

**TOWN OF FAIRFIELD
CHARTER REVISION COMMISSION
NOTICE OF PUBLIC MEETING**

Members of the Public: To View or Listen by Phone:

- ✓ Via Webex: <https://tofit.my.webex.com/meet/online>
- ✓ FairTV's cable channel (channel 79 for Fairfield Optimum/Altice Cable customers and 6010 for Frontier Cable customers)
- ✓ FairTV's website, <https://fairfieldct.org/fairtv/government>
- ✓ By phone: Dial 510-338-9438. Enter Access Code or Meeting Number: 126145 0736 #

Please note, if you call to listen, you will not be heard by the committee members and there will be no live public comment until called for by the Chair during the meeting.

The public is encouraged to send their comments to the following email: crc@fairfieldct.org.

****Please note the new start time****

CHARTER REVISION COMMISSION

Special Meeting

March 10, 2022

6:00 p.m.

Via Webex

Fairfield, CT

AGENDA

Recordings from Previous CRC Meetings Related to Town Governance Structures

February 10, 2022 Charter Revision Commission FairTV [View](#) youtube.com/watch?v=buYFhYQnM_E

February 24, 2022 Charter Revision Commission FairTV [View](#) youtube.com/watch?v=OpCBejroASM

- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE OF ALLEGIANCE
- IV. PUBLIC COMMENT – Town Governance Proposals as put forth at the Feb 25, 2002 CRC meeting (public comment not to exceed one hour time)
- V. ADJOURN

Charter Revision Commission – Email(s) Received from 2/25/22 – 3/9/22

Jill Vergara jillvergara@gmail.com

February 24, 2022 at 4:43 PM

Dear Members of the Charter Review Commission:

I am an elected Representative of the RTM. I have served on the RTM since 2015. My four terms have overlapped with two different Administrations of two different party affiliations as well as several different majority/minority compositions on the RTM. While the RTM has various functions, its most essential—and clear—role is as the town’s Legislative Body with sole and exclusive authority to enact ordinances.

Over the course of my elected terms there has been a consistent and pervasive structural deficiency which disables the RTM from doing its most essential function of legislating: the lack of impartial legal staff to assist in the drafting of desired legislation. Throughout my tenure, the only attorney available to the RTM has been the Town Attorney appointed solely by the First Selectman and removable without cause. The hiring/removing provisions for the Town Attorney necessarily sets up an employer/employee relationship with the First Selectman and subordinates all other boards/commissions to that relationship. While the closeness between the Town Attorney and the First Selectman is problematic for all boards and commissions and threatens to undermine the checks and balances undergirding our town government structure, the impact on the RTM and its work is untenable. The lack of impartial legal guidance completely hamstring the RTM and largely prevents it from doing its primary job.

To be effective legislators, the RTM needs legal staff who do not serve at the pleasure of the Executive and who do not come and go with elections. I have not extensively researched other towns’ legal departments, but just from my brief search, it appears that Fairfield’s one-person, politically appointed town attorney for a municipality of 61,000 is quite inadequate and pales in comparison to what other towns have. A change to our legal services and how they are provided will greatly improve the existing power imbalances and give the RTM the tools necessary to do its most important job – legislate.

Thank you so much for all of your hard work, time and careful analysis and research.

Sincerely,

Jill Vergara
Fairfield RTM Representative, District 7

Jan Carpenter janc@144h.com

February 25, 2002 at 11:31 AM

CRC,

I was enthralled this past Thursday by the discussion of governance at the Town of Fairfield Charter Revision Commission (CRC) meeting. The discussion largely revolved around the concept of choice between (a) an elected politician or (b) a professional (academically trained) person running the operations of our town (known as a Town Manager (TM)). I urge the CRC to pursue a Town Manager form of government.

- The Town Manager form of government is the most widely used form of government in the US today, and not by a small margin. The creation of the town manger form began in the US in the early 1900's and has grown rapidly since then. The structure was created to stem the evidence of corruption and fraud in local government. But we know better? That arrogance may be what has gotten us into trouble in the past.
- Respectfully, I found it interesting that of the 7 CRC members, 4 members - all non-politicians expressed interest in a TM; the remaining members - all members involved with politics in some way - expressed an interest in a politician running the town.
- When it was clear (during Thursday's meeting), there was a majority of the CRC wanting to explore a TM, the discussion shifted from the merits of the idea, to the notion that "it can't pass". I think that argument is premature and sad. It can and will pass through a town-wide vote, if the benefits are shown to be evident and in the best interests of the town's residents. There are plenty of resources to do this and there are plenty of knowledgeable practitioners who will come to town to extoll endlessly on why this form of government results in more efficiency and less corruption, patronage, etc.
- We will forever be talking about what went wrong in Fairfield in all of the corrupt activities that are being investigated and tried - the wrong that has resulted in scores of millions of dollars in completely unnecessary taxpayer expense. THAT IS OUR money that might have been spent on education; OUR money that might have been spent on support of seniors, or road paving, or improved municipal services, or any number of valid, needed

initiatives. In the nicest terms I can think of, our leadership was asleep at the wheel when we experienced the horrific instances of fraud, larceny, bribery, negligence, etc. - to say nothing of the potential harmful health effects, which should worry us all when thinking about lingering health effects in the future. Wouldn't we want to make sure something like this never happens again? Wouldn't we want the utmost qualified individuals running the town?

- An unconvincing argument has been made that people lose the ability to "vote them out", if there is dissatisfaction with the direction of the town with a TM. You don't lose that ability with a Town Manager. Your legislative body (whether it be a Selectman, Mayor, Council, or RTM) is responsible for the Town Manager's appointment and that body is still elected (under this model). If the town's residents are unhappy with the Town Manager, the legislative body can replace him/her without having to wait for an election and/or popularity contest. And if the town's folk are unhappy with the legislature, they can vote others in.
- You can also maintain the existence of a figurehead in the town through the election of a mayor or selectman. This person can work with the legislative body to define the overall direction of the town. How much or little power that individual has can be crafted based on the will of the town's residents.
- Another argument made is that getting someone credentialed/competent may be costly and there may not be qualified candidates in CT. It is true that the salary levels a qualified Town Manager dictate are higher than what we currently pay our First Selectman. But there is a reason for that - the Town Managers actually have the professional and educational qualifications to do the job! And studies have shown that efficiencies and improvements that Town Managers bring result in savings to the town in the long run.
- Finally, one member of the CRC who was arguing against a Town Manager, suggested that with an elected official running the show, we'd be better off with all Department Heads having contract terms instead of at will employment. The argument was made that this would allow the Department Heads to do their best without being influenced by the currently elected leader. I would argue this is the WORST of all worlds. No one who has ever managed people can achieve success when not given the ability to actually MANAGE their direct reports (including the ability to replace them). Under the suggested scenario, we run the risk of having a less than qualified person

trying to run a town hampered by unreasonable management constraints. It's a bad idea.

The CRC seems to feel that the residents of Fairfield cannot handle this level of change - and maybe they are correct, yet I for one am starving for it and the improvements it will bring. To those reading, please consider writing or speaking at the next CRC meeting on 3/10. You can submit testimony by emailing CRC@fairfieldct.org and you can speak at the meeting on 3/10 by logging onto the WebEx call - directions to be included in their agenda that will be posted on the Town of Fairfield CRC website prior to the meeting. The CRC needs to hear from residents. We cannot continue to complain about the way things are if we don't vocalize our wishes when the opportunity arises. Now is the time.

Jan Carpenter

ps - I heard last night that the CRC has not received any notes from the public on this topic and I hope you remember that I, for one, actually have sent letters on this topic to you as a group before today. I will do my best to forward this note to other town boards, commissions and residents in an effort to get more folks involved. Also, thanks as always for your time in this important endeavor.

jrmitola@aol.com

February 25, 2002 at 2:05 PM

Ms. Carpenter:

I am compelled to respond to your email below for a few reasons:

First I am disappointed with your implication that I and other members of the CRC Commission who are advocating for a certain form of government are doing so based on the fact that we are current elected officials and therefore have some self interest in maintaining the status quo. Such a statement is unfortunate and makes no sense because we do our work on behalf of Fairfield on a volunteer basis spending hundred of hours yearly to help govern and move this town forward. I have no agenda to maintain the status quo because I need to stay in office or am fearful that my elected position will go away. I do what I do for free because I love Fairfield and want the best for our town. If my position went away tomorrow I quite frankly would have a lot more time to spend with my family and friends. So please refrain from your implication that I and other members of the Commission have an agenda to maintain the status quo.

Second "politicians" do not run the town as you state below. "Elected officials"-individuals elected by the citizens of Fairfield along with dedicated town employees govern and run Fairfield. That's called Democracy.

Like our Commission did last night, we can have respectful debate about the form of government that we desire without negative implications about the motives of any Commission member.

Thank you.

John Mitola

Jan Carpenter janc@144h.com
February 25, 2020 2:19 PM

John,

I am sorry you were offended my observations.

However, I think you misinterpreted (my possibly ineloquent) wording.

I in no way meant to infer that current elected officials on the CRC come at the task with a desire to choose alternatives only to gain a future advantage in elections. Instead, I simply meant that as an observation, those who have a background in politics seemed to share a certain viewpoint different than those who have a background in business.

I personally feel that the town should strive to be run more like a successful business instead of what we all lament many government operations have become.

I think that's a fair, honest and in no way disparaging comment and I sincerely apologize if you read it any other way.

I have personally listened to the same hundreds of hours that you have given to the Town and I respect and appreciate that and hope that you can listen to my earnest comments without anger.

Sincerely,

Jan

Jan Carpenter
janc@144h.com
203 293 8889

jrmitola@aol.com

February 25, 2022 at 3:29 PM

Thank you for your kind response. It is much appreciated.

John

lincerto@truenorthpromotions.com

March 2, 2022 at 5:40 PM

Dear Charter Revision Commission,

Please find attached the Town of Fairfield Human Services Commission recommendations for your review.

Should you have any questions, please don't hesitate to call or email me.

We appreciate having the opportunity to provide this input.

Sincerely yours,

Laura A. Incerto

Laura A Incerto, HSC Chair
203-984-2708

Town of Fairfield Human Services Commission

March 2, 2022

Dear Chairman, Cafferelli and the Charter Revision Commission,

The Town of Fairfield Human Services Commission is pleased to submit our collective comments to the Town of Fairfield Town Charter Review Commission.

