


**Westbrook Charter Commission
Public Hearing**

Monday, October 24, 2011



Home Rule

- Under the Connecticut Home Rule Act, "municipalities have the power to adopt a charter to serve as the organic law of that municipality." Connecticut General Statutes § 7-188(a).
- "It is well established that a [town's] charter is the fountainhead of municipal powers."
- "The charter serves as an enabling act, both creating power and prescribing the form in which it must be exercised."

Supreme Court of Connecticut per Justice Katz in Windham Taxpayers Association et al. v. Board of Selectment of Town of Windham, 234 Conn. 513, 529, 662 A.2d 1281, 1290 (1995). (Citations and internal quotation marks omitted.)

Laws Change as Society Changes

In 1897, Oliver Wendell Holmes, Jr. criticized the reluctance to change laws:

"It is revolting to have no better reason for a rule of law than that it was laid down in the time of Henry IV. It is still more revolting if the grounds upon which it was laid down have vanished long since, and the rule simply persists from blind imitation of the past."

Oliver Wendell Holmes, Jr., "The Path of the Law" a speech the text of which was published in Collected Legal Papers, at 187 (Harcourt, Brace and Howe, 1920) as well as in The Holmes Reader, at 74 (Oceana's Docket Books, 1955).

Laws Change as Society Changes

An illustration of the "phenomenon" about which Justice Holmes wrote is an old a stereotypical notion about a woman's role in society:

"The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator."

Bradwell v. Illinois, 83 U.S. (16 Wall) 130, 141 (1873 Bradley, J. concurring) (upheld a state rule of court forbidding women to practice law).

Embark Upon Charter Process

- Fight our natural resistance to change.
- Exercise our right to Home Rule.
- Develop a Charter which will be a living breathing document to grow with us as we grow.
- Review it periodically to ensure that it meets our needs.
- Examine the process in order to proceed.

Connecticut Statutes

Title 7

Chapter 99 MUNICIPAL CHARTERS

§ 7-191 (a) Commission holds at least two Public Hearings

- one prior to any substantive work, and
- one after the draft report has been completed, but not submitted.

Connecticut Statutes

§ 7-191 (b) Draft Report including proposed Charter submitted to Town Clerk for Board of Selectmen

- Board of Selectmen holds 1 or more Public Hearings within 45 days
- 15 days after last Public Hearing, Board of Selectmen will recommend changes desired

Connecticut Statutes

§ 7-191 (c) If no recommendations within 15 days, then report is final

- If recommendations are made, then Commission confers with Board of Selectmen and has 30 days to make final report after receiving recommendations.

Connecticut Statutes

§ 7-191(d) No later than 15 days after receiving final report, Board of Selectmen votes to accept or reject

- If rejected, proposed Charter can only move forward by a petition signed by at least 10% of the registered voters in town.
- If accepted, proposed Charter is published and made available to public.

Connecticut Statutes

§ 7-191(e) If the Charter proceeds, then majority vote of Board of Selectmen determines whether to send the proposed Charter to a vote at a Regular Election or a Special Election to be held no later than 15 months after acceptance of the proposed Charter by Board of Selectmen or certification of the petition for the proposed Charter.

Connecticut Statutes

§ 7-191(f) Proposed Charter then passes by a vote of the electors of the town:

- (1) at a Regular election, by simple majority;
 - (2) at a Special election, by a majority which also comprises at least 15% of registered voters.
- Charter becomes effective 30 days after passage unless a different effective date or dates are specified in the Charter.

Connecticut Statutes

§ 7-191(g)

Approved Charter is filed with the Secretary of State within 30 days of approval.

Commission's Work

Over almost 16 months of study, the Commission has conducted substantial research, taken a survey, sought public input, and elicited testimony from numerous sources to investigate the advantages of implementing various potential forms of government as well as the range of possibilities regarding these forms of government.

Draft Report of the Westbrook Charter Commission

SUBMITTED TO THE TOWN CLERK WITH INSTRUCTIONS TO TRANSMIT TO THE BOARD OF SELECTMEN OF THE TOWN OF WESTBROOK:

The Westbrook Charter Commission (hereinafter referred to as the "Commission") appointed on June 28, 2010 respectfully submits this Draft Report including a proposed Charter to the Town Clerk of Westbrook with instructions to transmit it, along with all of its Exhibits, including but not limited to a proposed Charter, to the Board of Selectmen pursuant to Connecticut General Statutes Section 7-191(b) for its consideration and action pursuant to said Section 7-191.

