



**CHARTER REVISION COMMISSION  
REGULAR MEETING**

**MIDDLETOWN CONNECTICUT  
WEDNESDAY, FEBRUARY 10, 2021  
7:00 PM**

**1. Call to Order**

Commission Chair Robert Blanchard calls the meeting to order at 7:03 PM.

**2. Roll call**

Present: Commissioner Robert Blanchard, Chair; Commissioner David Greaves, Vice-Chair; Commissioner Edward McKeon (Councilmember); Commissioner David Ribnick; Commissioner David Roane, Secretary; Commissioner Linda Salafia (Councilmember); Commissioner Kelly Sweeney; and Commissioner William Wilson

Absent: Commissioner Selena Rivera; Commissioner Molly Salafia

Also Present: Councilman Eugene Nocera, Ex Officio (arrived 7:45 PM)  
Steven Mednick, Esq. - Consulting Legal Counsel  
Brig Smith, Esq. - General Counsel  
Linda SK Reed, Clerk of the Common Council

This meeting is livestreaming on WebEx and on the City's Facebook page.

Members of the Public: WebEx – 10 attendees; Facebook livestream (unknown number of viewers)

**3. Public Comment - Opens**

Commission Chair Blanchard opens the public hearing at 7:05 PM. Members of the public, looking to speak, will have five (5) minutes to address the Commission.

**4. Public Comment - Closes**

There being no members of the public looking to speak, the Chair calls for motion to close the public hearing.

Commissioner David Roane moves to close the public hearing. Commissioner William Wilson seconds the motion.

There being no discussion the Chair calls for a voice vote. The motion is approved unanimously (Commissioners Blanchard, Greaves, McKeon, Ribnick, Roane, L. Salafia, Sweeney, and Wilson; Absent: Commissioners Rivera and M. Salafia). The matter is approved. The Chair closes the public hearing at 7:06 PM.

**5. Action Items**

Before getting into this item, Chairman Blanchard asks Attorney Steven Mednick to give the "rules for the road" as they go through each item.

Attorney Mednick explains that these are the items that, a couple of meetings ago, there was a chart with two columns, sort of a menu. On one side, there were items that required more due diligence, investigation, review. Then there were a number of items during the December and January meetings that were really in the ballpark for drafting. These are the so-called "low hanging fruit" items that the Commission has tentatively approved. Nothing is finally approved. These are an inclination to do some of these things on the list. One item not on the list is Definitions." On the document that he sent out, the members will see that there were draft definitions, which was taken off the agenda, so we will deal with those at a later point. What we can do tonight is either go through and vote on each item as an action item, or we can get a feel for the room that we are moving in the right direction, just hold them and take action at a later point. He leaves that to the Chair and the Commission members to decide how to approach it. He is happy to walk through the items when the Commission is ready.

The Chair states that the goal tonight, in his opinion, is to avoid "paralysis by analysis." He wants to be sure when we look at these items that we vote either not to send them to the Council, depending on the discussion that we have, or we vote to make changes or amendments or kick it back to legal if it is more complicated. Or, if a fairly innocuous change that does not need to be deliberated, we can vote to move it to the moving forward pile. What is important as we do our due diligence through this process is, once we have moved items to the "send to Council " pile, that we review them all at the end after we have a public hearing and have one final vote. Which is standard, before sending it to Council, who will then decide if they over it forward and put it on the ballot in November. He asks Attorney Mednick to go through each item and the body can discuss. Everyone

should feel free to discuss their experiences with any item throughout the whole process. He ask that they begin with Item 5A.

**CHAPTER C  
CHARTER  
OF THE  
CITY OF MIDDLETOWN  
Charter Revision Commission 2020-2021**

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**CHAPTER I: INCORPORATION, GENERAL POWERS AND CONSTRUCTION OF THE CHARTER OF THE CITY OF MIDDLETOWN**

**SECTION 1. ~~INCORPORATION~~TITLE<sup>1</sup>.**

The title of this Act shall be the "Charter of the City of Middletown".

**SECTION 2: DEFINITIONS AND TITLES GENERALLY<sup>2</sup>.**

The definitions contained in the General Statutes of the State of Connecticut shall govern the interpretation of this Charter; unless otherwise defined herein. Articles and Sections are for the purpose of ready reference and shall not be held to limit, extend or effect the interpretation and meaning of the text.

**SECTION 3: DEFINITIONS<sup>3</sup>.**

Whenever used in this Charter:

- A. "Board" or "Commission<sup>4</sup>". For the purposes of this Charter and except as otherwise provided by Law, the terms "Board" and "Commission" shall include all Boards, agencies, Commissions, authorities or like entities of the City, whether elected or appointed.
- B. "Capital Budget<sup>5</sup>" means expenditures for (1) any physical betterment or improvement or any preliminary studies or surveys relative thereto; (2) the acquisition of real property or other property of a permanent nature; (3) the purchase or acquisition of equipment for any public betterment or improvement; (4) major alterations and repairs to existing buildings, structures or equipment; or (5) any lease which commits the City to more than one year of aggregate payments in an amount set by the Common Council, from time to time.
- C. "Charter" shall mean the Charter of the City of Middletown.
- D. "City" shall mean the City of Middletown.
- E. Classified Service<sup>6</sup> means and shall include all non-elective officers and both full time and regular part-time employees of the City, including the secretarial and clerical staff of the Mayor's office and personnel employed by the Board of Education not requiring certification by the State Board of Education, and appointees to all positions now or hereafter created except the Chief of Staff to the Mayor<sup>7</sup>, the Board of Education's Director of Facilities, the Board of Education's Paraprofessionals, the Corporation Counsel, Department Heads and assistant Department Heads of said City, persons employed in the professional capacity, those retained to make or conduct a temporary or special inquiry, task, study or investigation, and any persons employed for a temporary period not exceeding three months in any one Department.
- F. "Council" or "Common Council<sup>8</sup>" means the Common Council of the City, the legislative body of the municipality, as required by the General Statutes.
- G. "Day(s)" means calendar days; unless, otherwise specifically set forth in this Charter. Moreover, where a Day set forth in this Charter falls on a weekend, holiday or day when the City is closed for business, the deadline shall be extended through the close of the next City business day; unless otherwise required by Law.
- H. "Department" means any major functional or administrative division of the City, including any offices, agencies, bureaus or other descriptions serving such purpose as may be set forth in the budget of the City. When used within the section establishing or describing the duties of the particular department or its related Board or Commission, the term "Department" shall apply exclusively to the functional division referred to in that section.

<sup>1</sup> NEW (2021)

<sup>2</sup> NEW (2021).

<sup>3</sup> NEW (2021).

<sup>4</sup> NEW (2021).

<sup>5</sup> NEW (2021).

<sup>6</sup> Recodification and modification of Article X, Section 1.A.

<sup>7</sup> Modification of Chapter I, Sec. 3.E (Change "Administrative Assistant" to "Chief of Staff").

<sup>8</sup> Required by C.G.S. §7-193(a)(1)(C).

- I. "Department Head" means an employee who heads any Department in the City; has substantial supervisory control of a permanent nature over other municipal employees; and, is directly accountable to the Mayor.
- J. "Elected Official" or "Elected Official of the City" means an individual who holds an elected municipal office (as defined in C.G.S. §9-372 but shall not include a justice of the peace or notary public) in the City. The Elected Officials of the City are set forth in §3-3.A (1) of this Charter.
- K. "Elector"<sup>9</sup> shall have the meaning contained in the General Statutes.
- L. "General Statutes" shall mean the General Statutes of the State of Connecticut, as amended from time to time.
- M. "Law" includes, but is not limited to, decisions of courts and administrative bodies, federal or state legislative enactments, rules and regulations and local Ordinances and regulations.
- N. "Majority Vote of the Legislative Council" means more than half of the votes have been cast by the members at a meeting of the Council at which a quorum is present.
- O. "Mayor" shall mean the chief executive officer of the municipality, as required by the General Statutes.
- P. "Meeting (or Hearing) Notice" means a notice posted as required by the General Statutes, including posting of regular meetings with the Office of the Secretary of the State and the City Clerk, as well the requirement pertaining to special and emergency meetings as well as public hearings. In addition to the above-referenced postings, the City may post notices on its web-site or through other electronic media and, if practicable or otherwise required by Law, may be published in a daily newspaper of general circulation distributed in the City. A Meeting Notice (including public hearings) shall state the time and place thereof and shall be published at a minimum in compliance with the General Statutes or by a more stringent requirement as may be set forth in this Charter. Meeting or Hearing Notice may also be governed by regulatory practices and procedures set forth in the General Statutes.
- Q. "Official" or "Public Official" means an individual who holds an elected or appointed municipal office in the City; including but not limited to Elected Officials of the City; employees appointed subject to Chapter V, Sec. 2.A and 3.A of this Charter; and, members of Boards and Commissions. "Appointed Public Officials" shall include all Public Officials to the exclusion of Elected Public Officials. When the term "officer" is used, it shall be synonymous with the term "Official".
- R. "Order" means a legislative action conferring authority to do a specified act, including, but not limited to, the approval of Mayoral appointments, proposed contracts or other matters upon which are conferred temporary power or authority which when its purpose has been accomplished it ceases to require further authority. Orders shall be enacted in accordance with the provisions of this Charter.
- S. "Ordinances" shall mean the powers of the Town to (1) establish rules or regulations of general municipal application, the violation of which may result in the imposition of a fine or other penalty; (2) create a permanent local law of general applicability; or (3) accomplish other objectives permitted by the General Statutes as may be enacted in accordance with the provisions of this Charter..
- T. "Public Notice" means a notice for matters other than public meetings or hearings, including the public inspection or availability of any documents or data, as may be required by this Charter. It specifically includes matters where "publication" was required under the prior Charter or the General Statutes. Said Public Notice shall be specifically set forth in this Charter or may be governed by the requirements of the General Statutes. Public Notice may be posted (1) in the Office of the Town Clerk and other public space or location in the City Hall designated by the City Clerk in order to assure sufficient disclosure to and access by the public; (2) in the central City Library (and each branch of the City Library); (3) on the City web-site or through other electronic media; and, (4) if otherwise required by Law, by publication in a daily newspaper of general circulation distributed in the City.
- U. "Resolution" means an action by the Legislative Council that (1) expresses the sentiment or intent of the Council; (2) governs the business of the Council; (3) expresses recognition by the Council; or, (4) complies with the specific requirements of the General Statutes with regard to certain legislative enactments. A declaratory statement of the Council on a given matter.
- V. "Special Acts" or "Special Laws" shall mean the acts of the General Assembly pertinent to the Town.
- W. "State" or "Connecticut" shall mean the State of Connecticut.
- X. "State Constitution" shall mean the Constitution of the State of Connecticut.
- Y. "Statutory Resolution" means a necessary legislative action required by General Statutes in order to utilize the provisions of State enabling legislation. Statutory Resolutions shall be enacted in the same manner as an Ordinance under the provisions of this Charter".

<sup>9</sup> C.G.S. §9-1. Definitions. (e) "Elector" means any person possessing the qualifications prescribed by the Constitution and duly admitted to, and entitled to exercise, the privileges of an elector in a town".

Z. "Vacancy" or, in the alternative the use of the word "Vacant" means whenever any Official of the Town, including Registrars of Voters, is unable to complete the current term of office due to death, resignation, removal, incapacity or other reason as may be defined by Ordinance.

AA. Where reference is made to the word "shall" the legislative intention is to make the function a mandatory or imperative obligation for the official or entity charged with an obligation under this Charter or under the Code of Ordinances of the Town. It is recommended that to avoid any doubt the words "must" or "required" should be used in order to impose clarity on the concept of the obligations of the party referred to in this Charter or the Ordinances.

#### **SECTION 4. INCORPORATION<sup>10</sup>**

All the inhabitants dwelling within the territorial limits of the City of Middletown, as heretofore constituted, shall continue to be a body politic and corporate under the name of "The City of Middletown," hereinafter called "the City," and, as such, shall have perpetual succession and may hold and exercise all powers and privileges heretofore exercised by said City and not inconsistent with the provisions of this Charter and the additional powers and privileges conferred upon cities under the General Laws of the State of Connecticut.

#### **SECTION 25. RIGHTS AND OBLIGATIONS<sup>11</sup>**

All property, both real and personal, all rights of action and rights of every description and all securities and liens vested or inchoate in said City as of the effective date of this Charter are continued in said City and said City shall continue to be liable for all debts and obligations of every kind for which said City shall be liable on said date, whether accrued or not. Nothing herein shall be construed to affect the right of said City to collect any assessment, charge, debt or obligation. If any contract has been entered into by said City prior to the effective date of this Charter or any bond or undertaking has been given by or in favor of said City which contains provisions that the same may be enforced by any Commission, Board, Department or ~~Officer~~Official therein named, which is abolished by the provisions of this Charter, such contracts, bonds or undertakings shall be in no manner impaired but shall continue in full force and effect and the powers conferred and the duties imposed with reference to the same upon any such Commission, Board, Department or ~~Officer~~Official shall, except as otherwise provided in this Charter, thereafter be exercised and discharged by the Mayor of said City.

#### **SECTION 36. GENERAL GRANT OF POWERS<sup>12</sup>**

In addition to all powers granted to cities under the Constitution and General Statutes, the City shall have all powers specifically granted by this Charter and all powers fairly implied in or incident to the powers expressly granted and all other powers incident to the management of the property, government and affairs of the City, including the power to enter into contracts with the United States or any Federal agency, State of Connecticut or any political subdivision thereof for services and the use of facilities, the exercise of which is not expressly forbidden by the Constitution and General Statutes of the State of Connecticut. The enumeration of particular powers in this and any other chapter of this Charter shall not be construed as limiting this general grant of power but shall be considered as an addition thereto.

#### **SECTION 47. ASSESSMENT OF BENEFITS, AWARD OF DAMAGES<sup>13</sup>**

The City of Middletown may by ~~resolution~~Resolution of its Common Council assess benefits against any property benefited by any public work or improvement and may award damages to any owner of property damaged by, or taken for, any such public work or improvement, and shall have a lien against the property so benefited for the fair share of the cost of such public work or improvement as the Common Council may determine and the owner of such properties shall have such rights and the City such power and authority with respect to such assessments and awards as are provided in the General Statutes.