Specifically, we suggest revising the language in Sections 9.10 B (3) and 10.16 A to read as follows:

Revised Section 9.10 (B) (3)

“Coordinate the work of the Department of Human Services with that of other government agencies, private social organizations and special commissions for social services matters granted and imposed upon towns by the General Statutes of the State of Connecticut, including matters which relate to the aging, disabled, veterans, youth and underserved populations. “

Revised Section 10.16 A.

“Members and terms. The Human Services Commission shall consist of nine members appointed by the Board of Selectmen, not more than five members of whom shall be registered with the same political party. Members shall have terms of four years which shall be staggered so that no more than four terms expire in one year. The Human Services Commission shall represent those social services matters granted to and imposed upon towns by the General Statutes of the State of Connecticut, including matters which relate to the aging, the disabled, veterans, youth, and underserved populations, except to the extent that any other special or temporary commission has been appointed to specifically address any particular social service matter. To assist it in such matters, the Human Services Commission may form its own committees with additional persons to advise the Commission. “

In addition, during our discussions, we recognized the need for having members of all town commissions who are culturally sensitive. The Human Services Commission also recognized the importance of encouraging multicultural candidates to apply for town official positions and to the town committees and commissions. In this regard, the Human Services Commission felt that these concepts should be incorporated into the Town Charter as overall considerations for the appointment of town officials and commission members."

(1)

(2)

The Human Services Commission greatly appreciates the opportunity to submit these recommendations.

Respectfully submitted by,

Laura A. Incerto, Chair

From: **Veronica Monahan** <veronicabarrymonahan@gmail.com>

Date: Wed, Mar 2, 2022 at 1:44 PM

Subject: Charter Reform comment

To: <ccr@fairfieldct.org>

Veronica Monahan veronicabarrymonahan@gmail.com

March 2, 2022 at 6:05 PM

Good afternoon.

I am not sure if this info. is something that could be addressed with the town charter but I thought it is important enough to mention anyway.

There is no process now to cure low assessments that are determined by the tax assessor and the company hired by the town to conduct the reassessment analysis.

While there is a process for the public to try to fix high or over assessments, there is nothing that is done to protect all town residents/its taxpayers from the assessor and assessment company making BIG errors to the downside. The only way to fix them would be for the person who is under-assessed (or someone else) to bring that info to the attention of the assessor and ask for an increase in their taxes as a result. We all know the likelihood of this is zero. We know the property assessments can be wrong by 5-10% either way, but some of the assessments are off by 25-30% and the town is losing out on all of this money as a result.

There are no checks and balances and right now the amount determined is not reviewed by an independent panel of experts and should be.

One could argue the last assessments were done based on pre-Covid sales, but a high percentage of those assessments were inaccurate even based on the pre Covid sales info.

I am introducing this as a Realtor who has been selling here for 17 years and who has bindered \$32 million in real estate last year, and I have lived in Fairfield for 25 years. I'm not trying to increase anyone's taxes as a result of this inquiry -- I just don't like to see some people overcharged while others are undercharged. It's important that everyone pay a fair share which will help keep all of our taxes down. I was told that the current system does not allow for anyone other than the tax assessor to make changes.

BEFORE the numbers are released to homeowners, I am suggesting that there be a two to three week review period by a non-biased tax assessment appeals board, or others.

Thank you.

Veronica Monahan
635 Galloping Hill Road
Fairfield, CT 06824

Bob Ellwanger rellwanger@gmail.com
March 7, 2022 at 4:06 PM

CRC Public Hearing Testimony – March 8, 2022

My name is Bob Ellwanger, and I have been a Fairfield resident since 1968. I am writing to provide my input concerning the Town's Charter Revision efforts, as I am unable to be

part of the public hearing scheduled for March 10th. Although I am part of the leadership team of Fairfield Senior Advocates (FSA – an all-volunteer, non-partisan organization dedicated to supporting the quality of life and retention of seniors in Town), I submit this input in my personal role as a long-time resident.

I want to first compliment the Commission for your tireless efforts over the past five months. I have viewed all of the Commission meetings and reviewed much of the documents available on the CRC website. I continue to be impressed with the thoroughness of your discussions and analysis, and recognize the importance of obtaining public feedback at this point in time.

Let me start by stating I **strongly favor** a “**Council/Mayor/Town Manager**” form of government for Fairfield. It doesn’t matter to me whether we keep the current nomenclature “RTM/Selectman”, provided that a “Chief Administrator/Operating Officer” position be added.

The Council/RTM should be **much smaller** than currently. In all my years in Town I have never met any of my RTM members, nor could I tell you who they are (or even what district I reside in). I am in favor of only **10 Council members** (one per district), with the Mayor/Selectman as a ceremonial member-at-large, casting a tie-breaking vote where necessary. This alone would lead to increased operational efficiency and accountability than what we have currently.

Under this structure I see **no need for the Board of Selectmen** – a move that will streamline the annual budget process and lead to increased operational efficiencies. While I would retain the Board of Finance, I would reduce its membership to **5 individuals**, and keep their current six-year term.

The Town Manager would be **appointed by and report** to the First Selectman for a specified term and **oversee the implantation of Town goals and strategies**. This individual would bring much-needed professional management skills for these increasingly challenging times where the issues and complexities of running the small city that Fairfield has become are becoming increasingly technical and daunting.

I recognize that many residents (along with a few Committee members) may view these changes as too “radical”, and that it may be too much to expect for current Town officials to “vote themselves out of a job” by approving them. That doesn’t mean we should shrink from adopting them if they lead to substantive improvements in how the Town is currently managed and led. thanks

Bob Ellwanger

Ken Flatto kenneth.flatto@gmail.com

March 7, 2022 at 7:47 PM

Hello. Attached is a letter containing my thoughts & proposals for the Commission's consideration! I plan on attending and speaking at the public comment session Thursday hopefully. I will condense verbal remarks, of course, to keep to a minute or so, but wish to provide the full suggestions and associated 'proposed language' ideas to all members via the attached letter.

Yours

Ken

Kenneth Flatto
former Fairfield First Selectman

Dear Charter Revision Commission members,

Hi. This is former First Selectman Kenneth A. Flatto, residing at 3200 Park Avenue. Having had the wonderful privilege of serving as Fairfield's First Selectman for twelve years and on the Board of Selectman sixteen years, some of you know I participated in the 1997 and created the 2006 Charter Revision Commission. Having worked with all town Boards and Commissions during thousands of meetings, hopefully some of the following few recommendations may be helpful to your Charter Revision and to the Board of Selectmen:

1. Charter sections regarding 'First Selectman 'approval' of hiring of Department heads after a Board or Commission appointment' (i.e. Fire Chief, Health Director, Police Chief, Town Librarian, etc.): The Charter language states such Department heads shall be appointed by the Board (or Commission) 'with the approval of the First Selectman'. Over the years, this has often been interpreted in different ways leading to delays and sometimes embarrassing situations. I suggest wording more specifically: "shall be appointed by the Board or Commission, with approval of or veto by the First Selectperson within seven days", along with an added phrase: 'should a First Selectperson veto the appointment, within 5 days a special Executive Session meeting with the First Selectperson shall determine next steps to fill such a position".

2. Section 4.1 (b) Contracts:

The current language of the Charter is relatively impractical. The Contracts provision should be updated. Most contractual authority has been delegated by Boards of Selectmen to the First Selectperson for many decades. While leaders have usually been prudent presenting significant Town contracts for approval to the Boards of Selectmen and Finance and RTM, ambiguity can lead to serious problems. I recommend dollar and term limits to First Selectperson sole authority, a further dollar range requiring BOS approval, and wording that Contracts over \$1 million or over three years shall go to BOS, BOF and RTM unless funds are already appropriated in an annual budget.

3. Section 7.10 (c) and 7.11 - Town Controller and Town Treasurer

The Treasurer has been a voluntary position, primarily involved as part of a Committee approving bond issuances. In my opinion, delete Section 7.11 and amend Section 7.10 that the Town Controller also serve as Town Treasurer with those duties and responsibilities. The current Controller position is functionally suitable and assists the Fiscal Officer anyway in ensuring all statutes are followed.

4. Section 10.6 Appeals from BOF to RTM during the annual Budget process:

This process is quite restrictive and overly limits the authority of the Legislative body to make truly important fiscal decisions. This section could be amended to add a new provision: "One-third or more of the members of the RTM may sign a letter of petition requesting up to three specific dollar increase(s) to a budget line appropriation(s) voted by the Board of Finance. Any such appeal petition shall be filed at least fifteen days prior to the RTM annual budget meeting. Only a first such letter of petition submitted to the Town Clerk shall be accepted for consideration. The Town Clerk shall submit an such appeal(s) to the RTM, with each separately listed to be considered and voted upon as a budget line appropriation amendment at the annual budget meeting. A super majority vote of at least sixty percent of the RTM is required for approval of each such appeal.

5. Section 11.1 Referenda

The current insignificant dollar threshold to initiate a town wide referendum is decades outdated and too low. Prior to 1997 and through my first term, referendums were brought often, consuming precious town time and civic energy. A referendum can be of huge import but can also be relatively frivolous. I recommend the Charter Revision increase the minimum amount within the Section 11 to trigger a Referendum from "\$150,000" to "\$1,500,000".

Thanks for your time and attention.

Respectfully,

Ken
Kenneth Flatto
former Fairfield First Selectman

budmorten@aol.com
March 9, 2022 at 3:47 PM

Subject: TWO FUNDAMENTAL QUESTIONS THE CRC HAS NOT ADDRESSED -- FAIRFIELD TAXPAYER

Please see the attached paper regarding the Charter Revision Commission.

Thanks and best wishes,

Bud Morten



Two Fundamental Questions the CRC Has Not Addressed: • How should we evaluate the performance of our existing governance system?

• How should we decide whether any major changes are warranted?

Fairfield Taxpayer believes that our existing governance system has served the Town quite well and that, although it can be updated and tweaked in a number of constructive ways, any major changes in its basic structure should be made only if the expected benefits will significantly outweigh any costs and risks. It is easy to argue, as some have done, that certain major changes would be beneficial by associating them with words like “efficiency,” “transparency,” “accountability,” “competency,” “best practice” and “modernize.” It is easy to assert that one or more recent problems in Town could and would have been avoided under a different structure. It is easy to claim that times have changed and Fairfield should therefore adopt the same structure as other towns of its size, or should do whatever some “subject-matter experts” and/or the “Model City Charter” recommends. However, all these simplistic arguments ignore the overarching facts that: (a) Fairfield has prospered for many years under the existing structure because far more good things than bad things have happened; (b) bad things regularly happen to other towns and cities under every conceivable governance structure; and (c) it is perilously easy to overlook unintended adverse consequences of major governance changes.

