

TOWN OF EAST WINDSOR BOARD OF SELECTMEN

PUBLIC HEARING

Thursday, May 30, 2019

7:00 p.m.

Town Hall Meeting Room
11 Rye Street, Broad Brook, CT. 06016

Public Hearing Minutes

*** *These Minutes are not official until approved at a subsequent meeting* ***

Board of Selectmen: Robert Maynard, First Selectman; Steve Dearborn, Deputy First Selectman; Jason E. Bowsza, Selectman; Andy Hoffman, Selectman; Charles J. Szymanski, Selectman

Charter Revision Commission: John Matthews, Chairman; Don Arcari, Secretary; Cher Balch, Betsy Burns, Bill Loos, John Mazza, Rachel Safford, Charles Szymanski, Keith Yagaloff, Bonnie Yosky.

ATTENDANCE: Board of Selectmen: Robert Maynard, First Selectman; Andy Hoffman, Selectman; Charles J. Szymanski, Selectman.

ABSENT: Steve Dearborn, Deputy First Selectman Dearborn; Jason E. Bowsza, Selectman.

ATTENDANCE: Charter Revision Commission: John Matthews, Chairman; Bill Loos, John Mazza, Charles Szymanski.

ABSENT: Don Arcari, Cher Balch, Betsy Burns, Rachel Safford, Keith Yagaloff, Bonnie Yosky.

SPEAKERS/GUESTS: Attorney Robert DeCrescenzo.

Public: Paul Anderson, Marie DeSousa, Tom Lasner, Bob Leach, Chairman, Police Commission; Sarah Muska, Board of Finance; Charlie Nordell, Dick Pippin, Kathy Pippin.

Press: No one from the Press was present

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TIME AND PLACE OF REGULAR MEETING:

First Selectman Maynard called the Public Hearing to Order at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

PLEDGE OF ALLEGIANCE:

Everyone present stood to recite the Pledge of Allegiance.

DISCUSSION OF CHARTER REVISION DRAFT REPORT WITH MEMBERS OF THE CHARTER REVISION COMMISSION:

First Selectman Maynard read the Legal Notice for the Public Hearing.

First Selectman Maynard reported this is an ongoing process that started about a year ago. The Charter Revision Commission has worked hard to bring us to this point; he applauded their efforts. On May 22nd the Board of Selectmen and the Charter Revision Commission discussed their Draft Report; the Public Hearing tonight is on that report, which has been available on the Town website. The next step will be another joint meeting of the Board of Selectmen and the Charter Revision Commission on June 6th where they will rewrite the Draft Report; another Public Hearing will be held after the June 6th Meeting.

First Selectman Maynard noted he has prepared a draft of his personal comments; copies are available on the table. He noted the other Selectmen will be providing their comments as well. First Selectman Maynard noted the State Statutes required that the Board of Selectmen hold this Public Hearing. The Draft Report is a work in progress at this point.

First Selectman Maynard opened discussion to the audience. He noted discussion would follow Roberts Rules of Order; he requested everyone speak respectfully.

Paul Anderson, 89 Main Street: Mr. Anderson indicated he's really impressed with the Draft Report the Charter Revision Commission has produced; it's a difficult process.

Mr. Anderson noted that at one point the Charter Revision Commission had discussed changing the default percentage after three budget failures to zero percent as they felt deleting the budget default might encourage more people to participate in the budget votes. The Charter Revision Commission has now removed the zero default from this Charter revision; it will continue to be a 2% default budget increase after three referendum failures. Mr. Anderson noted that during previous discussions Kathy Bilodeau had suggested making the budget default 10% to get the people's attention. Mr. Anderson noted there was a 14% participation rate for the second budget referendum vote, which is very weak; people are not paying attention; we have only a few people deciding what we're going to do. Mr. Anderson felt if the default was 10% after three budget failures – although it sounds outrageous people wouldn't allow that to happen, and people would

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actually vote. Mr. Anderson felt the 2% was put into the Charter because the budget process went on continuously for referendum after referendum. We've been stuck with the 2% for years; it hasn't worked very well; it's an inappropriate number; to continue with the percentage is a big mistake. Mr. Anderson suggested he would rather do away with the default entirely and continue to vote until we get a budget, or put a number that will get people to participate.