### **CHAPTER II: OFFICERS AND ELECTIONS**

#### **SECTION 1. STATE AND FEDERAL OFFICERS<sup>14</sup>**

- A. Nomination and Election of State and Federal Officials; Role of the Registrars of Voters<sup>15</sup>.** Nomination and election of State and Federal Officers, State Senators and Representatives, Judge of Probate, ~~and~~ two Registrars of Voters ~~and Sheriff~~, shall be conducted and the Registrars of Voters shall prepare lists of ~~electors~~Electors qualified to vote, therefore, in the manner prescribed by the Constitution and the General and Special Laws of this State applicable to the City of Middletown.
- B. Transition to Four Year Term for Registrars of Voters.** With the adoption of this Charter provision, the Registrars of Voters will be elected to a two-year term in the November, 2014 general election and a two-year term in the November, 2016 general election. Beginning with the November, 2018 general election, the Registrars of Voters will be elected to four-year terms, which elections will coincide thereafter with the State gubernatorial general elections in November.

#### **SECTION 2. ELECTED OFFICIALS - MUNICIPAL OFFICERS.**

The ~~elected officials~~Elected Officials of the City shall be: Mayor, twelve (12) Members of the Common Council, Treasurer, Nine (9) Members of the Board of Education, three (3) Members of the Board of Tax Review, and seven (7) members and three (3) alternate members of the Planning and Zoning Commission.

#### **SECTION 3. RESTRICTIONS ON ELECTED OFFICIALS.**

<sup>10</sup> Recodification of Chapter, Section 1.

<sup>11</sup> Recodification of Chapter, Section 2.

<sup>12</sup> Recodification of Chapter, Section 3.

<sup>13</sup> Recodification of Chapter, Section 4.

<sup>14</sup> Amended 11-4-2014

<sup>15</sup> Modification of Chapter II, Sec. 1 (elimination of the position of "Sheriff").

~~No elected official in the Government~~No Elected Official of the City, during the full term of the office for which said official was elected, shall be eligible for appointment to any salaried position except to the positions of Corporation Counsel and Mayor's ~~Administrative Assistant(s)~~Chief of Staff<sup>16</sup> within the City Government. Persons being so appointed must resign from the elected office.

#### SECTION 4. MUNICIPAL ELECTIONS; TERM OF OFFICE; LIMITATION OF POWERS<sup>17</sup>.

- A. **Term of Office.** The term of office for all ~~elected officials~~Elected Officials will be four (4) years.
- B. **Date of Election.** A meeting of the Electors of the City of Middletown shall be held biennially on the Tuesday after the first Monday of November of the odd-numbered years for the purpose of electing ~~officials~~Officials to such Municipal Offices as are provided for in this Charter the terms of which are to expire.
  - 1. At the first Biennial Election following adoption of this Charter provision, all ~~elected officials~~Elected Officials will appear on the ballot except for the four (4) longest-serving Board of Education members, three (3) longest-serving Planning and Zoning Commissioners, and one (1) longest serving alternate Planning and Zoning Commissioners.
  - 2. The remaining officials will appear on the off-year Biennial Election, to be held on the Tuesday after the first Monday of November of the next odd-numbered year.
- C. **Commencement of the Term of Office.** The Term of Office for all ~~elected officials~~Elected Officials of the City, except as otherwise provided by Law, shall commence at 12 o'clock Noon on the Tuesday following the certification of election of each such ~~Municipal Officer~~Elected Official by the City/Town Clerk of the City and shall continue until 12 o'clock noon of the Tuesday following the Biennial Election in which the ~~official's~~Official's term expires.
- D. **Transition Period: Limitation of Authority of the Outgoing Mayor.** The period between a Biennial Election for Mayor and the commencement of a term of office for a new Mayor shall be a transition period and during said period the outgoing Mayor shall meet with and assist the incoming Mayor in all aspects of the Office of the Mayor and said outgoing Mayor shall not appoint, hire, remove, terminate, discipline, promote, demote or transfer any officer, ~~department head~~Department Head, assistant ~~department head~~Department Head, commission or committee members, or employee of the City.

#### SECTION 5. MINORITY REPRESENTATION.

Not more than eight (8) members of the Common Council, not more than six (6) members of the Board of Education, not more than one (1) Registrar of Voters, not more than two (2) members of the Board of Assessment Appeals and not more than four (4) members and not more than two (2) alternate members of the Planning and Zoning Commission may be members of the same political party at any time.

#### SECTION 6. ELECTIONS, VOTING DISTRICTS.

The provisions of the General Statutes relating to town elections shall govern the conduct of all elections held under the provisions of this Charter except as otherwise provided herein. The Common Council shall set the boundaries of each voting district and at any time may, by ~~ordinance~~Ordinance, alter the boundaries of said districts or establish additional districts.

#### SECTION 7. ELIGIBILITY.

No person shall be eligible for election to any City office who is not at the time of election a resident of said City and any person ceasing to be a resident or ~~elector~~Elector of said City shall thereupon cease to hold elective office in the City.

#### SECTION 8. VACANCY IN ELECTIVE OFFICE.

- A. **Permanent Vacancy.** A permanent vacancy in any elective office shall occur by way of death or resignation of the Office Holder or as otherwise provided by State Statute.
- B. **Voluntary Temporary Vacancy: Office of the Mayor.** A voluntary temporary vacancy in the Office of the Mayor may occur in the following manner:
  - 1. Notification by the Mayor to the Deputy Mayor and the Council of a temporary vacancy.
  - 2. Notification by the Mayor to the Deputy Mayor and the Council of a temporary vacancy.
  - 3. Termination of above temporary vacancy in Office shall be by notification by the Mayor to the Deputy Mayor of such termination.
- C. **Involuntary Temporary Vacancy: Office of the Mayor.** An involuntary temporary vacancy in the office of Mayor may occur in the following manner:
  - 1. In the event of the Mayor's inability to carry out the duties of the Office of Mayor by reason of physical and/or mental disability, the Common Council shall, upon unanimous vote of the Council at a regular or special meeting duly warned for that purpose, cause the Mayor to submit to examination by two physicians licensed to practice medicine in the State of Connecticut who shall submit written reports to the City/Town Clerk as to the ability of the Mayor to carry out the duties of the Office of Mayor. If such examination substantiates the Mayor's inability to carry out the duties of the Office of Mayor, the City/Town Clerk shall then declare a temporary vacancy.
  - 2. Termination of said temporary vacancy shall be confirmed by two physicians licensed to practice medicine in the State of Connecticut that the Mayor is physically and/or mentally able to carry out the duties of the Office of Mayor who shall submit reports to the City/ Town Clerk who shall notify the Common Council of the Mayor's ability to resume office.

<sup>16</sup> Modification of Chapter III, Sec. 3 (Change "Administrative Assistant" to "Chief of Staff").

<sup>17</sup> [Amended 11-4-2014]

- D. Permanent Elected Office Vacancies (with the exception of Mayor and Deputy Mayor).** Except for vacancies in the Offices of the Mayor and/or Deputy Mayor, the Common Council, at a regular or special meeting duly warned for that purpose and next following a Declaration of Permanent Vacancy in an Elective Office, shall, by a majority of those present and voting, fill any such vacancy. Such appointee shall be a member of the same political party as the predecessor in said office and shall serve the remainder of the term of office of the ~~elected official~~Elected Official whose position he/ she has been appointed to fill.
- E. Permanent Vacancy in the Office of the Mayor.**
1. **The First Thirty-six Months of the Term of Office: Special Election.** In the event of a permanent vacancy in the Office of the Mayor during the first thirty-six (36) months of the term to which the Mayor was elected, a Special Election to fill said vacancy shall be called by the Common Council at a regular or special meeting duly warned for that purpose and following a Declaration of Permanent Vacancy in the Office of the Mayor.
  2. **The Last Twelve Months of the Term of Office: Succession by the Deputy Mayor.** The Deputy Mayor shall assume the Office of the Mayor in the event of a permanent vacancy during the last twelve (12) months of the Mayor's term and the Deputy Mayor shall serve as Mayor until 12:00 Noon the Tuesday following the next Biennial Election.
  3. **Simultaneous Vacancy of the Office of Mayor and Deputy Mayor.** In the event of permanent simultaneous vacancies in the offices of Mayor and Deputy Mayor, the majority leader of the Council shall assume the position of interim Mayor either until the special election called by the Common Council, if such vacancies occur during the first thirty-six (36) months of the term, or until a special Council meeting called within ten (10) days to elect a deputy mayor if such vacancies occur during the last twelve (12) months of the term. [Amended 11-4-2014]
- F. Permanent Vacancy in the Office of Deputy Mayor.** In the event of a permanent vacancy in the Office of Deputy Mayor due to assumption of the Office of Mayor as provided for in Subsection E, above, or a vacancy arising under Subsection A, above, the Mayor shall immediately appoint a successor Deputy Mayor in accordance with Chapter IV, Section 2A.
- G. Declaration of Vacancy.** A declaration of vacancy in any Office shall be made by the Mayor or, in the Mayor's absence, the Deputy Mayor upon written notification of such vacancy from the City/Town Clerk, which notice to the Mayor or, in the Mayor's absence, to the Deputy Mayor, shall be made forthwith.

## SECTION 9. SPECIAL ELECTIONS.

The Common Council shall call and warn Special Elections when required by any provision of the Connecticut General Statutes.

## CHAPTER III: THE COMMON COUNCIL

### SECTION 1. COMMON COUNCIL<sup>18</sup>.]

The Common Council shall consist of twelve (12) members, who shall be elected at large for a term of four (4) years. Not more than eight (8) candidates for the Common Council may be nominated by any political party for the elections and the twelve (12) candidates receiving the highest number of votes at said Election shall be declared elected. Each such member shall receive such stipend as may be provided by ~~law~~Law.

### SECTION 2. ORGANIZATION OF COUNCIL

- A. Date of Organization.** The Common Council shall meet to organize no later than ten (10) days following the commencement of its term of Office.
- B. Staff<sup>19</sup>.** The Common Council may appoint such staff as it deems necessary to assist it in the performance of its duties~~-, including the Corporation Counsel~~
- C. Rules of Council.** The Common Council shall determine its own rules of procedure.
- D. Council Commissions.** The Common Council shall establish as many Councilmanic Commissions as it shall deem necessary at any time to carry out the City's business. Each such Commission shall keep records of its proceedings and provide such information as may be requested by the Common Council. All such Councilmanic Commissions shall be advisory in nature, and shall have no authority to direct the administration of any Department.
- E. The Corporation Counsel<sup>20</sup>.** The Common Council shall appoint and may remove by majority vote, the Corporation Counsel, in accordance with qualifications established by Ordinance. The Council leadership shall notify and consult with the General Counsel prior to such appointment. The Corporation Counsel shall have such duties as the Council shall determine; however, shall only represent the interests of the Common Council, as required. Such Counsel shall receive compensation as fixed by the Council.

### SECTION 3. MEETINGS OF THE COMMON COUNCIL

- A. Regular Meetings.** Regular meetings of the Common Council shall be held on the first Monday of every month. If said Monday shall fall upon a legal holiday, as provided in the General Statutes, the Council shall meet on the Tuesday immediately following.
- B. Special Meetings.** Special meetings may be called by the Mayor or by the Deputy Mayor, when exercising the duties of the Mayor, or upon a call signed by not less than five members of the Common Council.

<sup>18</sup> Amended 11-4-2014.

<sup>19</sup> Modification of Chapter III, Section 2.B

<sup>20</sup> NEW (2021).

- C. Quorum.** A majority of the members of the Common Council shall constitute a quorum. In determining a quorum, in the absence of the Mayor, the member of the Council who is Deputy Mayor shall be counted. The Deputy Mayor, if presiding at a meeting in the absence of the Mayor, shall be allowed to vote on any matters as a Council Member but will have no more than one (1) vote.
- D. Council Action in Accordance with Rules.** No appropriation, resolution, ordinance, report or other item of business shall be placed on any Common Council agenda unless it is filed with the Council Clerk in accordance with the rules established by the Common Council or a waiver of the rules to allow the inclusion of any matter shall have been approved by nine (9) Council Members.
- E. Public Comment.** ~~The public shall have the right to address the Council regarding matters of public concern.~~<sup>21</sup> Subject to the rules of the Council, the public shall have the right to address the Council at any Council meeting on any item on the agenda for the Council meeting at which they speak and may address the Council on non-agenda matters of general public concern only in accordance with provisions established by the Council for such input.

#### SECTION 4. AUTHORITY OF THE COMMON COUNCIL<sup>22</sup>.

- A. Powers and Duties.** The Common Council shall have the powers and duties which, on the effective date of this Charter, were conferred by ~~law~~Law upon ~~boards, officers~~Officials, Boards and ~~commissions of the City~~Commissions existing immediately prior to said date, excepting, as otherwise provided in, or inconsistent with this Charter and amendments thereto, or established by General or Special Acts of the General Assembly.
- B. Legislative Body.** The Common Council shall be the legislative body of the City.
- C. Powers, Authority and Duties: Majority Vote Present and Voting.** Said Council shall have the power, authority and duty by a majority vote of those members present and voting to make such bylaws and ~~ordinances~~Ordinances and to adopt such ~~resolutions~~Resolutions as are deemed necessary for the conduct of the City's business, subject to the provision for hearings as provided herein, and not inconsistent with the ~~laws~~Laws of the State of Connecticut and/or of the United States:
1. to levy taxes as provided herein; to regulate the borrowing of money by the City;
  2. to adopt a budget for each fiscal year subject to the provisions herein; to authorize the issue of such bonds or notes as are required for the conduct of the City's business and other purposes as provided herein;
  3. to appropriate such funds as may be required for the proper conduct of the City's business;
  4. to determine and appropriate such salaries, expenses, compensation or other sums to be paid to all ~~elected officials~~Elected Officials, including the stipend to be received by members of the Common Council, provided such salaries, expenses, compensation or other sums shall not take effect before 12:00 Noon the Tuesday following the next biennial municipal election;
  5. to review and approve all contracts, including agreements to settle litigation against the City, or those memoranda of agreement with collective bargaining units that meet the following criteria, which create a financial responsibility, on the current or any future City budget, which have not previously been approved by the Council through the budgetary process and authorize the Mayor to sign the same on behalf of the City; and,
  6. it shall have such other powers appropriate to the exercise of its authority as the legislative body of the City and such powers and duties which, on the effective date of this Charter, were conferred by ~~law~~Law.
- D. Appropriations for Fire Services.** In addition to all other powers, the Common Council shall have the power to make appropriations for all things necessary or desirable to protect the City from fire, including but not limited to, appropriations for the Middletown Fire District, the South Fire District of the City of Middletown and the Westfield Fire District of the City of Middletown.