Completed Draft Report

The Completed "**Draft Report**" of the Commission

- **Exhibit A** is the presentation made by the Chairman of the Commission at the last Public Hearing
- **Exhibit B** is the initial version of the Charter discussed at the last Public Hearing
- **Exhibit C** is the presentation made by PLIII on the reasons for a Town Manager Form of Government
- **Exhibit D** is the modified version of Charter which is the official proposed Charter to be submitted to the Board of Selectmen

Proposed Charter

Exhibit D is the operative document that we will be discussing tonight.

- Commission's current proposal for a Charter for our Town.
- Board of Selectmen accepts or rejects
- They can vote to the send Charter on to the people of our town to vote, or they can decide not to send it for such a vote.

Charter of the Town of Westbrook

EXHIBIT D - 10-12-2011

CHAPTER ONE: INCORPORATION AND GENERAL POWERS

Section 1-1: INCORPORATION. All of the inhabitants residing within the territorial limits of the Town of Westbrook, as previously constituted, shall continue to be a body politic and corporate under the name of "The Town of Westbrook," herein after called "the Town," and as such shall have perpetual succession and may hold and exercise all powers and privileges heretofore exercised by the Town and not inconsistent with the provisions of this Charter, the additional powers and privileges herein conferred and all powers and privileges conferred upon towns under the general laws of the State of Connecticut.

Charter Provisions

1. A professional Town Manager CEO with the education, qualifications and experience to implement policies established by the Board of Selectmen, and to administer and oversee the daily operations of the town government.
2. A Board of Selectmen of 5 members to represent the voters and establish policy with a 1st Selectman to act as Chairman and official head of the town for ceremonial purposes.
3. Election of the 1st Selectman and members of Board of Selectmen as we do now, who shall all serve without compensation except for the reimbursement of expenses incurred.

Charter Provisions

4. A separate Board of Finance as it currently exists under state statutes.
5. A budget process which commences with the Town Manager's proposed budget, but all subsequent action on the budget shall be as currently provided under statute.
6. Election of the Treasurer, Town Clerk & Tax Collector as now done under statute.

Charter Provisions

7. No term limits as originally suggested.
8. A newly created Ethics Commission with guidelines to address complaints.
9. All other boards & commissions shall continue as they now exist and operate.

Permitted Legislative Body

Under Conn. General Statutes §7-193(a)(1), a municipality's "legislative body" ... "may be:

- (A) A town meeting;
- (B) a representative town meeting;
- (C) a board of selectmen, council, board of directors, board of aldermen or board of burgesses; or
- (D) a combination of a town meeting or representative town meeting and one of the bodies listed in subparagraph (C)."

Forms of Local Government

Two basic forms of local government:

- The "**direct**" form = Town Meeting serves as the legislative body, passing laws, approving the spending of monies.
- The "**representational**" form = elected group serves as the legislative body.

Maine Municipal Association

http://www.memun.org/public/local_govt/government.htm

Five Basic Variations

1. Town Meeting-Selectmen
2. Town Meeting-Selectmen-Manager*
3. Council-Town Meeting-Manager
4. Council-Manager
5. Council-Mayor-Administrator

* The 1939 Town Manager Enabling Act Maine Municipal Association
http://www.memun.org/public/local_govt/government.htm

Town Meeting Remains

- For years in Westbrook, the Town Meeting has been the central core of our government.
- The Town Meeting remains unchanged as the "legislative body" of the town.
- The Town Meeting will continue its practice of sending issues deemed appropriate to Referendum.
- The Town Meeting approves the Budget from which a tax rate is determined.

No Rights Lost

- Still have Public Hearings like this one
- Still have Town Meetings like we do now
- Still have right to attend and voice opinions at Public Hearings and Town Meetings
- Still have right to vote on Budgets like we do now
- Still have right to vote at an appropriately scheduled Referendum like we do now

BOS NOT a “Council”

- Contrary to the comments of several people at the last Public Hearing – NOT a Council
- A true Council would replace the Town Meeting
- The Board of Selectmen will not be the “legislative body” of the town
- The “legislative body” of the town will remain the Town Meeting as it is now.
- The rights you have to comment and vote are **NOT** taken over by the Board of Selectmen
- You retain all of these rights as stated previously when discussing the Town Meeting

Executive Branch

- Town Manager as CEO of the Town to establish clear lines of authority
- Five member Board of Selectmen
- Four year overlapping terms
- First Selectman and Board of Selectmen continue to be elected in same manner that they are elected now
- Selectmen serve without compensation

Town Manager Responsibility and Authority

Connecticut General Statutes 7-99, 7-100

- Chief Executive Officer of the Town
- Supervise, Direct and Administer all departments, offices and employees of the town, except those designated by charter
- Prepare and submit annual budget
- Keep departmental rules, personnel policies and financial controls updated
- Exercise such powers and duties required by ordinance, resolution of the BOS or the charter

Finance and Taxation

- Budget developed by Town Manager with assistance of Finance Director as directed by BOS
- Agency heads, including BOE Chair will present expenditure requests by January 1st each year to Town Manager
- Budget prepared for discussion by February 1st by Town Manager
- Thereafter, budget proceeds as it does now under state statute

How “Selectmen-Manager” Works

- Board of Selectmen & 1st Selectman serve without compensation other than reimbursement for expenses.
- Town Manager is a salaried employee who reports directly to the Board of Selectmen
- Similar to the model of our Board of Education with a paid professional Superintendent and a volunteer board.

