Charter Revision Commission Actions

OCTOBER 7, 2004

ATTENDANCE: Thomas A. Flaherty, Chairman; Mayor Alex Knopp; Tom Hamilton, Director of Finance; Galen Wells; Richard Moccia; Randall Avery, Susan Wallerstein

The Chairman called the meeting to order at 7:40 p.m.

ROLL CALL

Randall Avery Susan Wallerstein
Richard Darling (absent) Kelly L. Straniti (absent)
Thomas Flaherty Galen Wells
Charles Pennington (absent) Richard Moccia

OLD BUSINESS

CONTINUED DISCUSSION OF DRAFT REPORT

The Chairman stated there are two things to address this evening. The first is to deal the dates for the budgetary process. The second is to address whether the position of Town Clerk will be an elected or an appointed position.

BUDGET CALENDAR

The Chairman mentioned that he spent time with Mr. Hamilton that day going over budget adoption dates. The present budget runs from December 31 to the first Monday of April, 13 weeks. The preliminary concepts discussed last week would include moving the end date forward from the first Monday of April to the first Monday of May and moving the commencement date from December 31 to January 15, which would give a total of 15 weeks.

Chairman Flaherty reported that at the Public Hearing, Mr. Kimmel stated that he didn't think the Finance Department had sufficient time to provide recommendations to the Common Council and to the Board of Estimate. Also at the Public Hearing, Mr. Davidson had some limited agreement on the same point. Since that time, Corporation Counsel has submitted a revised draft report, which reflects that the budget process would start on January 15 and end on the first Monday of May. This gives two additional weeks more than what the current budget calendar allows. The two weeks were given at the front end of the budget calendar to give the Finance Department more time for review. On the current schedule, the Finance Department has ten days in which to review the budgets from all of the departments and to submit their budget and recommendations to the Common Council and to the Board of Estimate. The dates for that period have been from the 31st of December to the 2nd Monday in January. With the new proposed budget calendar, the amount of time the Finance Department will have for review will be 25 days, which will begin on January 15. What the Corporation Counsel has submitted incorporates the concepts the commission had discussed; however, at the Public Hearing, Mr. John Lombardi stated that the revision process shouldn't interfere with the time needed for referendum under 1-699. Chairman Flaherty reviewed with Mr. Hamilton the current budget process and found that the number of days from the end of the budget process to the end of the fiscal year is between 84 to 90 days, depending on the start date. If the changes the commission is proposing are made, then the amount of days from the end of the budget process to the 1st Monday of May, would be 54 to 60 days. The referendum process covers approximately 70 days. It is clear, stated Chairman Flaherty, that under the current arrangement the time needed for the referendum process is provided. Under the proposed new arrangement, there would be some difficulties that would exist if a referendum happened; however, there is a positive aspect to this. Chairman Flaherty cited a Connecticut State Statute that anticipates this problem. If this occurs, a city can meet its necessary payments during the first ninety days through some procedures with the Common Council and the Board of Estimate. Part of it is the funding will come from temporary notes, which will have to be paid back during that fiscal year. It also provides that they are permitted to spend no more than the on-line items for the prior budget of the prior fiscal year. The point is that there will be some additional issue on squeezing in the referendum process into the fiscal year, but if a referendum does occur and the time goes beyond the fiscal year, there is a plan in place to handle it.

Chairman Flaherty continued that the commission would have to decide whether or not they would adopt the draft based upon last week's discussion. He thought it would depend upon whether the commission felt the inconvenience that would take place, if a referendum occurred, would override the benefits they would obtain from having a different set of dates. At this point, he asked Mr. Hamilton to comment.

Mr. Hamilton stated that there are a few statutes that envision this possibility, because it is not uncommon in Connecticut for this situation to occur. He spoke with the Tax Collector and a number of towns that have this particular scenario issue tax bills based on the same exact levy and the same exact tax bill from the prior year for the first half and then make any necessary adjustments in the second half of the year. This would be one option they could review. The other option that is specifically authorized by state statute is to borrow in anticipation of taxes. In Norwalk, the Board of Estimate is authorized under state law to disperse funds for the first ninety days of the year. If the budget issue is not resolved and it goes beyond ninety days, the Board of Estimate may continue dispersing funds based on the previous year, until such time that the budget issue is resolved.