#### SECTION 5. BYLAW, ORDINANCE, BUDGETARY RESOLUTION OR APPROPRIATION; WHEN AND HOW IN EFFECT; CERTIFICATE OF CITY/TOWN CLERK.

- A. Effective Date of Council Actions.** No bylaw, ~~ordinance~~Ordinance or Statutory Resolution, budgetary resolution or appropriation passed by the Common Council shall take effect and be enforced until fifteen (15) days after such bylaw, ~~ordinance~~Ordinance or a summary thereof ~~or Statutory Resolution~~, budgetary resolution, or ~~supplemental~~ appropriation shall have been published in ~~some newspaper of general circulation in accord with the City of Middletown. Public Notice requirements of this Charter. Resolutions shall be effective upon passage.~~
- B. Filing of Bylaws and Ordinances.** Prior to the ~~publication~~Public Notice of a summary, a copy of the full text of the bylaw, ~~Ordinance~~ or ~~ordinance~~Statutory Resolution shall be ~~filed~~filed in ~~accordance with the office~~Public Notice requirements of the City/Town Clerk ~~this Charter~~ and be available for public inspection. The summary shall include the title and a general statement of the subject matter of the bylaw or ~~ordinance~~Ordinance and shall state that a copy of the full text is on file in the office of the City/Town Clerk ~~and on the City's website.~~
- C. Certificate of the City/Town Clerk.** The certificate of the City/Town Clerk, upon the records of the Common Council, that such bylaw, ~~ordinance~~Ordinance, Statutory Resolution, budgetary resolution or ~~supplemental~~ appropriation has been ~~so~~ published ~~in accord with the Public Notice provisions of this Charter~~ and filed shall be prima facie evidence of such filing and publication in any suit or proceeding. Upon such publication, said Clerk shall make such certificate and thereupon, after the lapse of such fifteen (15) day period, such bylaw, ~~ordinance~~Ordinance, Statutory Resolution, budgetary resolution or ~~supplemental~~ appropriation shall be in effect subject only to the provisions of this Charter referring to ~~the referendum~~referenda.

#### SECTION 6. ORDINANCE FOR THE CREATION, MERGER, OR ELIMINATION OF ANY DEPARTMENT OR AGENCY.

Any ~~ordinance~~Ordinance providing for the creation, merger or elimination of the departments, or agencies of City government shall be voted upon at two different meetings of the Common Council which shall be held at least thirty (30), and not more than ninety (90) days apart, each of which shall be preceded by a ~~duly noticed public hearing~~Hearing Notice. No such ~~ordinance~~Ordinance shall become effective unless adopted by the affirmative vote of nine members of said Council at each such meeting.

<sup>21</sup> Modification of Chapter II, Sec. 4.E (2021).

<sup>22</sup> Amended 11-4-2008.

**SECTION 7. REFERENDA AND INITIATIVE<sup>23</sup>.**

- A. REFERENDA.** If within the period of fifteen (15) calendar days after publication in some newspaper with general circulation in the City of Middletown of such bylaw, ~~ordinance~~Ordinance, or a summary thereof, budgetary resolution, or ~~supplemental~~ appropriation a written petition, containing the signatures of at least five (5%) percent of the ~~electors~~Electors of the City and protesting any such enactment by the Common Council shall be filed with the City/Town Clerk, such bylaw, ~~ordinance~~Ordinance, budgetary resolution, or ~~supplemental~~ appropriation shall be suspended. The City/Town Clerk shall, within seven (7) days excluding Saturdays, Sundays and Municipal holidays thereof, make an examination of such petition and attach thereto a certificate that the same is sufficient or insufficient under the requirements of this Section. If the petition shall be found to be insufficient it shall be so certified by the City/Town Clerk. If the petition shall be found to be sufficient, the City/Town Clerk shall, within five (15) days excluding Saturdays, Sundays and Municipal holidays, submit the same to the Common Council, which shall within five (5) days excluding Saturdays, Sundays and Municipal holidays thereof, reconsider the measure. If it shall not be entirely repealed, the Council shall, within five (5) days excluding Saturdays, Sundays and Municipal holidays thereof, submit it to a vote of the ~~electors~~Electors affected by it at either a general or special election to be called for that purpose and in any event to be held no earlier than thirty and no later than sixty (60) calendar days. At such election all votes shall be taken by ballot and check list at the regular polling places. The Common Council shall set the hours of voting in any referendum and the Registrars of Voters shall prepare the polling places and the City/Town Clerk shall prepare the ballots. A simple majority vote of those voting in such referendum shall determine the matter.
- B. INITIATIVE.** Any ~~elector~~Elector of the City may prepare a Petition regarding any matter of public interest, except for the approval of a bond or the appropriation of revenue, to be submitted for determination by the ~~electors~~Electors of the City and/or adoption as a ~~resolution~~Resolution or ~~ordinance~~Ordinance by the ~~electors~~Electors of the City in accordance with the provisions of this Charter to be placed on that year's November ballot. The Petition shall be filed with the City/Town Clerk in typewritten form, provided the wording of the Petition shall first be reviewed by the City/Town Clerk, in consultation with the ~~City Attorney~~General Counsel who, within seven (7) working days of its submission, shall determine whether or not such petition presents a matter within the public interest and has been correctly worded in such a manner as to clearly express its meaning and intent. If the wording and subject matter of a Petition fairly and accurately presents such a public issue, it shall be returned to the individual who filed the petition for the obtaining of signatures commencing on July 1 in accordance with the laws of the State of Connecticut regarding the same. The petition issue shall only be voted upon at the next regular November election if copies of the Petition containing the names of at least ten (10%) percent of the ~~electors~~Electors of the City are filed with the City/ Town Clerk on or before sixty (60) days prior to said November election date. The results of the balloting on said Petition shall not be binding unless approved by a simple majority of those voting on the Petition. No enactment passed pursuant to initiative shall be subject to referendum.

**SECTION 8. INVESTIGATIONS.**

The Common Council shall have the power to investigate any and all Departments, Offices and Agencies of the City.

**SECTION 9. ETHICS.**

The City shall adopt a code of ethics by ~~ordinance~~Ordinance. As part of such code, a Board of Ethics may be established<sup>24</sup>.

**CHAPTER IV: DUTIES AND POWERS OF ELECTED ~~OFFICERS~~OFFICIALS AND OTHER CITY ~~OFFICERS~~OFFICIALS****SECTION 1. MAYOR'S OFFICE<sup>25</sup>.**

- A. Term of Office.** Commencing with the first municipal election following the passage of —this charter provision, the Mayor's term of office shall be four (4) years.
- B. Mayor's Office and Staff<sup>26</sup>.** The Mayor's Office shall consist of the Mayor and the following staff: ~~an Administrative Assistant, a Corporation Counsel~~ Chief of Staff and such other Staff as the Mayor may deem necessary. All such staff of the Mayor's Office shall be appointed by the Mayor and may be removed by the Mayor and shall not be included in the ~~classified service~~Classified Service. All classified employees working in the Mayor's Office shall not be considered to be part of the Mayor's Staff as defined in this Section.
- C. Compensation.** The Mayor shall receive such compensation as shall be fixed by the Common Council.

**SECTION 2. DUTIES AND POWERS OF THE MAYOR<sup>27</sup>.**

- A. Full time Chief Executive Officer.** The Mayor shall be the chief executive officer of the City and shall devote full time to the duties of the office. Full time shall mean primary occupation.
- B. Voting Member of All City Boards, Agencies and Commissions.** Except as otherwise provided by ~~law~~Law, the Mayor shall be a voting member of all Boards, Agencies and Commissions appointed by the Mayor. As such, the Mayor shall be entitled to cast one vote.
- C. Administration of Departments, Agencies and Offices.** Except as otherwise provided by law, the Mayor shall be directly responsible for the administration of all Departments, Agencies and Offices, in charge of persons or Boards appointed by the Mayor and shall supervise and direct the same.
- D. Duties.** The Mayor shall:
1. see that all ~~laws and ordinances~~Laws, including the Ordinances, governing the City are faithfully executed;
  2. make periodic reports to the Common Council and shall attend and participate in its meetings as provided by this Charter;
  3. prepare and cause to be made available to the public, as soon as possible after the close of the fiscal year, an annual City report which shall include a summary of the activities of each City department during the preceding year and a statement of the departments' goals for the next year;

<sup>23</sup> Amended 11-4-2008.

<sup>24</sup> Editor's Note: See Ch. 40, Ethics, Code of.

<sup>25</sup> Amended 11-4-2014.

<sup>26</sup> Modification of Chapter IV, Sec. 1.B (Change "Administrative Assistant" to "Chief of Staff" and eliminate "Corporation Counsel").

<sup>27</sup> Amended 11-4-2008.

4. recommend to the Council such measures as the Mayor may deem necessary or expedient including, but not limited to, measures to organize or reorganize the Departments and Agencies of the City;
5. keep the Council fully advised as to the financial condition of the City;
6. prepare and submit to the Council an annual budget and such additions, deletions or amendments to the separate budgets provided for in Chapter VI, Section 2;
7. negotiate for the purchase of real estate and take options on such real estate in behalf of the City, provided that the Mayor shall expend no more than the amount set by ~~Council ordinance~~Ordinance for any one option; and,
8. exercise such other powers and duties as may be required of the Mayor by ~~ordinance~~Ordinance or resolution of the Council not inconsistent with this Charter.

#### E. Interactions with the Common Council.

1. **Diminution or Augmentation of Mayoral Authority.** The Council shall not diminish by ~~ordinance~~Ordinance, vote or otherwise, the powers and duties of the Mayor, except those powers and duties imposed on the Mayor by the Council under provisions of this Section.
2. **Contract Signing Authority.** The Mayor shall have the power to sign contracts approved by the Common Council, deeds and other instruments or documents and the Mayor shall have the power to administer oaths.
3. **Presiding Officer of the Common Council: Voting Privileges in the event of Tie Vote.** The Mayor shall be the presiding officer of the Common Council and, as such, shall have the power to resolve a tie vote of the Common Council.
4. **Veto Authority.** The Mayor may veto any ~~ordinance~~Ordinance or appropriation passed by the Common Council and, in the event the Mayor shall veto any such ~~ordinance~~Ordinance or appropriation, the Mayor shall return the same to the Common Council within five (5) days, excluding Saturdays, Sundays and Municipal holidays, following the adoption of such vote with a statement in writing of the Mayor's objections thereto. If the Common Council, by a vote of two-thirds (2/3<sup>ds</sup>) of the members present and voting at a special meeting called for that purpose within ten (10) days, excluding Saturdays, Sundays, and Municipal holidays, following receipt of the Mayor's veto, shall readopt said ~~ordinance~~Ordinance or appropriation, it shall thereupon be effective as so readopted.

#### SECTION 2A. DEPUTY MAYOR.

Upon commencement of the Mayor's term of office, the Mayor shall appoint a Deputy Mayor who shall be a member of the Common Council and shall be of the same Political party as the Mayor, unless there are no Council members of the same party, in which case the Mayor may appoint any member of the Council. Said appointment shall be subject to confirmation by the Common Council. The Deputy Mayor shall act as Mayor during any temporary vacancy in the Office of Mayor or until a permanent vacancy in the Office of Mayor has been filled as provided for in Chapter II, Section 8 of this Charter. The salary of the Deputy Mayor shall be determined by the Common Council.

#### SECTION 3. CITY ~~OFFICERS~~OFFICIALS.

- A. **Appointment by Mayor and Confirmation by the Common Council.** The following ~~officers~~Officials shall be appointed by the Mayor and confirmed by the Common Council: (i) City/Town Clerk; (ii) Tax Collector; and (iii) ~~Tax~~ Assessor.<sup>28</sup> Each said ~~officer~~Official shall have the powers and duties vested in each said officer by the ~~laws~~Laws of the State of Connecticut and pursuant to ~~ordinances~~Ordinances adopted by the Common Council. They shall devote full time to the duties of their respective offices. Full time shall mean primary occupation.
- B. **Additional ~~Officers~~Officials Established by Ordinance: Appointment and Confirmation.** There shall be such other ~~Officers of the City~~Officials as may be deemed necessary by the Mayor and the Common Council and whose duties and powers shall be defined by ~~ordinance~~Ordinance. All such ~~officers~~Officials shall be appointed by the Mayor and confirmed by the Common Council.
- C. **Removal Authority of the Mayor.** The Mayor shall have the power to remove or discipline non-elected ~~officers~~Officials as provided for in Chapter V, Section 4.

#### SECTION 4. CITY TREASURER.

There shall be a City Treasurer who shall have and exercise all the powers and duties prescribed for Treasurers of Towns and Cities by the General Statutes and additional powers and duties as may be prescribed by the Common Council.

#### SECTION 5. REGISTRARS OF VOTERS, BOARD OF TAX REVIEW.

The power and duties of the Registrars of Voters and members of the Board of Assessment Appeals shall be as provided by ~~law~~Law and not inconsistent with this Charter and may be provided by ordinance.

#### SECTION 6. COMMON COUNCIL TO PERFORM DUTIES OF SELECTMEN EXCEPT AS OTHERWISE PROVIDED.

All powers and duties had and performed under the ~~law~~Law by the Selectmen of any town, except such as are imposed upon them by the Constitution and the General Statutes relative to the admission of persons to the privileges of ~~electors~~Electors, shall be had and performed by the Common Council or as otherwise provided herein. The Common Council shall provide for the performance of all such functions by ~~ordinance~~Ordinance, bylaw, or otherwise, as it shall determine.

#### SECTION 7. BOARD OF EDUCATION; ELECTION; TERM.

There shall be a nine (9) member Board of Education which shall have such duties and powers as may be imposed by ~~law~~Law. Members of such Board, shall be elected in place of the members whose terms expire, each for a term of four (4) years. Each ~~elector~~Elector may vote for the full number of members to be elected to each term and the candidates receiving the greatest number of votes shall be elected, except that when the number of members of any one political party who would be elected without regard to Section 9-167a of the General Statutes exceeds the maximum number, as determined by said Section, then only the candidates of such political party with the highest number of votes up to the limit of such maximum shall be elected. The next highest ranking candidates, not from such political party, shall be elected, up to the number of places to be filled in such election.

<sup>28</sup> Modification of Chapter IV, Sec. 3.A(iii).

**SECTION 8. OFFICE OF THE ~~CITY ATTORNEY~~GENERAL COUNSEL.**

The ~~Office of the City Attorney~~General Counsel shall have the authority, with the approval of the Mayor and Council, to refer to the Corporation Counsel questions of ~~law~~Law involving the powers, obligations, and/or duties of any ~~City officer, department~~Official, Department, agency, ~~board~~Board or ~~commission~~Commission if, in its discretion, said questions relate to political matters or those which involve a potential conflict of interest<sup>29</sup>.