Elected Board of Selectmen

Elected Board of Selectmen & 1st Selectmen

- represents community and develops long-range vision.
- establishes policies to govern overall operation of municipal organization.
- appoints competent, professional Town Manager to implement policy and to oversee daily operations.

Role of First Selectmen

- First Selectman serves as key political and policy leader.
- Specific duties depend on Charter, but typically the First Selectman:
 - Is a voting member of Board of Selectmen who presides at meetings
 - Represents the municipality in intergovernmental relationships and at ceremonial functions
 - Sets Board of Selectmen agenda with Town Manager

Role of Town Manager

- Hired on basis of merit to serve Board of Selectmen and community
- Serves at pleasure of the Board of Selectmen
- Makes policy recommendations to Board of Selectmen for its consideration and final decision
 - Implements Board of Selectmen policy
 - Bound by action the Board of Selectmen takes
 - Control always remains in the hands of elected representatives

Duties of Town Manager

Serves as CEO which includes the duties to:

- Oversee work of municipal departments.
- Serve as Personnel Administrator–Human Resources–provide direction and leadership to department heads.
- Manage public funds.
 - Prepare annual budget and multi-year capital improvement program.
 - Ensure fiscal responsibility and modern accounting practices.

Duties of Town Manager

- Implement programs and policies
 - work with elected officials and community leaders to achieve common goals and objectives.
- Coordinate service delivery – anticipate future needs; organize work operations.

Non-Partisan & Apolitical

- Town Manager is a non-partisan and apolitical position.
- Standards of ethics of the International City Managers' Association (ICMA) require Manager to *“refrain from participating in the election of the members of the employing legislative body and from all partisan political activities that could impair performance as a professional administrator.”*
- Broad policy development and politics remain clearly the purview of the Board of Selectmen.

Removal of Town Manager

As we know from past experience, an elected First Selectman cannot be removed from office.

The Charter cannot legally include a provision to remove an elected official.

A Town Manager can be removed from duty if deemed necessary or appropriate.

Benefits of Manager Position

- Frees elected officials to focus on policy making and community issues.
- Empowers elected officials to lead and to develop a vision for the community.
- Offers the flexibility required to enable a community to go in new directions while providing continuity during transitions.
- Helps Bond Ratings through continuity.

Benefits of Manager Position

- Encourages open communication between citizens and government - political power is not concentrated in the chair, but is shared by all members of the Board of Selectmen.
- Diffuses the power of special interests - all constituents and interests have a voice, not just those that are well-funded.

Benefits of Manager Form

- Provide for a more efficient and smoother operation of town government,
- Eliminates partisan politics from personnel, financial and contracting decisions - merit based decision making based on qualifications and performance
- Encourages the development and retention of talented municipal employees
- Fosters professional ethics

Value of Manager to Town

- Oversees day-to-day operations and frees elected officials to focus on policy issues.
- Shares and applies skills gained through education, professional experience and contacts.
- Has access to information about latest trends and best practices.
- Devotes time and skills to tackle a problem or opportunity.

Value of Manager to Town

- Assists the Board of Selectmen with the development of a vision and long-range strategic planning.
- Recommends cost-saving ideas and productivity improvements.
- Enhances the community's responsiveness to its citizens through administrative and fiscal accountability.
- Develops corps of professional staff - strong emphasis on professional ethics.

\$\$\$ Value of Manager \$\$\$

Education, training, and experience of a professional Town Manager will likely:

- Alleviate the need for a separate Human Resources position,
- Reduce legal fees, and
- Provide opportunities to find, apply for, obtain and administer Grants.

