

Town of Durham
CHARTER REVISION COMMISSION

Regular Meeting

Minutes

August 7, 2006

Call to Order

The Charter Revision Commission (CRC) met at the Temporary Town Hall located at 350 Main Street on Monday, August 7, 2006. Chairman McLaughlin called the meeting to order at 7:30 p.m.

Members Present: Carol Kleeman, Pat Murawski, John Corona, Alice Tucker, Ron Melnik, Betty Long, Mark McLaughlin, Martin French, Laura Francis

Others Present: Board of Selectmen (First Selectman James McLaughlin, Renee Primus Edwards and Maryann Boord), and approximately seven other people.

1. Public Input

Chairman McLaughlin asked that the public input session be kept to about twenty minutes so the CRC and BOS could proceed with deliberations on final revisions to the charter.

Comments made by the public included:

- Disagreement about term limits for only land use boards. If term limits are adopted it should apply to all.
- The CRC failed in their due diligence to look at other town charters.
- Procedural question, can the BOS reject one or more parts of the charter revision? Chairman McLaughlin responded the BOS may reject in part or total.
- If P&Z approves a subdivision and a road plan but the town meeting rejects, does this open the town to a lawsuit?
- The mere fact that the CRC picked out land use boards only for term limits has greatly offended some members of these boards. If term limits are to be applied fairly they should be applied across the board for all boards, commissions and elected officials.
- More concerned with term limits than limiting cross membership.
- Just because other towns have term limits doesn't mean Durham should.
- Dick Eriksen stated (on his and other land use board members' behalf, "I'm warning you that you've offended us."

2. Review of minutes.

Motion by Alice Tucker seconded by John Corona to approve minutes of June 12, 2006 with the following corrections:

page 2: 1st paragraph, 2) change imminent to "eminent"

page 4: add one sentence at the end of 5) "Alice asked about DVAC inclusion."

Motion passed unanimously.

Motion by John Corona seconded by Carol Kleeman to approve minutes of June 19, 2006 Public Hearing with the following corrections:

page 2: last paragraph, "Brian Ameche, Chairman of Conservation Commission,

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[delete 'expressed' and add] read a prepared statement expressing his concern...."

page 3: top line, after first word "representation" add "which he characterized as text added by John Corona.)"

page 4: third paragraph, first sentence, "Chairman McLaughlin and Laura Francis "noted" (delete responded)

Motion passed unanimously.

Motion by John Corona seconded by Mark McLaughlin to approve minutes of June 19, 2006 meeting as presented. Motion passed unanimously.

Motion by John Corona, seconded by all to approve minutes of July 8, 2006 meeting with the following corrections:

Page 3: second paragraph, add the following sentence to the end, "In response to a question Betty Long confirmed that Middlefield does not have the enabling document for Regional School District 13."

Ayes: Mark McLaughlin, Alice Tucker, John Corona, Carol Kleeman, Martin French, Betty Long, Pat Murawski, Ron Melnik. Abstain: Laura Francis Motion passed.

Motion by John Corona, seconded by Martin French to approve minutes of July 31, 2006 meeting with the following corrections:

Page 5: motion, "...to change the name of this section to the 'Town Procurement Policy' as requested...."

Motion passed unanimously.

3.& 4. Board of Selectmen and Charter Revision Commission confer response to CRC proposed changes; discussion as to proceeding.

Seven Items for Review with the Board of Selectmen

2.1 General Town Elections

Chairman McLaughlin stated the BOS term should be four years for reasons articulated in the Public Hearing: 1) this provides a larger window of time for chief officers of the town to become familiar with the business of the town, 2) four-year term provides enough time to build a track record of results for the voters to make decisions on candidates, 3) the longer term might also increase the pool of candidates.

Renee supports four-year terms, however, there are many proposed changes in this charter. She believes including the BOS in the expansion to four-year terms might jeopardize the vote for the other offices and she feels it is more important that the other positions be increased to four years.