**CHAPTER V: DEPARTMENTS OF THE CITY****SECTION 1. DEPARTMENTS ESTABLISHED.****A. Powers and Purposes (RECOMMENDED).**

**B. Creation of Departments.** All departments of the City may, from time to time, be established by ~~ordinance~~Ordinance. All employees of any department shall be subject to the City of Middletown Personnel Rules and Classification Plan. The Common Council shall have the power to prescribe by Ordinance the powers, duties and privileges of each Department, not inconsistent with any of the provisions contained herein.

**C. Reorganization Plans (RECOMMENDED).**

**D. Effect of Charter on Departments.** Every Department, Authority, Board, or Commission, existing on the effective date of this Charter, shall continue in existence as if established by ~~ordinance~~Ordinance until merged or eliminated by ~~ordinance~~Ordinance pursuant to Chapter III, Section 6 of this Charter.

**SECTION 2. DEPARTMENT HEADS.**

**A. Appointment and Confirmation.** Each Department shall have a department head who shall be known as director and who shall be appointed by the Mayor and confirmed by the Common Council. Each such director shall devote full time to the duties of the Office and shall be responsible to and report to the Mayor.

**B. Removal<sup>30</sup>.** The Mayor shall have the power to remove any director for cause but, in no case, may any director be removed for political reasons. In the event of dismissal of any director, the Mayor shall notify said director in writing of such action and the reasons therefore not more than one month prior to the effective date of such dismissal.

**C. Additional Provisions Pertaining to Department Heads. (RECOMMENDED)****SECTION 3. ASSISTANT DEPARTMENT HEADS.**

**A. Creation of Position.** There shall be such assistant ~~department heads~~Department Heads as may be provided by Ordinance, who shall serve as assistant to the various department heads of the City.

**B. Appointment and Confirmation.** Each assistant ~~department head~~Department Head shall be appointed by the Mayor and confirmed by the Common Council.

**C. Duties and Responsibilities.** Each such assistant ~~department head~~Department Head shall be responsible to and report to the ~~department head~~Department Head and shall devote full time to the duties and responsibilities of the Office. Each such assistant ~~department head~~Department Head shall be removed or disciplined only in the same manner as ~~department heads~~Department Heads.

**SECTION 4. REMOVAL OF A DIRECTOR (MOVED TO SEC. 2).****CHAPTER VI: FINANCE AND TAXATION****SECTION 1. BUDGET<sup>31</sup>.**

**A. Commencement of the Budget Process.** Except as otherwise provided herein, not later than January 1st of each year, the Mayor, or the Mayor's designate, shall provide all Departments, Agencies, Offices and Commissions with forms for budgetary requests for the ensuing fiscal year.

**B. Mayor Transmits Proposed Fiscal Budget to the Common Council.** On or before April 1st the Mayor shall transmit a proposed *fiscal budget* to the Common Council.

**C. Contents of the Proposed Budget: Operating and Capital Budgets.** The *proposed budget* shall consist of an operating budget and a capital budget.

1. **Capital Budget.** The capital budget shall consist of all funds necessary for any debt service payment needed during the fiscal year, including all payments for debt service incurred for the construction, renovation or improvement of any Board of Education buildings or property.

2. **Operating Budget.** The operating budget shall consist of all proposed expenditures for the fiscal year which are not part of the capital budget.

3. **Separate Budgets Not Included<sup>32</sup>.** The Annual Budget prepared by the Office of the Mayor shall not include the budgets of those Boards, Commissions and Agencies for which separate budgets are required by the General Statutes or Special Acts. All separate budgets shall be subject to the referendum provisions contained in this Charter.

4. **Application of Veto and Referenda to Entire Budget.** All provisions for veto and referenda of the budget shall apply only to the entire budget and neither the operating budget nor the capital budget shall be subject to veto or referenda separately.

**D. Public Inspection (RECOMMENDED).**

**E. Public Hearing by the Common Council.** The Common Council shall, prior to April 30<sup>th</sup>, hold public hearings on the proposed budget.

1. **Publication: Date of Hearing.** The Common Council shall cause such proposed budget to be published ~~at least once in a daily newspaper having a general circulation in~~in accordance with the ~~City~~Public Notice provisions of this Charter and shall accompany such publication with a ~~notice of the date of hearing~~Hearing Notice, which ~~date~~hearing shall be at least two (2) days after said publication. Upon such date, the Common Council shall meet to hear any parties interested in relation thereto, which meeting shall be held on or before April 30<sup>th</sup>.

2. **Hearing Participants.** At such hearings, all ~~electors~~Electors and persons paying taxes or charges to said City shall have the right to be heard concerning any proposed budget item.

**F. Modification of the Proposed Budget by the Common Council.** The Council shall have the power to add, delete, increase or decrease any item in said proposed budget and,

<sup>29</sup> Modification of current Chapter IV, Sec. 8.

<sup>30</sup> Recodification of Chapter IV, Sec. 6.

<sup>31</sup> [Amended 11-4-2008]

<sup>32</sup> Recodification of Chapter VI Sec. 2.

- G. Adoption of the Proposed Budget by the Common Council.** Not later than the 15<sup>th</sup> day of May of each year, the Common Council shall adopt a budget and make appropriations therefor.
1. **Establishment of the Tax Levy<sup>33</sup>.** At the same time the Common Council shall approve the budget, it shall also fix the Tax Rate in Mills which shall be levied on the taxable property in the City as provided by Law. Said Tax shall be payable in two equal installments as shall be determined by the Common Council. Upon failure of any taxpayer to pay any installment of taxes within one month after the date on which said installment is payable, the full amount of the total bill shall be due and payable and subject to such interest charges as are provided by Statute. Any property tax due the City of Middletown in an amount not in excess of one hundred dollars (\$100) shall be due and payable in a single payment.
  2. **Failure to Adopt a Budget (RECOMMENDED)**
- H. Transmittal of budget to Mayor (RECOMMENDED)**
- I. Mayoral Action**
1. **Veto authority of Mayor.** The Mayor shall have the power to veto, in writing, any addition, deletion, increase or decrease in said budget as voted by the Common Council, provided that the Mayor then shall transmit said veto to the Common Council within five (5) calendar days following the adoption of said budget by the Common Council.
  2. **Legislative Action on Mayoral Veto.**
    - a. **Override of Mayoral Veto.** If the Common Council, by vote of two-thirds (2/3<sup>rd</sup>s) of its entire membership at a Special Meeting held for that purpose, shall readopt the item or items vetoed within ten (10) days of receipt of said veto, the Budget shall be effective as adopted.
    - b. **Failure to Override Mayoral Veto.** In the event the Common Council shall not readopt the item or items disapproved, then the budget shall be effective as modified by the veto.
- J. Referendum.** Within fifteen (15) calendar days following the passage of a budget, the electorate of the City shall have the power to challenge the budget by means of a referendum as provided in this Charter. The Common Council shall within ten (10) days following any referendum adopt a budget in accordance with such determination. In the event of any additional Mayoral veto, or referenda, said Common Council shall proceed in like manner until a tax shall be levied and accepted to cover such budgets.
- K.** Such appropriations, when finally decided upon, shall be entered into the official records of the City and shall be subject to the inspection of any taxpayer during City Hall business hours. Any portion of an annual budget appropriation remaining unexpended and unencumbered at the close of the fiscal year shall lapse and said portion of any appropriation shall revert to the respective Fund of said City.

## SECTION 2. SEPARATE BUDGETS PROVIDED (MOVE TO SEC. 1, Above)

## SECTION 3. TAX RATES ESTABLISHED (MOVE TO SEC. 1, Above)

## SECTION 4. ANNUAL AUDIT<sup>34</sup>.

The Common Council shall, by majority vote at a meeting to be held not later than one month after each Mayoral Election, appoint a certified public accountant or firm who shall audit the books and accounts of the City, in accordance with the provisions of the General Statutes, and who shall perform such other duties as may be deemed necessary by the Common Council.

## SECTION 5. ASSESSMENTS, COLLECTION WARRANT LIEN.

- A. **Issuance of Collection Warrant.** In any case where, under the provisions of this Charter or of any bylaw ~~—or ordinance~~Ordinance of the City, a sum of money, other than taxes, shall have been ordered by the Common Council to be paid by any person, or where any assessment shall have been made, or where any expense shall have been incurred by the City because of the failure of the property holder to comply with any ~~order~~Order of the Common Council or with an ~~ordinance~~Ordinance, the Common Council may appoint a collector to collect such sums of money and assessments of expenses and shall cause the collector to account duly for the amount of same, the Mayor or Deputy Mayor shall issue a warrant authorizing such collector to collect same.
- B. **authority of Collectors.** Every such collector shall proceed in the same manner and have the same powers and be under the same regulations as by ~~law~~Law prescribed for collectors of public taxes.
- C. **Terms and Conditions.** All such sums of money, other than taxes, but including assessments or expenses, shall be subject to interest from the date when the same shall be payable at the same interest rate or rates and in the same manner as shall be provided by the General Statutes in case of delinquent taxes and shall remain a lien upon the property specially benefited by the public work or improvement with reference to which such assessment was made or upon the property against which such expense be chargeable.
- D. **Precedence of Liens.** Such lien and all liens created under the provisions of this Charter shall take precedence and priority over any lien or encumbrance on the property whereon the same shall be imposed, except taxes and other City liens prior in date, and any such lien may be foreclosed in the same manner as if such lien were a mortgage given to said City to secure the amount of such assessment or such expense, provided such lien shall not continue for a period longer than sixty days after the time when such assessment or such expenses shall become payable, unless before the expiration of said sixty (60) days a certificate, signed by the Mayor or the City/Town Clerk of said City, describing the property on which the lien shall exist and the amount claimed by said City as a lien thereon, shall be lodged with the City/Town Clerk.
- E. **Satisfaction of Lien: Recording of Certificate.** Whenever any such lien shall have been satisfied, a certificate of such fact signed by the Mayor, the Deputy Mayor, or the City/Town Clerk of said City, shall be lodged with said City/Town Clerk. The City/Town Clerk shall record all such certificates in a book kept for that purpose and the reasonable expense of filing and discharging such lien shall be added to such assessment or expense.
- F. **Fines and Penalties for Certain Willful Actions.** Any person willfully interrupting, hindering, abusing and resisting or obstructing any such collector in the discharge of the collector's duty shall be fined in an amount not exceeding one hundred (\$100.00) dollars or imprisoned not exceeding sixty (60) days or both in any criminal action brought before the Superior Court.

## SECTION 6. LIENS, ASSESSMENTS FOR SERVICES.

- A. **Water, Sewer and Sanitation Liens.** All water rents, sewer and sanitation charges and all service charges due for any service under the provisions of this Charter shall be and remain a lien upon the house, tenement or lot, wherein or in connection with which service shall have been rendered to the owner or occupant thereof and said lien shall have

<sup>33</sup> Recodification of Chapter VI, Sec. 3.

<sup>34</sup> [Amended 11-4-2014]

priority over all other liens and encumbrances on said house, tenement or lot, whereon the same is imposed, except taxes, tax liens and other City liens prior in date, and may be enforced or foreclosed by and in the name of the City of Middletown, before any Court having competent jurisdiction thereof, in the same manner as mortgages on lands and buildings are foreclosed.

- B. Sale of Liened Real Property.** The Common Council of the City of Middletown shall have the right and power to authorize the sale of any interest in any house, tenement or lot, which the City shall acquire by reason of such foreclosure, and the proceeds of any such sale shall be paid into the City treasury. Such liens shall be perfected and be in effect in accordance with provisions of the General Statutes relating to the taxes on real estate.

## CHAPTER VII: SANITARY DISPOSAL DISTRICT

### SECTION 1. SANITARY DISPOSAL DISTRICT; BOUNDARIES<sup>35</sup>.

The Sanitary Disposal District shall continue to be that portion of the City of Middletown as is constituted the Sanitary Disposal District on the effective date of this Charter, together with any other territory contiguous thereto which may hereafter be added in accordance with the provisions of this Charter. The expense for the maintenance and operation of said district shall be a service charge upon all property located within the district. The provisions of Special Act No. 466 (1951) of the Connecticut General Assembly not inconsistent with the provisions herein shall continue in effect.

### SECTION 2. ALTERATION OF BOUNDARIES; NOTICE REQUIRED

**Alteration of District Boundaries.** The boundaries of the Sanitary Disposal District shall not be extended except in the following manner:

- A. Annexation: Written Petition, Hearing Notice and Conduct of Public Hearing and Vote of City Council.** Upon the written petition of a majority of the property owners, without the Sanitary Disposal District but within any part of said City contiguous to said district, requesting to be annexed as a part of the Sanitary Disposal District and describing the limits of said contiguous territory to be annexed, the Common Council may, after a public hearing, ~~notice of in accord with Public Hearing Notice~~ which shall be given at least five (5) calendar days prior to such hearing ~~by publication in a newspaper having general circulation in the City~~, by vote annex the territory described in such petition to the Sanitary Disposal District. The vote of the Common Council annexing such territory to said district shall specify the boundaries of the territory annexed, a date upon which service will be initiated and a copy of such vote, certified by the Clerk of the Common Council, shall be forthwith recorded in the land records of the City and filed in the Office of the Assessor and in the Office of the Sanitary Disposal District.
- B. Separation from District: Public Hearing Notice and Conduct of Public Hearing and Vote of City Council.** Upon the written petition of a majority of the property owners within any part of the Sanitary Disposal District that is contiguous to a non-member territory requesting to be separated from the Sanitary Disposal District and describing the limits of said contiguous territory to be separated, the Common Council may, after a public hearing, ~~notice of in accord with Public Hearing Notice~~ which shall be given at least five (5) calendar days prior to such hearing ~~in a newspaper having a general circulation in the City~~, by vote, separate the territory described in such petition from the Sanitary Disposal District. The favorable vote of the Common Council separating such territory from said District shall specify the boundaries of the territory separated, with an effective date of release, and a copy of such vote, certified by the Clerk of the Common Council, shall be forthwith recorded in the Land Records of the City and filed in the Office of the Assessor and in the Office of the Sanitary Disposal District.

