

## Report on Legislative & Rules Committee Meeting of January 8, 2018 Meeting - V.2

TO: Members of L & R Committee and the RTM Website

On Monday evening, January 8, 2018, the Legislative & Rules Committee met in the Evaristo Room in Town Hall at 8:00 PM. All districts were represented for all the items except the election of officers for which District 6 was absent.

The first order of business was to elect Committee officers: Douglas Wells was re-elected Chairman, Kip Burgweger was re-elected Vice Chairman, and Margaret Freiberg was elected Secretary.

The L & R Committee then took up items on the Call out of order.

### Item 18: Ordinance Prohibiting Waste Associated with Natural Gas and Oil Extraction:

Allison Walsh, the delegate from District 3, introduced this item. She, along with Michael Carter, had been appointed as the two members of the Fracking Sub-Committee that studied the proposed ordinance and prepared the report which appears in the Explanos. She explained that the State has imposed a temporary moratorium on the use of one type of fracking waste - natural gas waste. The State moratorium does not cover oil waste. She reported that in its review of the ordinance, the Sub-Committee met with the Town Attorney, the Conservation Commission, the proponents and others. They also researched the need for the ordinance. Under the State moratorium, the Department of Energy & Environmental Protection would regulate the beneficial use of natural gas waste, but DEEP has indicated that it will not be able to do this until mid-2018. Also, the State moratorium will expire, and there is no reason for the Town not to adopt the ordinance.

Ms. Walsh then described the fracking process. Wells for natural gas and oil are drilled several miles deep into shale and rock, and chemicals are used to facilitate the drilling. When the well is completed, both liquid and gaseous waste is discharged. The waste includes chemicals mixed with water and solid waste. The exact chemical composition used for extraction is a trade secret for each driller and is therefore not fully disclosed to the public. The Federal Government does not require the drillers to disclose the contents of the waste.

The industry has trouble disposing of the waste due to its hazardous composition which includes cancer causing substances, radioactive materials and other unknown materials. The water cannot be treated by sewage treatment plants. In October 2017, the EPA suggested regulating the industry on its website. It stated that the waste is highly dangerous. Fracking waste is exempt from federal regulation pursuant to the Resource Conservation and Recovery Act ("RCRA") and the Toxic Substance Control Act ("TSCA", pronounced Tosca). The waste has been sold to municipalities as road salt and as land fill.

Wayne Fox, the Town Attorney, and Doug Wells praised the work of the Fracking Sub-Committee.

A number of scrivener's errors were identified. They are marked on a copy of parts of the ordinance included in an appendix to this report that will be distributed as a separate document.

There then ensued a lengthy and detailed discussion of how to interpret the ordinance's applicability to homeowners and other Town residents. Some Committee members were concerned that a resident could unknowingly purchase road salt or other toxic waste product, use it in the Town, and be penalized pursuant to this proposed ordinance. Bob Brady and Marija Mikolajczak represented the proponents,

Denise Savageau of the Conservation Commission and the Moderator all participated in this discussion. It was suggested that the matter could be referred back to the Fracking Sub-Committee to consider how to interpret the ordinance's applicability to homeowners and other Town residents, and to consider revising the ordinance to remove the strict liability application of the statute to private commerce.

On motion to refer the ordinance to the Fracking Sub-Committee, the vote was 10-2-0 with Districts 2 and 3 voting no.

Item 4: RTM Meeting Dates for 2018 and 2019.

The Moderator explained that two dates in 2018 conflicted with other matters. April 9, 2018 occurs during school vacation. It would be possible to move the RTM meeting to April 16 while scheduling committee and district meetings two weeks prior to the RTM meeting.

On motion to change the April 2018 RTM meeting date from April 9 to April 16, the vote was 12-0-0.

The other conflicted date is September 17, 2018. Rosh Hashana is September 10, which would conflict with some committee meetings. Moving the RTM meeting date to September 24 would create a conflict for some district meetings with Yom Kippur. The L&R Committee elected to let the various districts resolve this conflict at their meetings this week.

Item 5: Amendments to Charter Provisions Dealing with Department of Human Services.

Valerie Keeney of the Law Department presented this item. Last year the RTM approved changing the name of the Department of Social Services to the Department of Human Services. These proposed amendments would update other applicable Charter provisions and give the Board of Human Services additional flexibility.