Jim did not want to vote on a four-year term since he holds an office that would be affected by this vote. He added there is opposition to four-year terms. Whatever the decision, he believes all terms should be the same, either all two year or all four year.

Maryann felt the two-year term allows the selectmen to stay closer to the constituents. It is expected that the BOS make a concerted effort to go out and greet the public. Some people are more comfortable speaking up about issues in their own homes than they are in an open public meeting. She supports the other positions going to four-year terms.

Laura feels strongly about four-year terms. She believes it will increase the pool of candidates. The job force is very fluid today and someone might be willing to interrupt their

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career for a four-year term but not a two-year term. We tend to look at retirees for our pool of candidates but why not look at the pool of candidates just beginning their careers? Believes there would be no harm changing to four-year terms. Candidates need to be accountable every day, not just when they are campaigning and there are many opportunities to meet with the public other than at campaign time.

Alice agrees with Laura and Mark and thinks the four-year term will attract more diverse candidates, create a better track record and allow for becoming much more familiar with the budget process. In addition, there were many public comments in support of four-year terms. She believes there is a stronger municipal government with four-year terms.

Betty agrees with Jim, that whether the terms are two years or four years, all terms should be the same length.

Ron stated that with a five-year review of the charter there would be opportunity to change things that didn't work.

John commented that one of the things the charter is supposed to look at is the worst case scenario. It is very daunting to move into the position of first selectman with no prior knowledge. The idea that every two years there could be a different person in that position is unsettling.

CRC review following joint meeting:

Thorough discussion took place amongst the CRC members. Major points made: there are fundamental changes in town government reflecting the times. These positions are all more complex today than in the past; requiring more expertise and possibly training, therefore a longer term is not unreasonable.

Motion by Betty Long seconded by John Corona that Section 2.1 General Town Elections subsection (1) remain as originally proposed by the Charter Revision Commission: four year terms for the following positions: First Selectman, two Selectmen, Town Clerk, Tax Collector, Town Treasurer and two Registrars of Voters. Motion passed unanimously.

3.3 Annual Budget

The BOS agreed with the CRC recommendation but wanted to add language on how to bring a town budget to referendum. Chairman McLaughlin stated that the charter is an enabling document and therefore the CRC has been careful and stringent in adding unnecessary language. The addition proposed by the BOS goes well beyond enabling; there is no other charter language that goes into this explanatory detail.

Jim agrees with Chairman McLaughlin's comments. There is no need to add this language.

Renee stated this language was proposed based on her sensitivity to the lack of understanding by the general public about town meetings, etc. Most townspeople don't go to town meetings.

Betty stated most people don't read the town charter or Connecticut General Statutes. This language is more of an informational nature and shouldn't be included in the charter.

John asked if it would be satisfactory to have a handout of some sort available through the town clerk's office as an explanation of town meeting procedures, etc.

Chairman McLaughlin stated, as a matter of fact, CCSU will soon be publishing a booklet on the "Town Meeting" and this will be available for the public.

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Laura agreed with Renee that very few people know how town government works. People have the responsibility to educate themselves. The CRC has tried to put language in the charter that will not be altered easily by a change in the CGS, so that this will be a living document. It is the job of the moderator to explain procedures.

John stated there is a fine line between a moderator informing and leading.

Martin stated perhaps the appropriate place to add this language would be in literature handed out at the Annual Budget Meeting.

Maryann liked the idea of this information being included in a document that is handed out during the budget process. She is not in favor of the moderator making suggestions. The moderator is supposed to stay neutral and run the meeting.

CRC review following joint meeting:

After brief discussion the CRC made the following motion:

Motion by John Corona, seconded by Betty Long that Section 3.3 Annual Budget be resubmitted as is with no change (no additional language as proposed by the Board of Selectmen). Motion passed unanimously.

3.7 Actions Requiring Referendum

CRC proposed this change to reflect economic reality. The CRC is concerned with this being a separate question as it may be confusing to the voters as to why the dollar amounts were changed.

John stated “special appropriation” is difficult for some people to understand.