## CHAPTER VIII: BOARD AND COMMISSIONS

### SECTION 1. GENERAL REQUIREMENTS FOR APPOINTED COMMISSIONS AND COMMITTEES.

- A. Creation of Boards and Commissions<sup>36</sup>.** *In addition to those Commissions and Committees established by this Charter* there shall be such Commission and Committees of an advisory nature or limited duration, as may be deemed necessary by the Mayor and the Common Council. The powers, duties and organization of each Commission and Committee shall be prescribed by ~~ordinance~~Ordinance.
- B. Appointment<sup>37</sup>.** All members of such Commissions and Committees shall be appointed by the Mayor and confirmed by the Common Council, except as herein provided.
- C. Vacancy.**
1. **Defined.**
  2. **Removal of Appointed Member<sup>38</sup>.** A member of any appointed Commission or Committee, who shall be absent therefrom for three consecutive meetings without good cause shown, may, upon the recommendation of the chairman or director thereof and upon the approval by the appointing authority, be ordered removed therefrom by the Mayor.
  3. **Filling a Vacancy<sup>39</sup>.** Upon such removal by the Mayor the appointing authority shall fill the unexpired term created by such vacancy.

### SECTION 2. PLANNING AND ZONING COMMISSION<sup>40</sup>.

- A.** There shall be a Planning and Zoning Commission which shall exercise all powers and authority enumerated in Chapter 124, Section 8-2 of the General Statutes, as amended, and shall exercise said powers and authority in accordance with the provisions of Section 8-3 and Section 8-4a of Chapter 124 of the General Statutes, as amended. All existing regulations shall continue in full force and effect until modified, repealed or superseded by action of the Planning and Zoning Commission.
- B.** The Planning and Zoning Commission shall consist of seven regular voting members. The Mayor and Director of ~~Public Works~~Planning and Zoning<sup>41</sup> shall also be members without voting privileges. There shall be three alternate voting members. Members and alternates shall be elected for terms of four years. The Planning and Zoning Commission shall

<sup>35</sup> Amended 11-4-2008.

<sup>36</sup> Modification and recodification of Chapter VII, Sec. 3.

<sup>37</sup> NEW (2021 Charter Revision)

<sup>38</sup> Modification and recodification of Chapter VII, Sec. 4.

<sup>39</sup> Modification and recodification of Chapter VII, Sec. 4.

<sup>40</sup> Recodification of Chapter VII, Sec. 1.

<sup>41</sup> Modification of Chapter VIII, Sec. 2.B. (replace "Director of Public works" with "Director of Planning and Zoning").

annually elect a Chairman, Vice Chairman, and Secretary from among its regular voting members. [Amended 11-4-2008]

- C. A quorum shall consist of six (6) commissioners and decisions shall be taken by affirmative vote of no less than five commissioners.

**SECTION 3. ZONING BOARD OF APPEALS<sup>42</sup>.**

There shall be a Zoning Board of Appeals in accordance with the provisions of Chapter 124 of the General Statutes. Members shall be appointed by the Mayor and confirmed by the Common Council. Members of the present Zoning Board of Appeals shall continue in office until the expiration of their terms.

**SECTION 3. COMMISSIONS AND COMMITTEES (MOVE TO SEC. 1)**

**SECTION 4. REMOVAL OF APPOINTED COMMISSION AND COMMITTEE MEMBERS (MOVE TO SEC. 1)**

**CHAPTER IX: BONDING POWERS**

**SECTION 1. POWERS GENERALLY; ISSUANCE AUTHORIZED.**

The City of Middletown shall have the power to incur indebtedness by issuing its bonds, notes or other obligations in accordance with the provisions of the General Statutes and for the following purpose:

- A. for any purpose authorized by the General Statutes;
- B. to fund an emergency expenditure;
- C. to meet that portion of the cost, including damages incurred, of any public improvement, duly authorized, the cost of which is ultimately to be defrayed from benefits assessed, providing nothing in this section shall be taken to interfere with the power of the Council to provide for the issuance of assessment of benefits as provided in this Charter;
- D. to prevent the City from defaulting on the principal or interest on its debt, the full amount of which, with interest to maturity, shall be included in the budget for the ensuing year wherein such notes shall be retired;
- E. to pay for the acquisition and development of a project or land outside of the City for any purpose for which it may develop a project or land within the City; and
- F. in anticipation of the receipt of the collection of taxes for the current fiscal year, such notes to be repaid from the proceeds of such taxes and, if not paid in full before the end of such year, an amount equal to the unpaid balance thereof shall be included in the budget for the ensuing fiscal year.

**SECTION 2. DEBT AUTHORIZATION<sup>43</sup>.**

- A. **Referendum Authorizing Issuance.** The issuance of bonds, notes, or other obligations shall be authorized by ~~ordinance~~Ordinance adopted by the Council and if the total estimated cost of any improvement for which such obligations are proposed to be issued exceeds \$750,000, no bonds, notes, or other obligations shall be issued for such improvement unless the ~~ordinance~~Ordinance authorizing such issue shall also be approved by a majority of those voting thereon at a general municipal election or referendum called and warned for that purpose subject to any State Statute that may appertain to or be in addition to the Charter requirements.
- B. **Council Authorization of Issuance.** Provided however, if the total estimated cost of any improvement for which such obligations are proposed to be issued exceeds \$500,000 but less than \$750,000, no bonds, notes, or other obligations shall be issued for such improvement unless the ~~ordinance~~Ordinance authorizing such issue shall have received an affirmative vote by the majority of the Common Council at its next meeting after a special public hearing on the ordinance, which public hearing shall be held on a date prior to the Council's consideration of the issue.
- C. **Notes in Anticipation of Taxes.** Notes in anticipation of taxes shall be authorized by resolution of the Council.
- D. **Notes to Prevent Default.** Notes to prevent default on the principal or interest of the City's debt shall not be subject to referendum and shall be authorized upon Council adoption of a resolution following certification to the Council by the Treasurer that, except for such borrowing, a default on the part of the City would take place. Such certification shall be spread on the minutes of the Council.

**SECTION 3. THE DEBT AUTHORIZATION ORDINANCE.**

The ~~ordinance~~Ordinance authorizing the issuance of bonds, notes or other obligations shall set forth

- A. The purpose for which the obligations are to be issued and, **if they are to be issued for a public improvement**, a description in brief and general terms of such improvement together with an estimate of its cost and the portion, if any, of such cost to be defrayed from sources, specifying the same, other than the proposed bond issue;
- B. The amount of the proposed issue;
- C. A statement showing that the proposed issue is within the limitations as provided herein; a determination of the estimated useful life of the improvement, if any, for which the obligations are to be issued; and,
- D. A determination that the principal and interest on the proposed issue are to be paid from property taxes and that the full faith and credit of the City are pledged to such payment.

**SECTION 4. SHORT PERIOD OF LIMITATION.**

When ten (10) calendar days shall have elapsed after the passage and publication of a bond ~~ordinance~~Ordinance or, in the event of a referendum, the recitals or statements of facts therein shall be deemed to be true for the purpose of determining the validity of the bonds and the ~~ordinance~~Ordinance shall be conclusively presumed to have been duly and regularly passed and to comply with the provisions of this Charter and the validity of such bond ~~ordinance~~Ordinance shall not thereafter be questioned by either a party plaintiff or a party defendant except in a suit, action or proceeding commenced prior to the expiration of such ten (10) calendar days.

**SECTION 5. CONSTRUCTION OF POWERS.**

~~The~~ powers granted to the City of Middletown in this Chapter shall be construed to be in addition to, and not in limitation of, any powers granted to said City under the provisions of any other Special Act.

**CHAPTER X: PERSONNEL POLICIES**

<sup>42</sup> Recodification of Chapter VII, Sec. 2.

<sup>43</sup> Amended 11-3-2009.

**SECTION 1. CLASSIFIED SERVICE AND REGULAR PART-TIME.**

~~**A. Classified Service Defined.** The classified service shall include all non-elective officers and both full time and regular part-time employees of the City, including the secretarial and clerical staff of the Mayor's office and personnel employed by the Board of Education not requiring certification by the State Board of Education, and appointees to all positions now or hereafter created except the Administrative Assistant to the Mayor, the Board of Education's Director of Facilities, the Board of Education's Paraprofessionals, the Corporation Counsel, department heads and assistant department heads of said City, persons employed in the professional capacity, those retained to make or conduct a temporary or special inquiry, task, study or investigation, and any persons employed for a temporary period not exceeding three months in any one Department.~~

**B.A. Classification Plan of the City<sup>44</sup>.** It shall be the duty of the Mayor to cause to be prepared a statement of the duties and responsibilities of each position in the classified service, the compensation pertaining thereto and of the minimum qualifications for such positions. These statements shall comprise the Classification Plan of the City which shall become effective upon approval by resolution of the Common Council and which may be amended by resolution of the Council, either upon the recommendation of the Mayor or upon the initiative of the Council itself.

**C.B. New or Additional Classified Service Positions<sup>45</sup>.** New or additional positions in the classified service may be created and changes in the duties and responsibilities of existing positions may be made by resolution of the Common Council upon recommendation of the Mayor or upon the initiative of the Council itself.

**D.C. Personnel Rules<sup>46</sup>.** The Mayor shall also cause to be prepared a set of personnel rules which shall be reviewed or revised at least every four (4) years and which shall provide, among other things, for:

1. The method of holding competitive examinations;
2. Administration of the classification plan;
3. Probationary period of employment;
4. Hours of work;
5. Vacations;
6. Sick leaves and other forms of absences; and,
7. Such other rules as may be necessary to provide for an adequate and systematic procedure for the handling of the personnel affairs of the City.

If the Mayor does not cause the personnel rules to be reviewed every four years, then the Common Council may initiate, by majority vote, the review of the personnel rules. Such rules and amendments thereto shall become effective upon approval of the Common Council and being filed with the City/Town Clerk by the Mayor and copies of such rules and amendments thereto shall be provided for all members of the classified service.

**E.D. Employment Contracts for Classified Service Employees<sup>47</sup>.** Nothing in this section shall be construed to prevent members of the classified service from entering into a contract with the City for the purpose of establishing working conditions, wages and other conditions pertaining to the continuance and termination of employment.

**F.E. Regular Part-Time Employee defined<sup>48</sup>.** A regular part-time employee of the City shall mean any person who is employed a minimum of 20 hours per week for at least 8 months of a 12-month calendar year.

**SECTION 2. HIRING TEMPORARY EMPLOYEES.**

All temporary employees shall be hired by the Mayor unless the Mayor gives written authorization to a Director to hire a temporary employee or employees.

**SECTION 3. APPOINTMENT OF CLASSIFIED EMPLOYEES OF THE CITY.**

All classified employees of the City shall be appointed by the Mayor pursuant to and in accordance with the City Personnel Rules and Classification Plan. All positions of employment within the City government, except the Mayor's ~~Administrative Assistant~~Chief of Staff<sup>49</sup> and the Corporation Counsel appointed by the Common Counsel<sup>50</sup>, shall be open to all qualified applicants and the application, selection processes and, if applicable, testing shall be conducted in accordance with the Personnel Rules of the City.

**SECTION 4. POLITICAL ACTIVITY.**

The political activities of classified municipal employees shall be governed by Section 7-421 and 7-421 (A) as set forth in Chapter 113 of the Connecticut General Statutes and any amendments thereto.

**CHAPTER XI: GENERALLY****SECTION 1. GENERALLY.**

This Charter shall become effective thirty (30) days after approval by the ~~electors~~Electors of the City pursuant to Section 7-191(f), Connecticut General Statutes.

**SECTION 2. PARTIAL INVALIDITY.**

If any provisions of this Charter shall be held to be invalid for any reason, the remaining provisions of this Charter shall not be affected by such determination and shall remain in full force and effect.

**SECTION 3. ADOPTION OF STATE LAW.**

Those Chapters of the General Statutes pertaining to "Municipal Sewerage Systems," and "Uniform Fiscal Years," are hereby adopted.

<sup>44</sup> Recodification of Article X, Section 1.B.

<sup>45</sup> Recodification of Article X, Section 1.C.

<sup>46</sup> Recodification of Article X, Section 1.D.

<sup>47</sup> Recodification of Article X, Section 1.E.

<sup>48</sup> Recodification of Article X, Section 1.F.

<sup>49</sup> Modification of Chapter X, Sec. 3 (Change "Administrative Assistant" to "Chief of Staff").

<sup>50</sup> Modification of Chapter X, Sec. 3 (Change appointing authority of the Corporation Counsel).

**A. Repeal Reference to Sheriffs**

Attorney Mednick asks the Commission members to take the document, explaining that everything has been placed on the one document. It's not a long document, so it makes sense to put all of the changes in the one document. He asks everyone to go to Chapter II, Section 1A. He has eliminated the position of sheriff from the State and Federal officers position. That is the sum and substance, has requested.

The Chair states that he want to be sure everyone is following along with the document and has access to it. If any issue, please let them know. It is a fairly innocuous change. They can open the floor to discussion of any concerns if taking this position is a concern, adding that the position no longer exists.

**CHAPTER II: OFFICERS AND ELECTIONS****SECTION 1. STATE AND FEDERAL OFFICERS<sup>51</sup>.**

- A. Nomination and Election of State and Federal Officials; Role of the Registrars of Voters<sup>52</sup>.**  
*Nomination and election of State and Federal Officers, State Senators and Representatives, Judge of Probate, ~~and~~ two Registrars of Voters ~~and Sheriff~~, shall be conducted and the Registrars of Voters shall prepare lists of ~~electors~~ Electors qualified to vote, therefore, in the manner prescribed by the Constitution and the General and Special Laws of this State applicable to the City of Middletown.*

Commissioner David Roane moves to accept this change, striking the word from the Charter. Councilman Edward McKeon seconds the motion.

There being no discussion, the Chair calls for a vote. The motion is unanimously approved (Commissioners Blanchard, Greaves, McKeon, Ribnicky, Roane, L. Salafia, Sweeney, and Wilson; Absent: Commissioners Rivera and M. Salafia). The matter is approved.

There is question as to voting.

The Council Clerk defers to consulting Attorney Steven Mednick. Attorney Mednick explains that the resolution filling the vacancy on the Commission was not posted 24 hours before the Common Council meeting, noting that he asked the question out of an abundance of caution. He suggested that they move through by consensus rather than voting so that he question of Molly Auger's appointment. She would be able to be here, but the Common Council needs to ratify her appointment to this Commission after the resolution is posted. He adds that he has now learned that Ms. Auger has actually been sworn in. He defers to Attorney Brig Smith, asking if that changes anything.

Attorney Smith states that, to clarify, there is an Executive Order 7B, which allows us to do this virtually. One requirement under Executive Order 7B is that agenda materials be available publically 24 hours in advance. There was a resolution added to the agenda that the act Council meeting (February 1, 2021) and adopted by voice vote, noting he doesn't know if a resolution was considered.