Selectman Hoffman asked Mr. Anderson for suggestions to get people's attention? Mr. Anderson suggested perhaps more signage but noted that's not a Charter issue. He agreed we need to do something serious to advise people of the pending referendums. Mr. Anderson agreed passing a 10% default would be difficult, but he felt the problem is we're going to get a very poor turnout and you're not getting the pulse of the Town. He noted we have a \$40 million budget and people aren't even saying yes or no; if you give the people a number they can't live with they'll participate because they'll have to.

Charter Revision Commission Chairman Matthews agreed more signage would be beneficial. He noted the Commission had discussed a minimum notification of signage around town but the Commission didn't get that far. He felt that the Board of Selectman had the ability to post signage themselves. Charter Revision Commission Chairman Matthews cited Ellington has sandwich board signs placed strategically around town. He suggested signs in front of Town Hall and the Annex aren't sufficient, most of our traffic is on North Road or is east-west but he felt additional signage along roads used more frequently would encourage more participation. Selectman Hoffman noted he saw Ellington's signs; there weren't a lot of them but they were large. Selectman Hoffman noted they were many "vote yes" and "vote no" signs around East Windsor; the signs didn't say there was a referendum but people knew there was a vote; people won't turn out. Charter Revision Commission Chairman Matthews felt the sandwich signs would be larger, and would be established as town signs; he felt that might make a difference.

John Mazza, 143 Winkler Road: Charter Revision Commissioner Mazza suggested the Town should consider putting a communications person on the payroll to post articles in the newspapers. He noted he sees articles about South Windsor, Ellington and Windsor Locks but nothing about East Windsor. Mr. Mazza suggested we could also incorporate the communications job with another similar position. Charter Revision Commissioner Mazza felt that has to be done; we have no communications in this town.

Regarding the "vote yes" or "vote no" signs, there was no date on them.

First Selectman Maynard suggested maybe the Town Administrator could take on the communications. Charter Revision Commissioner Mazza noted that was to come; he felt we need to do something today.

Tom Lasner, 27 Laurel Circle: Mr. Lasner questioned if we have a town database of people's e-mail addresses so we could send out e-mail notices? He cited he uses Facebook and keeps up to date on Facebook, as are most of his neighbors, but Mr. Lasner questioned if there's a

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prohibition for the Town to use email to reach out to residents? First Selectman Maynard noted there's an opportunity on the Town website for people to sign up for e-mail notifications but he didn't know the number of participants. First Selectman Maynard noted the Treasurer had suggested sending an e-mail blast prior to the previous referendum; he felt the Town could do more to reach out to residents.

Charlie Nordell, 7 Grandview Terrace: Mr. Nordell agreed with Mr. Anderson; it will take something to wake people up. Mr. Nordell reported they've done numerous things to get the word out about a budget vote - signs, e-mails and flyers; people aren't participating, everyone feels their neighbor will do it. Mr. Nordell indicated that's not happening, the numbers aren't there. It needs to be addressed. Maybe the 10%, or 5% will get people's attention, but it needs to be drastic.

Mr. Nordell cautioned everyone that if the 2% continues 2% of nothing is still nothing. How will we fund the new positions if we're stuck with the 2%; we'll have a difficult time funding the positions.

Sarah Muska, 25 Maple Avenue: Ms. Muska said you're proposing having a full time First Selectman and a full time Town Administrator and if we keep the 2%; how will we fund both positions? Ms. Muska cautioned the Board of Selectmen that by keeping the checks and balances with the Board of Finance, Board of Selectmen, and the Board of Education rather than having it all on one person or board.

Dick Pippin, 37 Woolam Road: (Page references cited by Mr. Pippin)

Page 4 of the Charter: term of First Selectman – four years. Mr. Pippin suggested if we go with the Town Administrator we should return the term for the First Selectman to two years. He felt there were very few towns that have four years. When you have professional management the Board of Selectmen you should be able to rotate them every two years, give somebody else a chance. Selectman Hoffman questioned Mr. Pippin if he liked the idea of the Town Administrator? Mr. Pippin replied yes, it's a jackpot, but we need to make changes to make it work; change the term of the First Selectman to two years like everybody else. And the next change is...

Page 13 of the Charter: Mr. Pippin cited "The First Selectman position shall be full time." He didn't feel we should be doing this; we don't need two full time administrators doing the same job. The First Selectmen's job should be to run the Board of Selectmen Meetings and act as a liaison between the boards and the staff. We hire professional people to do their jobs, we need to let them do it. Mr. Pippin questioned where to get the money; he felt the Town Administrator would cost \$200,000 a year with benefits. You're not going to dig that up out of the budget, especially with this 2% axe hanging over your head. If you stay with 2% you'll be lucky to fund what's going on, especially with the way insurance is going up, never mind adding new positions, you're going to be cutting positions.