Mr. Hamilton noted that if the City of Norwalk had a history of routinely have referendums on their budgets, then he might be reluctant to move the date, but that is not Norwalk's history. Under these circumstances, the commission is not doing anything to curtail the rights of the citizens to referendum. If there would be a referendum, the only issue would be that some steps would have to be taken and some inconvenience might be experienced.

Mayor Knopp inquired about the current calendar and if there exists opportunity for the 2nd budget, under the referendum process, to be rejected, which could extend the budget adoption process even further. Mr. Hamilton responded that he didn't think this was the case. Chairman Flaherty offered that the Board of Estimate and Taxation must come up with a new budget within three days of rejection. The new budget must have taken into account whatever was specific, i.e. a budget reduction of 5%, or if there was nothing specific of that nature, then the new budget must be based on its understanding of the spirit and intent of what the referendum was about. He noted that he didn't believe the referendum process could continue to be extended.

The Mayor asked if there was opportunity to revise the old budget schedule and have it conform to the new budget schedule. Mr. Hamilton replied that it could be compressed, but the area that has the most days is the 25-day period for gathering signatures.

Mr. Moccia stated that the point the Mayor brought up was a good one, because it would depend upon how the referendum is worded. If the referendum says to reduce the budget by 5%, then that is one thing, but if the budget is just rejected, it could mean a longer road to adoption. Chairman Flaherty said that isn't how he saw it and he didn't see where there would be the right to process the budget again after the 2nd budget.

Discussion ensued about the number of days of overlap into the new fiscal year, in case of a referendum. Chairman Flaherty commented that if the commission were going to alter the days or structure of the referendum process, he thought the commission would have to go back to the public hearing process. Ms. Wells and Chairman Flaherty agreed that the commission could move forward with what was before them for the budget schedule and that if a referendum did occur, which would be an uncommon occurrence, then there is an existing statute to assist with that situation.

The Mayor pointed out that even under the current budget process, if a referendum happened, that the tax bills would have difficulty getting out. Mr. Hamilton said it would be very challenging to issue the tax bills and estimated bills would have to go out.

Chairman Flaherty proposed two areas of focus for the budget calendar. The first was the question of the law department draft, which took the period of time from January 15 to the first Monday in May. The additional fifteen days were given to the Finance Department for their review period prior to submitting the budget to the Common Council and the Board of Estimate. On that issue, Chairman Flaherty asked for the consensus. Mr. Avery responded that he was not in favor of giving the Finance Department additional time at the beginning of the calendar. As well, he didn't see anything that would alter the Finance Department releasing pass through budgets. The Chairman asked Mr. Avery if he thought the additional days would assist the Finance Department with not releasing a pass through budget, because they would have the additional days to be more thorough and finite. Mr. Avery said he didn't have the confidence that this would happen. He said that he doesn't have a problem with the middle or the end of the new schedule, but personally, he wouldn't delay the beginning of the schedule. He recommended that the department heads should not be given another three weeks to submit their budgets. Chairman Flaherty suggested that Mr. Avery was addressing that the 15th of January would not be the date the departments should be told to submit their information and that it should be a prior date done internally. Then the Finance Department would do best effort to get an accurate budget recommendation and avoid offering a pass through budget.

Mrs. Wallerstein said that she agreed with Mr. Avery that the changing of the dates does not insure that more than a pass through budget would be submitted.

Mr. Moccia disagreed with Mrs. Wallerstein and with Mr. Avery. He said that what he got from the meeting was that Mr. Hamilton needed more time at the beginning and that he was rushed through the process. The result was pass through budgets and that if given more time, more accurate budgets could be delivered. He said his opinion was that the extra days were very important. Ms. Wells stated that her opinion as well was that the extra time was valuable and that this was one of the key points. Chairman Flaherty said that he personally agreed with what Mr. Moccia and Ms. Wells were stating. He didn't think there was a problem with extra time, if Mr. Hamilton could utilize the time to assist with submitting a more accurate budget.