The Council Clerk confirms that the resolution was.

According to Attorney Richard Roberts, who along with Attorney Mednick deals with the EOs (Executive Orders) for the Governor and the thought was that a Council re-ratify it, readopt it at the next Council meeting. For the time being, he suggests that Commissioner Auger observe, but not vote on any matter to be safe, or as Attorney Mednick suggested, rather than vote, we just get a consensus of the body. Then the full body can ratify at its next go around. He states that either approach would be fine, adding that there is no huge downside to it, but we need to be careful.

Attorney Mednick agrees that here is no downside. Ultimately, the votes being taken tonight are not final votes; rather that are basically votes to move an item forward. When the Commission takes a formal vote, which can be challenged, the Commissioner will be fully kosher by that point. That is his only concern. His view is that Commissioner Auger should be able to participate, better off going by consensus tonight, and take an omnibus vote at the next meeting on all of these items.

The Chair (*inaudible*).

Commissioner David Roane states that he saw Molly Auger's name, but did not call it during the roll call. He asks if he should have called her name.

The Chair states that for the next meeting, Molly Auger will be a new Commissioner. The Commissioners welcome her to the meeting.

**B. Term Limits for Elected Officials Memorandum**

<sup>51</sup> Amended 11-4-2014

<sup>52</sup> Modification of Chapter II, Sec. 1 (elimination of the position of "Sheriff").

Attorney Mednick states that the next item is the "Term Limits" memo.

**Background Memorandum Re: Term Limitations  
10 February 2021**

The Middletown Charter Revision Commission has been asked to consider term limits to "two terms" or "eight years in office". This memorandum is a review of the issues involved in resolving home rule questions.

Proponents of term limits may assume that because the President of the United States is limited to two terms, such term limits could be applied to any elected position, including municipal officials. However, the presidential term limit was established by the Twenty-Second Amendment to the U.S. Constitution and only applies to the President. On the other hand, term limits, if legally permissible, would be established municipal ordinance or charter provisions, which fall within the limits of authority set forth under Article Tenth of the Constitution of the State of Connecticut entitled "Of Home Rule." Section 1 of Article Tenth provides as follows:

The general assembly shall by general law delegate such legislative authority as from time to time it deems appropriate to towns, cities and boroughs relative to the powers, organization, and form of government of such political subdivisions. The general assembly shall from time to time by general law determine the maximum terms of office of the various town, city and borough elective offices. After July 1, 1969, the general assembly shall enact no special legislation relative to the powers, organization, terms of elective offices or form of government of any single town, city or borough, except as to (a) borrowing power, (b) validating acts, and (c) formation, consolidation or dissolution of any town, city or borough, unless in the delegation of legislative authority by general law the general assembly shall have failed to prescribe the powers necessary to effect the purpose of such special legislation<sup>ii</sup>.

Thus, the validity of such municipal laws rests upon the authority of the city or town to create them. The fact that such authority is limited provides a means through which provisions which are not explicitly or expressly granted to municipalities by the General Assembly. In this sense the term "home rule" as general understood by the public and many public officials is a misnomer. It implies a degree of discretion that is not consistent with the application of the notion in our "legislative home rule" state.

As you will see, municipalities are creatures of the state and have no inherent legislative powers. Their powers are limited to those that are expressly granted by state statute or necessary to fulfill municipal duties. The state legislature has not explicitly given municipalities the authority to establish term limits. Accordingly, term limits are not permitted in the State of Connecticut<sup>iii</sup>.

**Discussion**

There is no authority in the general statutes for **term limitations** to be conferred upon elected municipal officials. I will address this issue in more detail; however, I would like to enumerate a few principles that should guide you through this issue and others that may present themselves in the next few weeks:

- Municipalities...are creations of the state (and thus) have no inherent legislative authority<sup>iv</sup>;
- They can wield only those powers expressly granted to them by the legislature<sup>v</sup>; or necessary to the exercise of an expressly delegated power<sup>vi</sup>.
- The rules that determine whether a power has been delegated to a municipality are also well established:
  - The legislature has been very specific in enumerating those powers it grants to municipalities<sup>vii</sup>.
  - An enumeration of powers in a statute is uniformly held to forbid the things not enumerated<sup>viii</sup>.
  - Delegation of authority to municipalities is therefore narrowly construed<sup>ix</sup>.
  - In determining whether a municipality has the authority to adopt a challenged charter provision, "we do not search for a statutory prohibition against such an enactment; rather, we must search for statutory authority for the enactment<sup>x</sup>."

<sup>i</sup> Written submission of Brian Robillard; 11/17/2020 and supported by Commissioners Greaves (2-3 terms) and Wilson (2 terms); 12/30/2020. Defenders of term limits claim that they ensure the presence of new candidates with fresh ideas and less stagnation, entrenchment or possible abuse of power. Meanwhile, opponents of term limits point out that the electoral process can accomplish the same goals because voters are always free to elect a candidate who represents a new perspective or vote any incumbent board member out of office.

<sup>ii</sup> In sum, the sole basis of municipal authority is legislative delegation in the form of a general statute or a special act adopted prior to the effective date of Article Tenth.

<sup>iii</sup> It has been brought to my attention that the Town of Wilton has included term limits for members of the Board of Selectmen, although the First Selectman is not so covered. I confirmed that the provision, does, in fact, exist. When I discussed the matter with the First Selectman and the Town Attorney it was determined that became clear that the provision was added by a Charter Commission on the theory "...that we could include whatever provisions we wanted in the Town Charter as long as they did not conflict with any state statutes, and we were not aware of any state statutes that conflicted with our term limits." The Town Attorney, who not in office at the time the provision was added to the charter agreed that the standard applied was not correct. This underscores another general rule: when a town has a provision that goes against the grain or the legal standard under home rule analysis you need to determine whether the municipality has a provision that was granted under a special act prior to the adoption of home rule in the late 1950s. Thus, as a general rule I advise Charter Commissions not to lift provisions from other charters without doing some significant due diligence.

<sup>iv</sup> **Municipalities, because they are creatures of the State have no inherent legislative authority:** See *New Haven Commission on Equal Opportunities v. Yale University*, 183 Conn. 495, 499, 439 A.2d 404 (1981); *Connelly v. Bridgeport*, 104 Conn. 238, 252, 132 A. 690 (1926); *State ex rel. Bulkeley v. Williams*, 68 Conn. 131, 149, 35 A. 24 (1896), aff'd sub nom. *Williams v. Eggleston*, 170 U.S. 304, 18 S.Ct. 617, 42 L.Ed. 1047 (1898); *Webster v. Harwinton*, 32 Conn. 131, 138-39 (1864); Littlefield, "Municipal Home Rule--Connecticut's Mature Approach," 37 Conn.B.J. 390, 404-405 (1963); 2 *McQuillin*, *Municipal Corporations* (3d Ed.Rev.1979) § 10.11.

<sup>v</sup> **Municipalities "...can wield only those powers...necessary to the exercise of an expressly delegated power":** See, *City Council v. Hall*, 180 Conn. 243, 248, 429 A.2d 481 (1980); *Pepin v. Danbury*, 171 Conn. 74, 83, 368 A.2d 88 (1976).

<sup>vi</sup> **Municipalities "...can wield only those powers expressly granted to them" by the General Assembly** See, *Perretta v. New Britain*, 185 Conn. 88, 102, 440 A.2d 823 (1981); *New Haven Water Co. v. New Haven*, 152 Conn. 563, 566, 210 A.2d 449 (1965).

<sup>vii</sup> See, General Statutes Title 7." See, *Simons v. Canty*, 195 Conn. 524 (1985); *Buonocore v. Branford*, 192 Conn. 399, 403, 471 A.2d 961 (1984). Which held that in challenging a charter provision, "we do not search for a statutory prohibition against such an enactment; rather, we must search for statutory authority for the enactment." *Avonside, Inc. v. Zoning & Planning Commission*, 153 Conn. 232, 236, 215 A.2d 409 (1965).

<sup>viii</sup> See, *State ex rel. Barlow v. Kaminsky*, 144 Conn. 612, 620, 136 A.2d 792 (1957); *State ex rel. Barnard v. Ambrogio*, 162 Conn. 491, 498, 294 A.2d 529 (1972).

<sup>ix</sup> See, *Gregory v. Bridgeport*, 41 Conn. 76, 86 (1874).

<sup>x</sup> See, *Avonside, Inc. v. Zoning & Planning Commission*, 153 Conn. 232, 236, 215 A.2d 409 (1965).

Attorney Mednick explains that he has explained that term limits are not permitted in the State of Connecticut. It is a brief explanation of home rule, which he has spoken about in the introductory meeting several months ago this memo lays out the Constitutional provisions and gives some case law. It basically says that, if you do not have a grant of authority from the State of Connecticut, you cannot do it. The example that he uses, having argued this case in the State Supreme Court is on recall. There is no recall in Connecticut. There is nothing that expressly grants municipalities the right to recall. Likewise, term limits for elected officials are not included in the Home Rule Act as an expressed grant of authority. Therefore, his conclusion, which is the standard home rule conclusion, is that we cannot entertain term limits in this Carter Commission form. He suggests that they look at the Town of Wilton, since someone raised Wilton, noting that he does not represent them. He did speak with the Wilton First Selectman and to their Corporation Counsel and their Charter Revision chair. The argument that there is nothing in the law that says that they cannot adopt term limits is not the standard. He

notes that while Wilton may have it in their Charter, it is not enforceable. Their Town Attorney agrees with that conclusion and notes that they will need to clean up their Charter. That is where we stand on it. This is the formal position.

### **C. Open Ended Public Comment**

The next item is in Chapter III, Section 3E, the public comment standard, page c12 of the document on line, just above Section 4. He deleted the 1<sup>st</sup> sentence so that the provision comports with the actual practice by the Council.

~~*Public Comment. The public shall have the right to address the Council regarding matters of public concern.<sup>53</sup> Subject to the rules of the Council, the public shall have the right to address the Council at any Council meeting on any item on the agenda for the Council meeting at which they speak and may address the Council on non-agenda matters of general public concern only in accordance with provisions established by the Council for such input.*~~

Attorney Mednick states that this sentence is a very broad, constitutional standard and the rest of the section is not as broad. The rest of the section actually says what the Council does. He explains that they want to make sure that they are not modifying practice to conform to the Charter. They are modifying the Charter to comport with the practice. He asks for any comments

The Chair has no comments and finds it straight forward. He asks if there is any discussion.

There being no comment, Commission Chair Blanchard makes a motion to move this proposed change forward. Commissioner David Roane seconds the motions.

There being no discussion the Chair calls for a voice vote. The motion is approved unanimously (Commissioners Blanchard, Greaves, McKeon, Ribnicky, Roane, L. Salafia, Sweeney, and Wilson; Absent: Commissioners Rivera and M. Salafia). The matter is approved.

### **D. Mayor's Administrative Assistant = Chief of Staff**

Attorney Mednick states that this is found in the next Chapter at Section 1B and is repeated throughout the document, including for classified employees. It is proposed to be changed in all places. It is a request from the Mayor's Office to change the title "Administrative Assistant" with "Chief of Staff." It is self-explanatory

Commissioner David Roane moves that this item be moved forward. Commission Chair Blanchard seconds the motion, noting it does not change any duties or responsibilities of the office, simply how it is identified in the Charter.

Commissioner William Wilson notes that Councilwoman Linda Salafia has her hand raised.

Councilwoman Linda Salafia states that she believes that she has made her point. She would like it to stay as "administrative assistant" used as a noun, not as a title. The Mayor can call his/her assistant whatever he/she wants. The next Mayor may prefer a different term – not "Chief of Staff – and we would have another conflict with the Charter. If it is administrative aide, as a noun, leave it at that.

The Chair states that there is a motion on the floor, but invites Councilwoman Linda Salafia to make a motion to offer that change.

Councilwoman Linda Salafia asks if it is a whole new motion or a friendly amendment.

Commissioner William Wilson replies that he believes it is a friendly amendment.

Councilwoman Linda Salafia offers a friendly amendment to leave the term as "administrative aide" with non-capital letter making it a noun not a title. Commissioner William Wilson seconds the motion.

The Chair asks if there is any discussion.

Commission David Roane asks if there has been a problem with the Mayor changing the title.

Councilwoman Linda Salafia states that in a previous administration, Mayor Sebastian Giuliano wanted to change the title from Administrative Aide to Chief of Staff or something similar. Because he was a Mayor of one party and the Council of another party, he was not allowed to do that and was given a lot of flick. He was not allowed to make the change. After Dan Drew became Mayor, he changed it to Chief of Staff even though it was not recognized as such in the Charter We went 8 years with a job title that does not match the Charter. If we leave it as a generic noun, the Mayor can call his aide whatever he chooses. At the Board of Education, there are union members hired under a specific job description, but, in public, use a different title. It would make it easier, not tying a future Mayor's hands.

The Chair calls on Councilman Edward McKeon.

Councilman Edward McKeon states that he thinks that if the Mayor wants to call his aide Chief of Staff, it's a

<sup>53</sup> [Modification of Chapter II, Sec. 4.E \(2021\).](#)

good indication to call the person by that name. It's a courtesy. There is nothing of major importance, perhaps the most important part might be that the person leaving the Chief of Staff job for another job being called "Chief of Staff" has a note of importance. It's a nice career booster. As a nod to all three Mayors, who wanted to use the term "Chief of Staff," he believes it is appropriate to do so.

The Chair agrees. He thinks calling it "Chief of Staff" defines it more. Office are made of Administrative Assistants and Chiefs of Staff. It is a fairly standard office model, especially in government. It identifies who the top person is to help execute the mayor's agenda and helping to manage staff. There is no confusion calling it executive assistant. It helps to define and boost the resume. There is an amendment on the floor The Chair asks if here is any further discussion.

Councilwoman Linda Salafia states that she is not saying that the Mayor cannot call it "Chief of Staff." If the next Mayor comes along and wants to use a different name, there will be a problem where the Charter does not match the practice. By making it a generic noun, there is no problem and they can make it -- use -- whatever they want.

Councilman Edward McKeon states that, as the Charter reads now, you cannot call them what you want to call them. They are an Administrative Assistant, for administrative, organizational, and courtesy purposes, it should remain Chief of Staff.

There being no further discussion, the Chair calls for a voice vote on the amendment, changing it to the noun "administrative assistant." The motion fails with two (2) aye votes and eight (8) nay votes. (Aye: Commissioners L. Salafia and Wilson; Nay: Commissioners Blanchard, Greaves, McKeon, Ribnicky, Roane, and Sweeney; Absent: Commissioners Rivera and M. Salafia). The matter fails.