The Charter Revision Commission

With the **overarching goal of facilitating Fairfield’s ability to continue to prosper**, the seven-member **Charter Revision Commission (CRC)** has been asked to determine if there are any ways in which we can improve our **Town Charter** — which is the document that sets out the rules by which our community chooses to govern itself — either by fixing any practical and administrative problems or by making more fundamental structural changes that will allow us to better address future challenges and opportunities.

Putting aside the need for any “administrative fixes,” the really important question is whether the CRC should recommend any major changes in a basic governance structure that has served the Town so well for so many years. After meeting for several months, and having listened to several so-cal “experts” on municipal government who have opined on various structural alternatives, the CRC is now considering some major structural changes (e.g., adopting a Town Manager/Town Council form of government, eliminating the Board of Selectmen, shrinking the size of the Representative Town Meeting), some of which were included in a “*Framework for Deliberations*” (see Appendix A) for its February 24th meeting.¹

Two really important questions are missing from both this framework and from the CRC’s deliberations to date:

- **How should we evaluate the performance of our existing Governance System; and**
- **How should we decide whether any major changes are warranted?**

Before we address both of these critical questions, it is helpful to describe the six key entities that comprise our existing governance structure.

¹ See page 5/27: https://www.fairfieldct.org/filestorage/79/110822/114835/02-24-22_Backup_for_CRC_Meeting.pdf This framework listed five main deliberation topics, including: *What are your goals; First Selectwoman; Legislative Authority of RTM; Composition of RTM; and Organization of the RTM.*

Fairfield’s Existing Governance Structure

1. A **First Selectperson** (FS) who serves a four-year term (with no term limits) and acts as the Town’s full-time senior executive — in effect, the Town’s Chief Executive Officer (CEO) — who is paid ~\$150,000/yr. (plus the cost of healthcare and retirement benefits) and who is supported, among other staff, by a **Chief Administrative Officer** who is selected by and reports to the FS and is paid ~\$125,000/yr. All Town-service department heads report to the FS (e.g., Police, Fire, Public Works, Parks & Recreation), as do the Town-administrative department heads (e.g., Chief Fiscal Officer, Town Attorney, Director of Human Resources, Tax Assessor, Conservation Director). In total, there are ~500 municipal employees, including ~16 service and administrative “town officers” who report to the FS.
2. A three-person **Board of Selectmen** (BOS) — including the First Selectperson — all the members of which serve concurrent four-year terms (with no term limits), and no more than two members of which can represent the same political party. The second and third Selectpersons are paid \$12,000/yr.
3. A nine-person **Board of Finance** (BOF), which provides comprehensive financial oversight of the Town’s affairs, all the unpaid volunteer members of which serve

staggered six-year terms (with no term limits), and no more than six of the nine members of which can represent the same political party.

4. A **Representative Town Meeting** (RTM), the Town's legislative body, composed of no more than 56 members (currently there are 40), with an equal number elected from each of the Town's ten political districts (i.e., from each of its ten neighborhoods), all the unpaid volunteer members of which serve concurrent two-year terms (with no term limits), and all of whom can be members of the same party.
5. A nine-person **Board of Education** (BOE), which is responsible for oversight of the Fairfield Public School system (FPS), all the unpaid volunteer members of which serve staggered four-year terms (with no term limits), and no more than five of the nine members of which can represent the same political party. A **Superintendent of Schools**, who is hired by and reports to the BOE and who is paid \$232,000/yr., is responsible for managing FPS. To a much greater extent than any other Town body, the BOE is subject to State oversight, regulations and mandates. Spending on our schools now represents ~66% of the Town's total spending and an even larger percentage of total capital outlays (primarily for 17 school buildings). Collectively, there are ~1,500 FPS employees.
6. A seven-person **Town Plan and Zoning Commission** (TPZ), which both enacts and administers the Town's land-use regulations, all of the unpaid volunteer members of which (plus three alternates who serve as needed in the event of absences and recusals) serve either two- or four-year staggered terms (with no term limits).

In addition to these six key governance "entities," there are ~44 other boards, commissions and committees (See Appendix B) that provide direction and oversight of specific public affairs (e.g., Parks & Recreation, Golf, Marina). Though some are elected (i.e., the Board of Assessment Appeals and the Zoning Board of Appeals), most of the unpaid volunteer members of these bodies are appointed by the FS or the BOS (in some cases subject to the approval of the RTM), and their decisions are subject in most cases to the oversight and consent of one or more of the FS, the BOS, the BOF and the RTM. In total, at any given time, there are more than 400 people (representing ~1% of the Town's ~40,000 adult residents) serving in various elected or appointed governance positions.

Beyond this basic description, it is important to consider the intangible effects of our governance system on our community. For example, the fact that Fairfield has many residents who have served on one or more of these many boards, bodies, commissions and committees means that we have many residents who have some familiarity with our governance system and how it works, and who by virtue of their service know personally many past and present elected and appointed officials and public employees. As a guess, there are probably ~1,000 people who have served on one or more public bodies. Though it is impossible to quantify the value of this collective community engagement, the resulting knowledge and experience is arguably quite important to our **Civic Culture**. Among other benefits, there are many people in Fairfield who are able and willing to defy the old adage, "You can't fight City Hall."

With this background, we now return to the two questions posed earlier.

How should the CRC evaluate the performance of our existing Governance System?

Evaluating a governance system is not easy because the performance “outcomes” of any political entity (town, state, nation) are subject to myriad influences over time, and thus whatever measures of success and failure are adopted, they are subject to many, many confounding variables. Thus, it is not usually possible to determine if outcomes are primarily the result of the system or of the leadership at any given time. Accordingly, it is very important when evaluating performance, whether good or bad, and whether broadly or narrowly, to distinguish between structural influences and management influences. In general, there is no perfect governance system that avoids all problems (e.g., negligence, malfeasance, corruption) and always optimizes performance. **The three most important determinants of getting good results and avoiding problems are: (a) electing and/or appointing good, honest, diligent, competent people; (b) following good oversight and control processes and procedures; and (c) a Senior Executive who establishes a “Tone at the Top” that fosters a culture of high performance and high integrity.**

How should the CRC decide whether any significant changes are warranted?

As Fairfield Taxpayer has stated previously, ***“any proposal to alter a governance system that has served Fairfield well for so many years should be subject to a very high standard of conviction that the expected benefits will significantly outweigh any costs and risks — direct and indirect, tangible and intangible.”***²

Any serious analysis of the costs, benefits and risks associated with any major structural changes should begin with agreement on the core values and principles that should apply. Some examples are as follows.

- Flexibility is good.
- Checks and balances are good.
- Ballot-box accountability is good.
- Minority party representation is good.
- Neighborhood legislative representation is good.
- Concentration of power is bad.
- Efficient government is good; efficient governance can be very bad.
- Incremental change is good; radical change can be very bad.
- Having many citizens involved in Town government is good.
- Institutional governance knowledge in a community is good.

Another set of core principles applies to the standards and criteria that should be applied to justify any major structural changes, some examples of which are as follows:

- If it ain't broke, don't fix it. ² [Power - FairfieldTaxpayer.com](http://FairfieldTaxpayer.com)
 - Beware of unintended consequences.

- Don't change structure if there is an easier way to accomplish the same objective. For example, if more professional management of municipal services seems desirable (i.e., a Town Manager), instead of permanently altering our governance structure we could simply authorize the FS to retain a highly competent Chief Administrative Officer (or Chief Operating Officer) and then hold the FS responsible at the ballot box for the performance of his/her selection, in the same way that presidents and governors are held responsible on Election Day for their staff and cabinet selections.
- The experience of other towns with different governance structures may or may not be applicable to Fairfield, irrespective of any similarities (e.g., in size or location).
- The recommendations of "subject-matter experts" and of publications like the "Model City Charter," and the opinions they express with regard to what "works best," may or may not be applicable to Fairfield, which like every other town, is unique (including 383 years of history).
- It is quite possible that some if not many of the towns being used to benchmark "best practice" would do no worse and might do much better if they adopted Fairfield's governance structure.
- Not being able to find electoral candidates from both major parties for every open seat on every governance body (or in the case of the RTM, in every district) is not a problem unless there are actually empty seats on those bodies.
- Any major changes that are recommended should be linked directly to one or more specific problems or opportunities that cannot be addressed more easily by simply changing either the people we elect or the management processes and procedures to which their actions are subject.

The CRC should obviously develop its own lists of core values, principles, standards and criteria, but these and others will be used by Fairfield Taxpayer to evaluate any recommendations made by the CRC.

In Conclusion

The CRC should consider carefully how we should evaluate our existing governance structure and how we should decide whether any major changes are warranted. It should offer its recommendations of any major changes with clear explanations of why and how they would, on balance, be in the best interests of our Town based on a rigorous analysis of all the related benefits, costs and risks — direct and indirect, tangible and intangible. Any recommendations that are not unanimous should include dissenting opinions from the CRC members who opposed them.

APPENDIX A

The CRC "FRAMEWORK OF DELIBERATIONS" That Was Included In its Backup Materials

What Are Your goals?

- Vibrant accountability structure: Delineation of responsibilities

- Clear administrative operations: A mix of elected officials supplemented by professional management
- Planning tools: Multi-year capital budgeting, collective bargaining approaches and strategic planning mechanisms
- Public access and participation: Robust comment and appointed service opportunities
- Reduce complexity and byzantine organizational structures
- What is a realistic approach for government reform?

First Selectwoman

- Sole Executive Authority? Role of Board of Selectmen?
- Chief Administrative Officer
- Appointment Authority and Relation to Boards and Commissions
- Annual Report
- Legislative recommendations to RTM
- Absence, vacancy and succession

Legislative Authority of RTM

- Investigative and Audit Powers
- No diminution of legislative authority by Ordinance
- Assumption of legislative/historic special act authority of Board of Selectmen
- Adoption of Legislation – Ordinances and Resolutions.
- Approval Functions/Right of Rejection.

Composition of RTM

- Smaller more accountable legislative body: 15 members?
- At-Large, subject to minority party representation or an odd number?
- District representation (one member per district or odd-number multiple member districts, subject to minority party representation?)
- Hybrid comprised of an at-large component and district representation

Organization of the RTM

- RTM President/Chair/Moderator as Presiding Officer?