Jim commented that because of feedback at BOS meetings he believes the dollar amounts should not be increased. The townspeople are very concerned about monetary expenditures for amounts much less than \$100,000.

Betty inquired as to how often a referendum has been required. Maryann stated that over the years town counsel has recommended that when the charter comes up for revision this should be one of the first items changed.

Martin stated that with the delay in approval of the school budget this year there could have been a real problem had the delay gone on. The monthly payment to the school is a minimum of \$1,000,000 and the monthly town expenses are another \$500,000.

Laura explained this dollar amount is just a trigger for a referendum. There still needs to be BOF, BOS and town meeting approval before expending money. She added the \$300,000 figure doesn't bother her as much as borrowing money would.

John doesn't believe most people would object to this question if they knew the safeguards already in place.

Jim added if the school budget didn't pass the town would have had to borrow a significant amount of money.

CRC review after joint meeting:

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Motion by John Corona, seconded by Martin French to make both dollar amounts \$300,000 in Section 3.7 Actions Requiring Referendum.

Betty doesn't object to leaving the dollar amounts as they were in the original charter.

John clarified the cost of borrowing is added to the amount being borrowed.

Alice commented there might be a great deal of misunderstanding about this subject. Martin added the level of understanding isn't there by the general public. He doesn't believe CRC has a concrete argument for changing these figures.

After discussion, John withdrew his previous motion.

Motion by John Corona, seconded by Martin French that Section 3.7 Actions Requiring Referendum be returned to the original text currently in the 1977 charter. Ayes: John Corona, Laura Francis, Martin French, Betty Long, Mark McLaughlin, Ron Melnik, Pat Murawski, Alice Tucker. Nay: Carol Kleeman. Motion passed.

4.4 Appointments

Renee reported that she and Maryann met with Randy Frank, the consultant hired to review non-union positions at the town hall, and she thought it odd there were two opposing directives relative to hiring and appointing, i.e. the building official and town sanitarian, why are these listed in the Appointment section? Chairman McLaughlin responded these were listed in the original charter under this section. He is not sure the point has that much impact. Renee responded there has not been that much turnover in the town in these positions. This was brought to the BOS's attention so they brought it forward. General discussion continued.

CRC review after joint meeting:

After brief discussion the following motion was made:

Motion by Betty Long, seconded by Laura Francis that the language in Section 4.4 Appointments remain as originally proposed by the Charter Revision Commission. Motion passed unanimously.

4.6 Additional Powers and Duties of Selectmen

Chairman McLaughlin explained this language seemed a natural part of the process.

Maryann stated property owners are interested in what is happening around them and they have a right to be involved in the process, i.e. Crooked Hill residents.

John stated people are allowed to have input at BOS meetings and P & Z meetings. Maryann responded that the town meeting action is considered a much more significant action.

Alice commented all of these items could be accepted by the BOS after approval by P & Z. Why wouldn't the recommendation by P&Z be enough?

John explained regarding the Crooked Hill project, no land was being taken from the property owners, in fact the disposition of the excess land was to give it to the property owners.

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CRC review after joint meeting:

After brief discussion the following motion was made:

Motion by John Corona, seconded by Betty Long to accept recommendations of the Board of Selectmen to delete the following phrase from Section 4.6 Additional Powers and Duties of Selectmen: "interests in land offered to the town to expand existing town highways and rights of way,". Motion passed unanimously.

5.1.5 Preparation of the Budget

Chairman McLaughlin explained CRC proposed earlier dates in order to maximize the time to review budgets.

Maryann responded one problem is that departments use six months data to formulate their budget requests. Having a January 1st deadline means the departments would be short one month in historical data. Holidays in December also impact the budget preparation process.

Renee added the purpose of this revision is to reflect reality. The dates proposed by CRC just aren't realistic.

Alice stated there is always six months of data available. It might not be six months in the same fiscal year, but it's still six months of data. The dates proposed by the BOS only allows the BOF four weeks for review and eight weeks for the BOS. The new dates proposed by the CRC should be doable with a full-time financial director.