The Chair now calls for a vote on the original motion to change the term from "Administrative Assistant" to Chief of Staff."

There being no further discussion, the Chair calls for a voice vote on changing the title "Administrative Assistant" to "Chief of Staff." The motion is approved by a vote of eight (8) aye votes and two (2) nay votes. (Aye: Commissioners Blanchard, Greaves, McKeon, Ribnicky, Roane, and Sweeney; Nay: Commissioner L. Salafia and Wilson; Absent: Commissioners Rivera and M. Salafia). The matter moves forward.

#### **E. Common Council Should Appoint the Corporation Counsel**

Attorney Mednick explains that this item is on page 11 at Chapter III, Section 2B and E.

#### **SECTION 2. ORGANIZATION OF COUNCIL**

**A. Date of Organization.** *The Common Council shall meet to organize no later than ten (10) days following the commencement of its term of Office.*

**B. Staff<sup>54</sup>.** *The Common Council may appoint such staff as it deems necessary to assist it in the performance of its duties, including the Corporation Counsel*

**C. Rules of Council.** *The Common Council shall determine its own rules of procedure.*

**D. Council Commissions.** *The Common Council shall establish as many Councilmanic Commissions as it shall deem necessary at any time to carry out the City's business. Each such Commission shall keep records of its proceedings and provide such information as may be requested by the Common Council. All such Councilmanic Commissions shall be advisory in nature, and shall have no authority to direct the administration of any Department.*

**E. The Corporation Counsel<sup>55</sup>.** *The Common Council shall appoint and may remove by majority vote, the Corporation Counsel, in accordance with qualifications established by Ordinance. The Council leadership shall notify and consult with the General Counsel prior to such appointment. The Corporation Counsel shall have such duties as the Council shall determine; however, shall only represent the interests of the Common Council, as required. Such Counsel shall receive compensation as fixed by the Council.*

Attorney Mednick explains that the Commission asked him to alter – noting it is also in the classified service section – to alter this position so it would be a position appointed, not by the Mayor, but by the Common Council. It includes a majority vote standard. There should be qualifications established by ordinance that the Council leadership would notify and consult the General Counsel prior to such appointment. He included a provision that the Corporation Counsel shall have the duties set by the Common Council and shall represent only the Common Council as required. Compensation would be fixed by the Common Council. The intent of shifting it over was to afford that Council the ability to hire or have this position under its tutelage and defined in the manner it seeks, making it clear that the City has only one attorney: the Office of the General Counsel. They will discuss that later, in changing the "City Attorney" to "General Counsel." This language seeks to effectuate that change.

The Chair asks for a motion to consider this item.

Commissioner David Roane moves to consider this item. Councilman Edward McKeon seconds the motion.

Councilwoman Linda Salafia asks Attorney Mednick to reiterate the location of this proposed language in the document.

<sup>54</sup> Modification of Chapter III, Section 2.B

<sup>55</sup> NEW (2021).

Attorney Mednick says page C11, at Chapter III, Section 2B and E. For the record, he states that, if asked, the General Counsel will comment as well, but he now defers to the Commission.

The Chair asks City Attorney Brig Smith to explain what this would essentially look like and what it could create, any potential legal downsides or obstacles, what the pros and cons might be, The Chair states that he also has comments.

Attorney Smith says that he will do his best. He thanks the Chair for the chance to address this. He has several concerns about the proposal as he understands it. His first concern is that it would potentially institutionalize conflict in the City. As it now stand, Corporation Counsel is Attorney Dan Ryan, who has served with distinction, grace, and without ego for many years. His office has tried to do the same as long as they have been here and they have not ever had an issue with a conflict between Attorney Ryan and his office, adding that won't always be the case. The next Corporation Counsel, if that position continues, will be someone other than Attorney Ryan. The next General Counsel could be someone other than him. The next Common Council could be -- will be -- somebody other than the current members. That position could be weaponized and could be politicized so that the majority of the Common Council, as it comes and goes, decides to hire someone at will, a spate attorney. That is one. As written, it doesn't make sense to him as written. Right now, it is the Mayor who has that power. He explains that he came to Middletown from being City Attorney of Lansing, Michigan. There is a City Attorney, who serves as chief legal officer for the City, as parliamentarian for the Council for whatever comes in. It makes no sense to him that there would be a separate attorney that the Mayor would be able to hire and fire at will, which is only because Attorney Rayan and Attorney Smith's office -- and his predecessors -- have gotten along without issue. You could see the next Mayor come in and politicize the Corporation Counsel that he or she appoints, creating a separate at-will attorney, paid for by taxpayer dollars. While you are now spending hundreds of thousands of dollars on in-house counsel with his office. That is two. Three is, in part and parcel, he does not understand how that will play out. His concern is a matter of ethics. He is trying to envision if the Common Council would appoint a Corporation Counsels with a stipend, a salary, on a trainer, on an hourly basis, who knows, who may have one opinion. The Mayor would have his attorney with another opinion. He asks if the General Counsel's Office would play mediator between the two. They could end up ion arbitration or mediation, regardless. As a matter of ethics, if there is, in fact, a conflict between the Common Council and the Mayor or any branch of government - with ethically speaking under Rule 1.13, the General Counsel has to step out. He cannot ethically serve anyone, which he has done in the past; appoint independent counsel for the Mayor and independent counsel for the Common Council and represent neither of them as they are actually be adverse. That is another concern for him. He suggest that his is a solution in search of a problem. He does not see it right now with the current people, but he can very easily see that becoming an actual, not a hypothetical concern. His final point is that they do not have to look too far in the past, or geographically, to see this conflict of ethical concerns. He suggests that they will remember that they sent how many years, how many dollars, before he arrived with that same type of fight between the Board of Education and the City. You need to look down the road at Hartford and there's a dispute right now as the Common Council has appointed its own attorney with great political contention. There are a whole host of reasons that trouble him. Regardless of whether it is him or his successor in this office, it just doesn't make sense to him. He states that he has not spoken with Attorney Ryan about this, adding that he admires hi greatly he states that h is thought is that the more logical thing would be that once the current Corporation Counsel, Attorney Ryan, is done with his service, that the Corporation Counsel position itself simply cease; that is, that neither the Executive or Legislative branch appoint and hire its own attorneys and to have a single chief legal officer for the City to represent all agencies, noting that this is exactly what we do right now to the best of their ability. He closes, saying that these are his concerns, adding that he has shared them with the Commission Chair and with Attorney Mednick and appreciates the opportunity to speak. He is not on the Commission, but it will affect him and the City substantially. He appreciates the time.

The Chair agrees with Attorney Smith 100 percent. It's a bit of a problem in search of a solution, while he doesn't like that phrase, he thinks it works well here. "If it's not broke, don't fix it." Having served on the Common Council, he has great respect for Attorney Ryan and his contributions to the Council and the community, but he serves as a parliamentarian, Any legal questions or ramifications from ordinances or actions taken by the Council always went straight to Attorney Smith and they found him to be responsive he adds that the proposal to sunset the position after Attorney Ryan retires is the way to go without creating a legal quagmire between two entities. While Attorney Ryan does an excellent job facilitating meetings and playing the part of parliamentarian, he thinks that the responsibility should lie with or as they explore the charge or makeup of leadership of the Council -- whether a speaker or president of the Council and a deputy or something of that sort -- to facilitate having a parliamentarian. That is what we should evaluate and explore, not this particular change here.

The Chair calls on Councilwoman Linda Salafia.

Councilwoman Linda Salafia states that she agrees with him in part and disagrees with him in part. She thinks that they need to have someone there at the Common Council meetings to act as a parliamentarian, to answer questions of procedure, especially when we have a lot of new members or members who have not functioned on the Council in a while. Perhaps instead of changing it, doing away with it completely, they can make it more into a parliamentarian, rather than an actual attorney representing the interests of the Council.

The Chair states that he is sure that Attorney Smith has a lot of free time on the first Monday of each month is open for him. He thinks that (*inaudible*) taking action that does require that he definitely should be there. Many times, legal does check things through each Commission or Committee, but he thinks that, if they can ensure that the City Attorney can be at these meetings, that should cover that concern. He aggress with Councilwoman Salafia.

Councilwoman Salafia adds that they do need a referee sometimes.

Councilman Edward McKeon states (*inaudible/buffering*) that they definitely need a parliamentarian. His opinion is not to limit the power or authority of the City Attorney; however, it seems strange to him – he thought that the Corporation Counsel actually reported to the City Attorney. They are two separate branches of government and he thinks it odd that the Common Council does not have the right to hire an attorney in the case of a dispute. Disputes are going to happen. It is what happens. When it does happen he thinks that the Common Council should either have someone on staff as Corporation Counsel or, at the very least, have the ability, as a separate body – as an elected body – to appoint the attorney of their choice to represent them in matters of concern. It doesn't have to be someone on contract or any of those things, but that the authority has to rest with the Common Council as the City's Legislative body. He does not think that it is unusual. He thinks that the Hartford matter is a political issue and has a lot of underlying things going on. He is familiar with it, having read about it. They apparently have not ever had the ability to hire an attorney and it just seems very strange to him. He favors having a phrase in the Charter, allowing the Common Council to be able to hire its own Counsel when necessary.

The Chair asks if that is a formal amendment.

Councilmember Edward McKeon replies that, unless there is further discussion, he has not heard the opposite made as a motion. He would like to hear from others. He will put it forward as a motion.

Commissioner David Roane states that, after listening and thinking about those problems that they have had in the past -- he believes that with the last Mayor, there was a problem, as he recalls, a problem with how women were treated by that administration -- he believes that he agrees with Councilman McKeon: that the Council should be able to have their own representation and he wholeheartedly agrees that the Mayor – he or she – should not have that right to the Council, who their legal authority should be, especially if a case comes up when the Mayor is in disagreement with the Council on an issue.

The Chair replies that in proposing that, we are essentially creating the same legal obstacles that a lot of us are concerned about. In the dispute that Commissioner Roane is talking about, the City did create a pretty expensive situation, when all was said and done, with outside counsel. Certainly expenses are not a reason to sue, but it was wrongdoing. In doing this, it invites potential of the City suing itself again. The potential is there.

Councilman Edward McKeon replies that he does not see how that is any more of an imitation than any course of business. It happened when they didn't have this right and it will happen when they do have this right. He is saying that it is more equitable and reasonable that the body, who seeks legal counsel, should be able to hire the legal counsel of their choice. This is not a slam on the City Attorney's Office, adding that they do a great job. They would represent the Common Council in every matter except when there might be a dispute. He offers an amendment, moving that the Common Council should have the right to hire an attorney either on a regular basis, through contract or on an as needed basis.

Commissioner David Roane seconds the amendment.

The Chair asks for any discussion.

Councilwoman Linda Salafia asks if there was an underlying motion and second for this item.

The Council Clerk asks to confirm that there are now two motions.

Attorney Mednick explains that this is an amendment to the initial motion. He asks the Chair if that is correct.

The Chair replies, "Yes."

Attorney Mednick continues, stating that Councilman McKeon is amending the proposed language with an alternate approach.

Councilwoman Salafia replies, "Thank you."

The Chair asks if there is any discussion.

There being no discussion, the Chair calls for vote on the proposed amendment. The motion is approved by a vote of six (6) aye votes, one (1) nay vote, and one (1) abstention. (Aye: Commissioners Greaves, McKeon, Ribnicky, Roane, L. Salafia, and Wilson; Nay: Commissioner Blanchard; Abstain: Commission Sweeney.) The matter is approved.

The Chair states that the original motion has been amended and they will now vote on the underlying motion, as amended

Attorney Mednick asks a procedural questions. He states that Attorney Smith raised the issue of sun setting the Corporation Counsel position. They cannot really have the Corporation Counsel position in here, but the Corporation Counsel position remains with this motion, as is. They cannot eliminate it from the Charter if they don't eliminate it. The question is what they want to do about it. He suggests that perhaps Attorney Smith has a suggestion: move it to the Code of Ordinances, maybe take it out of here (the Charter) and move it to the

ordinance, with an understanding of what the plan is. Since that issue was articulated, he wants to see how they want to dispose of it.

Councilwoman Linda Salafia asks, if they vote in favor of this motion, we have voted not to sunset.

Attorney Mednick replies, "Yes," that they are then leaving it as it is, which is fine if that is what they want to do. The sunset has been raised. If they do not want to sunset it -- leave it as it is -- then the motion carries the way it is. He states that he has no opinion; rather, he just wants to be sure that they realize that the issue came up and has not been addressed, by not addressing, which is the other way to do this.

Councilman Edward McKeon asks a question: Does the Corporation Counsel work for the City as a salaried employee, as a contract employee.

Attorney Mednick replies that he does not know the answer.

Councilwoman Linda Salafia replies that it is her belief that Attorney Ryan is paid. She cannot swear to it.

The Chair asks Attorney Smith if he knows the answer.

Attorney Smith replies that he believes that Attorney Ryan receives a modest stipend.

Councilman McKeon replies that is what he thought, adding that Attorney Ryan has served with honor and distinction, he is a great guy. They would not want to do Attorney Ryan any harm. He assumes that they are voting in broad term because the language would have to be (*inaudible*) a \$6,000 stipend that he gets. They are talking about an idea now, correct?

The Chair replies, "Correct," adding (*inaudible*).

Attorney Mednick suggests that they come back to it.

The Chair concurs, noting that they come back to it with that amendment in mind. It doesn't sound like people want to sunset the position, but we could add a clause in there that, once the current Corporation Counsel retires, the position would no longer remain or the Council would retain the right to seek its own representation, or whatever the language would be there, the language that Councilman McKeon is searching for.

Commissioner David Roane states that he would like to see the language, if possible, noting it would be upon retirement of Attorney Ryan.

Attorney Mednick replies that it would be an unusual provision for a Charter, but they can do it without naming people. He wants to be sure that he understands what it was that they are doing: leave as is fine. If sunsetting, then they will have to tackle it to do that.

Councilman Edward McKeon states that he is all for sunsetting it. It seems like an unnecessary position, but that is his opinion.

Attorney Mednick replies that he will draft something and it can be taken up at a later meeting for broader discussion.

Councilman Eugene Nocera states that he just joined this meeting late, coming from another meeting that ran long. He states that he is also in favor of a sunset provision.

Commissioner Kelley Sweeney suggests that they might be able to do something as an end note.

Commissioner William Wilson agrees, adding why they could not make that motion now to include the sunset provision going forward.

