

DRAFT MINUTES
Brookfield Charter Revision Commission
Special Meeting – with Public Hearing on Draft Document
Wednesday, April 23, 2014
Brookfield Town Hall Room 133 – 7:30 PM

Convene Meeting: Chairman Grimes called the meeting to order at 7:30 PM, and established a quorum of members. The Pledge of Allegiance was recited.

Introduction of Commission – explanation of process by BCRC Chairman:

Present: Matt Grimes, Chairman; Stanley Parker, Secretary; Fred Ball; Dan Smolnik; George Walker; Linda Wagner (will be coming later to the meeting)

Absent: Jon Van Hise, Vice Chair

Recording Secretary Emily Cole Prescott prepared the minutes from a recording of the meeting.

Presentation by BCRC Chairman: Chairman Grimes read the legal notice of the public hearing, which was published in the *Danbury News Times* on April 14, 2014. Chairman Grimes reviewed the history of past Charter Revision Commissions from 1997, 2003, 2005, 2007, 2012. Prior to 2007, a referendum was not required to pass the Town's budget. In 2012, two questions of nine proposals passed. Chairman Grimes briefly reviewed the proposed revisions considered in 2012. This Charter Revision Commission was formed in February; the charge from the Board of Selectmen was the bifurcation of the annual budget referendum, the potential recall of elected officials, and allowing all elected boards to fill their own vacancies. The Board of Finance, Planning Commission, and the Board of Education can all fill their own vacancies, while the other elected boards cannot fill their vacancies. Chairman Grimes stated that the goal of the Charter Revision Commission is to determine how what Brookfield has may be improved. Chairman Grimes called the audience's attention to the draft document. Chairman Grimes reviewed the proposals of the draft document by the following topics:

Budget Referendum: Chairman Grimes stated that Fairfield and Sherman do an automatic split budget because these two towns do not have charters. When a town does not have a charter, the vote on the budget is automatically split, as per State Statute. Only about half a dozen towns require in their Charters that the budget vote be combined. This Charter Revision Commission has recommended a bifurcation of the budget. Chairman Grimes stated that there are currently 48 towns with the town meeting form of government that vote on a bifurcated budget because they are part of a regional school district. Brookfield is the last town in the greater Danbury area to have the option of voting on a bifurcated or combined budget. With a combined budget, the option to vote for all or nothing is not reacted to well by the voters. Both budgets must pass in order to set the mill rate. Chairman Grimes noted that there is a counter argument to the proposed budget bifurcation in that authority is taken away from the annual town meeting to determine whether or not to combine or split the vote on the budget. However, the bifurcation of the budget allows the voters to have more say in how they vote. Chairman Grimes explained that the next step was for the Commission to consider how to bifurcate the budget. There were two options: both of the budgets had to pass in the same referendum, which is the case in New Fairfield, Sherman, and New Milford. The secondary option considered by the Committee is if one budget passes, and the other does not, only the other is then again considered. This second option was recommended by the Board of Finance and is how Bethel, Ridgefield and Newtown currently bifurcate their budgets. The Charter Revision Commission is recommending this second option. From 2002 to 2011, Brookfield voted on 28 referendums of combined budgets over this ten-year period. Other surrounding towns had a much lower number of referendums to pass their budgets during the same time period.

Town Meeting Moderator: Chairman Grimes stated that the Charter Revision Commission has called for an elected Town Meeting Moderator. The purpose of this elected position would be to codify the town meeting moderator position, who would preside at all town meetings. Chairman Grimes mentioned that the Commission is proposing a provision that if the town meeting moderator is not there, a moderator would be elected at the town meeting by statute. The term would be a four-year term, and would serve the same functions that the moderator now serves. Chairman Grimes stated that Woodbury has had much success with this position. The

idea is to improve the town meeting form of government and to bring some consistency to the Town meetings. The position would work with the Town Clerk, the Board of Selectmen, and the Board of Finance.