Mayor Knopp suggested that the longer time at the beginning helps particularly with the Board of Education. The Board of Education doesn't take office until January and under the current schedule, it is not without reason to state that individuals who are not going to have to be accountable are doing the voting, which can create problems looking at it from both sides, those exiting and those incoming. This can be true when there is a significant change in the Board of Education, which is what happened in November of 2003. There is value to having the current Board of Education vote for the budget that is their budget.

Chairman Flaherty clarified the Mayor's preference for the calendar dates, which would be to begin the process on January 15 and end on the 1st Monday in May and to give the two additional weeks at the beginning. The Mayor confirmed that this was his preference. The Mayor also pointed out that on the municipality level, the budget process is the only place where the Finance Director puts forth a budget of significance, when there hasn't been much public input. He said he believes that the Finance Director's budget shouldn't carry as much weight as it does under the City of Norwalk Charter, because it precedes all hearings.

Mr. Hamilton commented that the additional time at the front is important, partly because of the reason the Mayor pointed out, which was based on the time the Board of Education officers take office. Additionally, the Finance Department doesn't get the budget until the 31st and then he has literally ten days to examine the Board of Education's budget. This isn't enough time when one considers that the Board of Ed accounts for 60% of the budget expenditures. To have only ten days to review and to make recommendations back to the Board of Education is not enough time. For the city departments, he said he receives their budgets in time to review them.

Mr. Avery said that he believes the additional time will make it possible to deliver more than a pass through budget, but he doesn't want to go on the record to say that if the Charter is changed that there will not be a faster budget. He cited the budget situation a couple of years ago in the state of Connecticut. At that time, budget cuts were made mid-year and in the spring. No one knew what was going to happen with state aid under that set of circumstances.

Ms. Wells said that she was not sure why a pass through budget wouldn't be acceptable, because it comes before public input. Mr. Avery read from the charter and pointed out that to deliver a pass through budget is to be in violation of the charter. Mr. Avery also stated that his experience with previous Finance Directors is that they had a considerable amount of control over the budget and they were responsible for expenditures of the city for certain items. He thinks that the budgetary control in the hands of Finance Director is helpful with being able to control the budgetary expectations of the other department heads. As well, the less control the Finance Director has the more chaotic it is and the more it is in the hands of other political forces that are perhaps less specific than the Finance Director.

Chairman Flaherty took a preliminary vote and found that Mrs. Wallerstein was in favor of the draft before them; Mr. Avery was in favor, but with opposition to the additional time at the beginning of the budget calendar. The Chairman stated that there was a majority in favor of going forward with the current draft.

Then Chairman Flaherty said their second issue was whether or not they were concerned that they will go past the fiscal year with the referendum process. Mr. Avery commented that after listening to the input at the Public Hearing, he distilled that there was no public objection to changing the budget calendar dates, as long as the referendum process could occur.

Chairman Flaherty offered that if they implemented the language they have for the budget adoption dates and they submitted it as a draft report, which states that they are not taking away the right to referendum; they would be making it somewhat difficult if a referendum took place. The referendum process would spillover into the beginning of the fiscal year.
Then he referenced Section 1-289 of the draft report with its proposed amendments over the course of three pages, which changes all the dates. It commences on January 15 and ends on the 1st Monday of May. Based on this information, Chairman Flaherty requested a formal vote.

ACTION ON BUSINESS ITEMS

CHANGE:

CITY OF NORWALK BUDGET ADOPTION CALENDAR
Mr. Hamilton raised a technical issue about a date on the City of Norwalk Budget Adoption Calendar, which states the second Tuesday of February. Mr. Hamilton pointed out that every seven years the second Tuesday in February falls before the second Monday. This date reference can be located in the Proposed Section in the Date column, third item down. After discussion, it was determined that the language would be changed from"2nd Tuesday of February" to the immediately following Tuesday of February. As well, in the same column on the calendar, the sixth item down currently states, "4th Tuesday of February," which is also problematic every seven years. Consensus was to change this language to the immediately following Tuesday.

