



Brookfield Charter Revision Commission Draft Report

Date: April 3, 2017
To: The Board of Selectmen
From: Charter Revision Commission
Re: Draft Report and Recommendations

On July 20, 2016 the Board of Selectmen established a Charter Revision Commission (CRC) to address 10 charges for consideration, appointing me Chair Pro Tempore. The committee included Jerry Friedrich, Todd Hand, Loretta Donovan, Dottie Dori, Mark Ferry and Ron Jaffe. The Commission elected Joni Park Chair and Jerry Friedrich Vice Chair.

Over the following eight months we held two public hearings, met twice a month and individually and collectively researched all charges brought before us. At our first Public Hearing, and during our own meetings we were asked to consider other items. In the end we added 10 Public Charges to our list — discussing and considering all items the public asked us to address whether at Public Hearings, in public comment at our meetings, or by email.

At our last Public Hearing we presented then-current thinking on which charges to recommend with basic rationale. We also presented a survey for the public to further provide input on the importance of all charges. Thanks to Loretta Donovan, Mark Ferry, and Ron Jaffe for collating and presenting the results of the survey.

The committee as a whole has a few comments and general recommendations:

- It is our recommendation that the number of items brought to referendum be limited in number — perhaps no more than 5 — based on priority. Our belief is that past CRC recommendations have not been successful, in part, due to the high number of items presented to the public for their consideration and how items were presented on the ballot.
- We would also recommend that each item presented to the voters be separate line items on the ballot so they can be voted on individually, and not collectively.
- We chose to bring forward some items that had been on previous CRC reports, understanding that the town has grown (and continues to grow in population), times have changed, events have transpired, and that the issues were valid to present again.



- We decided to present our recommendations to you in order of priority as the Commission ranks the charges. All items were deemed important to address, but in the end some charges we considered to be housekeeping, others we believe can be addressed within the current scope of the Charter, and others were perceived to have limited impact on the functioning of our government.
- At this point we would all like to thank both our Town Attorney Tom Beecher for his help and guidance throughout this process, and Emily Prescott our secretary for presenting accurate minutes of our complicated meetings.

What follows are our recommendations on each of the charges we addressed in order of the priorities we have set — with the highest priority listed first.

While the CRC considered 21 charges, we are recommending that the BOS consider only 9.

Note that the Charge #'s reference the order (and name) that they were presented at our latest Public Hearing. Note also that the **red-lined** suggested charter changes were created in consultation with Tom Beecher.

Public Charge #4:

Establish a minimum 10 days before boards can appoint a replacement.

The CRC recommends making this change.

Some town Boards can name replacements for their own vacancies and have 60 days to do so before that task defaults to the BOS. A 10-day waiting period ensures the townspeople have time to be notified of the vacancy and can put their name forward for consideration so all qualified candidates can be considered for open positions.

Our recommended charter change:

§ C2-6. Vacancies in elective offices.

- A. Vacancies in the Board of Selectmen shall be filled in accordance with the provisions of Section 9-222 of the CT General Statutes.
- B. A vacancy occurring on the Board of Education, the Planning Commission and the Board of Finance shall be filled by vote of the remaining members; **but not sooner than ten (10) days after the date the office becomes vacant; and**[1] if the vacancy is not



filled within sixty (60) days from the time that the office becomes vacant, the Board of Selectmen shall fill the vacancy by appointment.

- C. Subject to the limitations of Subsections A and B of this section, the Board of Selectmen shall fill by appointment a vacancy in any elective Town office as soon as practicable from the time the office becomes vacant in accordance with the provisions of § C4-12 of this Charter, **but not sooner than ten (10) days after the date the office becomes vacant**; unless specifically provided otherwise by the CT General Statutes.
- D. An appointee to a vacancy in an elective office shall serve until a successor elected at a special election or at the next regular Town election qualifies. A person elected at either a special or a regular Town election to fill an unexpired term shall serve the remainder of the term.

BOS Charge #5:

Clarify standards, authority and jurisdiction of the Board of Ethics to the authority the Board has as defined by State Statutes.

The CRC recommends making this change.

Redrafting the Ethics section means more accurately calling it by the correct name as well as more appropriately referencing sections of the state statutes to ensure a clear line of authority, including guaranteeing the right to engage legal counsel.