Elected Board Vacancies: Chairman Grimes stated that the Town has previously voted against this proposal. The current idea is that the members of the Board of Finance, Board of Education, and Planning Commission would have a strong idea of members they need on their Commissions. This draft proposal would allow all seven of the elected boards to fill their own vacancies. Chairman Grimes explained that the Charter Revision Commission is proposing that the Board of Selectmen can appoint a vacant position on one of these elected boards only if the vacancy is not filled by the pertinent Commission within sixty days.

Additional Proposed Changes: Chairman Grimes stated that the Commission's proposal is to remove the Board of Selectmen's choice to determine if there will be non-binding advisory questions added to the ballot. The proposal is to have the questions mandated on all budget referendums.

Ethics: Chairman Grimes explained that the Charter Revision Commission has proposed some recommendations and changes to update the Board of Ethics section of the Charter so that it aligns better with state statute requirements. The local Board of Ethics can only act within the legal statutes of Connecticut.

Updates & Clarifications: Chairman Grimes stated that the Library Board of Trustees would like to have nine full members and would like to take away the alternate status of three of their members because there are currently six members and three alternates. Chairman Grimes stated that the Commission has also proposed the removal of several positions for clarifications of the Charter, such as the removal of the position of the judge of probate, as this is no longer a municipal office, but a regional office. There is also a proposal to remove the Gurski Homestead Commission, as it was dissolved by a resolution adopted by the previous Board of Selectmen. The Youth Commission has not existed in substance since 2000, and many of the activities that the Youth Commission used to handle are now overseen by the Parks and Recreation Committee. The Building Code of Appeals has not been necessary since 1986, when the Town hired a full-time Building Inspector.

Recall of Elected Officials: The recall of elected officials had also been in the Board of Selectmen's charge for the Commission. There is a case decided in 1983 by the CT State Supreme Court that basically says that if recall provisions were not part of the Town Charter before 1949, they cannot be added now. Therefore, the Commission cannot consider this topic.

Board of Finance: Although there was some consideration to increase the size of the Board of Finance, the Charter Revision Commission has decided to recommend retention of the board at its current size. The Charter Revision Commission had also decided not to recommend the consideration of changes for alternate positions.

Conflict of Interest in ordinance: The Charter Revision felt that the conflicts of interest should stay within the Charter.

Disclosure Requirements: Chairman Grimes noted that the Charter Revision Commission had discussed the potential of requiring candidates to disclose any bankruptcy, court cases, pending legal issues. Chairman Grimes explained that there is a preemption issue in that the Charter has no discretion over candidates for public office.

Chairman Grimes stated that ultimately the Board of Selectmen has the authority to decide upon which questions the public will vote. At this time, Chairman Grimes welcomed public comment regarding the revisions.

The following people addressed the Commission:

Alice Carolan of 205 Whisconier Road – Ms. Carolan stated that she has been on the Board of Ethics since 2008. She stated that the Board has been extraordinarily busy in the last few months. She says she knows of no other Ethics board in the State that has encountered what this committee has now encountered. She stated that the Ethics Board has requested that this Committee add in several places the removal of any elected official in Town subject to CT General Statute, as the Statute does not allow for the removal of elected officials. She stated that §C10-4C(2) discusses the process of the Board of Ethics. She stated that the Board of Selectmen either approves the recommendations from the Board of Ethics or denies it by a 2/3 majority. If the action is denied or if the recommendations of the Board of Ethics are not enforced, in the current Charter the Board of Ethics then has the authority to go beyond the Board of Selectmen to court to seek enforcement action. She stated that this language should not be taken out of the Charter, as is proposed in the draft document.

Joni Park of 71 Indian Trail – Ms. Park stated that she is currently on the Board of Ethics. She also stated that she is appreciative of all the Commission has done. She stated that she has concerns about the draft document. The first two of her concerns regard proposals that she believes would take away from the town meeting form of government. The first one is found in section C8-3, which proposes the bifurcation of the budget to be a permanent part of the charter. Currently, the town can bifurcate the budget by choosing to do so at the town meeting. This proposal takes away both the power of the citizens to make this choice and limits the power of the town meeting. This affects the wording of section C9. Her second concern is that a new position would be created in article 3, section 3c-2. The proposed permanent meeting moderator would be elected for four years. Ms. Park said she sees this position as diminishing the power of the town meeting. If a permanent meeting moderator is elected, it takes away the ability of every town meeting to elect a person to serve as moderator at that town meeting. Her third concern was that when one sentence (“The Board of Ethics may retain counsel to pursue enforcement of its recommendations”) is removed, much of what the Board of Ethics may accomplish is taken away. The intent of the Board of Ethics was never to leave the full authority of ethical decisions with the Board of Selectmen, as the removal of this language would cause.

