

Town of Durham
CHARTER REVISION COMMISSION

Regular Meeting
Minutes
April 29, 2006

1. Call to Order

The Charter Revision Commission (CRC) met at the Temporary Town Hall located at 350 Main Street on Saturday, April 29, 2006. Chairman McLaughlin called the meeting to order at 8:05 a.m.

Members Present: Laura Francis, Martin French, Carol Kleeman, Mark McLaughlin, Pat Murawski, Betty Long.

Absent: Alice Tucker, Ron Melnik, John Corona.

2. Public Comments. None.

3. Review of minutes

Motion by Carol Kleeman, seconded by Betty Long to approve minutes of April 24, 2006 meeting as presented. Motion passed unanimously.

4. Report on Subcommittee Research. No additional reports.

5. Discuss/Decide Charter Revision Items

Motion by Carol Kleeman, seconded by Betty Long to remove items Section 4.6.5 and Section 4.6.6 from the table and continued review of Section 7. Motion passed unanimously.

Section 4.6.5 and Section 4.6.6. Discussion continued. Chairman McLaughlin received information from CCM but no clear direction on this issue. The items he received included news reports, finance and purchasing information but not a lot in the way of guidance. Information was also included for towns that had procurement policies.

Laura reiterated it is not the job of the CRC to create an acquisition policy or ordinance. It is simply the CRC's responsibility to give unto the Board of Selectmen the ability to create an acquisition policy. The Board of Selectmen is the governing authority of the town. All of their deliberations are carried out in the public eye. Laura continued that she understands the concept of having an independent party set an acquisition policy, however, that independent party may not be aware of how the Town of Durham functions. There needs to be communication between the Board of Selectmen and the various departments to discuss the manner in which items are purchased.

Chairman McLaughlin stated CCM does mention the importance of ethics. Major purchase agreements have the potential for conflict of interest.

Betty added she thought about the importance of finance being included in the proposed ethics section and suggested adding 7.2.6 "Definition, procedures and/or penalties relating to the conduct of all Town financial affairs." Laura agreed that finances should be mentioned in a general way.

Chairman McLaughlin reviewed the difference in meaning of "shall have the power to" and "shall." The former is not as demanding as the latter. Should the wording of the introductory paragraph be changed to "shall?" Some members preferred to leave the language

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unchanged for the reason that the Board of Selectmen may not need to address all of these areas every year.

Chairman McLaughlin stated the proposed revisions 4.6.5 and 4.6.6 really belong under Section 4.3 and suggested making them Section 4.3.6. All members agreed. Discussion continued with the agreement of combining the wording of both 4.6.5 and 4.6.6. into Section 4.3.6 with the following motion made:

Motion by Laura Francis, seconded by Martin French to adopt new Section 4.6.5 and new Section 4.6.6., motion amended by Carol Kleeman, seconded by Martin French to adopt this language under Section 4.3.6 to read as follows: "Section 4.3.6 The Board of Selectmen shall be responsible for implementing a Town Acquisition Policy and review such policy on an annual basis." Motion passed unanimously.

Motion by Laura Francis, seconded by Carol Kleeman to change the current wording of Section 4.6.5 to read as follows: "Section 4.6.5. To put out to public bid all contracts in amounts in excess of \$5,000.00 in accordance with the Town Acquisition Policy." Motion passed unanimously.

New Section 7. Code of Conduct [Ethics]. Martin provided revised handouts on this section and asked all members to read through before discussion commenced as he and Carol made additional changes to the ones discussed at the last meeting. He liked Betty's suggestion for an additional Item 6 mentioned earlier in the meeting "7.2.6: Definition, procedures and/or penalties relating to the conduct of all Town financial affairs," however he recommended that it be number 7.2.2 with subsequent renumbering of the remaining items accordingly.

Motion by Betty Long, seconded by Martin French to adopt new Section 7 Code of Conduct [Ethics] as presented, with Chairman McLaughlin making the friendly amendment to include new item and renumbering as discussed in the meeting, wording of this section as follows:

Chapter 7. Code of Conduct

Section 7-1 Ethics Commission

There shall be an Ethics Commission that shall set forth standards of ethical conduct for public officials, employees, contractors, consultants, and members of boards and commissions in the performance of their duties.