The Chair calls on Attorney Smith.

Attorney Smith states that, at this point, the sunsetting of the position would be removing the Corporation Counsel position entirely, keeping the chief legal officer as the City's chief legal officer. If they are going to go to Councilman McKeon's idea of making it explicit that the Common Council can hire its own legal Counsel, he does not think that they need to sunset the position because that position, to be excised out from the Mayor's authority where it was previously and then just have Councilman McKeon's statement: that Council shall have the power to retain its own Counsel. He does not think anything needs to be specified beyond that. That is what he meant by it, noting that it is the Common Council's prerogative. That is what he is trying to say.

Councilman Edward McKeon states that this makes sense to him.

Councilman Eugene Nocera, having arrived late, to summarize: he understands that they have moved forward on the Council in a direction to retain its own legal Counsel. His question is, regarding the wording, if that is going forward to the Council. If the wording in the Charter could provide for consultation and collaboration with the General Counsel's office. He believes that it is important that there is a discussion. He does not want to create a situation where there is a perceived split in trust. He feels it is important that they include wording that there is an opportunity for the General Counsels to have input in the selection process.

Councilman Edward McKeon replies that he sees that as being the opposite of the spirit of what he has suggested.

Councilwoman Linda Salafia states that she agrees with Councilman McKeon.

Councilman McKeon states that he is suggesting that the Common Council, as the Legislative body and as a separately elected body, has the authority to hire its own Counsel. They are not looking for conflict and do not want that to happen. To put those words into the document he believes weakens the document and makes it less clear. Respectfully, he state that perhaps since Councilman Nocera was not here earlier, what he is suggesting is that the only time they would hire legal counsel is when they need it, for whatever reason the Council determines.

Councilman Nocera states that he will try to catch up on what has been decided.

The Chair summarizes what the body has decided. They understand they may not need Corporation Counsel as currently written in the Charter, but they want to reserve the option, if need be, to hire their own legal Counsel. He asks Attorney Mednick if there is criterion in other towns or cities where, if something meets certain criteria, the Council would have to go outside. He imagines that there is. He suspects that what needs to happen is that they vote to kick this back to Attorney Mednick to write language that captures the spirit of what everyone voted on and bring it back to the next meeting. He asks if that sounds like a fair move.

Councilwoman Linda Salafia reminds people that there are two separate branches of government – the legislative and the executive -- and the Council is separate from the Executive branch. She emphasizes that they need to maintain that division. Even if the Council has the ability to hire its own lawyers, it should not have to go through the City's General Counsel because that is part of the Executive branch. They need to be able to work together, but have separate delineations.

Attorney Mednick offers a point, some middle ground. He offers his understanding as he represents municipalities across the State. Municipalities are "municipal corporations." He worked on the Separation of Powers Subcommittee years ago for U.S. Senator Ervin, so he is devotee of the tripartite system of government that we have at the Federal and State level. It does not truly carry down in the way that we like to think that it does. You are a Legislative body and the Mayor is an Executive. That is clear in Charter Home Rule. The General Counsel in most communities – is called the Corporation Counsel in most communities. The General Counsel – Attorney Smith's position -- is the attorney for the entire City, which includes the Legislative Council. In most matters in most cities, whether the City has a designated Counsel for its legislative body, which is not usual, but is done or have the ability to hire, the General Counsel is the attorney for the entire City. This is an important principle to understand as we go through on Charter revision. The desire for the Legislative body to be able to hire Counsel is not unusual either. A lot of Attorney Smith's points are good points in terms of friction, conflict, etc. It is up to both bodies to try to avoid. One of the standards that he suggests, not a consent requirement where the General Counsel has to consent to the Common Council's choice, but as the chief lawyer for the community. It would be useful to have a consultation with the General Counsel to make sure that you are not hiring someone who has inherent conflicts with the City. He thinks that they should want to avoid that kind of thing: not a consent requirement, but an avoidance of conflict requirement. He does not imagine that they will face a situation where they will not reveal to the Mayor and his General Counsel that you are going to hire an attorney. At the very least, he thinks that they should be at least seeking advice from General Counsel on conflicts that someone may have. He cautions that they do not want to have someone, who sues that City on a fairly regular basis and has conflicts on the other side. You are the Legislative body, so he wants to give them a general concept that the General Counsel is their attorney.

Councilman Eugene Nocera thanks Attorney Mednick for getting him caught up. What he suggested a few minutes ago is what Attorney Mednick just elaborated on. He is not proposing that the language would require consent, but he does believe that having a consultation is a good thing as it promotes the trust that we need in these matters. It is not a matter of the Executive branch as "them; and the Legislative branch as "us." It is team. We work together, but are separate. He is proposing a consultation.

Councilman Edward McKeon states that he agrees that, to consult, in most cases when we would need someone for whatever reason, he thinks, unfortunately, it will be when there is some conflict between the City -- the Mayor – and the Council. With consulting in there as a step, he could buy that.

The Chair asks Attorney Mednick if he has all of that.

Attorney Mednick replies that he will draft something for the next meeting, if that is all right and he will talk to the Chair and others, who may patriciate in this discussion.

The Chair quips that Attorney Smith is a pretty cheap in-house counsel. Moving on to the next item

#### **F. Tax Assessor to Assessor**

Vice-Chair David Greaves moves that they make that change. Commissioner William Wilson seconds that motion.

The Chair asks for any discussion.

There being no discussion, the Chair calls for a voice vote. The motion is unanimously approved. (Commissioners Blanchard, Greaves, McKeon, Ribnicky, Roane, L. Salafia, Sweeney, and Wilson.) The matter is approved.

**G. Change City Attorney to General Counsel**

Attorney Mednick explains that this item is exactly as the previous item: a change in title. The General Counsel's office is not referred to here at all and it simply changes "City Attorney" to "General Counsel."

Councilwoman Linda Salafia reiterates her earlier suggestion, noting that she has no problem with it. Councilwoman Salafia moves to change the titles, as presented. Vice-Chair David Greaves seconds the motion.

The Chair asks for any discussion.

There being no discussion, the Chair calls for a voice vote. The motion is unanimously approved. (Commissioners Blanchard, Greaves, McKeon, Ribnicky, Roane, L. Salafia, Sweeney, and Wilson.) The matter is approved.

**H. Director of P&Z Replace the Director of Public Works on P&Z Commission**

Attorney Mednick states that this item is also self-explanatory. He heard someone say that there is a Director of Planning & Zoning. Attorney Mednick asks if that is the correct position to replace the Public Works Director. He notes that Councilman McKeon is shaking his head, "No." he recalls that this was said by someone.

Councilman McKeon explains that the City has a Director of Planning, Conservation & Development.

Attorney Mednick asks if that is the person who should get this.

Councilman McKeon suggests that they wait on this item because he senses that some of that may be changing.

The Chair asks for a motion to table.

Commissioner David Roane moves to table. Vice-Chair David Greaves seconds the motion.

The Chair asks for any discussion.

There being no discussion, the Chair calls for a voice vote.

Councilwoman Linda Salafia asks if it may be changed within the next two (2) to three (3) months so that they can finalize this item or do we make it more generic.

Councilman McKeon replies that he believes that they may need to ask where the change will come from, adding that he does not yet know the answer. He only knows that it is something that has been considered. If they put in the language in and then voted on it, there could be a problem if they are wrong.

Attorney Mednick suggest creating a more generic title, noting that Councilwoman Linda Salafia's point is well taken. A more generic title of whomever is responsible for whatever it is that they are looking for, using whatever title of that party.

The Chair states that they can discuss this issue.

There being no further discussion, the Chair calls for a voice vote. The motion to table is unanimously approved. (Commissioners Blanchard, Greaves, McKeon, Ribnicky, Roane, L. Salafia, Sweeney, and Wilson.) The matter is approved.

**6. Charter Revision Issues Update -- Update by Attorney Mednick**

Attorney Mednick states that an item that was not on this agenda, but is in the Charter, is "Definitions." It was a first-run and probably not ready for approval so was taken off this agenda. He asks the Commissioners to take a look at this. He has asked the General Counsel to look at it as well. One thing that they will need to think about is looking that the term "majority vote" and what we mean by that, Is majority vote the majority of the entire body or those present and voting. We need to have some sort of consistent standard, working with these definitions. One thing that they will talk about is the issue raised by the General Counsel and the Mayor is what was in Section 1A, Classified Service." Attorney Mednick as moved that from the body of the document to the definitions, so you will see that the language has been moved intact. If the Commission approves the definition section, whatever other changes to be made will be made in the definitions section. If you go through the document, you will see the changes that have been made based on terms. He asks that everyone look at that material as homework for going forward.

Attorney Mednick states that he has also delivered to the Chair a schedule. He ask the Chair if that schedule has been distributed.

The Chair has not yet shared it, but can share what they hope to get into the next meeting. . He is going to get into the calendar as his closing statement for this evening. He will share the calendar tonight.

Attorney Mednick offers what he has done so far. Three of the things that he can speak to with General Counsel are form the “low hanging fruit” list that was offered. He believes that the 15-day rule is off the table as it is not needed. Separate tax districts for the Board of Education: he will discuss this topic with Attorney Smith to see if whether his office or Attorney Mednick will look at that item. Transitional language: He believes that Attorney Smith knows something abbot that, so he will discuss with Attorney Smith. These are action items that are left for that meeting. The other issue – with a very good panel -- for the February 24<sup>th</sup> meeting – is to look at Common Council, staggering of Council terms and investigative authority of the Council He will be getting background materials from CCM (Connecticut Conference of Municipalities). He is putting together a panel and has already invited several people representative of governments:

- Mayor Mark Boughton, actually now Commissioner of Revenue Services, an outstanding Mayor in Connecticut, whom he has known for many years, having worked with him through CCM. Attorney Mednick explains that Danbury is a hybrid community: a City Council with an At-large membership and District membership.
- Paul Pernerewski, the Chairman of the Waterbury Board of Aldermen. Waterbury went from an At-Large system, so they were similar to Middletown – and went to a ward or district system some 6 or 8 years ago. They created not only the district system, but also created a 4-year term for Mayor and a 2-year term for members of the Council as they moved to their district system, Paul Pernerewski is also a former Chair of Charter Revision Commission, which is how Attorney Mednick got to know his when they restructured the City in 2002.
- Al Lucas is the Director of Legislative Services of the New Haven Board of Alders. He has been a staff member for a legislative body for 30 years, having been hired by Attorney Mednick when he was on the Board of Alders. He has been around since the late 1980s and has been here since. He is one of the most knowledgeable people on the legislative role in local government. He can talk about how the ward system works.

Attorney Mednick notes that this is a robust group of speakers and he will also have a lot of support materials. He is ready to go with that, if it is okay with the group.

The Chair asks everyone to check their inbox as he has shared the calendar. It is a good road map. The Chair thanks Attorney Mednick for putting it together. The Chair also states that he asked everyone to look at their calendars for alternative dates. The consensus seems to be Tuesday nights. Tonight, they got though this meeting in an hour and 15 minutes. If they do start to get anxiety about their time lime in conjunction with Attorney Mednick, they will meet in between regular meeting gaps, meeting on Tuesdays at 7:00 PM. He asks everyone to keep that in mind going forward. Some meetings will be longer. They will use Tuesday, if need be. We are in a good place right now. The last meetings will be the longest as we finalize things. We will next meet in two (2) weeks.

2/10/2021	<p><b>Action Items (Attorney Mednick):</b>                  Definitions                  Repeal reference to Sheriffs                  Term Limits for Elected Officials Memorandum                  Open Ended Public Comment                  Mayor’s Administrative Assistant = Chief of Staff                  Common Council should appoint the Corporation Counsel                  Tax Assessor to Assessor                  Change City Attorney to General Counsel                  Director of P&amp;Z Replace the Director of Public Works on P&amp;Z Commission</p>
2/24/2021	<p><b>Action Items (General Counsel):</b>                  Eliminate transitional Language                  15 Day Rule                  Separate Tax District for Board of Education</p> <p><b>Council Issues:</b>                  Composition (At-large/Districts/Hybrid)                  Staggering of Council (including examination of 2 year term for Council) and Mayoral terms                  Investigative Authority  <i>Background Data from Counsel and CCM</i>  <i>Testimony: Waterbury; Hamden; New Haven; Norwalk</i></p>
3/10/2021	<p><b>Council Issues:</b>                  Organization of Council/Presiding officer/Status of Staff  <i>Testimony of present and former Common Council Leaders</i>  <i>Testimony of former Clerk Marie Norwood</i>  <i>Background Data from Counsel and CCM</i></p> <p><b>Action Items (Attorney Mednick):</b>                  Charter should reflect values of diversity, equity, inclusion and affirmative action in hiring practices, including hiring panel concept</p>

	Introduce performance appraisal for municipal employees, including annual review
3/24/2021	Eliminated of the Elected Treasurer's Office <i>Examination of Job Duties</i> <i>Testimony of Finance Director</i> <i>Background Data from Counsel and CCM</i> Mayoral Salary Issues <i>Background Data from Counsel and CCM</i> Civilian Review Board Mandate (Presentation by Counsel)
4/7/2021	Ethics Standards: <i>Background Data from Counsel and CCM</i>  <b>Action Items</b> Standards for creating Departments and Boards and Commissions Requirements for Boards and Commissions
4/21/2021	Budget Process and timeline (2 -3 three sessions) <i>Panel Discussion</i> <i>Testimony of Council, Tax Collector and Director of Finance</i> <i>Background Data from Counsel and CCM</i> \$750,000 Standard for Issuance of Bonds <i>Director of Finance, Bond Counsel and General Counsel</i>
5/5/2021	Board of education Noncertified Personnel <i>General Counsel</i> <i>Stakeholder Unions</i> <i>Board of Education Officials</i> <i>Background Data from Counsel and CCM</i>
5/19/2021	Public Hearing
5/26/2021	Final Vote on Charter

The Chair asks if there are any questions or concerns from the Commission. There being none, the Chair asks for a motion to adjourn.

**7. Adjournment**

Commissioner David Roane moves to adjourn. Commissioner William Wilson seconds the motion.

There being no discussion, the Chair calls for a voice vote. The motion to adjourn is unanimously approved. (Commissioners Blanchard, Greaves, McKeon, Ribnicky, Roane, L. Salafia, Sweeney, and Wilson.) The matter is approved.

The meeting is adjourned at 8:16 PM.

ATTEST:  
LINDA S.K. REED,  
COMMON COUNCIL CLERK  
*F: Charter revision 2020/ minutes / 21 Feb 10 – minutes – 10 February 2021*

