

**CITY OF NORWALK
CHARTER COMMISSION
REGULAR MEETING
SEPTEMBER 21, 2022**

ATTENDANCE: Patsy Brescia, Chair; Richard McQuaid, Vice Chair; Carl Dickens, Tyler Fairbairn, Benita Watford, Michael Witherspoon (6:12 p.m.)

STAFF: Atty. Steven Mednick, consultant

OTHERS: Council President Tom Livingston, Mayor Harry Rilling.

This hybrid meeting was held via Zoom and in person.

I. CALL TO ORDER BY DESIGNATED CHAIR

Ms. Brescia called the meeting to order at 5:00 p.m.

**II. ROLL CALL AND INTRODUCTION OF COMMISSION MEMBERS
AND COUNSEL**

Ms. Brescia greeted everyone and explained that this was an organizational meeting to determine the goals of the Charter Revision Commission. Ms. Brescia said that she had asked Council President Livingston to review the goals and address the Commission.

Council President Livingston thanked the Commissioners and said that while it was a monumental task, it was also incredibly important. The Charter was created in 1913 and there had not been a comprehensive revision in over 100 years. There are also provisions in the Charter that are no longer applicable including positions that no longer exist and provisions that apply to a town, such as supplying horses to the Fire Department.

Council President Livingston said that they were allocating broad authority to the Committee in order to allow the Commission to update the overall Charter. The Commissioners were selected to represent the diversity of Norwalk.

Council President Livingston explained that the City had retained Atty. Mednick to guide the Commissioners through this process. Atty. Mednick has assisted with a number of other cities and towns through the Charter revision process. Council President Livingston said that he had attended a workshop with Atty. Mednick and realized that that Atty. Mednick had a very methodical approach to Charter revision.

Ms. Brescia said that when she was in government class, the professor had mentioned Norwalk had a very convoluted Charter.

III. PUBLIC PARTICIPATION

There was no one who wished to address the Commission at this time.

IV. OVERVIEW OF THE LAW OF HOME RULE, MUNICIPAL CHARTERS, AND 2022-23 CHARTER PROJECT: ATTORNEY MEDNICK

Atty. Mednick then greeted the Commissioners and proceeded to narrate a PowerPoint presentation on Charter Revision. He said that he had facilitated about 30 Charter Revision Committees.

The goal is to make the current Charter linear and readable so that elected officials, town officials, town employees and the public will be able to read the Charter to understand how the budget process works, how ordinances are created, and how boards and commissions are to function among other things.

He explained that the Committee will be working with the concept of Home Rule. The Charter is the City's Constitution. However, while the term "Home Rule" appears to indicate that a municipality has a degree of "local authority", "local control" or even "sovereignty", the term is rife with ambiguity.

The Advisory Commission on Intergovernmental Relations created a simple, direct and explicable definition of "home rule". This was to insure that all the municipalities and governing officials were clear on what the term covered. Atty. Mednick also informed the Committee that once the election was concluded, there would be a comprehensive review of Title VII in order to assist communities in dealing with home rule.

Atty. Mednick then went on to give a historical context to the concept of home rule, which dated back to shortly after the Civil War and originated from Dillon's Rule. This 1868 legal ruling by Judge Dillon of Iowa stated that municipal corporations can only exercise the powers that are:

- Explicitly granted to them
- Necessarily or fairly implied in or incident to the powers expressly granted; and
- Essential to the declared objects and purposes of the corporation, not simply convenient but indispensable.

Dillon's rule was validated and nationalized by the US Supreme Court in the first quarter of the 20th century.

The Supreme Court embraced and codified the rule and settle the issue of local government legal authority by asserting that "all sovereign authority" in the United States resides with either the federal or state governments: "There exists within the broad domain of sovereignty but these two" [Hunter versus Pittsburgh. 207 US 161 (1907)]

The City of Norwalk receives its authority from the State of Connecticut.

Atty. Mednick noted that the Connecticut Constitution of 1818 was silent on the subject of Home Rule. Until 1957, the General Assembly made rules for local governance via Special Acts. Title VII in the General Statutes addresses the issue of Home Rule which outlines the powers granted to the municipalities. There are also references to this in Title X, regarding the Board of Education and the Taxing Titles and Planning and Zoning in Title VIII. The General Assembly grants the powers to the municipalities directly.

The Charter requires Norwalk to have an Executive, which would be the Mayor, and to have a Legislative Body, which is the Common Council. The remaining portions of the Charter are a result of local choice constrained by Title VII.

In 1965 revision of Connecticut Constitution Article X then permitted the General Assembly “by General law” to delegate to municipalities “such legislative authority as from time to time it seems appropriate... Relative to the powers, organization, and form of government of such political subdivisions.” This has resulted in a limited delegation of authority, however all authority is derived from the sovereign State of Connecticut.

