

TOWN OF GROTON
CHARTER REVISION COMMISSION
REGULAR MEETING MINUTES
June 5, 2017
TOWN HALL ANNEX – COMMUNITY ROOM 2

Chair Pro Tem Aument called the meeting to order at 6:33 p.m.

- I. ROLL CALL:
Members Present: Chair Pro Tem Scott Aument, Commissioners Kathy Chase, Jane Dauphinais, Robert Frink, Patrice Granatosky, Rosanne Kotowski, Daniel Mello, and Jennifer White.
Members Absent: Chair Hauber, Commissioners Brandon Marley and Darcy Peruzzotti.

- II. APPROVAL OF MINUTES:
 - a. A motion was made by Commissioner Mello, seconded by Commissioner Chase, to approve the minutes of the May 22, 2017 meeting.
The motion passed unanimously.

- III. CITIZENS' PETITIONS
Peggy Adams, 30 Circle Avenue, Groton, stated that non-resident taxpayers are allowed to vote in Old Lyme; eligibility to vote is verified via the Grand List. She urged the Commission to allow non-resident taxpayers to vote.

- IV. COMMUNICATIONS:
 - a. Chair Hauber: None.
 - b. Secretary: Commissioner Aument stated that there was a request for information from The Day newspaper. He stated that the Commissioners are free to speak to the press; he recommended communicating in writing.
 - c. Members: Commissioner Kotowski stated that she referred a reporter from The Day to Chair Hauber, Chair Pro Tem Aument, the minutes of the meetings, and the approved motions.

- V. NEW BUSINESS:
 - a. Chapter Nine
 - b. Definition of Elector
 - c. Consolidation of Boards and Commissions

Commissioner Mello made a motion, seconded by Commissioner Kotowski, to change the order of business to discuss the definition of elector before Chapter Nine.

Commissioner Mello stated that the Commission is at the point where it will be dealing with the issue; it is important to determine who will be voting before discussing other pieces of the referendum. He noted that the decision on this issue may influence how he votes on other issues; it should be decided first.

The Commissioners discussed including intent with the recommendations they put forth to the Town Council and Attorney.

Commissioner White stated that she is okay voting on this issue at this meeting.

In response to Commissioner Mello, Town Clerk Moukawsher stated that there are approximately 2,300 non-resident voters in Groton.

Vote on the motion to change the order of business to discuss the definition of elector before Chapter

Nine: PASSED

In favor: 7 (Aument, Chase, Dauphinais, Granatosky, Kotowski, Mello, White)

Opposed: 1 (Frink)

Abstained: 0

Commissioner Granatosky referenced *Massad v. City of New London*. She noted that the case resulted in the court determining that non-resident property owners did not have the right to vote in referendum in New London. She reviewed that three states allow non-resident voting: Connecticut, Delaware, and New Mexico. She stated that nine states allow non-resident voting in certain special district elections; twelve out of fifty-states allow some form of non-resident voting.

Commissioner Kotowski stated that the Groton Town Attorney opinions from February, 2000; March, 2001; April, 2004 state that non-residents can vote. She stated that if non-residents are not allowed to vote, then it is taxation without representation.

Commissioner Dauphinais stated that out of 169 towns, 152 do not allow non-registered voters to vote. She noted that the issue is complicated, and there are ongoing court cases that are trying to determine the definition of an eligible voter, such as in the case of a LLC and trust. She referenced the summary opinion of the last Charter Revision Commission in 2008 and noted that it states according to CT Gen Statutes, in order for non-resident property owners to vote in referendum, it must be the Town's legislative body that authorizes it. She stated that she does not know how it would be the purview of the Charter Revision Commission to determine the non-resident voter issue if it is a decision that the Town Council needs to make.

Commissioner Kotowski questioned how the previous Charter Revision was able to make it so non-resident property owners could not vote in Groton.

Commissioner Chase clarified that according to CT General Statutes Sec. 9-12, a person can be admitted as an elector if he or she is a "bona fide resident" of the Town.

Commissioner Frink stated that currently the RTM has all powers of the Town meeting; he questioned if the Commission could give powers of the Town meeting to the Town Council.