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Page 35 of the Charter: Regarding the interdepartmental transfers in the last three months of the year made by the Board of Selectmen, Mr. Pippin noted the Board of Finance does that all year and then you're going to take it away from them when most of the transfers are done and try to do it yourselves? We should leave that to the Board of Finance as they are the people who are watching the financial ability of this town. Mr. Pippin also felt that under "bids and purchases" there should be some exemption for State bids.

Page 37 of the Charter: "With oversight by the Board of Selectmen, the First Selectman shall coordinate and manage the preparation of the town Budget...", you're going to have a professional person, most likely with a Master's Degree in Administration, Mr. Pippin felt the Town Administrator should be included in the coordination of the budget; the Selectmen are part-timers, they're amateurs. We don't pay enough to get a professional First Selectman.

Page 43 of the Charter: Ok, here we go, back to the 2%. Mr. Pippin felt the way things are going this year we may see how much devastation that 2% can cause. Mr. Pippin suggested the schools may even lose accreditation if we go to the 2%. Mr. Pippin felt the 2% needs to go the way of the Dodo bird. He felt the 2% worked when the economy wasn't growing you could get away with that but all of those little things have been weeded out over the last 10 years we no longer have any places to raid. You really need to take that 2% and shift it down the road.

Page 51 of the Charter: Regarding the Town Meeting, Mr. Pippin agreed with First Selectman Maynard, it should be 1% rather than \$150,000. The Charter may be in effect for 15 years, \$150,000 may be good this year but may be a burden later.

Page 52 of the Charter, Sub-section D: "Within fifteen (15) days of receipt of said petition...said special referendum which shall be held not less than 20 (20) days nor more than ninety (90) days..." Mr. Pippin felt 90 days is 2 months; if you can't get something moving in 30 days you're all wet. If this expense is a problem and something needs to be done and you have some people who don't want to do it they could drag it out until the next fiscal year. The 90 days is way too long.

Mr. Pippin apologized if he offended anyone with his comments; he's been through it; I've sat up there; it's a tough job.

Charter Revision Commission Chairman Matthews suggested the transfer of funds in the final quarter of the year involves a small amount of money allowed. Today, no transfers can be done without the board of Finance approval. We have a Chief Executive Officer who has no discretionary funds. By allowing the \$20,000 transfer, and no more than three of those making a total of \$60,000 out of \$40 million, gives some discretion to the Board of Selectmen and takes away some of the politics when the Board of Finance is at odds with the Board of Selectmen. This is a small amount of money for the Board of Selectmen to deal with some of the things they need to do. Right now it's zero.

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Paul Anderson, 89 Main Street: Mr. Anderson suggested comparing the \$20,000 to \$60,000 to a \$40 million budget isn't totally fair because we don't do anything with the Board of Education budget. To keep it in perspective you're really comparing it to the Town portion of the budget which is much smaller. First Selectman Maynard noted the Town side is about \$15 million.

Dick Pippin, 37 Woolam Road: Mr. Pippin felt we should keep the Board of Selectmen doing administrative work and keep the Board of Finance doing the financial work. The Board of Selectmen have too much work of their own to deal with the small amount of transfers. First Selectman Maynard noted the proposal calls for the department head to request the transfer; Mr. Pippin felt the Board of Selectmen can do that as well, and usually, they go right through.

Selectman Szymanski suggested the sandwich sign boards is a good example of use of discretionary money. From the time he began serving on the Board of Selectmen he felt it was important to have better signage at the Town Hall and in the villages – Broad Brook, Windsorville, Melrose, Scantic, Warehouse Point – We don't have the money to do that; there are other things as well that are not required but would be good things to do. Selectman Szymanski felt we focus on things that are required in the budget but other towns focus on things that are good for the town. Selectman Szymanski referenced the type of signage he mentioned; Mr. Pippin suggested there hasn't been the money to do it.

Bill Loos, Melrose Road: Regarding signage Charter Revision Commissioner Loos noted the Warehouse Point Fire District is installing an electronic sign with a stone base that must have cost over \$25,000. Mr. Pippin felt that sign was donated to the Fire Department, and needed Planning and Zoning approval; there's no Town money involved in that.

