANIMOUSLY. MOTION: Selectman Perkinson moved to change "Director of Elderly Services" to "Director of Senior Services." SECOND: First Selectman Butterly. MOTION PASSED UNANIMOUSLY. MOTION: First Selectman Butterly moved to, in the last sentence of section 602.J., insert "whether" after the word "review." SECOND: Selectman Perkinson. MOTION PASSED UNANIMOUSLY.

Regarding Section 903. Meetings. there was a general consensus that the CRC look to add to the "alternates" language after looking at the "Guide to Boards and Commissions" so that if members are calling in, all verbal communication would be audible at all times during meetings. It was also noted that the BOS's recommendations were due back to the CRC by Friday, May 15, 2015.

3. Adjournment – MOTION: Selectman Overton moved to adjourn at 5:48 p.m. SECOND: Selectman Perkinson. MOTION PASSED UNANIMOUSLY.

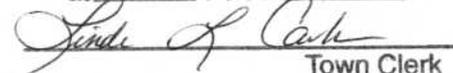
Respectfully submitted,



Jan Krampitz, Secretary to the Board of Selectmen

RECEIVED & FILED
IN WOODBURY, CT

This 13 day of May 2015
at 2:00 o'clock P M


Town Clerk