



BOARD OF ALDERMEN
CITY OF SHELTON
SPECIAL FULL BOARD MEETING MINUTES
AUGUST 31, 2023
SHELTON CITY HALL, 54 HILL STREET, SHELTON CT
Live-Streamed at www.cityofshelton.org

Call to Order/Pledge of Allegiance

Alderman Anglace called the Special Board of Aldermen to order at 5:30 p.m. in the auditorium at Shelton City Hall. All those present stood and pledged allegiance to the Flag of the United States of America.

Roll Call

Alderman John F. Anglace, Jr., President – Present
Alderman Eric McPherson, Vice President – Present
Alderman Cris Balamaci – Present
Alderman Lorenzo Durante – Present
Alderman Porter McKinnon – Present via Zoom
Alderman Anthony Simonetti – Present
Alderman Bernie Simons – Present
Alderman Kevin Kosty – Present

Administration

Fran Teodosio, Corporation Counsel – Present
Kellie Vazzano, Administrative Assistant to the Mayor
Frances Freer, Administrative Assistant to the Mayor

1. ACTION TO ACCEPT/REJECT THE CITY CHARTER AS REVISED

Alderman McPherson MOVED to accept the proposed Charter as revised and submitted by the Charter Revision Commission; and further,

Move to set a referendum date, which shall be held in conjunction with the election of November 7, 2023 with the proposed Charter Revisions to be submitted to the electorate for approval or rejection; and further,

Move to submit the Charter Revisions to the electorate for approval or rejection in the form of the following question:

“Shall the Charter of the City of Shelton be revised in accordance with the report and recommendations of the Charter Revision Commission?”

Yes No”

Further, authorize the Charter Revision Commission to prepare, subject to the approval of Corporation Counsel, concise explanatory text of the proposed Charter changes to be posted on the City website.

Seconded by Alderman Simonetti.

Discussion:

Alderman Kosty: I have a few comments. First, I would like to thank my aldermen for their opinions and shared opinions on Monday night, particularly Alderman Simonetti, Alderman Anglace, you both talked about the past Technology Committee, which I was not aware of. Thank you very much for giving your opinions on that and the history and how good it was for the City. I did hear from some constituents about it as well. The Technology Committee was a hot topic so I received some emails about it. They do have their concerns about it. First, they are concerned about how the qualifications of the members will be reviewed. How do we know that they are actually experts in their field and suitable for this committee? They also have concerns about how much more technology the Board of Education uses in comparison to the City and the composition does not feel right, to only give the Board of Education one-third of the appointments on the Board. They also talked about, asking whether this committee would take power away from the existing Information Technology Directors for the City and the Board of Education. We mentioned on Monday night there was talk about people in the trenches, people working for those departments, they are the ones in the trenches. It won't be these guys on the Technology Committee, is my feeling and as far as developing plans that the committee is charged with, future plans, we get that every year at Finance when doing the budget. Every department, Parks & Rec, Library, they all give us capital projects they are interested in, they all give us what technology they need, the Board of Education as well. The role of this committee does seem to overlap a bit with the role of those people in the trenches. I share those concerns coming from both myself and some constituents, voters in Shelton that reached out to me.

Additionally, I got some information from our Board of Education Vice-Chairwoman about technology in the Board of Education. First off, she makes a point that there is no need for the Technology Committee to get the best price on technologies. All cities and towns can use the State approved bid list which posts the most qualified bidders of tech hardware and platform services. The thought that doing it ourselves through a different committee would get better prices is doubtful, especially since it might affect whether or not the Board of Education can actually use the technology. If we are getting the best price from the approved State bid list anyway, why do we need a committee to look for other prices? She also makes the point that many others have raised at our public hearing at other times, that the tech and security needs of the school system are very different from the needs of the City. The school system has a responsibility to protect and provide data from a district that cannot be violated or invaded. The City does not have any business over controlling those important responsibilities. I wanted to make sure that was on the record, those comments.

As for the change in the makeup of the Board of Education, we were supposed to get an opinion on that as pretty much everyone here made the statement that if it did not conform with State law that we would not support it. Our counsel is here and have we gotten the opinion on whether we can use 9-167a to change the Board of Ed's makeup, Minority Representation.