CTCMA Annual Salary Survey

Town Managers and CAOs					
Avon	17,328	\$ 127,500	Meriden	59,186	\$ 136,000
Berlin	20,364	\$ 113,000	New	25,891	\$ 162,500
Bloomfield	20,727	\$ 148,100	Newington	29,699	\$ 129,000
Bolton	5,117	\$ 79,058	North	14,374	\$ 118,450
Columbia	5,315	\$ 85,000	Norwich	36,388	\$ 125,000
Coventry	12,207	\$ 116,740	Plainville	17,221	\$ 118,438
Darien	20,177	\$ 144,210	Putnam	9,307	\$ 74,263
Farmington	25,116	\$ 128,707	Rocky Hill	18,852	\$ 135,000
Glastonbury	33,263	\$ 158,000	South	25,966	\$ 143,410
Granby	11,219	\$ 134,000	Tolland	14,705	\$ 129,984
Greenwich	61,937	\$ 167,000	Vernon	29,839	\$ 90,002
Groton (T)	39,167	\$ 130,175	West	60,495	\$ 145,000
Hebron	9,228	\$ 115,000	Weston	10,183	\$ 119,156
Killingly	17,826	\$ 109,000	Wincheste	10,716	\$ 85,000
Manchester	56,385	\$ 149,330	Windham	23,609	\$ 120,000
Mansfield	24,622	\$ 127,842	Total Salaries		\$ 3,863,865
			Average Salaries		\$ 124,641

Salary in Smaller Populations

Towns with under 11,000 population

• 5,117	Bolton	\$ 79,058.
• 5,315	Columbia	\$ 85,000.
• 9,228	Hebron	\$115,000.
• 9,307	Putnam	\$ 74,263.
• 10,183	Weston	\$119,156.
• 10,716	Winchester	<u>\$ 85,000.</u>
		\$557,477. /6 = \$92,912.83

Towns with under 10,000 population

• 5,117	Bolton	\$ 79,058.
• 5,315	Columbia	\$ 85,000.
• 9,228	Hebron	\$115,000.
• 9,307	Putnam	<u>\$ 74,263.</u>
		\$353,321. /4 = \$88,330.25

Potential Net Cost of Manager

First Selectman's Salary = \$60,617.00
 Other 2 Selectmen's Salary = \$10,114.00
 Sub-total: \$70,731.00
 Human Resources Position = \$50,000.00⁺
 Total: \$120,731.00
 Additional Grants: _____
 Less Legal Expenses: _____

Growing Grand List Size

Westbrook's Grand List is **\$1,332,533,344**
 12 towns with Town Managers have lower Grand List Amounts

Town	Grand List	Population
• Plainville	1,390,283,620	17,221
• Killingly	1,302,646,359	17,826
• North Branford	1,296,741,514	14,373
• Tolland	1,268,155,629	14,705
• Granby	1,048,749,700	11,219
• Mansfield	968,670,393	24,622
• Coventry	955,456,543	12,207
• Windham	925,815,494	23,609
• Hebron	861,303,505	9,228
• Winchester	813,828,330	10,716
• Putnam	624,626,504	9,307
• Columbia	527,994,372	5,315
• Bolton	470,968,513	5,117

- ### Size of Westbrook Budget
- Westbrook's budget is **>\$25M** with \$14M managed by a volunteer Board of Education with a professional Superintendent of Schools to act as the CEO to administer board policy and run the operations of the school.
 - The remaining **>\$11M** budget should similarly be administered by a professional Manager to administer policies set by the Board of Selectmen and run the day-to day operations of the town.
 - It simply **makes sense** to have a professional Manager, with appropriate education and experience, to run an \$11M operation for the benefit of our town.

Dangerous Combination

- There are **4,076** registered voters in the Town of Westbrook.
- Grand List is **\$1,332,533,344.00**
- Entire Budget is over **\$25,000,000.00**
- Town Side Budget is over **\$11,000,000.00**
- 1st Selectman's Salary is **\$60,617.00**

**** Size and Complexity of Town Gov't with Small Pool of Candidates for Small Salary**

Time for a Town Manager

"Running a town is not growing easier. Municipal officials must keep track of personnel laws, water quality, water supplies and wastewater disposal, public safety departments; solid waste; tax payments and schedules; highway maintenance; thick books of environmental and labor relations; housing; land use planning and zoning; and budgeting under new GASB standards, to name only a few responsibilities. . . . How [best]... to address all those issues in a timely and complete manner?"

Vermont - Karen Horn, Director, Legislative and Membership Services VLCT News, September 2001

Time is Now for Town Manager

"For these reasons as well as a host of others, many local governments are deciding that a professional administrator or manager is the only way to assure that the municipality carries out its responsibilities completely and in accordance with the thousands of laws and regulations that accompany those responsibilities."

Vermont - Karen Horn, Director, Legislative and Membership Services VLCT News, September 2001

Who Uses Town Manager Now?

- Used by more than 3,500 (49%) of 7,171 US cities and towns with populations of 2,500 or more.
- 92 million in US live in communities operating under this form.
- Connecticut – 33 ICMA recognized communities.

Summary

- Selectmen-Town Manager government enables local officials to involve and serve the entire community, and to actively plan for the future.
- In turn, an appointed professional Manager applies professional skills and training to assist the Board of Selectmen and to administer the daily operations of the community.
- All is done while preserving the Town Meeting at the central core of our town government so that ultimately our town's people remain in control.