Commissioner Granatosky referenced a conversation she had with an individual who has concerns with trusts, absentee landlords, and blighted property owners voting. She stated that the individual she spoke with also noted that non-resident taxpayers have a choice in where they live, and they choose to exercise their right to vote in another place.

Chair Pro Tem Aument noted that in a number of states, there are various stipulations related to allowing non-resident taxpayers to vote in referendum.

Commissioner Dauphinais questioned the background of the language in the last Charter Revision Commission's summary that states this can only be done by the chiefly elected legislative body of the Town.

In response to Commissioner Kotowski, Commissioner Dauphinais stated that if the Town Council moves this issue to the voters, then that means the Council is asking the voters to decide if it should be approved or rejected; it does not mean the Council supports it.

Commissioner Frink made a motion, seconded by Commissioner Dauphinais, to obtain a Town Attorney's opinion on whether the Charter Revision Commission has the purview to change the Charter to allow non-residents to vote in referendum.

Commissioner Kotowski noted that there are opposing legal opinions on the issue from the Town Attorney.

Commissioner Chase stated that the Commission should put forth a recommendation to the Attorney that specifies if non-resident taxpayers should, or should not, be allowed to vote in referendum.

Town Clerk Moukawsher stated that the Charter before 2008 allowed non-resident taxpayers to vote in referendum; the Commission has the authority to make the change because it was changed by the last Commission.

Commissioner Granatosky noted that there was a town meeting form of government when Attorney opinions were issued; there is no longer going to be a town meeting form of government. She questioned if that information should be included in the questions to the Attorney.

Commissioner Dauphinais stated that individuals on the Commission should not be asking the Town Attorney questions; the Commission should put forth questions. She noted that there should be an opinion on this before the Commission votes because it will influence her decision. She stated if the Attorney states that this is the purview of the chiefly elected legislative body of the Town, then she is inclined to leave the decision to the legislative body.

Commissioner Granatosky noted that *Massad v City of New London* is a decided court case; it is as unbiased as you can get.

The Commissioners discussed including the Commission's intent on the non-resident voter issue with the motion.

Commissioner Mello stated that he agrees there should be a question to the Attorney regarding the issue if there is not a town meeting form of government.

Commissioner Dauphinais stated that the Town Attorney has a depth of knowledge regarding Groton, its Charter, and Statutes as they relate to the Charter; it would be foolish to go with another attorney.

Commissioner Kotowski stated that in 2009 after the last Charter Revision Commission, the Town Attorney opined that non-resident voters are not eligible to vote.

Commissioner Dauphinais noted that that opinion relates to the 2008 Charter. She stated that if this is the purview of the Town Council, then the Commission has no business to put it in the Charter. In response to Commissioner Mello, she questioned if a new Town Council could change the decision to allow non-resident taxpayers to vote in referendum without changing the Charter.

Commissioner Chase noted that the questions put forth to the Town Attorney should not be leading.

Commissioner White questioned if the form of government changes from a RTM to a Board of Finance, is it still considered a town meeting form of government.

Commissioner Frink made a motion, seconded by Commissioner Dauphinais, to obtain a legal opinion prior to the June 19th Charter Revision Commission meeting, from the Town Attorney, on the following questions related to non-resident property owner voting in Groton:

The Commissioners discussed the verbiage of the questions that will be submitted to the Town Attorney.

Commissioner Dauphinais moved the question, seconded by Commissioner Granatosky.

Vote on the motion to move the question: Passed unanimously.

Vote on the motion to obtain a legal opinion prior to the June 19th Charter Revision Commission meeting, from the Town Attorney, on the following questions related to non-resident property owner voting in Groton: PASSED UNANIMOUSLY

1.) If the Representative Town Meeting is eliminated, will the Town Council be the legislative body that may authorize non-resident taxpayers to vote or not to vote in a budget referendum?

The Office of Legislative Research article 200—R-0469 August 17, 2006 states that the non-resident property owner's eligibility law applies to a town with a town meeting form of government, unless a special act directs otherwise, and whether or not the property owners are residents.

2.) Because the new Charter may eliminate the RTM, do we void our right to have or not have non-resident taxpayers vote?

3.) Does the Charter Revision Commission have the ability or authority to grant these rights, if we do not have a town meeting form of government?

4.) Regardless of whether or not we have a town meeting form of government, does the authority to grant these rights rest with the Town Council or is it appropriate to enshrine the right for a non-resident taxpayer to vote in referendum in the new Town Charter?