Paul Anderson, 89 Main Street: Regarding signage and communication, he suggested walking down the hall in the Town Hall and try to find an office. Signs should be above the door, not horizontal on the wall. People need to ask; it's a simple communication issue but it's not happening. Mr. Pippin suggested most Town Halls have a directory when you come in the door; maybe we need a receptionist; First Selectman Maynard suggested perhaps a senior citizen would volunteer.

Bob Leach, 39 Church Street: (Document Section and Page references cited by Mr. Leach)

Section 6-6 (H) Finance Director/Treasurer: Mr. Leach cited language which reads "...familiarize the Board of Selectmen on all grants and other State and Federal programs available to the town and other boards and agencies and commissions and shall follow the instructions of the Board of Selectmen with respect to implementation of same..." , he questioned if the Board of Selectmen would be deciding on the Board of Education's grant money? First Selectman Maynard replied negatively. Mr. Leach suggested this is where he has issues; there's language, intent, and opinion; he felt a lot of the language will need to get an opinion on the intent, it's not clear. First Selectman Maynard suggested the only thing the

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Charter Revision Commission is doing with the section on the Finance Director is changing the name of the position; Mr. Leach felt that's not what the language says.

The next section, (I), Mr. Leach read "purchase or cause to be purchased, rules and regulations which shall be prescribed by the Board of Selectmen, all supplies, commodities, acquired by any office or agency, including the Board of Education, to the extent that said Board of Education shall authorize in order to do so." First Selectman Maynard questioned that Mr. Leach was referencing Section (I)? Mr. Leach referenced Section 6.6(I), noting he didn't have the current document. Discussion followed to determine the point of discussion; Mr. Anderson suggested section (I) was referring to the Police Department, others in the audience felt Mr. Leach had indicated he had been discussing the Finance Director. After reviewing his documentation Mr. Leach suggested he had made a mistake.

Section 6-6(H): Administrative Officer (Page 22): Mr. Leach referenced language "The Administrative Officer shall be responsible for day to day operations of Town Departments, except the WPCA and the Housing Authority,..." Mr. Leach suggested day to day operations would include the Police Department in which we have two paid full time professional administrators now. Mr. Leach couldn't imagine that any professional administrator that we could hire could, with three to four years training, would be able to handle the day to day operation of the Police Department. First Selectman Maynard pointed out that there are sections in the Charter Revision Report that are specific to the Police Department. Mr. Leach agreed but suggested this goes to his point of the intent, language, and opinion; this is what the language clearly states and then there's the intent, which maybe something different. First Selectman Maynard suggested if the Town Administrator passes then it would depend if Section 6.6 (Police Department) and Section 7.7 (Police Commission) is accepted or rejected; he suggested if it's rejected the Police Chief would be reporting to the Police Commission. Mr. Leach reported it's not the reporting, the language is very clear – it's the day to day operations – which are handled by the Chief and the Deputy Chief. First Selectman Maynard cited the day to day operations would be handled by the Police Commission; he doesn't handle anything in the Police Department, and neither would the Administrator if the current Charter stays the same. Mr. Leach countered that the language clearly says the Administrative Officer will handle the day to day operations; it needs to be cleared up.

Section 6-6(I): Police Department: Mr. Leach felt that much of the Police Department language, probably over 80%, does two things: 1) It strips the authority of the Police Commission and reverses some of the roles of the Police Commission and the Police Chief, and, Mr. Leach estimated, probably 90% of it is in violation of State Statutes in regard to the Police Commission. First Selectman Maynard suggested it would be helpful if Mr. Leach could write down some comments if the Police Chief didn't report to the Police Commission; Mr. Leach questioned for what reason? First Selectman Maynard suggested to have correct information. Mr. Leach suggested the correct thing to do is to point out the State Statutes that govern the Police Commission, more than ¾ of the language is in violation with the General Statutes. Discussion continued, with First Selectman Maynard continuing to suggest that Mr. Leach offer

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suggestions; Mr. Leach continued to be opposed to the proposed changes, citing the majority of the language is in conflict with the State Statutes. Mr. Leach found it odd that the Charter Revision Commission hadn't queried any members of the Police Commission regarding this language.