Alderman Anglace: I would remind the members of the Board of Aldermen to address the Chair and the Chair will address your questions out to the public when the time comes. If you are asking has Counsel written an opinion and would he give it, Alderman Simonetti has asked the same question, and Counsel is here tonight and yes, he will give his opinion. I first want the aldermen's questions or whatever you have to say and discussion first and then will have Counsel give his opinion.

Alderman Kosty: Okay, then I will state that the Secretary of State's office, I contacted them about the same question, particularly about Section 9-204a because I had great concerns over it. I talked to one of the lawyers up there, with respect to our own Counsel, I talked to Bernard Liu, who is one of the lawyers for the Secretary of State's office about the wording of that section. It seems to all come down to the very first word and how that affects the whole section, laws and legal contracts and have their own vocabulary. That first word being "notwithstanding", what its affect is, if you are not familiar with it, the best translation of it is "in spite of". Basically, how it is used in legal, as I understand it after talking to lawyer Bernard Liu, is that it is used to create exceptions to clauses listed after it. So, the way 9-204 is worded it says, "Notwithstanding the provisions of sections 9-204 and 9-414 and of any special act or town charter...", so basically if familiar with home rule and how it works, using the word notwithstanding in relation to a town Charter basically takes home rule through the town Charter away from individual municipalities in this case and it replaces it with a new rule. So, the replacement in this case for 9-204a is that it allows you to nominate and vote for the full number of Board members to be elected for the Board of Education specifically, but it also forces you to use the one-half or one-half plus one rule for minority representation. Because it uses the term notwithstanding, it overrides 9-204 which would allow you to use 9-167a. Since it is overridden, and so is our town Charter, if your Charter specifically says that you can, parties can nominate the full Board and voters can cast votes for the full Board, you cannot have any other option.

Alderman Anglace: I think you have made your point. Procedurally, the way we operate, the City of Shelton, is that when we have questions relative to legal opinions, we will ask Corporation Counsel to research them and give us an opinion. If we take an action based on that and the State feels that we are doing something that is not appropriate, the State can stick their nose in any time they want and bring it to our attention. We have to take an action based on local rule, this is our home rule and this is the way we operate. We look at something, we say there is a question and sought counsel opinion. There is no sense in belaboring this thing all night.

Alderman Kosty: With all respect, if we put a Charter revision that does not make sense to the State on the ballot tonight, it is still going to be there. If it gets voted in then we are putting our registrar of voters in an awkward position of having to declare the victors of the Board of Education race based on what the State tells them and it won't match what the Charter is.

Alderman Anglace: We are going to hear from Corporation Counsel and we will follow his ruling, not the State. Is that clear, the Counsel's ruling, not the State. The State has opinions on this, they have rulings, you can go to the State and get opinions in writing and so forth. But it ends

up here and locally when we take an action, we ask Counsel for legal opinions and we follow his legal opinions. It is that simple.

Alderman Kosty: I'm not trying to disrespect our counsel. I'm just trying to make sure we get it right.

Alderman Anglace: That's what we are trying to do too.

Alderman Kosty: If the State law takes away home rule, then the State is the one who would have the final say, would they not? Because the language of 9-204a says it is notwithstanding a town Charter which would mean in spite of what we put in the Charter, this will apply.

Alderman Anglace: If Counsel says that what we are doing is permissible and within the law and we follow it, then we are operating within the law. That's the way it is.

Alderman Kosty: Unless the State comes and says no.

Alderman Anglace: The State Statute, somebody can challenge us if they want and take us to court. We base our opinions, our legal opinions from Corporation Counsel. We don't go to the State for our legal opinions, he researches the statutes and he gives us his opinion with respect to what the statutes say. We are waiting for his opinion and we will get it.

Alderman Kosty: Respectfully, I would not want to see the taxpayer's money go into that.

Alderman Anglace: We aren't spending any money.

Alderman Kosty: If it goes to court it will.

Alderman Anglace: If it goes to court – he is on a stipend, he does not get extra money to go to court. He represents us.