Chair Pro Tem Aument referenced Chapter Nine.

Commissioner White made a motion, seconded by Commissioner Kotowski, to reconsider the motion to approve Section 9.11.5:

"If a majority of the votes cast in the referendum for each question are "Yes," ~~or if the total number of votes cast in the referendum is less than 15% of the number of electors of the Town as determined from the latest official lists of the Registrar of Voters,~~ the adopted budgets, Town and Board of Education,

shall be deemed to be adopted and together shall constitute the approved Town Council budget for the ensuing fiscal year.”

Commissioner Granatosky stated that she was under the impression that the Commission would not reconsider passed motions.

The Commission discussed Roberts Rules as they pertain to reconsidering a motion.

In response to Commissioner Frink, Commissioner White stated that she wanted to reconsider the elimination of the fifteen-percent voter turnout requirement.

Commissioner Mello stated that does not agree with reconsidering.

In response to Commission Kotowski, Town Clerk Moukawsher clarified that the motion to reconsider is debatable.

Commissioner White stated that she does not agree with a referendum, but if the Commission is going to move forward with a referendum, she wants to make sure it would be the least costly for the Town, and she wants to make sure it will pass when the recommendation for referendum is reviewed.

Commissioner Kotowski stated that she believes an unfettered referendum would be the best for Groton. She stated that a budget referendum would not get through the Town Council without some kind of condition; she would like to reconsider her vote as well. She noted that she wants a budget referendum to be implemented. She stated that a referendum will most likely get through the Town Council with a fifteen-percent voter turnout requirement.

Commissioner Chase stated that however many people turn out for a referendum would be more than the number of people on the RTM. She stated that people in Groton will be informed on the budget if they are allowed to vote on it.

Chair Pro Tem Aument stated that he was in favor of a minimum voter turnout requirement; it would give it stability and would be good for the people of Groton.

Commissioner Mello stated that the referendum, and its details, should be what this body believes is best for the Town. He stated that the Commission it should not be worried about other political bodies in the Town; he is not basing his decisions on outside forces. He noted that individuals that he has spoken with have urged him to have a referendum in Groton

Commissioner Frink stated that he agrees with the fifteen-percent voter turnout requirement.

Vote on the motion to reconsider Section 9.11.5: PASSED

In favor: 5 (Aument, Dauphinais, Frink, Kotowski, White)

Opposed: 3 (Chase, Granatosky, Mello)

Abstained: 0

Commissioner White made a motion, seconded by Commissioner Dauphinais, approve the following language for Section 9.11.5:

“If a majority of the votes cast in the referendum for each question are "Yes," or if the total number of votes cast in the referendum is less than 15% of the number of electors of the Town as determined from the latest official lists of the Registrar of Voters, the adopted budgets, Town and Board of Education, shall be deemed to be adopted and together shall constitute the approved Town Council budget for the ensuing fiscal year.”

Commissioner Mello questioned what “elector” means in terms on non-resident voters.

Commissioner Dauphinais stated that the language could include the term “eligible voters”

Commissioner Frink suggested leaving the language as is until the Town Attorney issues an opinion.

Commissioner Granatosky made a motion to amend, seconded Commissioner Mello, to change the language in Section 9.11.5 to the following:

“If a majority of the votes cast in the referendum for each question are "Yes," or if the total number of votes cast in the referendum is less than ~~15%~~ 50% of the number of electors of the Town as determined from the latest official lists of the Registrar of Voters, the adopted budgets, Town and Board of Education, shall be deemed to be adopted and together shall constitute the approved Town Council budget for the ensuing fiscal year.”

Commissioner Granatosky noted that fifteen-percent is too low.

Commissioner Frink noted that that would make the requirement approximately 8,000 people; that will never happen.

Commissioner White noted that if the 50% voter requirement is not reached, then the Town Council would set the budget and there would be no efficiency gains.

