

January 25, 2010

A meeting of the Charter Review Advisory Commission was called to order at 6:30 p.m. Members present were Chairman Arthur S. Russo, Vice Chair Kenneth Booth, Linda Butera-Noble, Paul St. Germain, Stanley Wynne, Fausto Anguilla and Maureen F. Smith. Dr. Ron Stewart arrived at 7:45 p.m.

Motion to accept the minutes from the January 4, 2010 meeting passed unanimously. (PSG-SW)

Motion to accept the minutes from the January 11, 2010 meeting passed unanimously. (LN-KB)

The Board will discuss the communication from the Water Commission during their scheduled time.

No one appeared on behalf of the Parks and Recreation Commission.

Jay O'Grady appeared on behalf of the Budget Board. Mr. O'Grady spoke on the four points that he submitted to the commission in December of 2009.

The board is looking to strike the phrase "shall confer with the Town Council" in C4-3 Preparation of the budget. Common practice is that the council is invited to speak with the budget board on the council

line item. The board is not looking to change or modify any of the wordings in C5-8 (13). This request is for clarification purposes only.

Also in Section C4-3, Preparation of the Budget, the board would like to see the word “proposed” replaced with the word “submitted”. This request is again for the purpose of clarification.

In Section C4-7, Certification of Detailed Budget, the board is looking to modify the paragraph to read, “Within one week after the annual Financial Town Meeting, the Budget Board shall certify to the Town Treasurer, Town Administrator and President of the Town Council the detailed budget or work sheets upon which each item of appropriation passed was presumably based.” The Budget Board does not budget in terms of quarterly allotments as the end of this sentence reads.

Section C4-8 Budget Control has a grammatical error. The board would like the first period with a semi-colon. Leaving the period makes the second sentence a fragment and not a sentence. Doing this will not change the meaning of the section.

Mr. O’Grady stated that the board would also like to weigh in on the Administrators suggestion to start the FTM earlier. The board is against this suggestion.

Ken Booth suggested the readings, elections and warrants start

earlier and the meeting start later.

Ideas were discussed in regards to the quorum issue and what happens if a quorum is lost, limiting the amount of dollars that could be moved from one line item to another, look at a number to set at the FTM to eliminate blindsiding form special interest groups., recessed meetings and finding an area that will hold large crowds and the election of the budget board and how it is split into districts but everyone is allowed to vote.

The commission moved to change the order of the agenda and allow Public Comment. (KB-PSG)

Ed Slattery addressed the commission . He spoke on moving the FTM to a Saturday to allow for more attendance, having the school budget heard last in order to keep a quorum and the abolition of the water commission and combine it with the public works department in the town.

Ken Booth questioned Mr. Slattery's concerns with the water commission. Mr. Slattery stated that there was too much free time and that there is not a need for the town to have two engineers.

There was no other public comment.

The Lincoln Water Commission came in at 7:45. Members present were Superintendent John Faile, Secretary Jean L. Kay, Kenneth G.

Pichette, Frederick Conklin and George Hadley.

Superintendent Faile served as spokesman for the Commission. Mr. Faile reviewed and expounded on the following proposed changes.

On recommended changes 1 thru 3, the commission is requesting the word “department” be changed to the word “commission”. The Water Commission is not a town department. The change will make things consistent throughout the document.

Charter Review

Section/Title of Section:

Article V

Town Council Approval:

Water Commission No. 1

Present Charter Provision:

C5-8. Powers

(10) “Provide rules and regulations with respect to vacations of Town officials and employees, except those of the School Department and the Water Department;”

Recommended Change or Deletion:

Change “Water Department” to “Water Commission”

Purpose/Reason for Change or Deletion:

Consistency throughout the document

Negative or Positive Cost to the Town, if any:

None

Charter Review

Section/Title of Section:

Article VII

Department of Finance Approval:

Water Commission No. 2

Present Charter Provision:

C7-5. Duties and powers of Director of Finance,

(12) “Perform the work of buying for the Town...including the School

Department and the Water Department;”

Recommended Change or Deletion:

Change “Water Department” to “Water Commission”

Purpose/Reason for Change or Deletion:

Consistency throughout the document

Negative or Positive Cost to the Town, if any:

None

Charter Review

Section/Title of Section:

Article XIII

Board of Water Commissioners Approval:

Water Commission No. 3

Present Charter Provision:

**C13-6. Office of Town Treasurer to serve the Board,
(second sentence) “The Board, through the Town Treasurer, shall at
all times keep its funds and surpluses invested to the advantage and
profit of the Town’s Water Department.”**

Recommended Change or Deletion:

Change “Water Department” to “Water Commission”

Purpose/Reason for Change or Deletion:

Consistency throughout the document

Negative or Positive Cost to the Town, if any:

None

**Change number 4 was copied from the State Charter and Town
Council language. It was discussed that this language is covered
under §C17-13. {Dual office holding.} and would not be needed.**

Charter Review

Section/Title of Section:

Article XIII

Board of Water Commissioners Approval:

Water Commission No. 4

Present Charter Provision:

C13-1. Establishment.