Alderman Kosty: I have said my piece. I have talked to a lawyer at the State and it seems that we can't do this. We will hear from Corporation Counsel.

Alderman Anglace: The State has put out advisory opinions on this subject. They are in writing. When you start talking to people all over the lot we get different interpretations. We ask counsel for his ruling and follow his lead. Anybody else have anything to say?

Alderman Simonetti: Mr. Chairman, I think that over the years that I have been on the Board, we have had extremely good counsel from our City attorneys and in the same vein, I think we should again take the time to let him speak. I agree.

Alderman Anglace: That is what we are going to do. I'm giving you the opportunity to say what you have to say first. He has researched it and he is ready. Anyone else have anything to say? Counsel, would you give us your opinion.

Attorney Teodosio: The first thing I would say is, I will concede that 9-204a is confusing. After 9-204a there is 9-204(a). There is another statute that allows for interpretation of minority representation on a Board. Before I start talking, I will hand these out for you. The first item I am providing to you is the actual statute that I am going to talk about.

Sec. 9-204. Minority representation on board of education. (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.

(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.)

History: P.A. 79-552 added "unless otherwise provided by special act or charter provision"; P.A. 86-333 made minor change in wording; P.A. 87-534 added new Subsec. (b) to describe certain charter provisions which are deemed to have set the number of candidates for which an elector may vote.

Cited. 182 C. 111; 213 C. 216.

The second item I have passed out, I am going to explain to you and I would ask you to use that as your reference when I am talking about the different provisions of 9-204(b) rather than the text I handed out because as I said it is confusing.

(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,

Shelton Charter Section 2.4.1. (d)

"Board of Education consisting of nine (9) members to serve for a term of two (2) years."

(2) incorporates section 9-167a by reference to determine minority representation for such board of education

Shelton Charter Section 2.4.2

"... such authorization {to vote] shall not prohibit the operation of any law requiring minority representation."

(3) makes no reference to the number of candidates for which an elector may vote for such board of education

Shelton Charter Section 2.4.2

"Each elector is authorized to vote for the full number of members to be elected to any board."

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.

Going back to Alderman Kosty's comments about 9-204a. 9-204a says pretty much what he said, but it is not the only way that aldermen, a town, can provide for a Board that has minority representation 6/3. There is another statute which means there is another avenue, another authorization, another way that the State gives the City permission to have a 6/3 membership. Some of you have seen this table, I think you had it at the last meeting. The table shows you – I'm sorry I wanted to copy this for everybody, I will pass it around so you can look at it – but the table divides minority representation into two different columns. The 9-204a column, that's the

column that Mr. Kosty talked about, that is the column that restricts the majority to five (5) members. The other column is the column that I am about to explain to you which says that if you satisfy the requirements of that statute, you are allowed a six (6) member majority. I am handing out the table so you can look at it – please pass it down, it is mine.

Now, going to my cheat sheet as I call it – the second document that was handed out – 9-204(b) says the following. If these three things are in your charter, then you can have a six (6) member majority. Your charter has to – if you will follow along with me on the document I have handed to you – the first sentence (1) is right out of 9.204(b). It says, your charter has to “provide for the election of members of a board of education at one town election for the same term.” If you go to section 2.4.1(d) in your Charter, it says “Board of Education consisting of nine (9) members to serve for a term of two (2) years.” So, you have in that line the first prerequisite to the statute which allows a 6/9 majority or a three (3) member minority, however you want to look at it.

The next section says that your charter has to incorporate by reference 9-167a to determine minority representation. If you go to the Shelton Charter, Section 2.4.2 it says, “such authorization [to vote] shall not prohibit the operation of any law requiring minority representation.” Two points about that language that I just read. The bracketed language that is in there is in there for your aid. I inserted it because I took that out of context and I want you to know what it is referring to without putting the whole section there. It is for the ease of the reader, not to change the language. I will concede as I stand here that we don’t have a verbatim recommendation to go to 9-167. 9-167 is the section that says the majority can be six (6), the minority (3), but I am comfortable saying to you that the generic reference in our Charter that says hey if you want to figure out minority representation you have to go to the laws that are in effect, does the same thing as referring to 9-167a, it just does not name it.