APPENDIX B

OTHER TOWN BOARDS, COMMISSIONS, BODIES, COMMITTEES

- Affordable Housing Committee
- Bicycle and Pedestrian Committee
- Board of Assessment Appeals
- Board of Condemnation

- Board of Health
- Board of Library Trustees
- Bond Committee
- Burr Gardens Advisory Committee
- Charter Revision Commission
- Community Emergency Response Team
- Conservation Commission
- Earth Day Committee
- Economic Development Commission
- Employees Retirement Board
- Ethics Commission
- Fairfield Arts Advisory Committee
- Fairfield Cares Community Coalition
- Fairfield Citizen Corps Council
- Fairfield Commission on Disabilities
- FairTV Commission
- Fire Commission
- Fitness Council
- Flood and Erosion Control Board
- Forestry Committee
- Golf Commission
- Harbor Management Commission
- Historic District Commission
- Housing Authority
- Human Services Commission
- Inland Wetlands Agency
- Joint Retirement Investment Board
- Land Acquisition Commission
- Parking Authority
- Parks and Recreation Commission
- Police & Fire Retirement Board
- Police Commission
- Racial Equity and Justice Task Force
- Shellfish Commission
- Solid Waste & Recycling Commission
- Strategic Plan Committee
- Sustainable Fairfield Task Force
- Town Facilities Commission
- Water Pollution Control Authority (WPCA)
- Zoning Board of Appeals

March 9, 2022

**TOWN OF FAIRFIELD
CHARTER REVISION COMMISSION
NOTICE OF PUBLIC MEETING**

Members of the Public: To View or Listen by Phone:

- ✓ Via Webex: <https://tofit.my.webex.com/meet/online>
- ✓ FairTV's cable channel (channel 79 for Fairfield Optimum/Altice Cable customers and 6010 for Frontier Cable customers)
- ✓ FairTV's website, <https://fairfieldct.org/fairtv/government>
- ✓ By phone: Dial 510-338-9438. Enter Access Code or Meeting Number:
126145 0736 #

Please note, if you call to listen, you will not be heard by the committee members and there will be no live public comment until called for by the Chair during the meeting. The public is encouraged to send their comments before the meeting to the following email: crc@fairfieldct.org.

**CHARTER REVISION COMMISSION
Regular Meeting
March 10, 2022
7:00 PM
Via Webex
Fairfield, CT**

AGENDA

- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE OF ALLEGIANCE
- IV. Approval of Minutess from February 24, 2022 meeting
- V. **Topic 1. CRC Working Session and Discussion on Governance**
Topic 2. Miscellaneous Issues – Part A. Minority Party representation, Constables, Commencement of Terms of Elected Officials and RTM; Resignations and Vacancies (TBD).
Topic 3. Update by Counsel
- VI. Next Steps
- VII. Adjourn

CHARTER REVISION COMMISSION
Regular Meeting
February 24, 2022
7:00 PM
Via Webex
Fairfield, CT

A recording of this meeting can be found here: <https://www.youtube.com/watch?v=OpCBejroASM>

DRAFT MINUTES

MEMBERS PRESENT: Bryan Cafferelli-Chair, Chris Brogan-Vice Chair, Marlene Battista-Secretary, Jay Gross, Pamela Iacono, John Mitola, John Wynne

OTHERS PRESENT: Attorney Steven Mednick, Town Attorney James Baldwin

I. **CALL TO ORDER**

Chair Bryan Cafferelli called the meeting to order at 7:02pm.

II. **ROLL CALL**

Recording Secretary Pru O'Brien took the roll call.

III. **PLEDGE OF ALLEGIANCE**

Chair Cafferelli led the Pledge of Allegiance.

IV. **Approval of Minutes from February 10, 2022 meeting**

Commissioner Iacono motioned to approve the minutes from February 10, 2022 meeting as written. Commissioner Wynn seconded the motion. The motion carried unanimously.

V. **Commission Working Session and Discussion on Governance Issues**

Attorney Mednick referred to document #6 included in the backup documents for today's meeting. He suggested the Commission ask themselves questions regarding the governance for the Town of Fairfield. Some of the goals listed in the document are from the Strategic Planning Committee report. Attorney Mednick emphasized the need for a realistic goal, whether to keep the same government and change a few things within or to form a different kind of government with the current titles and make a more robust legislative body. Some ideas for the framework:

- first selectwoman
- legislative authority of the RTM,
- composition of the RTM,
- organization of the RTM,
- term of office for elected officials- two years or four years.,
- I. special meetings of RTM convened by the First Selectwoman, members of the RTM, and a presiding officer.

Fairfield has split authority, some from the First Selectwoman and some from the Board of Selectmen. The Charter considers some boards and commissions part of governance, as per the Charter they hire some department heads with the first selectwoman. Chair Cafferelli opened up the discussion.

- Commissioner Mitola said based on what the Commission has heard, he thinks improvements can be made on how the Town currently governs and streamline the government. The Commission needs to be cognizant about the Town's culture and that for the most part, the current government works. An elected chief official, whatever it is called, who has a vision and is elected by the people will work. He is not in favor of a Town Manager or a Town Council. Commissioner Mitola does not want to consolidate power but it does need to improve. He feels professionalism and expertise is needed to help the elected official. The Commission should also focus on appointments and appointments should also be approved by a legislative body. Commissioner Mitola also suggested looking into whether or not there is a need for a Board of Selectmen. Commissioner Mitola said the size of the RTM could be looked into but the Town needs adequate representation. A legislative body needs support in the form of an attorney, maybe as an Assistant Town Attorney because one Attorney can't do the job by his or herself. Commissioner Mitola feels there needs to be an attorney at the RTM meetings. The Board of Finance works well the budget process can cut out the Board of Selectmen but allow them to attend the Board of Finance budget meetings and ask questions. The Capital Budget process and language need to be included in the Charter. There needs to be a zoning official whether elected or appointed and again, the Town Attorney's office should have two attorneys working for the Town within a Town building as other towns have. Commissioner Mitola would also like to see minority representation on both Board of Finance and Board of Education.
- Commissioner Wynne said the Town needs a bigger change in government and that the challenges the Town is facing currently qualify for a change. A mayor, or key elected official, a legislative function, a Town Manager and a Board of Finance are all needed. Components for possible government structure: A mayor or a first selectman would be the key figure and would set long term direction and marketing message of the Town. This person would ensure the longterm desires of the entire town and participate with the legislative body whether the town council or RTM. The legislative body would collaborate with a senior official, on the long term direction that the Town Manager would implement. They would have ultimate budget approval, and representation by district supplemented by at-large representation. It would be more streamlined than the existing legislative function by being smaller and more efficient and have more concentrated experience. The Town Manager would be the chief operating function of the Town, hired by the council with the approval of the senior elected official or the Mayor. They would provide non political objective leadership and management to the Town. They would be credentialed, experienced and have a contract. They would help ensure the long term policies and direction of the Town. They would be they key executive official of the town.
- Commissioner Gross stated the Strategic Planning workshops showed a desire to have significant change in Town government. Commissioner Gross would like to hear from the Town again as they will have to vote for it. His Town Manager would have a professional certification, a CEO model to be less partisan and have greater accountability. This would increase service levels and responses to the public and he/she will be more able to deal with complex issues and there would be less corruption. This person would not be involved as a politician in town operations and so stability increases. A Town Council/Manager/Mayor structure would also work because Fairfield is a small city. A smaller sized government would increase accountability and reduce partisanship, Commissioner Gross is in favor of district alignment for a Town Council and less than 20 members. The Board of Finance would also stay as the structure appeals to the town and gives them a feeling of continuity. Commissioner Gross would suggest fewer members to the Board of Finance.

- Commissioner Iacono said the RTM is too large and it doesn't function as it was originally intended. If made smaller, the Town would be more in tune with who represents them and there would be more approachability and more accountability. Commissioner Iacono thinks there is no need for a Board of Selectmen and those roles can be absorbed by a stronger legislative body. The First Selectperson could make appointments and the Town Council could accept or reject it. A Board of Finance is needed but make it smaller. Commissioner Iacono is not in favor of a Town Manager and understands the structures work well, but not for this part of the Country. She said the elected official can have professionalism by being held accountable.
- Commissioner Battista said a smaller RTM would be held accountable and people would be able to relate to the representation. She is in favor of not having a Board of Selectmen but does think it is necessary to have a somewhat smaller BOF with a less than 6 year term.
- Chair Cafferelli doesn't think an unelected Town Manager would serve the needs of the Town and doesn't think the residents would be in favor. Chair Cafferelli does think that the people supporting the administration should be professional. Make terms for key departments and find out how many department heads are members of a collective bargaining unit. The Town Attorney, CFO and CAO would not be members of a collective bargaining unit but must be appointed and their terms would not be effected by a bargaining unit.
- Vice Chair Brogan thinks the Town government serves us well, but will it take the Town into the future. He also thinks the RTM is good at what it does and that it's important to have a Board of Selectmen to question the First Selectman. Vice Chair Brogan there should be a discussion about who is in charge of the Town Budget. He is in favor of a Town Manager, but thinks it would be hard for the residents to accept.

There was a lengthy discussion with the Commissioners and Attorney Mednick regarding the above comments as 4/3 were leaning toward a Town Manager form of government. A discussion followed regarding language that would be added to the Charter regarding qualifications for certain positions, size of the RTM and accountability within the administration. Attorney Mednick will send drafts out to the CRC that he has done for another town as well as best practice standards for town management.

VI. Report from Counsel on Non-partisan RTM elections

Attorney Mednick covered this earlier in the meeting, non-partisan elections are not permitted in the State of Connecticut. There would have to be a Statute or Special Act giving the community the ability to do so. As of now there is neither.

VII. Next Steps

- Publicize discussion for public input at the next meeting through the First Selectwoman's newsletter, emails and social media.
- Invite the BOS to the next meeting along with the public, or have the Chair and Vice Chair go to the BOS to get feedback on direction of Town governance.

The next meeting is scheduled for Thursday, March 10 at 7:00pm, which is the same night as the Board of Finance Budget meeting.

Commissioner Iacono motioned to have a special meeting for public comment on Thursday, March 10, 2022 at 6:00pm and keep the regular meeting for the same night at 7:00pm as originally scheduled. Commissioner Battista seconded the motion.

The motion carried unanimously.

VIII. Adjourn

Commissioner Battista motioned to adjourn. Commissioner Iacono seconded the motion. The meeting adjourned at 9:17pm.