There is established a Board of Water Commissioners, consisting of five members who shall be qualified electors and residents of their respective voting districts, and who shall hereafter except as otherwise stated below be elected at the election held on the first Tuesday following the first Monday in November of even-numbered years....

Recommended Change or Deletion:

Add the following sentence after the first sentence of C13-1. Establishment.

“Members of the Board shall hold no other public office or employment in the service of any Town or of any State or Federal government except that of Notary Public, Justice of the Peace, or member of the National Guard or Air, Military, or Naval Reserve. If a member of the Board shall cease to possess any of these

qualifications their office shall immediately become vacant.”

Purpose/Reason for Change or Deletion:

Language copied from Article V Town Council, C5-2.

Purpose is to avoid conflicts of interest for members and clarify vacancy issue on the Board of Water Commissioners.

Negative or Positive Cost to the Town, if any:

None

The current language is inconsistent in both the Charter and in practice.

Paul St. Germain asked if any employee has ever used the council. The commission is unaware of any employee using the council. The commission has a separate collective bargaining agreement and there is language for the hiring, firing and disciplinary actions of employees by the commission. This change will clarify what is going on. The commission feels the school department falls the same way.

The commission sees municipalities as trying to take over water and view it as a cash cow. The commission would like to insulate

themselves from government and politics. The commission runs well and there is a lot of oversight by state agencies.

Charter Review

Section/Title of Section:

Article V

Town Council Approval:

Water Commission No. 5

Present Charter Provision:

C5-8. Powers

(9) “Act as a Board of Personnel Review in receiving, considering, and disposing of appeals from dismissals, suspensions, demotions, transfers and layoffs of appointive officers and employees of the Town;

Recommended Change or Deletion:

Add at the end of the above sentence “...except those of the Water Commission;”

Purpose/Reason for Change or Deletion:

Under Article XIII, C13-5, (3), the Board of Water Commissioners has the power “To employ and fix the compensation of ...employees....”

The Board has historically performed all Personnel tasks for its employees, including the review of hiring, firing and disciplinary actions.

Negative or Positive Cost to the Town, if any:

Positive. Avoids legal costs to the Town due to personnel disputes/litigation.

This is a similar request as No. 5. The practice of the commission has been that they have their own attorney. The commission also carries their own insurance policy

Charter Review

Section/Title of Section:

Article V

Town Council Approval:

Water Commission No. 6

Present Charter Provision:

C5-12. Town Solicitor.

(4) Duties.

(a) “The Town Solicitor shall be the attorney for the Town and legal advisor to the Town Administrator, Town Council, and all other departments, offices and agencies of the Town. The Town Solicitor shall appear for and protect the rights of the Town in all actions, suits or proceedings, civil or criminal, in law or equity, brought by or against it or for or against any of its departments, officers (offices) or agencies...”

Recommended Change or Deletion:

Add to each sentence as appropriate “...except the Board of Water Commissioners” (2x)

Purpose/Reason for Change or Deletion:

The Board of Water Commissioners has historically employed attorneys for various purposes according to need.

Under Article XIII, C13-5, (3), the Board of Water Commissioners has the power “To employ and fix the compensation of such attorneys...as may be necessary for the efficient performance of its duties.”

Negative or Positive Cost to the Town, if any:

Positive. This change will avoid duplication of legal representation and costs. Responsibilities will be clarified and conflicts between C5 and C13 will be resolved.

The reason for this change is that the language is old. The commission operates as an enterprise fund and have the power to set rates. (RIGL 46-15.3) The commission currently holds the third lowest rates in the state. The commission would like to move the utility away from politics.

The town does not co-sign any loans for the commission. The commission borrows money to fix problems. Projects run independently from the town, but they do try to coordinate when they can. Mr. Faile stated that in order to borrow, state agencies run them through the wringer. Bonding for the commission is cheaper for water than it is for the town. All bills are paid through revenue only. The commissions' funds are segregated from the town. The commission employs 12 people and their collections are in-house. The commission has capitol projects out for twenty years. Only five are

required. The commission has AA Bond rating and has borrowed independently without the language, but the language would clarify this.

Charter Review

Section/Title of Section:

Article XIII

Board of Water Commissioners Approval:

Water Commission No. 7

Present Charter Provision:

C13-5. Powers and duties.