Silence is not authority. Atty. Mednick gave an example that because the State Constitution is silence on gun control, local municipalities experiencing a number of shooting does not have the capacity to regulate guns because there was no express grant of authority. In the past, there have been discussions about recall and term limits. There are five municipalities in Connecticut that have been granted recall rights by the State in Special Acts.

Atty. Mednick went on to give basic overviews of Expressed Grants of Authority for:

- Structure of Government (RTM, Selectmen, etc.)
- Functions of Government (adoption of laws, resolutions)
- Fiscal (Tax rates, bonding, taxing districts)
- Personnel (Human Relations, Personnel, collective bargaining)

Rights that are set forth in the Charter are subject to State law and collective bargaining agreements. He reiterated that the City has local control in accordance with the Charter, State Law and collective bargaining agreements. He noted that if the municipality is in disagreement with the local union, the issue may go to arbitration.

The Charter is a blueprint for governance and provides accountability for the Chief Executive Officer in the administration of the City governance. It also provides oversight for the legislative body in the adoption of the ordinances, finances and oversight of administration.

There are several goals in Charter revision:

- Clarity
- Flexibility
- Accountability

Atty. Mednick then reviewed the reasons why flexibility was important. He cautioned the Committee about setting too many proscriptions regarding departments since it may limit the administration in their ability to hire a candidate. He gave an example of requiring a candidate to live in the municipality, which could eliminate a candidate financially due to the cost of living. Another example was requiring the Health Department Director to be a physician. This is no longer required by the State. He added that there are often changes in how life is conducted, such as the ability to hold meetings via the internet.

Atty. Mednick then listed a number of items that a Charter should include, such as auditing for accountability.

Another area of concern is avoiding the creation of a culture of Disregard or Paralysis. This involves having a document that is so constraining that it is ignored rather than followed.

Atty. Mednick then displayed a listing of 23 sections of the current Norwalk Charter and indicated where there were organizational problems. He displayed an example of a potential organizational outline for a Charter:

- Article I – Construction of the Charter for the City of Norwalk
- Article II – Incorporation and General Powers
- Article III – Elections, Electors, Elected Officials, Terms of Office and Other provisions.
- Article IV – The Common Council (Ordinances, Resolutions, & Orders)
- Article V – The Mayor
- Article VI – Other Elected Officials
- Article VII – Boards and Commissions (General requirements, Boards Required by Charter. i.e. Board of Estimate & Taxation, etc.)
- Article VIII – Departments and Department Heads.
- Article IX – Department and Board of Education
- Article X – Budget, Public Funds and Finance
- Article XI – Historical Provisions
- Article XII – Taxing Districts

Attorney Mednick explained that the Commission had approximately a 10 month window to establish the shape and breath of the Charter. He outlined the issues and noted the following first steps:

- Statutory Public Hearing
- Meeting with the Mayor, Council Members and other local officials
- Red line exercises with Corporation Counsel and CRC Counsel.

He cautioned the Commissioners against creating a micromanaged document and said that they should be broad constitutional guides on handling issues. He noted that recently the following actions had taken place:

- Creation of the Commission by Council Resolution
- No partisan activity with no more than one half (1/2) of the Commission being of any particular political party
- Two Required Public Hearings
- A work plan that is formulated and executed at public meetings.
- A public hearing to be held within 45 days of the receipt of the CRC revisions

Attorney Mednick then gave a brief overview of what these steps would require. He then gave a summary of his role in the process that include: legal advice, research and preparation for workshops, and facilitating deliberating and interactions. He noted that while the Mayor statutorily has very little to do with the process, he will also involve the Mayor so that the Mayor will have buy in. The work also needs to be reported back to the Council to keep them informed.

Mr. McQuaid asked about one of the recall cases that Atty Mednick mentioned. Atty. Mednick said that he would send the information on the case to Mr. McQuaid.

Mr. Witherspoon joined the meeting at 6:12 p.m.

V. Discussion and Approval Of 2022-23: Meeting Schedule, Including First Statutory Public Hearing

Mayor Rilling said that he was very impressed with Atty. Mednick's presentation. He also thanked the Commissioners' willingness to serve. He said that he felt that they would produce an excellent charter for the City.

Ms. Brescia said that the Commissioner needed decide whether Wednesday would work for the Commission meeting. She noted that next Wednesday was Yom Kippur. Discussion followed. It was agreed that Wednesday was a good day for the meeting. It was the general consensus that the meetings would be held at 6:00 p.m.

**** MS. BRESCIA MOVED TO SCHEDULE THE CHARTER COMMISSION MEETINGS EVERY OTHER WEDNESDAY AT 6:00 P.M. STARTING ON OCTOBER 12TH.**

**** THE MOTION PASSED UNANIMOUSLY.**

VI. Further Discussion and Questions – Members

ADJOURNMENT

**** MR. DICKENS MOVED TO ADJOURN.**
**** MR. FAIRBAIRN SECONDED.**
**** THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 6:20 p.m.

Respectfully submitted,

S. L. Soltes
Telesco Secretarial Services