Our recommended charter change:

ARTICLE X. **Ethics**

§ C10-1. Ethical Standards

All officials and employees of the Town shall carry out their duties with the highest ethical standards regardless of personal considerations. Their conduct shall at all times be for the public good and within the bounds of law, shall comply with **the** Charter and the Town Code of Ethics, shall be above reproach and shall avoid conflict between public and private interests and responsibilities.

§ C10-2. **The Board of Ethics.**

- A. There shall be a **Board of Ethics to hear and investigate violations of the Code of Ethics and the Charter in accordance with the powers and duties conferred by the applicable State statutes and the Charter. The Board of Ethics shall interpret the**



- provisions of this Charter, the Code of Ethics and determine any ambiguities therein and shall determine whether violations of the Charter constitute violations of the Code of Ethics.
- B. Written Ethics complaints can be filed with the Board of Ethics or the Board of Ethics may consider violations on their own volition. The Board of Ethics shall, upon determining that an ethics violation has occurred, forward its findings and recommendations to the Board of Selectmen for action. The Board of Selectmen shall implement the recommendations of the Board of Ethics unless, by no less than a 2/3 vote by the entire Board of Selectmen taken within 30 days of receipt of the recommendations, the Board of Selectmen rejects the recommendations of the Board of Ethics.
 - C. If the Board of Ethics determines there is no violation, it shall notify both the complainant and the respondent of their findings. These findings shall remain confidential unless the respondent chooses to make them public.
 - D. If a complaint is filed concerning a member(s) of the Board of Ethics, the Board of Selectmen shall act as the temporary Board of Ethics, solely for review of such matters.
 - E. The Board of Ethics may retain counsel in accordance with the Charter to provide advice during its deliberations and to pursue enforcement of its recommendations. In the event that the Town Attorney is not able to render these services to the Board of Ethics, the Board of Selectmen and the Board of Finance shall authorize and approve such special counsel as requested by the Board of Ethics.

Public Charge # 3:

Increase the Board of Selectman to 5 members.

The CRC recommends making this change.

The Commission believes a five member BOS allows for more representation of all the residents of Brookfield and that a five member board is in line with many other towns of our approximate population throughout Connecticut. It provides better opportunities for BOS members to attend other commissions as well as reducing concerns that BOS members communications between members could violate FOI. It is worth noting that State Statute says that for towns with no charter, as the population increases to the level of our town their Board of Selectmen will increase to 5.



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The recommended change would result in a majority vote of no more than 3 from any one party, retaining language in our existing charter for majority.

Our recommended charter change:

§ C3-2. Elected Town officers, boards and commissions.

The following officers and members of boards and commissions shall be elected for the terms herein specified commencing on the first Monday in December, unless otherwise provided herein. They shall be duly sworn to perform the duties prescribed in this Charter and in the CT General Statutes.

A. First Selectman and Board of Selectmen.

1. The First Selectman and **four (4)** other members of the Board of Selectmen (“remaining Board of Selectmen”) shall be elected at the regular biennial Town election in the manner provided for in § C2-4 of this Charter for the terms of two (2) years. **No elector may be a candidate for both the office of First Selectman and the Board of Selectmen by virtue of nomination by a major or minor party or a nominating petition or registration of write-in candidacy, or any combination thereof. Votes cast for the office of First Selectmen shall count for that office only. Votes cast for an unsuccessful candidate for First Selectman shall not be counted as votes for such candidate as a member of the Board of Selectmen. Electors may vote for four (4) candidates for Board of Selectmen.**
2. No more than a bare majority of this entire Board, including the First Selectman, shall be members of the same political party.

§ C4-4. Procedure for conducting business.

The Board of Selectmen shall fix the date, time and place of its regular meetings and provide a method for calling special meetings. Only business, notice of which has been included in the call for such special meetings, shall be acted upon at any special meeting. **Three (3)** members of the Board of Selectmen shall constitute a quorum for the transaction of business. The Board of Selectmen shall act by majority vote of those present and voting unless the CT General Statutes or this Charter requires a greater vote. Minutes of each meeting shall be taken and shall include the attendance of each member and the vote of each member on all items of business before the meeting. The Board shall keep for public inspection an official record of the meetings, a copy of which shall be filed in the office of the Town Clerk within two (2) business days with



respect to each member's recorded vote and seven (7) business days with respect to the filing of minutes. The official record shall also contain the rules of procedure of the Board.