Then it makes no reference to the number of candidates which an elector may vote for such Board of Education. In section 2.4.2, which is not the voting section of your charter, it is the authorization section of your charter where it says what the Boards will be composed of, not who shall vote for whom, it says “each elector is authorized” – it does not say anything about a candidate and it does not direct the voting – “to vote for the full number of members to be elected to any board.” It is a generic reference to the board. I will concede, again, that an argument can be made, well that is an indirect way of saying nine (9) members; I don’t think it is. They are saying the electors as they come in to vote are authorized to pick the full board if they so choose. Those three points allow you to – forget about the statute that Mr. Kosky talked about and get through the general statutes of the State of Connecticut with a charter that is consistent to have a 6/3 makeup.

I will take any questions you have.

Alderman Anglace: As the Charter Revision Commission has suggested, the nine (9) member Board of Education consisting of six (6) member majority, three (3) member minority and your review of the statutes indicates that is permissible for it is to be put on the Charter Revision

question for the people to vote on it and the people will decide whether or not they want that or if they want to stay with what they are now, yes or no?

Attorney Teodosio: Yes.

Alderman Anglace: In essence, that is permissible.

Attorney Teodosio: You asked me two things. You asked me if this can be voted on. Yes, it can be voted on because we have a mechanism that brings Charter revisions to the general populous. The topic is something that can be allowed based on the statute that I just interpreted.

Alderman Anglace: In your view, we are not in violation of any State – the State does not prohibit us from asking the public to vote on this question.

Attorney Teodosio: No.

Alderman Kosty: If we are talking about parentheticals of 9-204...

Attorney Teodosio: 204a or 204(a). There are two different statutes.

Alderman Kosty: I am aware. However, the parentheticals are included with 9-204, correct?

Attorney Teodosio: The parentheticals, 9-204a is one statute. 9-204(a) is another statute. It is a second statute.

Alderman Kosty: But it is embedded under 9-204, correct?

Attorney Teodosio: It is not embedded. It is a separate statute. It is listed as a separate statute.

Alderman Kosty: I copied the whole section 9-204.

Attorney Teodosio: If you go to the general statutes, there are two separate sections. The general assembly – I am not sure what their wisdom is, but they have 9-204a and then they have 9-204(a) and (b) separate sections.

Alderman Kosty: I have the whole thing here and you have the whole thing here as well. 9-204 is in red and then there is a (a) at that section and there is a (b).

Attorney Teodosio: You started with the word “notwithstanding”. You said the word “notwithstanding” was the first word in 9-204a. That is not the document that I handed out.

Alderman Kosty: No, it is not, but I think it is still relevant.

Attorney Teodosio: Wait a minute, you just started a conversation by saying that something was incorporated into 9-204a as a parenthetical. I responded that there are two separate statutes and I characterized it as ways to do it. Just because one says notwithstanding, that has to do with the compartment that is called 9-204a in the general statutes. It has nothing to do with the next section.

Alderman Kosty: Well, 9-204(a) (b) come before 9-204a, no parenthetical.

Attorney Teodosio: Correct.

Alderman Kosty: But the parentheticals, from here, so 9-204 is here is red...

Attorney Teodosio: The colors mean nothing. The colors mean nothing.

Alderman Kosty: To me it means (a) and (b) are subsections of 9-204, correct?

Attorney Teodosio: No, they aren't. Go to the general statutes and look at them. They are separate sections. If I could bring it up on my phone I would show you.

Alderman Kosty: Then why would anyone put, notwithstanding provisions of section 9-204 if there is nothing in 9-204?

Attorney Teodosio: There is. 9-204 is a section.

Alderman Kosty: And it contains (a) and (b).

Attorney Teodosio: What section are you reading from?

Alderman Kosty: I am looking at Section 9-204 which is what you printed out and gave to us.

Attorney Teodosio: That is the beginning of the statute. There is not another section of the statute.

Alderman Kosty: But if you say something is notwithstanding that section...

Attorney Teodosio: Where are you quoting from?