Respectfully submitted,

Pru O'Brien
Recording Secretary

**FAIRFIELD CHARTER REVISION COMMISSION: BACKGROUND DOCUMENT #7
DRAFT CHIEF OPERATING OFFICER (FEBRUARY 25, 2022)**

SECTION 5-6: THE CHIEF OPERATING OFFICER - GOVERNMENT ADMINISTRATION AND OPERATIONS¹.

A. Appointment of the Chief Operating Officer. The Mayor shall appoint the Chief Operating Officer as set forth in §8-2.A of this Charter. The Chief Operating Officer shall serve a term conterminous with the Mayor who appoints said Officer and, notwithstanding the provisions of §8-2.B of this Charter, the Mayor may commence removal proceedings in accordance with the provisions of §3-10 of this Charter.

B. Qualifications. The Chief Operating Officer shall be appointed on the basis of education and experience in the accepted competencies, practices and credentials of local government management in accordance with best practices as set forth by the International City/County Management Association (“ICMA”), National League of Cities (“NLC”), Connecticut Conference of Municipalities (“CCM”), United States Conference of Mayors National Association of Counties (“NACO”); or, Government Finance Officers Association (“GFOA”) or any successor organizations thereto.

(1) Ordinance. The Mayor, upon the recommendation of the Director of Personnel, is required to recommend an ordinance, which may be modified from time to time in accordance with the standards established in this Charter, which establishes the job description and qualifications for the Chief Operating Officer. Said Ordinance shall establish academic qualifications which may include but not be limited to at least a master's degree with a concentration in public administration, public affairs, or public policy as well as experience levels in appointed managerial or administrative position in a municipal government.

(a) Transition Provision Pertaining to the Ordinance. The shall propose said Ordinance on or before the 1st Day of January 2022. In the event the Mayor has not submitted said Ordinance by that time, the Legislative Council on its own motion is required to proceed with the adoption of the initial ordinance, with the assistance of the Director of Human Resources on or before March 1, 2022. The position shall be advertised on or before March 10, 2022. This Charter requires appointment of the initial Chief Operating Officer to be no later than July 1, 2022.

(2) Conflicts of Interest. The Chief Operating Officer shall devote his or her entire time and business interest to the management of the town's affairs and shall not, during his or her term of office, be an employee of or perform any executive duty for any person, firm, corporation or institution other than the Town.

C. Powers and Duties. The Chief Operating Officer shall be the chief operating officer of the Town, who shall report directly to the Mayor as the Chief Executive Official of the Town in accordance with the General Statutes. In this respect, the Chief Operating Officer shall:

¹ NEW (Charter Revision of 2011).

FAIRFIELD CHARTER REVISION COMMISSION: BACKGROUND DOCUMENT #7
DRAFT CHIEF OPERATING OFFICER (FEBRUARY 25, 2022)

(1) Perform such duties as the Mayor may from time to time determine, in addition to those set forth in this Charter and Ordinances. These duties may include administrative and supervisory responsibilities within the authority and under the supervision of the Mayor in respect to any and all personnel and management functions provided for in the approved budget, but reserving always to the Mayor and the Legislative Counsel the final responsibility for policy and for review of viewpoints which department heads and other members of the staff may desire to bring before the Mayor.

(2) Manage, administer, supervise and perform, under the authority of the Mayor all

(a) Operational municipal functions related to, but not necessarily limited to, public works, traffic, parks and recreation, planning, zoning and environmental protection;

(b) Police, fire, health, social services, rescue, emergency medical service and emergency management and, unless otherwise provided by state or federal law, shall be responsible for the oversight of all municipal functions related to the abatement and management of environmental contamination. In doing so, the town Administrator shall be responsible for the supervision of the activities of the Chief of Police and the Fire Chief, and, unless otherwise prohibited by state law, shall be responsible for the functions of the Fire Department and the Office of Emergency Management; and,

(c) Municipal functions related to, but not necessarily limited to, finance, tax assessment and collection, economic development and information technology.

(3) Recommend to the Mayor adoption of such measures as he or she may deem necessary or expedient;

(4) Assist the Mayor in the submission to the Council of the Proposed Town Budget as by this Charter required;

(5) Perform such other duties as may be prescribed by this Charter or required of him or her by the Mayor or by Ordinance;

(6) Assist the Mayor and Board of Education in all aspects of labor negotiations, personnel issues, financial management, and any other field of public administration commensurate with his or her knowledge and experience.

FAIRFIELD CHARTER REVISION COMMISSION: BACKGROUND DOCUMENT #8

MISCELLANEOUS ISSUES (MARCH 10, 2022)

Minority Party Representation.

Relevant Charter Provisions.

Recommendation: Based upon the following information, I believe that the Charter should simply establish a standard that complies with C.G.S. §9-167a. In every case, with the possible exception of the confusion between the two Board of Education provisions, the Charter currently complies with state law and there doesn't appear to be any reason why this should not continue.

The General Rule for Elected Officials and Boards and Commissions. The Charter contains several provision that address the issue of minority party representation. First there is §2.6 entitled “**Minority representation on elected boards and commissions.**” The following bulleted provisions set forth the general rules, which appear to set the “bare majority” standard:

- **Even number requirements** (§2.6.A)¹: “...when an even number of members of a board or commission is to be elected, no political party shall nominate, and no elector shall vote for, more than one-half (1/2) the number of persons to be elected.
- **Uneven number requirements** (§2.6.B)²: “...when an uneven number of members of a board or commission is to be elected, no political party shall nominate, and no elector shall vote for, more than a bare majority of the number of persons to be elected.

Both of these provisions are derived from the 1997 and 2006 Charters. They do not appear to rooted in any of Fairfield’s Special acts.

With to the Board of Education (§2.6.C)³ each political party is entitled to “nominate, and each elector may vote for, the full number of candidates to be elected.” The Charter states that “In the event that more than two (2) candidates, in an election year when four (4) candidates are to be elected, or more than three (3) candidates in a year when five (5) candidates are

¹ Recodification of current Article II, §2.2.A (2006). Derived from Article II, §2.2.A of the 1997 and 2006 Charters.

² Recodification of current Article II, §2.2.B (2006). Derived from Article II, §2.2.B of the 1997 and 2006 Charters.

³ Recodification of current Article II, §2.2.C (2006). Derived from Article II, §2.2.C of the 2006 Charter.

FAIRFIELD CHARTER REVISION COMMISSION: BACKGROUND DOCUMENT #8
MISCELLANEOUS ISSUES (MARCH 10, 2022)

to be elected, receiving the highest number of votes belong to the same political party, the two (2) candidates of four (4), or the three (3) candidates of five (5), receiving the highest number of votes shall be declared elected and the two (2) candidates not of the same political party receiving the highest number of votes shall also be declared elected.”

I believe that verbiage translates into the following chart:

Number of candidates to be elected	Maximum number elected with highest number of votes	Number of candidates “not of the same political party” with highest number of votes
4	2	2
5	3	2

Again, the Board of education provisions seems to have its foundation in the 2006 Charter.

The following chart addresses the specific provisions pertaining to “minority party representation” for the elected Boards and Commissions:

Entity	Number of Members	Maximum from same party	Standard
Board of Selectmen (§2.7) ⁴	3	2	C.G.S. §9-167a Bare Majority ^A
Board of Education (§6.2) ⁵	9 ⁶	6	C.G.S. §9-167a (2/3 ^{rds}) ^B
Board of Finance (§6.3) ⁷	9	6	C.G.S. §9-167a

⁴ Recodification of current Article VI, §6.1.A (2006). Derived from Article VI, §6.1.A of the 1997 Charter.

⁵ Derived from Chapter XIX of the 1947 and 1956 Acts; and Chapter XX of the 1975 Charter. Formerly §8.2

⁶ Recodification of current Article VIII, §8.2.A (2006). Derived from Article VIII, §8.2.A of the 1997 Charter. Note: The reference to the 1947 and 1956 Special Acts does not refer to the composition of the Board of education. Chapter XIX of the 1947 Charter simply “continues” the Board of Education in existence at the time. Moreover, it refers to Chapter II of the 1947 Special Act to address the issue of election. In Chapter II, Section 1 a six-member board of education is established subject to provisions that strongly imply a “bare majority” standard for the composition of the Board, as follows: “When the number of members of a board or of officers to be elected shall be even, no political party shall nominate and no person shall vote for more than one-half the number to be elected and if the number to be elected shall be uneven, no political party shall nominate and no person shall vote for more than an bare majority of the number to be elected.” The Special Act seemed to be straining in the direction of a “bare majority” standard; although as we shall see there was an exception for the Board of Finance.

⁷ Recodification of current Article VIII, §8.3.A (2006). Derived from Chapter XVII, §1 of the 1947 and 1956 Acts and the 1975 Charter; and, Article

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			(2/3 ^{rds})
Board of Assessment Appeals (§6.4) ⁸	5	4	C.G.S. §9-167a ^C
Town Plan and Zoning Commission (§6.5.A) ⁹ (§6.5.B) ¹⁰	7	5	C.G.S. §9-167a ^D
• Alternates	3	2	C.G.S. §9-167a
Zoning Board of Appeals (§6.6.A) ^{11 + 12}	5	4 ¹³	C.G.S. §9-167a
• Alternate	3	2	C.G.S. §9-167a

The General Rule for Permanent Appointed Boards and Commissions: “Bare Majority”¹⁴. As set forth in §7.2 of the Charter entitled “Minority representation on permanent appointed boards and commissions” there is a “bare majority” standard that applies to appointed board members and commissioners, as follows: “No more than a bare majority of the

VIII, §8.3.A of the 1997 Charter. See also, Chapter II, §4(c) of the 1947 and 1956 Acts.

⁸ Recodification of current Article VIII, §8.4.A (2006). Derived from Article VIII, §8.4.A of the 1997 Charter. **Please note the language of §6.4.A:** “The Board of Assessment Appeals shall consist of five (5) members, to be *elected in accordance with Chapter 146 of the General Statutes (C.G.S. § 9-164 et seq.)*” **Further note the reference to C.G.S. §9-164** is significant because C.G.S. §9-167a “minority representation” falls within the territory of the “et seq” portion of the Charter citation.

⁹ Recodification of current Article VIII, §8.5.A (2006). Derived from Chapter XI, §1 of the 1947 Act, which established five members. The October election date was retained in §12 of the 1951 Act and reaffirmed by Chapter XI, §1 of the 1956 Act and the 1975 Charter; and, Article VIII, §8.5.A of the 1997 Charter. **Please note:** At the time of the 1947 Act Chapter XI, Sec. 1 had five members, subject to the following restriction: “Not more than three of the voting members shall be members of the same political party.” In the 1956 Act the Commission was increased to seven members, subject to the following restriction: Not more than four of the voting members shall be members of the same political party.” The bare majority standard was retained in the 1975 and 1997 Charter. The standard appears to have changed in 2006.