Vote on the amended motion: FAILED

In Favor: 1 (Granatosky)

Opposed: 6 (Aument, Chase, Dauphinais, Frink, Kotowski, White)

Abstained: 1 (Mello)

Commissioner Dauphinais amended the motion, seconded by Commissioner White, to change the language of Section 9.11.5 to the following:

“If a majority of the votes cast in the referendum for each question are "Yes," or if the total number of votes cast in the referendum is less than ~~15%~~ 25% of the number of electors of the Town as determined from the latest official lists of the Registrar of Voters, the adopted budgets, Town and Board of Education, shall be deemed to be adopted and together shall constitute the approved Town Council budget for the ensuing fiscal year.”

Commissioner Dauphinais noted that fifty-percent of voters turning out to vote would be a quorum of Groton voters, and a majority vote of the quorum is twenty-five percent; that is the minimum majority vote of the minimum quorum. She noted that voter turnout in Groton municipal elections is approx. 23-28 percent.

Commissioner Mello stated that there is nothing wrong with the Town determining how it will spend its money in a democratic way.

In response to Commissioner Mello, Commissioner Kotowski stated that the fifteen-percent voter turnout requirement is an olive branch to the status quo.

Commissioner Frink stated that it is healthy for the Town administration to provide reasons why the voters should vote YES in the referendum.

Commissioner Chase noted that if there was a minimum voter turnout requirement, and if it was not reached, then it would be disconcerting that those who turned out to vote because their votes will not count.

Chair Pro Tem Aument stated that more people will be involved in budget workshops if there is a referendum. He stated that people should have a say in how their tax dollars are spent; he supports a minimum voter turnout requirement.

In response to Chair Pro Tem Aument, Commissioner Granatosky stated that if you believe in a budget referendum, then there should be no minimum voter turnout requirement.

Commissioner Frink made a second amendment to the motion, seconded by Chair Pro Tem Aument, to change the language of Section 9.11.5 to the following:

"If a majority of the votes cast in the referendum for each question are "Yes," or if the total number of votes cast in the referendum is less than ~~15%~~ ~~25%~~ 20% of the number of electors of the Town as determined from the latest official lists of the Registrar of Voters, the adopted budgets, Town and Board of Education, shall be deemed to be adopted and together shall constitute the approved Town Council budget for the ensuing fiscal year."

Commissioner Frink noted that this is reasonable, it is within the range of other communities, and it calls for a certain quorum of the community to agree to it. In response to Commissioner Mello, he noted that the twenty-percent would be 3,258 registered voters based upon the last election; it does not include non-resident voters.

Vote on the second amended motion: FAILED

In Favor: 2 (Chair Pro Tem Aument, Commissioner Frink)

Opposed: 6 (Chase, Dauphinais, Granatosky, Kotowski, Mello, White)

Abstained: 0

Vote on the first amended motion: FAILED

In favor: 1 (Dauphinais)

Opposed: 7 (Aument, Chase, Frink, Granatosky, Kotowski, Mello, White)

Abstained: 0

Vote on the motion to approve the following language for Section 9.11.5: PASSED

"If a majority of the votes cast in the referendum for each question are "Yes," or if the total number of votes cast in the referendum is less than 15% of the number of electors of the Town as determined from the latest official lists of the Registrar of Voters, the adopted budgets, Town and Board of Education,

shall be deemed to be adopted and together shall constitute the approved Town Council budget for the ensuing fiscal year.”

In favor: 5 (Aument, Dauphinais, Frink, Kotowski, White)

Opposed: 3 (Chase, Granatosky, Mello)

Abstained: 0

Chair Pro Tem Aument referenced Section 9.11.6 as it was workshopped at the last meeting: “Provided ~~there is that the total number of votes cast in the Annual Budget Referendum is 15% or more of the number of electors of the Town,~~ a combined "No" vote by a majority of the electors voting, ~~shall reject~~ the recommended Town or Board of Education budget shall be deemed rejected. If either the Town or Board of Education budget is approved in accordance with Section 9.11.5 that budget will be deemed approved and binding. The Council in consultation with the Board of Finance shall, within seven days after a failed referendum, adopt a revised budget for each rejected budget, which may be less or greater than the failed budget, as the Council shall deem appropriate based on the results of the referendum. A second referendum on the revised budget or budgets shall then be held on the second Tuesday following the preceding referendum and shall be conducted in accordance with Sections 9.11.4 and 9.11.5.”

The Commissioners workshopped the language for Section 9.11.6.

Commissioner Dauphinais stated that she does not support a referendum and will be voting NO on this Section and all the rest of the provisions for the referendum.