Alderman Kosty: I am quoting from 204a. It says, "notwithstanding provisions", no parentheticals. 9-204a, "Notwithstanding the provisions of sections 9-204".

Attorney Teodosio: Correct.

Alderman Kosty: So, if 9-204 contains both (a) and (b) then if you are not withstanding it...

Attorney Teodosio: Read the rest of 9-204a. The rest of 9-204a lists what that table is explaining. That table has an alternative way to get to the representation.

Alderman Kosty: It has an alternative way, but 204a by its wording – so help me understand notwithstanding if I am not understanding it correctly.

Attorney Teodosio: Let me see 9-204a.

Alderman Kosty: In the very first section it says notwithstanding is the entirety of 9-204. To me that would include both (a) and (b). Otherwise it is notwithstanding anything because there was no other section of 204 other than (a) and (b).

Attorney Teodosio: It does not say that you can't use the rest of it. It says if you don't use that, you use this and that is what the table shows. Notwithstanding in that circumstance means, forget what you have read. You can do it this way if you want. It does not say the other section is invalid. Why would the other section be there? They don't write things that they don't want.

Alderman Kosty: My understanding is that the term notwithstanding is used when you are unsure of your dependencies in laws so that you ignore everything but that section.

Attorney Teodosio: In this context, what it is saying is notwithstanding the circumstance that allows you to do this if you do it by action 1, 2, and 3, which I have explained, you can do it this way. You can have a minority board and a majority that break out at 5/4.

Alderman Kosty: By the date, section 9-204 was written and passed before 9-204a, correct?

Attorney Teodosio: The statute goes all the way back to Public Act 1979, I'm not sure.

Alderman Kosty: I don't think we are coming to an agreement. I do agree that the interpretation of 204(a) and (b) does seem to be solid, I just think that the intention of 9-204a, if I am correct and it was passed at an earlier time was to overwrite that.

Attorney Teodosio: If it was overwritten, they would have withdrawn it. It is there, it is an operable statute.

Alderman Kosty: My understanding from looking at the definition of notwithstanding is that you use it to use that with this to overwrite something without having to change the whole law.

Attorney Teodosio: But it says notwithstanding the way you do it there, you can do it this way. It does not say that you cannot do it the other way. It just provides an alternative way to do things.

Alderman Kosty: That's the whole usage of notwithstanding, as I understand it. Is that you are intentionally breaking something.

Attorney Teodosio: Right, notwithstanding the facts – essentially what the General Assembly has said is you can take it from 9-204(a), I'll use that a mine, or 9-204, yours. It does not say one is the exclusive way. If one was the exclusive way, the other section wouldn't be there. Thank you.

Alderman Anglace: It seems to me that we are guided by what counsel has recommended and that is that it is permissible for the Charter Revision Commission to ask the voters their opinion in what they want. Whether they want to continue with a 5/4 representation, nine (9) on the Board of Education or a 6/3 Board of Education. That is allowed under State statutes and I think we should go forward.

Alderman Kosty: I do have one more question and it is not related directly to what I asked before, if I may, please. The last section of (b), the last part of it, says that number of candidates that may be endorsed by any political party is set at the maximum levels of the table contained in subdivision one of Section a of Section 9-167a. That would also mean, to my understanding, that each party would only be able to nominate six (6) and each voter would only be able to vote for six (6) people.

Alderman Anglace: I think we have allowed sufficient time to argue this question and to get the opinions out there. What we need to know, is it permissible to go forward? We are not here to discuss and try to change what the Charter Revision Commission is recommending. What we just need to know is, is it permissible, legal, to go forward and ask the voters to make the decision.

Alderman Kosty: That is what I am trying to do. I believe that Corporation Counsel is correct in their 6/3, but I think there is another part of this that we missed and that (b) would also require us to make it so that voters could only vote for the maximum number of people that would be allowed as section 167a which means they would only be able to vote for six (6) people.

Alderman Anglace: I think we have beat this to death. You can take to the streets from hereon in to talk to people and let the people decide and that is what it should be. It should be a decision that the people should make and that is what the Charter Revision Commission has recommended to us, take it to the people and let them decide. It is permissible under the law. Counsel has given us the go-ahead. Without any further ado, move the question.