Maryann stated the BOS doesn't wait until March 1st to submit budgets to the BOF. The BOS passes the budgets along to the BOF as they are approved.

Alice responded not all budgets prepared in MUNIS were submitted to the BOF.

John asked, how can the BOF make judgments on the budget without having all of the information? Maryann responded the BOF meets with all boards and commissions. By March 1st deadline the BOF has all budgets. Alice stated many times the BOF is seeing a budget for the first time at a budget review session with that particular board. The process was better before the MUNIS system when paper copies were available.

Martin added the charter is an enabling document and the CRC is trying to create a situation that is the most beneficial for the whole town. The BOF should have the entire budget to look at before making decisions.

Laura stated the budget process could be made better. Her colleagues prepare their budgets well before Durham's and the fiscal year is the same. The charter does not prohibit the BOF from doing reviews earlier.

Chairman McLaughlin stated this is a change that empowers the BOF to request budgets at times it deems appropriate.

Renee asked where the recommendation for February 1st came from. CRC answered the Chairman of the Board of Finance requested these dates.

CRC review after joint meeting:

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Betty offered a compromise on the dates; January 5th and February 15th. Laura preferred not to change the dates at all. Carol stated budgets are an ongoing process. The March date needs to be moved up. Chairman McLaughlin stated the finance director should be able to get the process started earlier, or, the finance director may be able to produce the entire budget.

Motion by John Corona, seconded by Betty Long to change the dates in Section 5.1.5 Preparation of the Budget to: not later than January 15th and not later than February 15th.
Motion passed unanimously.

6.22 Land Use Boards and Commissions

Renee felt changing one to two (such boards) addresses CRC's concerns for potential abuse of authority which is not currently a problem.

Maryann recapped comments from people in attendance at the public hearing who spoke to the knowledge shared between two commissions. The issue of terms limits should go to the people for a vote.

P & Z is unique in that it creates its own regulations. Other boards and commissions are regulated by the CGS.

Jim stated he does not agree with term limits. This takes away the right of a voter to choose the person they want representing them. Institutional memory and expertise is lost if long time members are required to step down because of term limits. If term limits are good for land use boards then why not everyone else. It seems prejudicial to single out the land use boards for term limits.

Betty stated she is in favor of dropping term limits but she is still supportive of limiting membership to one board only. No board is restricted from inviting members of other boards to their meeting for information sharing. If a homeowner goes before two boards with an application, it seems a dual member would have two votes on an application which doesn't seem quite right.

Jim responded that an application that comes before one land use board is quite different from that of another land use board.

Laura agreed with Betty; she can also give up the term limit issue but changing "one" to "two" such boards in effect changes nothing. The following arguments don't hold for supporting cross membership: 1) expertise – expertise can easily be shared without being a voting member, 2) problem – there is no proof that a problem exists but there is the perception that a problem exists, 3) limiting expertise – she does not believe this for a minute; there are other people in the community with expertise, the town just needs to reach out to them. Laura knows of one person, who immediately comes to mind, with an MPH degree that is not serving on a board. She added, she does not understand the level of emotion this topic has evoked. Getting new people involved in our land use boards is not going to change the fabric of our community.

Martin also agreed with Betty regarding term limits. Ron also does not support term limits. Ron continued that as far as participation on more than one board is concerned, one is presuming that a person would make two bad votes; well perhaps a person would make two good votes.

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Alice clarified the CRC did look at other town charters that made both of these changes. There could be a concentration of power that could be unfair to property owners.

Chairman McLaughlin stated he felt bad that people were offended and at the same time he was disappointed. The charter sets out certain limitations and specifies the powers that elected officials have. The limitation of cross membership was in no way meant to cast aspersions on any present members. Laura added, these changes were in no way personal; every time the legislature meets they make changes about the duties of a town clerk. She doesn't take offense at the changes made regarding her duties

Jim stated the very fact that land use boards were singled out for term limits gives the appearance that there is a conflict of interest.