The Board of Water Commissioners is authorized and empowered:
(7) To certify to the officers in charge of tax assessment the amount of the deficiency, if there be such, which is to be raised by addition to the tax assessment;

Recommended Change or Deletion:

Delete this entire item.

Purpose/Reason for Change or Deletion:

The Board of Water Commission has historically operated as an ‘enterprise fund’ and as such has used its rate structures to provide adequate operating funds. This language is outdated and does not apply any longer. Any deficits in funding are resolved by rate adjustments. State law mandates that water systems set rates adequate for recovery of all costs of operation. (RIGL 46-15.3)

Negative or Positive Cost to the Town, if any:

None

Charter Review

Section/Title of Section:

Article XIII

Board of Water Commissioners Approval:

Water Commission No. 8

Present Charter Provision:

C13-5. Powers and duties.

The Board of Water Commissioners is authorized and empowered:

Recommended Change or Deletion:

Add a new item (7) To borrow money;

Purpose/Reason for Change or Deletion:

This gives the Board of Water Commissioners the clear authority to take advantage of low interest loans through the Rhode Island Clean Water Agency or any other available source.

Negative or Positive Cost to the Town, if any:

Positive. Avoids the complications and costs of tax bond financing.

The addition of the new item “ (13) To sue and be sued;” would clarify the legal representation. This would also take the town off the hook and make things simpler.

Charter Review

Section/Title of Section:

Article XIII

Board of Water Commissioners Approval:

Water Commission No. 9

Present Charter Provision:

C13-5. Powers and duties.

The Board of Water Commissioners is authorized and empowered:

Recommended Change or Deletion:

Add a new item “(13) To sue and be sued;”

Purpose/Reason for Change or Deletion:

See proposal No. 6 above. This also helps clarify the legal responsibilities of the Water Commission.

Negative or Positive Cost to the Town, if any:

Positive. Avoids the Town being a party to any legal action involving the Water Commission.

This new item is not written anywhere, but has been done by the commission. This would clarify and spell out the ability to do so. The commission has always done so through their own resolutions and never through the town.

Charter Review

Section/Title of Section:

Article XIII

Board of Water Commissioners Approval:

Water Commission No. 10

Present Charter Provision:

C13-5. Powers and duties.

The Board of Water Commissioners is authorized and empowered:

Recommended Change or Deletion:

Add a new item “(14) To apply for and receive grants;”

Purpose/Reason for Change or Deletion:

This gives the Board of Water Commissioners the clear authority to apply for federal and state grants, and grants from any other available source such as insurance companies and professional organizations.

Negative or Positive Cost to the Town, if any:

None

Charter Review

Section/Title of Section:

Article XIII

Board of Water Commissioners Approval:

Water Commission No. 11

Present Charter Provision:

C13-5. Powers and duties.

The Board of Water Commissioners is authorized and empowered:

(2) To make all necessary contracts and agreements with the owners of privately owned water systems, quasi-municipal water companies and other municipalities for the purchase or lease of their property

and equipment....”

Recommended Change or Deletion:

Add the words in italics “...with the owners of private property, privately owned water systems, quasi-municipal water companies and other municipalities for the purchase or lease of their property and equipment...;”

Purpose/Reason for Change or Deletion:

Gives the Board of Water Commissioners the clear authority to purchase or lease property and equipment from private parties.

Negative or Positive Cost to the Town, if any:

None

Questions asked were: 1. How many parcels of land does the commission own?

2. Does the commission pay taxes on the properties?

3. What about regional?

The commission owns 27 parcels of land. Some of these properties

are deed restricted and would revert to heirs of owners if not used for water. The commission does not pay taxes on the land, but the taxes would be paid through increased revenue fees. The commission pays for all improvements to the properties. All insurance is paid for through the commission. One parcel is currently leased from Smithfield near the airport.

On regionalization, this topic is not new and has been brought up over the last twenty years. It has been discussed and will always be there. There are over 400 water supply systems in the state of Rhode Island and only 39 cities and towns. Some of these systems will be absorbed. The belief is that there will be no dollar savings. It may make the system more efficient, but the same number of employees will be needed to run the day to day operations, the need for vehicles and equipment will be the same.

Dr. Stewart left the meeting at 8:25 p.m. but left a note stating that he is in favor of all recommended changes requested by the commission.

Motion to change the date of the February 8, 2010 meeting to February 10, 2010 passed unanimously . (KB-PSG)

March 1, 2010 is the date for the public hearing with a work session held afterward.

Motion to adjourn passed unanimously. (KB-SW)

Meeting adjourned at 9:00 p.m.

Maureen F. Smith