Reet Lubin of 2 Andover Court – Ms. Lubin stated that she agrees with the split of the vote for the town and Board of Education budget, and she thinks that more transparency would be available if the voters can see exactly what is being proposed by the Board of Education as well as what is being proposed by the Town. This would give the public a bit more understanding about where the money is going. In regard to the elected boards filling their own vacancies, Ms. Lubin stated that she believes that this proposal is a good system as the people who are on the boards may know who would be a good candidate to serve on these boards. As far as the Town moderator, it would be good for citizens to have someone to go to for information about the meeting, and to have the meeting run professionally. She thinks that this position would be beneficial to everyone.

Mark Mulvaney of 100 Long Meadow Hill Road – Mr. Mulvaney stated that he fully supports the idea of voting on a split budget, as it gives the voters more of a choice. As far as an elected moderator, Mr. Mulvaney stated that an elected moderator will help to lend a sense of professionalism to the meetings.

Ernie Nepomuceno of 18 White Tail Lane – Mr. Nepomuceno stated that he is here as a member of the public. He stated that he supports the bifurcation of the budget for the main reason that it provides the electors of this town much latitude in terms of exercising their rights. He stated that this would also allow the voters 8 options for voting. He also supports the advisory question proposal. Mr. Nepomuceno stated that he does support an elected moderator position, but believes four years is too long; he noted that two years is sufficient for this proposed term length.

Ron Jaffe of 21 White Pine Drive – Mr. Jaffe thanked the Charter Revision Commission for their work. Mr. Jaffe stated that he does not believe that the Commission has done a good job communicating with either Boards and Commissions of this town as evidenced by the comments of the members of the Ethics Commission. Mr. Jaffe stated that the draft document with the Committee’s recommendations had not been

posted online until Monday. Mr. Jaffe stated that the Commission has rushed into this proposal. He stated that from what he has heard, most if not all of the recommendations have not been unanimous votes of the Committee. He stated that Charter Revision Commissions are complicated issues, and many of the recommendations that are being made disenfranchise town electors, reducing their abilities to have their say at town meetings. Mr. Jaffe stated that the proposals reduce the participation in town meeting, and thus allow the town meeting participants only to set the date of the budget referendum. Mr. Jaffe stated that in terms of bifurcation, Mr. Tinsley was posed the question of which additional information would be achieved if the budget were to be bifurcated, and there was no answer. There is plenty of information that is obtained via the vote and advisory question, and this bifurcation will not give additional information. The question is what is best for Brookfield, and for him what is best for Brookfield is not what this Commission has proposed. The reduction of the Board of Ethics sentence which has been discussed reduces the authority of the Board of Ethics completely. Mr. Jaffe stated that the discussion of disclosure of information does not reflect the explanation which he had received from the current Town Attorney. He does not believe that these recommendations in general move the Town forward or protect the Town meeting form of government.

Howard Lasser of 116 Tower Road – Mr. Lasser stated that Chairman Grimes had made many assertions and citations, and asked if the detail or documentation behind the information he had presented is in the record. Chairman Grimes stated that he can get this information to Mr. Lasser. Mr. Lasser stated that one of Chairman Grimes's comments was inaccurate in terms of the 2007 Charter Revision Commission, which did not raise the attendance requirement but rather set the attendance limit to four percent to be able to reduce the budget amount. Mr. Lasser stated that Chairman Grimes had noted that the voters would be given eight choices if the budget were to be bifurcated, but there is currently the option of nine choices for voters. As others have said, this draft diminishes the authority of the town meeting, which, in the current Town Charter, has the option to choose the possible split vote. If a town moderator is to be elected for four years, what if an incompetent person is elected. There is no way to remove an elected official who is not capable. There are many town meetings other than just the annual town meeting. Mr. Lasser stated that the election of the town meeting moderator is reducing the town authority at the town meeting, and is an unnecessary expansion of government. Mr. Lasser mentioned that relative to the Board of Ethics, the Town should have an option to allow the Charter to be enforced.