Maryann disagrees with Jim and Dick. There is no problem existing at the present time and she feels very badly that people are taking this personally.

Chairman McLaughlin stated this has been the most contentious item. CRC members have argued amongst themselves about this. Cross membership does not seem to be the main issue. Term limits is what is causing all the emotional response.

Betty added, this change (term limits) does not affect any current member of any board. This proposed change would not even take effect for twelve years.

CRC review after joint meeting:

Chairman McLaughlin remarked there seems to be a clear distinction between multiple memberships and term limits and states the CRC should vote on these items separately.

John stated the people should be given the choice to vote for or against term limits. Carol agreed with John. She added, citizens came to the CRC meetings asking for term limits for these boards. In addition, the CRC had an entire discussion on allowing new people the opportunity to get involved in these boards. She wants the people to vote on this.

Martin stated the voter has the power to implement term limits every time he/she enters a voting booth.

Alice stated she is changing her mind on term limits. The town committees are probably not doing their job but we can't ask the charter to fix that problem. She has no objection to removing term limits from this charter revision. Perhaps the next charter revision committee can revisit this issue.

Ron agreed that people should have the right to vote a candidate in or out of office. Either term limits apply to everyone or none at all.

Laura stated she voted to bring this issue forward to evoke debate, however, she never foresaw the violent emotion that has erupted over this topic. Term limits should be let go because people cannot separate these two issues. Cross membership is the more important issue.

Chairman McLaughlin agreed that term limits is a red flag and obscures the real issues. He feels it best to eliminate term limits.

Pat stated she did not support term limits from the beginning.

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Motion by Betty Long, seconded by Martin French to delete the term limit language from Section 6.22 Land Use Boards and Commissions (Delete the sentence, "Commencing at the conclusion of current terms no individual on these boards and commissions shall serve more than three (3) consecutive terms in the same capacity.) Ayes: Laura Francis, Martin French, Betty Long, Mark McLaughlin, Ron Melnik, Pat Murawski, Alice Tucker. Naves: John Corona, Carol Kleeman. Motion passed.

Motion by John Corona, seconded by Alice Tucker to keep the following language as originally proposed by the Charter Revision Commission regarding Section 6.22 Land Use Boards and Commissions: "Commencing at the conclusion of current terms, no member of the land-use boards and commissions – Planning & Zoning Commission, Zoning Board of Appeals, Conservation Commission, Historic District Commission and Inland Wetlands and Watercourses Commission may be a member simultaneously of more than one such board or commission." Motion passed unanimously.

Vote on the Charter

Motion by Martin French, seconded by John Corona to recommend the charter be voted on as three separate questions:

Question 1: the entire Charter with the exception of Section 6.1 Board of Education and Section 6.22 Land-Use Boards and Commissions,

Question 2: Section 6.1 Board of Education,

Question 3: Section 6.22 Land-Use Boards and Commissions.

Motion passed unanimously.

5. Other Matters as Appropriate.

Renee reviewed the timeline. Within the next thirty days:

- BOS need to give town counsel heads up that the charter needs to be reviewed this week
- Due date for attorney review August 14th
- BOS needs to define question(s) for the November ballot
- Town counsel needs to approve language
- Town counsel needs to review timeline according to CGS
- Schedule a Special Town Meeting by the end of August to approve to send charter revision questions to referendum
- Ballot questions to the Secretary of State's office and neutral explanatory text
- Critical date is September 7th
- BOS need to ask town counsel to review the call to STM
- Printing of revised charter

John stated the wording of the questions is up to the BOS.

Betty asked if BOS wanted representation of CRC members at the Town Meeting. Jim replied it would be good to have some CRC members there.

Pat stated there were specific sections of the charter that CRC requested the attorney to look at.

Ron asked Chairman McLaughlin if he specifically asked the recording secretary not to include in the July 8th minutes his letter to the CRC or discussion thereof. Chairman McLaughlin replied in the affirmative.

The meeting ended at 11:05 p.m.

Respectfully submitted, Kimberly D. Garvis, Recording Secretary