The problem that arose is that Item 14 is an extensive revision of Section 62 of the Charter and is completely inconsistent with the version of Section 62 that appears in Item 5. If the RTM approves Item 14 after Item 5, it would effectively remove the changes adopted by an affirmative Item 5 vote. After extensive discussion, it was suggested that Item 14 should be adopted this month, and then Item 5 could be revised to reflect Item 14's version of Section 62 and be considered at the next RTM meeting.

On motion to postpone Item 5, the vote was 12-0-0.

Item 7: Resolution to Form a Subcommittee to Research the Condemnation Commission.

John Eddy, Chair of the Appointments Committee, presented this item. He explained that the RTM nominates and appoints the members of the Condemnation Commission. The nature of the Commission's mission is not entirely clear because its powers are described as those formerly exercised by the Town Highway Commission and the Sewer Commission regarding condemnation of land, but those duties are defined by reference to previous entities that existed decades ago. We need to define more clearly what the Commission's duties and powers are.

The resolution would assign this task to a "subcommittee", but it should more properly be referred to as a "Special Committee".

Several scrivener's errors were identified and the corrections approved. They are marked on a copy of the resolution included in an appendix to this report that will be distributed as a separate document.

The vote to approve the resolution as revised was 12-0-0.

Items 8 – 15: Amendments to the Charter Regarding Nominations of Members of Boards and Commissions.

John Eddy, Chair of the Appointments Committee, presented these items. Similar resolutions have been before the RTM in the previous term and did not require an extensive description of their purpose and intent. Mr. Eddy did explain the purpose of these amendments and described how their intent will be achieved. Briefly, under the current system, most appointments expire in March, and that requires the Appointments Committee and the RTM to consider and approve or reject a very large number of nominees in a very short time. The amendments would extend the expiration dates over the first nine months in a year. Another set of changes would balance the expirations so that not all or most of the members of a board or commission would be replaced at the same time. Additionally, nominees would be given a unique designation to facilitate tracking their positions and terms, and their successors through the nominating process. Item 15 sets forth those designations. The length of the term of members of the Condemnation Commission would be extended from two to four years so that they would not need to be renominated every RTM term.

Several scrivener's errors were identified and the corrections approved. They are marked on a copy of the resolutions included in an appendix to this report that will be distributed as a separate document.

A single vote was taken on Items 8 – 15. The vote to approve the resolutions as revised was 12-0-0.

Item 16: Use of Town Email Addresses by all RTM Members for Official Town Business.

David Rudolph presented this item. The purpose is to get RTM members to comply with Town policy on the use of emails for Town business. Mr. Rudolph explained that if you use your private email for Town business, anyone can use the Freedom of Information Act to access your emails. The Town system allows using a shared folder to a committee or district instead of sending attachments to all involved. All applicable information can be stored in a central location on a Town monitored site. There followed a discussion regarding how to respond to an email sent to a member's home address by cc'ing the member's Town address or using [record@greenwichct.org](mailto:record@greenwichct.org).

The cost to the Town to provide this email service to the RTM is approximately \$9,000 to \$11,000 per year.

The Committee and guests then discussed to what extent FOIA applied to individual communications among RTM members. One should assume that there is no privacy connected with any Town email address. The Committee also discussed who in Town government can access RTM addressed emails. It was noted that a former IT director was fired for reading everyone's emails.

This item on the Call appears in two versions which are formatted differently. The first format follows the outlining format used in the RTM Rules, while the second version uses an outline that the author thought was clearer. The L & R Committee elected to delete the second version.

On motion to approve the item as revised by deleting the second version, the vote was 12-0-0.

New Item: Reusable Checkout Bag Initiative Ordinance.

The L &R Committee then considered a matter that was added to the Committee's agenda but was not on the Call. This is an ordinance that, among other related things, bans the use of certain kinds of plastic bags in certain circumstances. The ordinance is proposed by BYOGreenwich. Jeanine Behr Getz of BYO Greenwich presented the item. She stated that the proponents will be soliciting comments and inviting questions from the RTM, and they plan an educational month in the Town. The proposed ordinance will likely be on the Call in March. Representatives of BYOGreenwich will attend this week's district meetings to introduce the ordinance.

Ms. Behr Getz stated that the intent is to have consumers bring their own bags while shopping. The cost of goods includes the cost of bags provided by the merchant. There would be a charge for a paper bag of 25¢ per bag. Merchants pay between 15 and 20¢ per bag so 25¢ would cover their costs. There followed an extensive set of comments and questions by Committee members.

The meeting adjourned at approximately 11:05 PM.

Respectfully submitted,

Doug Wells and Kip Burgweger