The Board of Selectmen shall appoint an Ethics Commission consisting of 7 electors of the Town within 90 days of ratification of this Charter revision. Initially members will be appointed as follows: 2 members to 2 year terms, 2 members to 3 year terms and 3 members to 4 year terms. Subsequently, members will be appointed to 4 year terms.

SECTION 7-2 Ethics Rules

The Ethics Commission shall adopt "Rules of Conduct" consistent with Connecticut General Statutes and this Charter for public officials, employees, contractors, consultants, and members of boards and commissions. These rules shall include but not be limited to:

- 1. Procedures for the public to address the ethical behavior of public officials, employees, and members of boards and commissions.*
- 2. Definitions, procedures and/or penalties relating to the conduct of all Town financial affairs.*
- 3. Definitions of conflict of interest.*

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4. *Procedures for public officials, employees, and members of boards and commissions to disqualify themselves from matters where a conflict of interest exists.*
5. *Consequences and penalties for violations of the "Rules of Conduct."*
6. *Provisions for annual review of the rules by the commission and the Board of Selectmen.*

Discussion continued. Laura stands by her previous thought that an Ethics Commission should be established by ordinance and the CRC should simply provide the Board of Selectmen with the language in the first paragraph provided by Martin and Carol that enables them to establish such entity. The establishment of an ordinance gets into very specific detail and elevates this Ethics Commission to a higher level. The Water Commission ordinance is very lengthy and very detailed so the members are well aware of their specific responsibilities.

Betty asked how the Water Commission ordinance was created. Laura replied that the Board of Selectmen researched; held public hearings, obtained legal advice, and the ordinance was voted on at Town Meeting. She added the Code of Ordinance is Durham's local law. Requiring the Ethics Commission to be created by town ordinance elevates this body to local law. There is no need to add any other language other than the first paragraph.

Martin and Carol disagreed; it is very important to be specific about the number of members and timing. Martin stated that just because the Board of Selectmen has the power to do something doesn't mean they will. He felt there should be definite dates included.

Laura is reluctant to include dates. The addition of new language in the charter should be enough to bring it to the forefront. She stated, "If I'm a sitting selectman I'm going to get the message loud and clear that I need to act on this." Betty agreed with Laura and didn't think that dates needed to be included.

Chairman McLaughlin agreed with Laura that the proper way to establish an Ethics Commission is by ordinance. This puts the ethical strictures in the hands of the electors. He adds most other sections in the charter referring to various boards and commissions are not detailed; the charter simply gives authority to each group to establish rules and policy. Chairman McLaughlin suggested that the CRC include Section 7.2 in its comments to the Board of Selectmen. In this way the spirit of the charter is kept intact while giving direction to the Board of Selectmen.

Pat pointed out that Chapter 7 Code of Conduct should probably be in Chapter 6 as Section 6.21 and renumbering the remaining sections. Members agree the location of this item should be in Chapter 6.

Carol disagreed about not including the make up of the Ethics Commission and the rules in the charter.

Chairman McLaughlin commented that the first paragraph is very powerful. He added there will be meetings that Carol and Martin can attend to explain in detail their concerns. Creating an ordinance gives power to the townspeople to participate in the process.

Laura stated the makeup of the board as well as members being elected versus appointed should be left up to the ordinance process. She added an ethics commission is needed to protect the public and officials of the town.

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Lengthy discussion continued. Carol and Martin felt strongly that a timeline be included in the wording as well as Ethics Rules. Laura replied that you can't put a 90-day time

limit on this. Because of all that is involved in the formation of an ordinance it most likely will take longer than 90 days. The Board of Selectmen and the town could be subjected to legal action if the CRC delineated a deadline that couldn't be met.

Pat suggested there be language added that no salaried employee of the town be a part of the Ethics Commission. Laura stated the ordinance will address all concerns that Carol and Martin have and much more.

Martin stated again that he and Carol feel very strongly that the entire wording they presented be included so there is no doubt as to content and timeframe.

Betty concurred with Laura and Chairman McLaughlin that the first paragraph of 7.1 is enough as long as there is a clear comment section explaining why Section 7.2 was left out.