Mr. Smolnik replied that the underlying idea of the proposed revision relative to the Board of Ethics was not to diminish the authority of the Board of Ethics but to make the language somewhat more elegant.

Emily McPadden of 3 Arbor Drive – Ms. McPadden stated that she agrees with the proposed bifurcation of the budget. Ms. McPadden stated that she should be able to see what is being spent by visiting the Town's website. She stated that anything that will increase transparency is a good thing.

Michelle Berg of 8 Stoney Farm Lane – Ms. Berg stated that a split vote on the budget would allow the Town to vote more effectively and more specifically for its budget priorities, and is more efficient. This is how the vote can gain the most weight, and this proposal would allow the Town to move forward with clarification.

Chris Kukk of 4 Terry Lane – Dr. Kukk stated that he would like to focus on the Town keeping its Town meeting form of government, and he is fearful of the steps that other towns have taken, especially when the results of the other towns are considered. He would rather move towards a path that unites rather than divides the Town, and he would argue that the trend that was highlighted is a sign of polarization that happens in this country, and unfortunately has happened in this Town. Instead of uniting, it is once again dividing. To him, Brookfield is the Town he grew up in and graduated from high school in, and to which he came back to after serving his country. He stated that he is about uniting Brookfield not dividing Brookfield, and he hopes that the Charter Revision Commission, when going back to review these comments, looks at this as a statement, a principle, and a concept to follow, and he asked the Charter Revision Commission to please not bifurcate the

Town anymore than it already is. In regard to creating the moderator position, he urged that the Town meeting be able to choose the moderator. Dr. Kukk stated that one of the things he loves about New England and the town meeting is that the residents can have their say, and the budget can currently be bifurcated as an option voted upon by the town meeting. He also stated that he would like to support the Board of Ethics Committee that spoke about keeping the last line in [§C10-4C(2)], especially as the Board members are “the boots on the ground”, and have requested that the current language remain.

George Blass of 3 Rajcula Farm Road – Mr. Blass stated that he is in favor of all of the recommendations of the Committee, specifically the budget bifurcation proposal. Mr. Blass said that he does not see any downside to splitting the budget, and he thanked the Committee for all of their work.

Eve Sturdevant of 3 Rajcula Farm Road – Ms. Sturdevant stated that her family had been one of the founding families of Brookfield 225 years ago. She is the eleventh generation to live in the Town. Ms. Sturdevant stated that she is in favor of the split of the budget vote. She thinks that progression is necessary to move forward with a vision to grow and move the Town into the next centuries. In regard to the proposed town moderator position, she stated that this is a needed position, but four years is a bit too long for the term. Ms. Sturdevant stated that she is in support of the Commission’s proposals.

Bill Davidson of 19 Cove Road – Mr. Davidson stated that he has come to this meeting to speak as a citizen. He stated in regard to the permanent moderator proposal, Fran Collins had been mentioned and he had done an excellent job, but he was not an elected official, but a volunteer. Mr. Davidson explained that he is adamantly opposed to electing a moderator. Mr. Davidson stated that to elect someone incompetent for two or four years would be wrong. Mr. Davidson heard that many times throughout the meeting, the presentation was about strengthening the town meeting. Mr. Davidson stated that the Town must decide whether it would like to have the town meeting form of government or something else, although this matter is not a subject of tonight’s meeting. If the Town is a town meeting form of government, be a town meeting form of government, and he noted that he strongly believes the Town should retain the current budget situation, which allows the town meeting to determine if it desires a separate budget vote. This way, at least the people are making the decisions. He also stated that he thinks it is wrong to allow the Selectmen to decide whether the advisory questions are added, and he suggested that the Selectmen instead make a recommendation to the town meeting to decide whether the questions are to be added to the ballot. He also thinks it is wrong from a financial perspective to allow, if the bifurcated budget were to be approved, to be voted in favor while the other would need to be re-worked, as this diminishes the financial effectiveness of the Town. He thanked the Commission for considering the comments and for their service.