¹⁰ Recodification of current Article VIII, §8.5.B (2006). Modification of Chapter XI, §2 of the 1947 Act. There was also an appeal to the court of common pleas in Chapter XI, §8 of the 1947 Act; further amended by §13 of the 1951 Act. The appeal to the court of common pleas was repeal by §14 of the 1951 Act. Reaffirmed by Chapter XI, §2 of the 1956 Act and the 1975 Charter; and, Article VIII, §8.5.B of the 1997 Charter. **Note:** Similar to the Board of Assessment Appeals the Charter relies on the General Statutes, as follows: “The Town Plan and Zoning Commission shall have all the powers and duties conferred by this Charter, by ordinance, and on zoning commissions and planning commissions generally by Chapter 124 and Chapter 126 of the General Statutes (C.G.S. §8-1 et seq. and §8-18 et seq.)” In Title 8, there is an explicit reference to C.G.S. §9-167a.

¹¹ Modification of Chapter XII of the 1947 and 1956 Acts and 1975 Charter.

¹² Recodification of current Article VIII, §8.6.A (2006). Derived from Article VIII, §8.6.A of the 1997 Charter.

¹³ The current “minority party” standard was not included in Chapter XII §2 of the 1947 and 1956 Acts: “Not more than three members of said board shall be members of the same political party.” The standard was increased to “four” in Article IX, §8.6.A of the 1997 Charter and has continued thereafter.

¹⁴ Recodification of current Article III, §3.2 (2006). Derived from Article III, §3.2 of the 1997 Charter.

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members of a permanent appointed board or commission shall be members of the same political party. This shall not apply to persons required to serve on a particular board or commission by virtue of holding another position or office in the Town.”

The State Statutory Standard.

The General Rule^E. Under the laws of the State of Connecticut, with exceptions that I will address there is requirement pertaining to “minority representation.” In essence the law places a “maximum number” on the representation of any political party members^F who may serve on any elective or appointive “board, commission, legislative body, committee or similar body of the state or any political subdivision thereof^G.” Fairfield is a political subdivision of the state of Connecticut. In effect, it sets a cap on the number of members from one party, usually the majority party, as follows:

Column I Total Membership	Column II Maximum Number from One Party
3	2
4	3
5	4
6	4
7	5
8	5
9	6
More than 9	Two-thirds of total membership

Exceptions to the Rule. The provisions of C.G.S. §9-167a shall not apply in the following circumstances:

- Where the members of “any such board, commission, committee or body whose members are elected wholly or partially on the basis of a geographical division of the state or political subdivision^H,
- Where there is a “legislative body of a municipality (i) having a town meeting as its legislative body: or under the circumstance “for which the charter or a special act, on January 1, 1987, provided otherwise (Emphasis added since this issue will be discussed, below)^I,
- Where “the city council of an unconsolidated city within a town and the town council of such town if the town has

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a town council and a representative town meeting, the town charter provides for some form of minority representation in the election of members of the representative town meeting, and the city has a city council and a body having the attributes of a town meeting^J, or

- Where there is a “board of directors and other officers of any district, as defined in section 7-324, having annual receipts from all sources not in excess of two hundred fifty thousand dollars^K.”

Framework^L. The statute establishes a protocol for addressing this issue. Prior to the election or appointment, as the case may be, the Municipal Clerk, in the case of an election and the Appointing Authority^M, in the case of an appointment “shall determine the maximum number of members of any political party who may be elected or appointed to such body at such election or appointment.” The manner for determining the “maximum number” follows:

“From the number of members of one political party who are members of such body at the time of the election or appointment, subtract the number of members of such political party whose terms expire prior to the commencement of the terms for which such election or appointment is being held or made and subtract the balance thus arrived at from the appropriate number specified in column II of [C.G.S. §9-167a(a)].”

The mechanics are further set forth in C.G.S. §9-167a(c)^N and (d)^O.

Additional Exception to the Rule: A Greater Degree of Minority Representation^P. The law permits a municipality to include in their charter a standard “which provides for a greater degree of minority representation that is provided by this section”: “Nothing in this section shall be construed to repeal, modify or prohibit enactment of any general or special act or charter which provides for a greater degree of minority representation than is provided by this section^Q.”

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Constables.

Relevant Charter Provisions.

Recommendation: I have no specific recommendation. On the other hand, it has been recommended to reduce the number of Constables from seven to four and that consideration should be paid to appointing such Constables for a term of years with a cap on service.

Constables: Seven elected for two-year terms. The Charter contains several provision that address the creation of the position of Constable. §2.3.C establishes “**Elected Town Officials and their Terms of Office**¹⁵.” §2.3.C(1) sets for the terms of office under a provision entitled “**Officials elected every four years and their terms**¹⁶,” although please note that the terms in both sub-sections (1) and (2) include a variety of terms. In that section the Charter establishes seven (7) Constables subject to a term of two (2) years. The position of Constable is further addressed in §5.2 entitled “Other Elected Officers” which establishes the position of seven (7) Constables¹⁷. Curiously, the only reference to its functions are contained in sub-section B:

- **Powers and duties (§5.2.B)**¹⁸: Such “powers and duties prescribed by the General Statutes.”
- **Vacancies (§5.2.C)**¹⁹. Vacancies shall be filled in the manner prescribed in Chapter 146 of the General Statutes (C.G.S. § 9-164 et seq.).

Constables are exempted from the “single office requirements” as set forth in 2.4.C and 7.1.C.

¹⁵ Recodification of current Article II, §2.3.B (2006).

¹⁶ Recodification of current Article II, §2.3.C (2006).

¹⁷ Derived from of Chapter II, §1 of the 1947 and 1956 Acts and the 1975 Charter; and Article VII, §7.2.A of the 1997 Charter. Note: At all times since 1947 there have been 7 constables.

¹⁸ Recodification of current Article VII, §7.2.B (2006). Derived from Article VII, §7.2.B of the 1997 Charter.

¹⁹ Recodification of current Article VII, §7.2.C (2006). Derived from Article VII, §7.2.C of the 1997 Charter.

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- **§2.4.C Single office requirement for elected Town office²⁰**. No person shall be eligible to hold any elected Town office, including membership on any elected board or commission, who is at the same time an elected RTM member, an elected or appointed Town officer, an elected state official, or a member of an elected board or commission or a permanent appointed board or commission. For purposes of this paragraph, the term "Town office" does not include Justices of the Peace or Constables, but does include members of the Board of Education.
- **§7.1.C Single office requirement for appointed office²¹**. Except as otherwise provided in **Sections 10.7, 10.9, 10.10, and 10.13 of this Charter**, no person shall be eligible to hold any appointed Town office, including membership on any permanent appointed board or commission, who is at the same time an elected RTM member, an elected or appointed Town officer, an elected state official, or a member of an elected board or commission or permanent appointed board or commission. For purposes of this paragraph, the term "Town officer" does not include Justices of the Peace or Constables, but does include members of the Board of Education.

On December 30, 2021 Town Attorney Baldwin reported on a series of discussions with the Chief Clerk of the Probate Court, Diane Auray, pertaining to the Probate Court's use of constables. As an outgrowth of the discussion several approaches were considered:

- **Reduce Constables from 7 to 4:** Due to the lack of work a reduction of the number of constables to four from seven was recommended. Apparently the fees are limited to \$60/service and spreading the work among seven constables and the occasional Marshall provides a disincentive. According to the Clerk there were only thirty-six times when service by a Constable was required.
- **Move Elected to Appointed Status.** For some reason the creation of the position of Constables (and some other local officials) is set forth in Title 9 of the General Statutes. The cap of seven Constables is set forth in C.G.S. §9-200. The provision includes a limitation on the number of candidates you may vote for as a back door approach to capping majority representation amongst the Constables, which is unusual since they don't vote on

²⁰ Recodification of current Article II, §2.1.C (2006). Derived from Article II, §2.1.C of the 1997 and 2006 Charters.

²¹ Recodification of current Article III, §3.1.C (2006). Derived from Article III, §3.1.C of the 1997 Charter.

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any matters as a body. Another provision C.G.S. §9-185 sets forth the standard for electing the following officials, unless there is a provision accounting for such officials under the Charter or any remaining effect provisions of the Special Acts:

- Board of Assessment Appeals
- Tax Collectors
- Boards of Education²²
- Selectmen
- Constables
- Library Directors
- Town Clerks
- Registrars of Voters

Under this provision the municipality has the option to appoint “a constable or constables “in lieu of constables to be elected under section 9-189;” see, C.G.S. §9-185(A). I would agree with the Town Attorney that appointment of Constables to their individual offices would not necessarily fall within the requirements of the Minority Party Representation provisions, whether they are elective or appointive do not constitute a “board, commission, legislative body, committee or similar body” of the Town of Fairfield.

From the perspective of the Probate Court the appointed Constables would be better suited to training and best practices pertaining to the service of “people who often have debilitating mental handicaps or physical disabilities.” From time-to-time the conduct of Constables has “reflected poorly upon the court”.

If the CRC wants to move in this direction the General Statutes provide for appointment by the chief executive pursuant to an ordinance. Again, I do not believe that minority representation provisions apply. The appointments can be subject to a term which may be capped. The term of an elected official may not.

The Town Attorney also spoke with Tax Collector, Dave Kluczowski, who confirmed that his office does not use Constables and in the limited cases where they need to serve papers they use a State Marshal. The infrequency of use by the Tax Collector further informs the argument for reducing the number of Constables.

²² subject to C.G.S. 10-223e

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Commencement of Terms of Elected Officials and RTM

Relevant Charter Provisions.

Recommendation: It is not clear to me what the issue is with respect to Commencement of Terms.

The General Rule for Terms of Office for Elect Town Officials. Charter §2.3.B. entitled “**Commencement date of terms of Elected Town Officials.**” The terms of office shall commence as follows:

- (1) **Elected Town Officials, including the RTM²³:** On the third Monday in November after their election and qualification and shall continue until their successors have been elected and qualified.
- (2) **Justices of the Peace²⁴.** On the first Monday in January after their nomination²⁵.
- (3) **Registrars of Voters²⁶.** On the Wednesday after the first Monday in January after their election.