A voice vote was taken and is as follows:

Alderman John F. Anglace, Jr., President – Aye	Alderman Eric McPherson, Vice President – Aye
Alderman Lorenzo Durante – Aye	Alderman Porter McKinnon – Aye
Alderman Anthony Simonetti – Aye	Alderman Bernie Simons – Aye
Alderman Cris Balamaci – Aye	Alderman Kevin Kosty – Nay

Motion carries, seven (7) in favor, one (1) opposed.

2. 19 LEDGEWOOD ROAD BLIGHT LIEN

Alderman McPherson MOVED that the City release a municipal blight lien on 19 Ledgewood Road upon receipt of \$33,500 and that the Mayor and Corporation Counsel be authorized to prepare and sign all necessary paperwork.

Seconded by Alderman Simonetti.

Discussion:

Alderman Anglace: Was this the total amount of the blight?

Kellie Vazzano: As of the date of this proposed payoff of this lien, we will be settling at about 88% of the total due. As of the date of the proposed payoff, which is proposed within the next ten calendar days, I believe, the payoff that we would be receiving would be about 88% of the total that would be due.

Alderman Simonetti: Is this to satisfy the City so someone can purchase it?

Kellie Vazzano: Yes. This is a property that is going to a committee sale in a foreclosure on September 8th and there is a private party that is buying this property and they have asked if we would release the lien and we agreed we would release it for \$33,500, which is about 88%, almost 89% of the value at this time.

Alderman Simonetti: So, there won't be an auction, just a private sale.

Kellie Vazzano: If they can close prior to the auction, it will be a private sale, correct.

Alderman Simons: That property that we are going after, I have been personally involved with from the blight end of it. That property is in rough shape. The \$33,500 in my opinion is a homerun, a winner. It is in rough shape.

Kellie Vazzano: We are retaining our right to continue with the blight in effect and to not restart the clock on it if they do not do the repairs at that time. In addition, also, if they do not close within the timeframe prescribed, it continues.

Attorney Teodosio: The clock still ticks.

Kellie Vazzano: Regardless, if the committee sale goes through on the 8th, the blight will continue.

Alderman Anglace: The recommendation from Corporation Counsel is the settlement of \$33,500.

Attorney Teodosio: Yes. Kellie has done a wonderful job on this. She has carried the ball the entire time. You know from previous experience that you don't always get 100% with regard to blight liens and many times you have to set up a paradigm so the party has a time period to clean stuff up and then you settle much less than \$0.88 on the dollar. In this particular circumstance you have the time period, you have \$0.88 on the dollar and you have a representation that if they don't close that the fine just continues. Even if they close and they don't do anything, we can start a fine again. We can take our 88% and start from dollar one and run it up again. It is a win-win-win for the City.

Alderman Anglace: So, in effect, when I think about what we are concerned about up here is that the people’s concern in that neighborhood is clean up so that everybody’s property values go up. If we are going to sell it for \$33,500, something is going to be done, I presume to clean it up.

Attorney Teodosio: I don’t think that anybody who didn’t cause the blight is going to pay us \$33,500 to do nothing.

Alderman Anglace: So, we are making progress in the right direction by resolving this and moving forward.

Alderman McPherson: I just want to say one thing. I think a lot of credit really needs to go out. Bernie is involved with it, Kellie has been involved in it. I have spent a tremendous amount of time over my years involved with a lot of these issues. Just the amount of work and time and resources that goes into these, it just goes to say again that you have really done a very good job with this and yes, this is a very good amount.

A voice vote was taken and motion passed unanimously (8-0).

ADJOURNMENT

Alderman McPherson MOVED to adjourn the Special Board of Aldermen Meeting.

Seconded by Alderman Balamaci.

A voice vote was taken and the motion passed unanimously (8-0). Meeting adjourned at 6:15 pm.

Respectfully Submitted

Donna Fonda

Donna Fonda
Acting Clerk, Board of Aldermen

DATE APPROVED _____

BY: _____
Mayor Mark A. Lauretti