Commissioner White noted that she is still opposed to a referendum, but if the group feels it is best for the Town, then she wants to make sure the language and the details of it are fair and what is best for the Town.

Commissioner Granatosky stated that she will not be supporting any of the referendum Sections because she is opposed to a referendum.

Commissioner Frink made a motion, seconded by Commissioner Kotowski, to approve the following language in Section 9.11.6: “If either the Town or Board of Education budget is approved in accordance with Section 9.11.5, the budget will be deemed approved and binding. If the total number of votes cast in the annual budget referendum is 15% or more of the number of electors of the Town, a combined “No” vote by a majority of the electors voting, shall reject the recommended Town or Board of Education budget. The Council in consultation with the Board of Finance shall, within seven days after a failed referendum, adopt a revised budget for each rejected budget, which may be less or greater than the failed budget, as the Council shall deem appropriate based on the results of the referendum. A second referendum on the revised budget or budgets shall then be held on the second Tuesday following the preceding referendum and shall be conducted in accordance with Sections 9.11.4 and 9.11.5.”

The Commissioners discussed having one, two, or three referendums.

Commissioner Mello moved the question, seconded by Commissioner Granatosky.

Vote: Passed Unanimously

Vote on the motion to approve the proposed language for Section 9.11.6: FAILED

In favor: 3 (Aument, Frink, Kotowski)

Opposed: 4 (Chase, Dauphinais, Granatosky, Mello)

Abstained: 1 (White)

The Commissioners discussed adjusting the remainder of Chapter Nine so that there is only one referendum.

Commissioner Dauphinais noted that Manchester, CT has one referendum.

Commissioner White stated that she does not support one referendum because if it fails, then it becomes the Town Council's budget, and the Town Council has the final say.

In response to Commissioner White, Commissioners Dauphinais, Granatosky, and Frink stated that the Town Council would need to take into consideration the feedback of the referendum.

Chair Pro Tem Aument noted that he could support one referendum because it gives the voters a say in the process; the Town Council would adjust the budget based upon the feedback from the people.

Commissioner Kotowski stated that this does not have an incentive for reducing spending or creating efficiencies.

Commissioners Chase and White agreed that one referendum does not give the citizens the opportunity to say if the budget(s) was/were sufficiently changed after the first referendum.

The Commissioners discussed removing all language that pertains to any referendums after the first.

Commissioner Mello stated that if the budget fails, it should go back to the Town Council and the Board of Finance.

The Commission workshopped Section 9.11.11 (becoming Section 9.11.6).

Commissioner Frink made a motion, seconded by Commissioner Kotowski, to approve the proposed language of Section 9.11.6.

Vote on the motion to approve the proposed language of Section 9.11.6: FAILED

"9.11.6 ~~11~~ If a budget is rejected in the ~~third~~ referendum, the Town Council, in consultation with the Board of Finance, shall set and approve a budget which must be less or greater than the failed budget, as the Council shall deem appropriate based on the results of the referendum."

In favor: 3 (Aument, Kotowski, Frink)

Opposed: 5 (Chase, Dauphinais, Granatosky, Mello, White)

Abstained: 0

The Commissioners discussed how they feel about the having a referendum, the number of referendum(s), and minimum voter turnout.

Commissioner Kotowski made a motion, seconded by Commissioner Frink, to reconsider Section 9.11.5 and to remove the 15% voter turnout requirement-Section 9.11.5: "If a majority of the votes cast in the referendum for each question are "Yes," or if the total number of votes cast in the referendum is less than 15% of the number of electors of the Town as determined from the latest official lists of the Registrar of Voters, the adopted budgets, Town and Board of Education, shall be deemed to be adopted and together shall constitute the approved Town Council budget for the ensuing fiscal year."

Vote on the motion: PASSED

In Favor: 5 (Aument, Chase, Frink, Kotowski, Mello)

Opposed: 3 (Dauphinais, Granatosky, White)

Abstained: 0

Commissioner Granatosky suggested finishing budget referendum at the next meeting.

IV. ADJOURNMENT

A motion to adjourn was made by Commissioner Mello, seconded by Commissioner Chase. Chair Pro Tem Aument adjourned the meeting at 9:31 p.m.