Page 31, Section 7-7, Police Commission, Paragraph C: Powers and Duties: Mr. Leach read the proposed language for Sub-section C): **"Powers and duties.** The Commission shall be responsible for establishing Police Department policies and shall also have those powers and duties, not inconsistent with this Charter, as are now or may hereafter be conferred or imposed upon such Commission by. C.G.S. Section 7-276, including, but not limited to, preparation of a proposed budget for the Police Department to be submitted to the Board of Selectmen, and such other duties as may be imposed by the Board of Selectmen."

Mr. Leach reiterated the Police Commission is governed by the State Statutes; he felt the proposed language was open to anything the Board of Selectmen could impose any new duties they want on the Police Commission without repercussions; it's so open ended. First Selectman Maynard suggested striking "by the Board of Selectmen"? Mr. Leach reiterated the language is in conflict with the State Statutes.

Page 23, Police Department: Mr. Leach felt a stronger point regarding the Police Department is against the bargaining unit contract; he felt the proposal requires more study of the language. First Selectman Maynard noted the review of the collective bargaining contract is done by the Board of Selectman now, and Mr. Leach is currently a part of that process. Mr. Leach concurred, noting any of those participating parties should be able to clearly point out what's in violation of the collective bargaining contract. Regarding "the Chief of Police shall assign all members of the Police Department to their respective posts, shifts, details, and duties." Mr. Leach suggested the shift scheduling is done on a bid process which is in the bargaining unit contract. Mr. Leach suggested "shall" creates ambiguous language. Other language is in conflict with State Statutes regarding the Police Commission. Mr. Leach referenced "...The Chief of Police shall be responsible for the efficiency, discipline, and good conduct of the Department and for the care and custody of all property used by the Department." Mr. Leach suggested the care and custody of all property is in the Police Commission's hands by State Statutes. First Selectman Maynard noted reference to the State Statutes as needed.

Page 31, Sub-section B: Mr. Leach cited "The Chief of Police shall be responsible for the preservation of the public peace, prevention of crime, apprehension of criminals, regulation of traffic, protection of the rights of persons and property and enforcement of the laws of the state..."; he felt that was feel good language, and is probably their goal, but it puts that into a different light. Mr. Leach suggested for the sake of argument, let's say that someone felt their property had been damaged and the Police was responsible – "...the protection of the rights of persons...", somebody violates my rights, according to the Town Charter the Police shall be responsible. It's feel good language but it's not something that's enforceable. Mr. Leach suggested some of the Police Commission language is very similar, "...that the Police

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Commission shall be responsible for..." – discussion paused while Mr. Leach searched his document for language.

First Selectman Maynard questioned Mr. Leach how he would write language to describe a member of the Police Commission, or himself, for not doing their job; Mr. Leach suggested start with their employment contract. First Selectman Maynard suggested perhaps language within the job description. Mr. Leach suggested there aren't many words that get around the word "shall"; he felt you can't put all of that onus on the Chief of Police.

Selectman Szymanski requested to respond to Mr. Leach's comments that the Police can't be responsible for safety, etc. but over time he's heard is that you need a Sargent to be responsible for people on the road, we need a Lieutenant because we need another level of responsibility, we need a captain as another level of responsibility, we need a detective for another level of responsibility for that kind of work, we need a deputy chief for the day to day, Selectman Szymanski suggested the term "be responsible for" is a term that's been used for years, and that's what everyone says that's in police work. Mr. Leach suggested that internally, within the hierarchy of the Police Department and how the department runs, he felt this language was asking for the Police Chief and the Police Commission to be responsible for the whole community. Selectman Szymanski suggested the Police Chief is the top official. Mr. Leach cited the hierarchy within the Police Department; he felt this language puts the responsibility for the whole community on the Chief. It's too ambiguous; it's feel good language; Mr. Leach felt to put that in the Charter was a mistake.

Selectman Hoffman questioned that Mr. Leach would agree the chief is ultimately responsible for his department and is the interface with the public; the buck stops there. Mr. Leach suggested it's the Chief and the Commission; they do have a public relations officer within the department but to put it in writing. Mr. Leach felt to in the Charter that you can do this; it's ambiguous. Selectman Hoffman didn't agree; he felt it's important to have one person you can go to and say he's responsible, not a public relations guy. Mr. Leach felt that with regard to his rights being violated the proposed language revisions for the Charter makes the Police Chief responsible for that; he could be sue the town. Mr. Leach suggested intent is one thing; opinion is another. Selectman Hoffman indicated he liked the idea of having one person who's responsible; it makes it easier to identify and work the problem.