Marge Davidson of 19 Cove Road – Ms. Davidson stated that what Dr. Kukk said was very important, and the Town should be a united town, and all of the residents need to live together in town. She hates to see anything happen that will divide the town anymore than it has already been divided. She stated that she also agrees with Ernie Nepomuceno, and if a permanent moderator is brought forward, she asked that the Committee consider a two-year instead of a four-year term.

Ray DiStephen of 11 Old Woods Road – Mr. DiStephen stated that he agrees with what many speakers noted in regard to being against the permanent split of the budget. He also agrees with the opposition to the town moderator as an elected position. He mentioned that he believes that these proposals are motivated by a small group of people who have an agenda. He stated that he believes the agenda is to reduce and destroy the school budget and to concentrate power into a very small group of people to have all the say and control of what goes on in this town. Mr. Distephan stated that he thinks that splitting the budget and electing the town meeting moderator serves these two purposes of the agenda.

Pamela Kurtz of 154 North Lake Shore Drive – Ms. Kurtz thanked the Charter Revision Commission for their time and effort for putting together possible changes to the Town Charter. She stated that she thinks the Commission has done an excellent job of communication with the Boards and the public. The proposal to bifurcate the budget permanently ensures the most choice for all members of the community, not just those in attendance at a town meeting, and is long overdue. She stated that she thinks the advisory questions are necessary. Ms. Kurtz mentioned that an elected town moderator position would give predictability and consistency to the town meeting form of government. She stated that two years would be an adequate term length for this proposed position.

Steve Dunn of 24 Lyndenwood Drive – Mr. Dunn stated that he likes the current way in which the town meeting moderator is chosen at the meetings. If the position is not currently kept as it is, he thinks that the position should be only for a two-year term. He also stated that the Board of Ethics do a very difficult and important job and to not allow them to pursue an action that they feel is important and just by hiring legal counsel is wrong.

Tara Mills of 41 Mist Hill Drive – Ms. Mills stated that it would make sense that if the town meeting has an option to lower the proposed budget, they should be able to also make it higher. She stated that the bifurcated budget does not seem needed, and the extra options on the ballot and the election of the moderator position does not sound necessary to her.

Dale Corbin of 44 Old Middle Road – Mr. Corbin spoke in favor of the proposed bifurcation of the budget. He stated that in the case of the town meeting, in theory is a wonderful thing, but what it has turned out to be is a mob rule. The night town meetings are also difficult for senior citizens to come out to.

Rich Saluga of 32 Great Heron Lane – Mr. Saluga stated that he has not had a chance to read the proposed language changes. Mr. Saluga stated that the Commission’s proposal to vote on the budget separately should stay. Mr. Saluga expressed his concern about the Ethics Board being used by members of the community as a sort of weapon. His concern was that the Ethics commission fell victim to this “mob” which was discussed earlier by Dale Corbin. Mr. Saluga stated that he does not think the Board of Ethics should be taking the position of attempting to correct a faulty complaint. He stated that the language of the Charter should be strengthened, to clarify that it pertains to someone who is currently an employee or an official of the Town, and should not deal with something that was done before the person was either an employee or an official.

Chairman Grimes asked for comments from anyone who had not yet spoken. There was no one.

The following members of the public addressed the Commission again:

Bill Davidson of 19 Cove Road – Mr. Davidson stated that section C4-11B(2) notes, half-way through the paragraph, that: “At such hearing the person may be represented by counsel”. Mr. Davidson mentioned that he thinks the phrase “Not paid for by the Town” should be included to this sentence. Mr. Davidson referred to section C8-5(F), which notes that the Board of Finance shall act in thirty days. However, the calendar between the Board of Selectmen and the Board of Finance meetings sometimes causes this timeline to run beyond 30 days. Mr. Davidson suggested that the time period be revised to 45 days. Mr. Davidson mentioned section C8-7(4) requires that appropriations shall be abandoned if not acted on within three years. Since sometimes the appropriations involve delays in federal funding, he would suggest that the Board of Selectmen have the option to renew the appropriation project for an additional two years, for a total of five years.