CHANGE:
DRAFT REPORT
Section 1-289, Page 2
From the top: Lines 14-15; Line 26
LINES 14-15: Change "on or before the second Tuesday…" to the immediately following Tuesday.
LINE 26: Change "fourth Tuesday of February in each year…" to on the immediately following Tuesday in each year, …"

** MR. MOCCIA MOVED TO ADOPT THE BUDGET CALENDAR AS PROPOSED IN THE DRAFT REPORT WITH THE CHANGES TO THE TUESDAY REFERENCES.
** MS. WELLS SECONDED.
** THE MOTION PASSED UNANIMOUSLY.

TOWN CLERK

Chairman Flaherty reminded the commission that there was a consensus at the last meeting on four points, which were:

1. Town Clerk should be an appointed position.
2. The length of term would be four years.
3. The Town Clerk should be an elector.
4. The Mayor should make the appointment
subject to approval of the Common Council.

Chairman Flaherty stated that Attorney Ciccarello wrote the draft report language in accordance with the commission's wishes. The Chairman raised the question about the date the appointment would commence. The Mayor explained the reason he had suggested the appointment go into effect in 2007 was to have one intervening mayoral election occur between the adoption of the charter revision and the effective date. In 2005, the Town Clerk will still be an elected position. In November 2007, the Mayor who is elected at that election would appoint a Town Clerk.

CHANGE
DRAFT REPORT
Section 1-249, C.
Consensus of the commission was to strike all the words in the draft following the word commence and add after the word commence on the second Tuesday following the municipal election in November 2007.

The Mayor raised the issue of the Town Clerk's salary. He stated that the salary of an elected official can't be changed during his or her term, but a salary could be changed for an appointed official. Mr. Avery suggested that Common Council has to establish a salary for the Town Clerk. The Mayor responded that if they didn't, there is a salary now that is set by ordinance.

** MRS. WALLERSTEIN MOVED TO CHANGE THE LANGUAGE IN THE DRAFT REPORT FOR THE TOWN CLERK IN SUB PARAGRAPH C AND IT SHALL BE CHANGED TO: THE APPOINTMENT OF THE TOWN CLERK SHALL COMMENCE ON THE 2ND TUESDAY FOLLOWING THE MUNICIPAL ELECTION IN NOVEMBER 2007.
** MR. MOCCIA SECONDED.
** MOTION PASSED UNANIMOUSLY.

The Chairman asked for comments on the language in the Draft Report. Mr. Avery stated he appreciated the way it was written.

** MR. MOCCIA MOVED TO ADOPT THE DRAFT REPORT AS SUBMITTED BY CORPORATION COUNSEL.
** MS. WELLS SECONDED.
** THE MOTION PASSED UNANIMOUSLY.

MINUTES

Corrections:
Mrs. Wallerstein requested that two lines be edited from the minutes. The first edit is on Page 10, Paragraph 4, Sentence 3. Delete Sentence 3, which references the town clerk. (Please note that this is the correct page number from what the secretary submitted. She was not given a set of minutes at the meeting and noticed when the commissioners cited page numbers, they were not the same as the page numbers she had in her office records. Mrs. Wallerstein said the deletions should be made from her Page 8.)

The second edit is on Page 11, Paragraph 1, Line 1, Delete: "Mrs. Wallerstein spoke of how the position is protected." (At the meeting Mrs. Wallerstein noted that the edit should be made from the 2nd line from the bottom.)

** MR. MOCCIA MOVED TO APPROVE THE DELETION OF TWO SENTENCES IN THE MINUTES FROM SEPTEMBER 21, 2004.
** MS. WELLS SECONDED.
** THE MOTION PASSED UNANIMOUSLY.

** MR. MOCCIA MOVED TO APPROVE THE MINUTES OF SEPTEMBER 21, 2004 WITH THE DELETIONS.
** MS. WELLS SECONDED.
** THE MOTION PASSED UNANIMOUSLY.

Chairman Flaherty stated that immediately following the next Public Hearing, there will be a meeting of the commissioners.

NEW BUSINESS

There was no new business.

ADJOURNMENT

** MS. WELLS MOVED TO ADJOURN.
** MR. MOCCIA SECONDED.
** THE MOTION PASSED UNANIMOUSLY.

The meeting was adjourned at 8:50 p.m.

Respectfully submitted by,

Katharine Reilly
Telesco Secretarial Services