²³ Recodification of current Article II, §2.3.D (2006). **Note:** I’ve included the RTM on the commencement date based on my read of the current Charter. On the other hand, the issue of the commencement of the RTM term may be subject to interpretation based on the language that I have stricken in this provision. I have asked the Town Attorney to join the discussion on this matter.

²⁴ Recodification of current Article II, §2.3.E (2006).

²⁵ **Note:** Why “nomination”? I will review the JP statutes for guidance.

²⁶ Recodification of current Article II, §2.3.F (2006) (second clause).

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Resignations and Vacancies²⁷

Relevant Charter Provisions.

Recommendation: It is not clear to me what the issue is with respect to Commencement of Terms.

The General Rule for Vacancies in Elected Town Offices, including Boards and Commissions. Charter §2.5.A. addresses the issues of vacancies as follows:

- **Town Clerk²⁸, Board of Finance, Town Planning and Zoning Commission (including alternates), Zoning Board of Appeals, Board of Education²⁹, Board of Assessment Appeals, Zoning Board of Appeals (including alternates) (§2.5.A)³⁰:** Filled by appointment of the Board of Selectmen until the vacancy can be filled by election.
 - **Vacancy prior to the time in which nominations can be made under Chapter 146 of the General Statutes (C.G.S. 9-164 et seq.) [§2.5.A(1) – First sentence].** “The vacancy shall be filled at the next Town election.”
 - **Vacancy occurs after such time [§2.5.A(1) - Second sentence].** The vacancy “...may be filled at the next general election for which nominations can be timely made, or at a special election if convened by the Board of Selectmen or upon application by electors as provided in Chapter 146 of the General Statutes (C.G.S. § 9-

²⁷ **Note:** See, C.G.S. 9-164

²⁸ Recodification of current Article VII, 7.1.H (2006). Derived from Article VII, §7.1.H of the 1997 Charter

²⁹ **Note Pertaining to the Board of Education:** I am assuming that the general provision covers the Board of Education. If not there might be a default to C.G.S. §10-219: “If a vacancy occurs in the office of any member of the local board of education, unless otherwise provided by charter or special act, such vacancy shall be filled by the remaining members of said board until the next regular town election, at which election a successor shall be elected for the unexpired portion of the term, the official ballot specifying the vacancy to be filled.” (1949 Rev., S. 1500, 1502; 1953, S. 950d; 1967, P.A. 173; P.A. 81-257, S. 2, 10.)

History: 1967 act added qualifying phrase “unless otherwise provided by charter or special act”; P.A. 81-257 made filling of vacancy mandatory rather than optional unless otherwise provided by charter or special act by substituting “shall” for “may”.

See Sec. 9-1 for applicable definitions.

“Filling a vacancy” as used in section is an “appointment” within meaning of Sec. 1-18a(e)(1). 41 CS 267.

³⁰ Recodification of current Article II, §2.5. Derived from Chapter II, §7 of the 1947 Act; further amended by §4 of the 1951 Act and Chapter II, §7 of the 1956 Act; Chapter II, §6 and Article II, 2.5 of the 1997 and 2006 Charters.

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164 et seq.).”

- **Vacancies Filled for the expired portion of the Term [§2.5.A(2)]:** “Vacancies shall be filled for a term ending at the same time the vacating member's term would have expired.
- **Political Party Affiliation [§2.5.A(3)].** “If the person vacating the office was elected as a member of a political party, the vacancy shall be filled during the period of appointment from the membership of the same political party.
- **Long-term illness or disability of First Selectman (§2.5.B)** ³¹. In addition to the death or resignation of the First Selectman, a vacancy shall exist in the office of First Selectman if the First Selectman is unable to carry out the duties of office for a period of four (4) consecutive months, as certified at the end of that period by the remaining Selectmen to the Town Clerk. The vacancy shall exist from the date of such certification.
- **Method of filling vacancies on the Board of Selectmen (§2.5.C)** ³². At any time a vacancy occurs on the Board of Selectmen, including First Selectman, a replacement, who shall be registered with the same political party as the person vacating the office, shall be designated by the remaining Selectmen. If the Selectmen designate one (1) of themselves to fill the vacancy, they shall designate another elector to fill the vacancy of Selectman so created. If the vacancy is not filled within thirty (30) days, the vacancy shall be filled in accordance with the procedure set forth in Chapter 146 of the General Statutes for filling vacancies in the office of selectman.
- **Resignation and vacancies on the RTM (§2.5.D)** ³³.
 - Any member may resign by filing a written notice of resignation with the Town Clerk and such resignation shall take effect upon the date specified in the notice or, if none is specified, upon the date of filing.

³¹ Recodification of current Article VI, §6.3.A (2006). Derived from Article VI, §6.3.A of the 1997 Charter.

³² Recodification of current Article VI, §6.3.B (2006). Derived from Article VI, §6.3.B of the 1997 Charter. See also, **Cook-Littman v. Board of Selectmen of the Town of Fairfield**, 328 Conn. 758,778 (Conn. 2018) in which the Court held that this provision took precedence over the provisions of C.G.S. §9-222.

³³ Recodification of current Article II, §2.6.G (2006). Derived from Chapter III, §7 of the 1947 and 1956 Acts and the 1975 Charter; and, Article II, §2.6.G of the 1997 Charter.

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- Any vacancy in the office of RTM member from whatever cause arising shall be filled for the unexpired portion of the term at a special meeting of the members of the district in which the vacancy occurs, called for that purpose by the Town Clerk within thirty (30) days after the vacancy occurs.
 - If the person previously occupying the office which is vacant was elected as a nominee of a political party, the vacancy shall be filled by a person registered with the same political party.
 - The Town Clerk shall cause notice of the meeting to be delivered to each member not less than three (3) days before the time set for the meeting.
 - Such meeting shall elect its own chairman and clerk and shall vote by ballot. The election of a member as chairman or clerk shall not disqualify the member from voting.
 - A majority of the remaining members from such district shall constitute a quorum, and a majority vote of those present shall elect.
 - Each of the remaining members, including the chairman and clerk of the meeting, shall have one (1) vote.
 - If for any reason such vacancy is not filled within a thirty-day (30) period, the Town Clerk shall report such vacancy to the Moderator and the matter of filling such vacancy shall be placed on the call of the next regular RTM meeting.
 - A majority vote of members of the RTM present and voting on such vacancy shall elect.
 - The successful candidate shall be deemed a duly qualified member for the remainder of the unexpired portion of the term upon filing with the Town Clerk a certificate of his election signed by the chairman of such special meeting of the district or by the Moderator of the RTM.
- **Constables and Justices of the Peace (§2.5.E; see also, §5.2.C)³⁴.** Vacancies in the offices of Constable and Justice of the Peace shall be filled in the manner prescribed in Chapter 146 of the General Statutes (C.G.S. § 9-164

³⁴ Recodification of current Article VII, §7.2.C (2006). Derived from Article VII, §7.2.C of the 1997 Charter.

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et seq.).

- **Resigning from elected office (§2.5.E)**³⁵. Any elected Town official, except the Town Clerk, may resign by submitting a written notice of resignation to the Town Clerk. The Town Clerk may resign by submitting a written notice of resignation to the Board of Selectmen. The resignation shall become effective on the date specified in the notice of resignation or, if no date is specified, on the date the notice of resignation is submitted.

³⁵ Recodification of current Article II, §2.4 (2006).

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^A **§ 9-188. First selectman and selectmen. Election procedure. Dual candidacy prohibited. Minority representation; restricted voting. Tie vote.** Unless otherwise provided by law each town shall, at its regular municipal election, elect a first selectman, who shall be town agent unless otherwise provided by law, and two other selectmen or, in the case of any town having a population of ten thousand or more, not more than six other selectmen. The selectmen so elected shall constitute the board of selectmen for such town. Unless otherwise provided by special act, charter or ordinance the votes cast, including any valid write-in votes, for an unsuccessful candidate for first selectman shall be counted as votes for him as a member of such board, provided no elector may be a candidate for both the office of first selectman and that of selectman by virtue of nomination by a major or minor party or a nominating petition or registration of write-in candidacy, or any combination thereof. The provisions of section 9-167a shall apply to the election of selectmen, except that when the total membership of such board is five, the maximum number who may be members of the same political party shall be three, and provided that for the purpose of determining minority representation, the total membership of such board shall be deemed to include the first selectman, unless otherwise provided by special act or charter. Unless otherwise provided by special act, charter or ordinance, an elector shall not vote for more candidates for the office of selectman than a political party can elect pursuant to section 9-167a, provided that the number of such candidates that an elector can vote for shall be deemed to include the first selectman. If the electors fail to elect a first selectman at any election by reason of an equality of votes, such election for the office of first selectman and the election for selectmen shall stand adjourned and such adjourned election shall be held as provided in section 9-332. The ballots used in such adjourned election shall contain only the names of the candidates for the offices of first selectman and selectman which appeared on the ballot used in the election at which the tie vote resulted for the office of first selectman.

Source: (1949 Rev., S. 510, 515; 1949, S. 106b; 1953, 1955, S. 669d; P.A. 75-249; P.A. 76-173, S. 4; 76-363; P.A. 77-99; 77-578, S. 2, 3, 4; P.A. 79-484; P.A. 80-281, S. 12, 31; P.A. 83-475, S. 18, 43; P.A. 84-319, S. 27, 49; P.A. 11-20, S. 1.)

History: Amended by P.A. 11-0020, S. 1 of the 2011 Regular Session, eff. 5/24/2011.

Case Note: Annotations to former statutes: Whether under Art. 10, Sec. 2, of the constitution, the election of one selectman, only, is lawful. 32 C. 108. The plurality is of the ballots as actually cast, not as originally printed. 60 C. 352. Office of first selectman was created by Rev. St., 1875, Ch. 3, Sec. 2. 46 C. 549; 42 C. 463. History of section and of office of first selectman. 75 Conn. 460. Application to previous form of ballot. 91 C. 365; 102 C. 589; 104 C. 398; 105 C. 259. Cited. 130 C. 714. Election officials justified in refusing to permit plaintiff to vote for two candidates for first selectman. 135 C. 147. The clearly expressed intent of the legislature was that the principal of minority representation should control the results of special elections as well as those of regular elections. 143 Conn. 679.

Annotation to present section: Statute clearly states that unsuccessful candidate for office of first selectman may vie for place on the board; successful candidate for first selectman does not determine political affiliation of majority of board. 21 CS 482.