§ C4-6. Emergency ordinances.

If the Board of Selectmen shall find that an emergency exists in the Town affecting the public peace, health or safety, it shall be empowered to adopt regulations and ordinances stating the facts constituting the public emergency, which shall become effective immediately upon the affirmative vote of not fewer than **four (4)** members of the Board without public hearing or notice thereof; such ordinances shall be promulgated forthwith. Every such emergency regulation or ordinance shall be repealed upon the termination of the emergency and shall automatically stand repealed at the termination of the 61st day following adoption thereof; provided, however, that if action has been initiated on the same subject matter as an emergency ordinance providing for a permanent ordinance under § C4-5 of this Charter prior to such 61st day, then such emergency ordinance shall remain in full force and effect until final action is taken on said permanent ordinance.

§ C4-11. Investigations, removals and suspensions.

B. Removals and suspensions.

(1) The Board of Selectmen shall have the power to suspend by an affirmative vote of **four (4)** members and to remove for good cause by an affirmative vote of all members any person appointed to any office or position by the Board.

BOS Charge #3

Clarification of what items can be petitioned to a town meeting.

The CRC recommends making this change.

This recommendation addresses the recent issue where a petition of more than 4% of town electors was ruled invalid by the Town Attorney, and restores and clarifies the ability of the town to successfully petition a decision by the Board of Finance if there is sufficient interest in town.

Our recommended charter change:

Revised Section C8-5B:

- B. If within twenty (20) days from the Board of Finance rejection of a request for **any** special appropriation or transfer pursuant **the** Charter, a petition signed by not fewer than four percent (4.0%)



of the Town electors as determined from the latest official list of registered electors is filed with the Town Clerk requesting either a Special town Meeting or referendum as required by **the** Charter, such Special Town Meeting or referendum shall be held. **The special appropriation or transfer shall be approved by a majority of those voting in the affirmative, if at least 4% of the registered electors cast votes or ballots.**

Public Charge #1

Separate votes for First Selectman and Selectmen. The losing First Selectman candidate would not be eligible to run for or be included in the Selectman vote.

The CRC recommends making this change.

These two positions are distinct roles and require different qualifications and therefore should be voted on separately. Many townspeople are surprised to learn that this is not how our system currently works. Currently voters can vote only for 2 of the 3 BOS positions. This change would allow the public to cast votes for all available positions.

Our recommended charter change is to **§ C3-2 as shown above** in the recommendation for Public Charge #3 (increase BOS to 5)

BOS Charge # 6– Part 1

Review budget transfers allowed to be made by the BOS and BOF. Consider raising or eliminating the dollar amount the BOS and the BOF could reallocate in a budget at any time before going to a town meeting for approval.

The CRC recommends making the following change.

Increase the dollar amount from \$20,000 to \$40,000 that the BOS can reallocate within budget lines (which is the level the BOS requested), but retain the need for BOF approval of inter-department transfers.

The new money levels recognize the growth in the town budget over the years, but we believe the BOF should continue to have oversight in transfers between departments.

Our recommended charter change:

Section C8-5:

§ C8-5. Special appropriations and transfers of appropriations.



- A. The Board of Selectmen, when requested by any Town department and after approval by the Board of Finance, may make special appropriations from cash surplus, borrowing as limited by § C8-8 of this Charter or any approved contingency fund in amounts not to exceed in the aggregate in any one (1) fiscal year ten percent (10%) of the amount appropriated or **forty thousand dollars (\$40,000.)**, whichever is greater, for such department in the current Town budget, provided that the aggregate sum so appropriated for all agencies in any fiscal year does not exceed one percent (1%) of the total annual Town budget. The Board of Selectmen when requested by any Town department may also transfer unexpended balances from one appropriation to another within the same department in accordance with the CT General Statutes.

Public Charge #8

Clarify the Charter so that wide scale transfers cannot be made early in the fiscal year.

The CRC recommends making this change.