Selectman Szymanski questioned if Mr. Leach was thinking in terms of something or an incident outside the department related to the Police? Mr. Leach referenced the language "...the Chief shall be responsible..." Selectman Szymanski indicated there must be causation, you would have to have something that he, or the department, would have done something to violate those rights; it wouldn't be something like someone walking on my lawn.

Paul Anderson, 89 Main Street: Mr. Anderson suggested this might be extreme detail to put in the Charter; this might be addressed somewhere else. He cited the Chief has a contract and a job description, it defines what he's responsible for; why put this language in more than one place.

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Mr. Anderson suggested job descriptions are recognized globally, that's what you do when you take on that job. Mr. Anderson questioned why put that in a document that gets reviewed every five years? Selectman Hoffman suggested the job description must be much more detailed than this language. Mr. Anderson felt if we have a complete job description of everyone in the force we don't need to put it in the Charter. Mr. Anderson felt the intent was good but duplication causes conflicts.

Charlie Nordell, 7 Grandview Terrace: Mr. Nordell felt the job descriptions shouldn't be in the Charter; the Charter lasts too long. Job descriptions should be totally separate from the Charter. If the Charter references that this person must follow this the job description – fine. Mr. Nordell felt Mr. Leach was saying this language doesn't make the Police Chief responsible for his job, it makes him liable, and that's a huge difference. Mr. Nordell felt to make him liable by interpretation and will send us to court.

Bob Leach, 39 Church Street: Questioned if you put in the Charter that the Department of Public Works shall be responsible for the upkeep of all roads and the catch basins, or the Superintendent of Schools shall be responsible for good education? How far do you go? This doesn't fit in the Charter?

Dick Pippin, 37 Woolam Road: This is fine and dandy; it's a lot of semantics. You know what? For what we're paying our Police Chief, and our Superintendent of Schools, and our Department of Public Works Director they damned well better be responsible for their duties. He questioned who else would be, the Board of Selectmen? He agreed that the Police Chief is responsible for the day to day duties of running his department; why else do we have him? The same with the Public Works Director, it's his job to get the roads plowed; that needs to be spelled out. And the fire chiefs are responsible for the fire departments. Mr. Pippin didn't address the liability issue; he suggested you have experts for that

Charter Revision Commission Chairman Matthews suggested the statements in the Charter are general statements; outside of that you have detailed job descriptions. When there's a conflict and redundancy the Charter takes precedence over ordinances or job descriptions, if there's an inconsistency the Charter prevails.

Charter Revision Commission Chairman Matthews noted the phrase "in violation of State Statutes" has come up many times. State Statute frequently says "unless inconsistent with law"; what they're really talking about is the organic law of the Town. He noted there are State Statutes regarding what the Police Commission does but if you have a different definition of that in the Charter the Charter prevails. It's not in violation of State Statutes, it's inconsistent with State Statutes, and when there's inconsistency then in many cases, as long as the State allows it, the Charter prevails. Charter Revision Commission Chairman Matthews suggested the Charter Revision Commission is trying to make it organic law within the Town of East Windsor.

Dick Pippin, 37 Woolam Road:

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Page 56, 12(B), Mr. Pippin referenced "...Any action of the Charter shall be held invalid by a court of competent jurisdiction..." So if the Charter is in violation of the State Statutes the State prevails, anything Federal the Federal prevails over the State. Charter Revision Commission Chairman Matthews clarified most Statutes you'll see "unless they're inconsistent with the law..." they're talking organic law.

Bob Leach, 39 Church Street: Mr. Leach noted Connecticut is a home rule state. As a home rule state we can write whatever we want in the Charter and regardless of State law the Charter prevails. Charter Revision Commission Chairman Matthews suggested in some cases. Mr. Leach suggested being a home rule state it allows you write into the Charter things that are not egregiously against the wall but may not be consistent at all with State Statutes, and you can do that with Connecticut being a home rule state. Mr. Leach questioned why would you; State Statutes have been established by our State legislature in order to balance the power of government and allow municipalities to govern in a fair and equitable manner.