Howard Lasser of 116 Tower Road – Mr. Lasser stated that if one of the budgets passes and the other does not, the reason why this was not done previously is because sometimes projects are done using shared funds or capital. There are some inter-relationships within each of the budgets, especially relative to capital needs.

Ernie Nepomuceno of 18 White Tail Lane – Mr. Nepomuceno stated that in respect to one budget passing, the other fails, the matter should be at the discretion of the Board of Finance to change the amounts.

Mark Mulvaney of 100 Long Meadow Hill Road – Mr. Mulvaney stated that at a town meeting, typically only one member of the household can vote, but having the vote on the budget split gives both members of the household more opportunity.

Tara Mills of 41 Mist Hill Drive – Ms. Mills stated that she thinks it is important for this matter [the consideration of allowing those in attendance at a town meeting to raise the budget amount] to be brought to the ballot for the public to decide because she felt in the past that the Board of Finance has not listened to what the residents are saying, and the residents are currently in this situation.

Pamela Kurtz of 154 North Lake Shore Drive – Ms. Kurtz stated that she disagrees with the previous comment, because if the advisory questions are on the ballot, this takes care of the matter.

Ron Jaffe of 21 White Pine Drive – Mr. Jaffe stated that the advisory questions do not answer Ms. Mills's point. He stated that he agrees with Ms. Mills's points. He encouraged the Charter Revision Commission to again review this matter. Mr. Jaffe stated that for those who think that a bifurcated budget would give more information do not understand the process. Mr. Jaffe stated that the line item budget information detail is available right now.

Secretary Parker made a motion to close the public hearing. Commissioner Ball seconded the motion, and it carried unanimously.

At 9:07 PM, the meeting was recessed for five minutes. The meeting re-convened at 9:12 PM.

Approval of Minutes – 04/02/14 – Commissioner Ball made a motion to approve the April 2nd meeting minutes. Chairman Grimes seconded the motion, and it carried, with Secretary Parker abstaining.

Approval of Minutes – 4/9/14 – Chairman Grimes asked if the Commission had received an email of the minutes. The minutes had been posted online. He noted that this item should be tabled until the next meeting.

Schedule going forward – clarification from Town Attorney – Chairman Grimes stated that he would like to, if convenient, meet on April 30th (Wednesday). He stated that he would like to come up with other preliminary changes, such as the technical matters which Mr. Davidson had mentioned.

General Discussion among BCRC Members – Chairman Grimes stated that the Selectmen have forty-five days in which to hold their public hearing from the time which the draft document was submitted to the Town Clerk on April 10th. Chairman Grimes reviewed the State Statute with the Commission relative to this matter. Once the Board of Selectmen has their public hearing, they will give the Charter Revision Commission feedback. Mr. Walker asked if the Selectmen will work with the document submitted by the Charter Revision Commission. Chairman Grimes explained that after the hearing, the Selectmen will send their comments to the Charter Revision Commission, which will then be expected to submit an updated draft of their document. The Selectmen would then have one more public hearing on the revised draft. After this second public hearing, the Selectmen will decide on which questions the public will vote.

Commissioner Walker reviewed some of his notes regarding the comments made during the hearing with the Commission. Chairman Grimes mentioned that there were a number of audience members who spoke in favor of a two-year term if a town meeting moderator elected position is added to the Charter. The Commission briefly reviewed the history of previous people who had served as meeting moderators. Chairman Grimes also

mentioned that he is planning to send the three technical matters mentioned by Mr. Davidson to Attorney Tom Beecher for his review.

Written Correspondence – There was no written correspondence.

Adjournment – Secretary Parker made a motion to adjourn at 9:32 PM, which was seconded by Commissioner Smolnik. The motion carried unanimously.