Conn. Gen. Stat. 9-188 First selectman and selectmen. Election procedure. Dual candidacy prohibited. Minority representation; restricted voting. Tie vote (General Statutes of Connecticut (2022 Edition))'

^B § 9-204. Minority representation on board of education

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(a) Unless otherwise provided by special act or charter provision, including the charter provisions described in subsection (b) of this section, when the number of members to be elected to the board of education for the same term at any election is even, no elector shall vote for more than half that number and when the number of members to be elected to the board of education for the same term at any election is odd, no elector shall vote for more than a bare majority of that number.

(b) Any charter which (1) provides for the election of the members of a board of education at one town election for the same term, (2) incorporates section 9-167a by reference to determine minority representation for such board of education and (3) makes no reference to the number of candidates for which an elector may vote for such board of education shall be deemed to have set the number of candidates an elector may vote for and the number of candidates who may be endorsed by any political party at the maximum levels specified in the table contained in subdivision (1) of subsection (a) of section 9-167a.

Source: (1949 Rev., S. 1500; 1953, S. 685d; P.A. 79-552; P.A. 86-333, S. 29, 32; P.A. 87-534, S. 1, 2.)

Case Note: Cited. 182 Conn. 111; 213 Conn. 216. Conn. Gen. Stat. 9-204 Minority representation on board of education (General Statutes of Connecticut (2022 Edition))

§ 9-199. Boards of assessment appeals. Alternate and additional members. (a) Unless otherwise provided by law, each town shall elect a board of assessment appeals consisting of three members and shall elect such officers at regular municipal elections for terms of four years. Such members of the board of assessment appeals shall hold office for the term for which they are elected and until their successors are elected and have qualified. When the number of members of the board of assessment appeals to be elected by any town is even, no person shall vote for more than one-half the number, and when the number to be elected is odd, no person shall vote for more than a bare majority of the number, provided the legislative body of any town may provide that the electors of such town vote for the full number of members to be elected thereat, any provision of the special acts to the contrary notwithstanding. The candidates in number sufficient to fill such offices who have the highest number of votes shall be elected. Nothing in this section shall be construed to affect the method of rotation of members of a board of assessment appeals legally in effect on October 1, 1976.

(b) The legislative body of a municipality or, in the case of a municipality for which the legislative body is a town meeting or a representative town meeting, the board of selectmen may appoint an alternate for each member of the board of assessment appeals. Each alternate member shall be an elector of the municipality. When seated, an alternate member shall have all the powers and duties of a member of the board of assessment appeals.

(c) Notwithstanding the provisions of subsection (a) of this section or of any special act, municipal charter or home rule ordinance, a municipality may, by ordinance, authorize its legislative body to appoint additional members to the board of assessment appeals for any assessment year.

Source: (1949 Rev., S. 501, 502, 503, 515; 1951, S. 106b; 1953, S. 680d; P.A. 76-173, S. 7; P.A. 95-132, S. 4, 5; 95-283, S. 28, 68; P.A. 00-120, S. 11, 13; P.A. 02-49, S. 4; P.A. 10-84, S. 4.)

History: Amended by P.A. 10-0084, S. 4 of the February 2010 Regular Session, eff. 10/1/2010.

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Cross Reference Note: See Sec. 9-167a re minority representation requirements.

Conn. Gen. Stat. 9-199 Boards of assessment appeals. Alternate and additional members (General Statutes of Connecticut (2022 Edition))

^D **§8-1. Zoning commissions.** (a) Any municipality may, by vote of its legislative body, adopt the provisions of this chapter and exercise through a zoning commission the powers granted hereunder. On and after July 1, 1974, in each municipality, except as otherwise provided by special act or charter provision adopted under chapter 99, the zoning commission shall consist of not less than five nor more than nine members, with minority representation as determined under section 9-167a, who shall be electors of such municipality. The number of such members and the method of selection and removal for cause and terms of office shall be determined by ordinance, provided no such ordinance shall designate the legislative body of such municipality to act as such zoning commission, except that (1) in towns having a population of less than five thousand, the selectmen may be empowered by such ordinance to act as such zoning commission, (2) a legislative body which is acting as a zoning commission prior to July 1, 1974, pursuant to an ordinance, may continue to act as such zoning commission if such municipality has initiated a charter revision pursuant to section 7-188, prior to July 1, 1974, which revision proposes to designate such legislative body as the zoning commission, and such charter revision is approved as provided in section 7-191, and (3) a legislative body which is acting as a zoning commission prior to June 17, 1987, pursuant to a special act may continue to act as such zoning commission. The manner for filling vacancies arising from any cause shall be provided by vote of the legislative body.

Conn. Gen. Stat. 8-1 Zoning commissions (General Statutes of Connecticut (2022 Edition))

^E See, C.G.S. §9-167a(a)(1).

^F See, C.G.S. §9-167a(g), as follows: “For the purposes of this section, a person shall be deemed to be a member of the political party on whose enrollment list his name appears on the date of his appointment to, or of his nomination as a candidate for election to, any office specified in subsection (a) of this section, provided any person who has applied for erasure or transfer of his name from an enrollment list shall be considered a member of the party from whose list he has so applied for erasure or transfer for a period of three months from the date of the filing of such application and provided further any person whose candidacy for election to an office is solely as the candidate of a party other than the party with which he is enrolled shall be deemed to be a member of the party of which he is such candidate.”

^G See, C.G.S. §9-167a(f), as follows: “Nothing in this section shall deprive any person who is a member of any such body on July 1, 1960, of the right to remain as a member until the expiration of his term.”

^H See, C.G.S. §9-167a(a)(2)(A)

^I See, C.G.S. §9-167a(a)(2)(B)

^J See, C.G.S. §9-167a(a)(2)(C)

^K See, C.G.S. §9-167a(a)(2)(D)

^L See, C.G.S. §9-167a(b)

^M See, C.G.S. §9-167a(h), as follows: “For the purposes of this section, the appointing authority for any member of any board or commission shall notify all other appointing authorities for members of such board or commission of each appointment made, including the name, town of residence and political affiliation of the person appointed, not later than five calendar days after such appointment. Such notification may be transmitted by electronic means.”

^N The provision is set forth in its entirety, as follows: “In the case of any election to any such body, the winner or winners shall be determined as under existing law with the following exception: The municipal clerk shall prepare a list of the candidates ranked from top to bottom according to the number of votes each receives; when the number of members of any one political party who would be elected without regard to this section exceeds the maximum number as determined under subsection (b) of this section, only the candidates of such political party with the highest number of votes

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up to the limit of such maximum shall be elected, and the names of the remaining candidates of such political party shall be stricken from the list. The next highest ranking candidates shall be elected up to the number of places to be filled at such election.”

^oThe provision is set forth in its entirety, as follows: “(d) If an unexpired portion of a term is to be filled at the same time as a full term, the unexpired term shall be deemed to be filled before the full term for purposes of applying this section. At such time as the minority representation provisions of this section become applicable to any board, commission, committee or body, any vacancy thereafter occurring which is to be filled by appointment shall be filled by the appointment of a member of the same political party as that of the vacating member.

^p See, C.G.S. §9-167a(e)

^q (1959, P.A. 665; 1963, P.A. 592; P.A. 76-173, S. 1; P.A. 77-245, S. 4; P.A. 85-333, S. 1, 2; P.A. 86-400, S. 1, 2; P.A. 87-498, S. 1, 2; P.A. 89-370, S. 14, 15; P.A. 97-154, S. 8, 27; P.A. 16-185, S. 15.)

History: 1963 act added new Subsec. (g) setting forth how membership in a political party is determined for purposes of the section; P.A. 76-173 in Subsec. (d) deleted reference to vacancies to be filled by election, in Subsec. (e) added nothing to “prohibit enactment of” to repeal or modify, and added “charter” to general or special act providing for greater degree of minority representation; P.A. 77-245 changed “town” to “municipal” clerk where appearing; P.A. 85-333 applied section to municipal legislative bodies, except for a municipality having a town meeting as the legislative body, effective January 1, 1986, and applicable to elections held on or after that date; P.A. 86-400 restructured Subsec. (a) to place exceptions in a separate subdivision and added exception for town and city councils in unconsolidated cities within towns under stated circumstances; P.A. 87-498 added, in Subsec. (a)(2), “or (ii) for which the charter or a special act, on January 1, 1987, provided otherwise”; P.A. 89-370 exempted board of directors and other officers of any district, as defined in Sec. 7-324, having annual receipts from all sources not in excess of \$250,000 from provisions of section; P.A. 97-154 amended Subsec. (g) by changing period during which applicant for erasure or transfer shall be considered a party member, from six months to three months from application filing date, effective July 1, 1997; P.A. 16-185 amended Subsecs. (a)(2), (b) and (c) to make technical changes and added Subsec. (h) re notification by appointing authority of each appointment made, effective June 7, 2016.

See Sec. 9-183b re nomination procedure for justices of the peace.

See Sec. 9-188 re application of minority representation requirements with respect to selectmen's election.

See Sec. 9-190 re minority major party's registrar of voters.

See Sec. 9-199 re election of town assessors and board of tax review.

See Sec. 9-200 re election of constables.

See Sec. 9-204 re minority representation on board of education.

Statute applies to board of tax review of city of Hartford. 154 C. 237. Second taxing district of city of Norwalk held to be a political subdivision of the state and subject to the provisions of section; definition of “political subdivision” discussed. 155 C. 256. Applicability of statute to a November, 1967, election of the board of aldermen of New Haven held under the direction of the U.S. district court for the district of Connecticut raised by a complaint of candidates in a case brought pursuant to Sec. 9-328; held the New Haven aldermanic election of November, 1967, is solely a creature of the U.S. district court and what candidates were elected is that court's prerogative to determine, especially as it has retained jurisdiction to decide this question. 156 C. 253. Cited. 168 C. 160. Minority representation statute not applicable to local legislative bodies. 175 C. 545. Cited. 182 C. 111; 205 C. 495; 225 C. 378.

Effect of Subsec. (d) is that an appointment of a member of the same political party as that of the vacating member need not be made unless not to make it would cause the maximum number of members on the board permitted to any one party under statute to be exceeded. 25 CS 444. Applies to board of selectmen of city of New London; the one man one vote rule does not apply to election of purely administrative body such as board of selectmen. 28 CS 403. Elected nonenrollee considered party member in light of minority representation rule. 30 CS 74.

Subsec. (d):

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MISCELLANEOUS ISSUES (MARCH 10, 2022)

Applies only to vacancies occurring in bodies that have already achieved maximum majority representation under Subsec. (a) and then only when the vacating member is of the minority party. 190 C. 39.

Cited. 37 CS 844.