Attorney DeCrescenzo addressed comments made by the public. He noted there are certain principles that apply to state law vs. charters, and the first principle is this is a home rule state. This goes back to the 1950s and the courts have given municipalities broad discretion to fashion charters to suit mobile purposes when the subject of the Charter provision is a matter of what's called "purely local concern." When it's a matter of Statewide concern then no matter what the Charter says State law trumps the Charter. Attorney DeCrescenzo suggested an easy example of that is the Freedom of Information Act; you can not write a Charter provision that's in conflict with the Freedom of Information Act because those Statutes have been determined, Freedom of Information and all that involves, is a matter of Statewide concern. Matters of local concern, according to the courts, are those matters in the Charter that covers the organization or local bodies to suit local needs. Attorney DeCrescenzo suggested the Windham Tax Association case is the case that's the last word on that and that dealt with an apparent conflict between the Charter agreement that had to do with the Finance Commission and how they did their work and that Statute, which allows towns to have a Finance Board. And the court held that because the matter of how Windham chose to set up the powers of its Board of Finance it was a matter of purely local concern and the Charter provision pre-empted the Statute on the matters of Windham's concern.

Attorney DeCrescenzo noted there are other things that Boards of Finance do that are of Statewide concern, when you sell bonds you're selling to an international market and you can't have local Charters telling you how to do that. So the Board of Finance has statewide concerns that they have to follow by Statute. As does the Police Commission, because the work of the Police Department is governed, in large part, by State Statute – certification of officers, and criminal law and enforcement of criminal law – those are matters of Statewide concern. How you set up the division of these responsibilities between Town administration, Police Commission and Police Department – you are free to do that in your Charter. Attorney DeCrescenzo noted the Police Commission Statute says the Town may establish a Police Commission by ordinance, with the following duties, which you've done here. And once you've

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done that you have a Statutory Police Commission. If you choose, and it's a policy choice, you don't have to do this, but if you define a Police Commission in your Charter in a different manner, so long as you don't intrude on the matters of Statewide concern that the Police Department does every single day you're free as a municipality to establish a different scheme of responsibilities between the Town administration, Police Commission, and the Police Department. Many towns do this.

Secondly, to the extent that anything in this Charter in any provision is in violation of the collective bargaining unit, Attorney DeCrescenzo cited there's another Statute that says a collective bargaining agreement trumps the Charter. So every provision of every Charter is subject to a provision of a collective bargaining agreement because that's of Statewide concern. Attorney DeCrescenzo suggested it's important to keep these principles in mind because you can find lots of examples of possible conflict between the Charter and something the State Statute is saying. And, basically, every municipal officer has duties that are of Statewide concern, - the Assessor, the Tax Collector, the Registrar of Voters, the Building Official - there's a set of Statutes that tells that official how to do their work. How you organize the management of that work is a separate issue and that's where you have latitude, as with the Windham case, how to set up in your Charter your administrative scheme you choose to do.

Attorney DeCrescenzo suggested that's what the Charter Commission is proposing here; whether or not to do it that way, whatever way it's worded here, is a policy choice. That's the subject of this Public Hearing and further deliberations with the Charter Commission. You can virtually delete "to be responsible for" from every line where it exists and not change the substance of the provision.

Last thing, liability. Attorney DeCrescenzo noted that all the responsibilities described in the Charter for its officials are discretionary upon the official. In other words, it's a discretionary duty of the Police Chief, or any Police Officer, to enforce the law. State law says those discretionary acts of municipal employees, and the municipality, are subject to municipal immunity. So there is no liability created by the choice of words; it's a drafting convenience to say the Chief will be responsible for the preservation of the peace; it's just a choice of words to describe the management responsibilities. If there's a better choice of words to make it clearer then that would be perfectly fine.

Paul Anderson, 89 Main Street: Mr. Anderson felt it's important to understand if we've already defined what the employee does it's not necessary in the Charter; it's already defined. Personally, he feels the Charter should be as concise as we can get away with, not as elaborate as you can make it. If we review the responsibilities of the people as it's understood, and in writing, duplicating that is an effort that has no value. Mr. Anderson would like the document to be easier to read and less inclined for there to be an interpretation as to who takes precedence. Mr. Anderson suggested simplicity is usually a better choice.

No one else requested to speak.

**TOWN OF EAST WINDSOR
BOARD OF SELECTMEN
Public Hearing on Charter Revision Commission Draft Report
May 30, 2019
PUBLIC HEARING MINUTES**

ADJOURNMENT:

First Selectman Maynard adjourned the Public Hearing at 8:15 p.m.

Respectfully submitted

Peg Hoffman, Recording Secretary, East Windsor Board of Selectmen