Discussion about adding the word "forthwith" to the first paragraph. Some members asked the meaning of forthwith and Laura replied forthwith means immediately. Forthwith is often used in legislation relative to town clerk duties. She would not be averse to adding "forthwith" to the first paragraph. She adds ethics is an important enough topic that it would be very egregious for the Board of Selectmen to ignore.

Discussion continued concerning the number of members on this commission. Maybe there should be less than seven members, maybe there should be more.

Laura called the question. She explained this needs no second, is not debatable and requires a two-thirds majority to pass.

Ayes: Martin French, Carol Kleeman, Betty Long. Nays: Laura Francis, Mark McLaughlin, Pat Murawski. Motion failed.

Motion by Laura Francis, seconded by Pat Murawski to include the following language in [Section 6.21](#) and the renumbering of subsequent section, [Section 6.22 Other Town Officials](#):

[Section 6.21 Ethics Commission](#)

There shall be an Ethics Commission that shall set forth standards of ethical conduct for public officials, employees, contractors, consultants, and members of boards and commissions in the performance of their duties. Such commission shall be established forthwith by Town Ordinance.

Ayes: Laura Francis, Mark McLaughlin, Pat Murawski, Betty Long. Nays: Martin French, Carol Kleeman. Motion passed.

[Note: Comments section to the Board of Selectmen regarding the Ethics Commission should include reference to other issues brought up in this section as presented by Martin and Carol.]

Section 6.9 Department of Emergency Management. Chairman McLaughlin did not have a chance to speak with the Board of Selectmen or Steve Levy about the language in this section.

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Section 2.6 Vacancies. Chairman McLaughlin explained that in drawing from previous conversations he has had; in order to keep boards vital; and to increase civic participation, there needs to be more communication between the various boards, board of selectmen and the public when vacancies arise. Therefore, he offered additional wording in this

section, *“Any reported or impending vacancy shall be brought before the first available Board of Selectmen’s meeting and duly legally noticed in the paper of record and on the Town’s website.”*

Laura commented that duly legally noticed means there will be a monetary impact to the town. She also does not want to weaken the appointing authority by putting vacancies on the town’s website. She states it is the responsibility of the Board of Selectmen and party chairman to seek candidates.

Chairman McLaughlin responded he has heard many complaints that opportunities to serve are not widely known to the public because they are unaware of vacancies. He believes it is important to direct the governing authority to make it widely known when vacancies occur and to encourage civic participation. Every election indicates that civic participation is low. Laura replies that people have the choice not to participate. Martin adds there is no choice if you don’t know there is a vacancy. Laura stated the knowledge of vacancies is available through the selectmen minutes.

Martin commented there is no monetary impact by noticing vacancies on the town website. Carol added there are still people in the community who do not have computer access. If you notice the vacancies in the newspaper, everyone has the ability to be informed. The First Selectmen has a comments section in the Town Times that is free. Martin responded that the library has public access computers, therefore, every citizen does have access to the town’s website. Pat replied there is no guarantee that the Town Times will still be here in years to come. Betty commented there has been a longstanding tradition in this town of posting information on the public signpost at Town Hall. She also added that if people want to serve they will find out if there is a vacancy coming up. You can’t direct a paper to publish anything unless it is in the form of a legal notice.

Laura felt that putting responsibility on the Board of Selectmen to publish all vacancies on the website just gives them one more way to get in trouble. Martin stated all you’re doing is making it more generally known that vacancies exist. Discussion continued about rewording the addition to this section.

Motion by Carol Kleeman, seconded by Betty Long to make additions to Section 2.6 Vacancies as follows in the first paragraph: “Unless otherwise specified in this Charter, any vacancy, from whatever cause arising, in any elective or appointive town office, shall be filled by appointment by the board of selectmen for the unexpired portion of the term or until the next scheduled election for that office, whichever shall be sooner. Any reported or impending vacancy shall be brought before the first available Board of Selectmen’s meeting and duly publicized. Motion passed unanimously.

6. **Other Items as Appropriate.** **None.**
7. **Prepare for Next Meeting.** **None.**
8. **Adjourn.** Chairman McLaughlin adjourned the meeting at 10:00 a.m.

Respectfully submitted,

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Kimberly D. Garvis
Recording Secretary