This is to ensure that operational goals as approved by the annual town budget vote will proceed and that transfers can be made in the final quarter of the fiscal year.

Our recommended charter change:

Section C8-5 (additional language):

H. No budget transfers authorized by the Charter may be approved before April 1st of the fiscal year.

Public Charge #9

Add the ability to restore individual line items at the annual town meeting But only to levels approved by either the BOS or BOE.

The CRC recommends making this change.

Since the charter already allows for the Town Meeting to reduce individual line items as presented if a sufficiently high barrier (4% of electors) is present, this would allow line items to be increased – but only to the original level previously voted on and approved by either the BOS or the BOE.



Our recommended charter change:

§ C9-3. Modifications at Annual Town Meeting.

- B. If the number of qualified voters present is equal to or greater than four percent (4.0%) of registered Town electors, the Annual Town Meeting shall have the power to amend the budget submitted by the Board of Finance by decreasing or deleting any appropriation or item in an appropriation, or by increasing any appropriation or item in an appropriation up to the amount of the specific appropriation or item in an appropriation originally submitted by the Board of Selectmen to the Board of Finance pursuant to § C8-2C, or up to the amount of the specific appropriation that was originally submitted by the Board of Education to the First Selectman pursuant to §C8-2A.

BOS Charge 9:

Consider increasing the number of members on the Library Board of Trustees (to 9 regular members).

The CRC recommends making this change.

The Library Board is addressing the need for a new Library and feels it needs to have more members.

Our recommended charter change:

Addendum A III G Library Board

9G. Library Board of Trustees, consisting of **nine (9)** electors of the Town, in accordance with Section 11-21 of the CT General Statutes. **Four (4)** members shall be appointed for terms of two (2) years, **Five (5)** members shall be appointed for terms of four (4) years, and biennially thereafter as terms expire. Said appointments shall expire on the first Monday in February.

While the CRC actively considered all charges, **we do not recommend** taking action to address any of the following Charges:

BOS Charge #1

Consider correcting errors in the Charter that conflict with each other.



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We agreed that this may need to be done, but found other items held more priority.

This was one of several items the CRC considered to be housekeeping – some of which might be addressed without need for a charter change.

BOS Charge #2

Consider a Charter change to allow for a capital referendum to be in conjunction with the annual budget referendum without the 45-day wait. This would only apply for the annual budget referendum.

We recommend no change, believing that the time frame of 45 days allows for the boards and the public to have more time to consider large capital projects and annual expenses at different times.

BOS Charge # 4

Consider eliminating Offices that no longer exist.

We agreed that this may need to be done, but found other items held more priority.

BOS Charge #6 – Part 2

Clarify the reallocation process – one part of the charter gives them the right to reallocate unexpended funds but other parts require a town meeting.

We did not see this as a necessary change.

BOS Charge #7

Consider permanently appointing the Town Attorney as Parliamentarian.

We did not see this as a necessary change.

BOS Charge #10

Consider making grammatical changes as needed for clarification.

We agreed that this may need to be done, but found other items held more priority.

Public Charge #2.



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Eliminate charter requirement to pay Selectmen a minimum salary..putting the selectmen remuneration into the budget process.

We did not see this as a priority.

Public Charge #5

Establish Conservation commissioner as Salaried position.

We believe this is an operational issue and should be addressed by the BOS.

Public Charge #6

Establish a Town Manager position as a charter required position.

The CRC considers this an important topic for the town to address, but recommend that it be considered separately on its own merits.

Public Charge# 7

Make Town Clerk an appointed position.

While the idea has merits, at this time we see no need for a change.

BOS Charge #8

Review updating Special appropriation levels and time requirements for construction projects.

We believe this was addressed by our responses to BOS Charges #2 and #6.

Public Charge #10

When the BOS authorizes spending of any money set up an ad-hoc committee to discuss it and have public input.

We believe there are already checks in place to cover this.

The Charter Revision Commission thanks the Board of Selectmen for its support and for providing us with the opportunity to work on behalf of the town. We also thank the members of the public who communicated with the



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Commission, challenging us to explore ways to improve our town and our government.

We thank you for the opportunity, and look forward to your comments.

Joni Park
Chair, Charter Revision Commission