

Jonathan Clark
16A Woodlawn Avenue
Branford, CT 06405
(203) 488-1283

March 27, 2006

First Selectperson Cheryl P. Morris
Selectmen Richard Sullivan & John Opie
Town of Branford
Branford Town Hall
1019 Main Street
Branford, CT 06405

Dear Selectpersons Morris, Sullivan & Opie:

Enclosed is a copy of the draft report of the Branford Charter Revision Commission. The original has been sent to the Town Clerk for transmission to you, as called for in CGS Section 7-191. Included as part of that report is the resolution passed unanimously by the commission on March 27, 2006, recommending amendments to the town charter that would allow intradepartmental budget transfers up to \$3000 by authorization of the Board of Finance, with notification, rather than authorization of such transfers by the RTM. The commission believes this change will expedite the work of the RTM while still ensuring sufficient oversight of budget transfers.

The commission believes that the Board of Selectmen should accept this recommendation for review and consideration by the voters of Branford. Input received from past and current members of the RTM was positive regarding this change. Board of Finance members who contacted the commission voiced no objection.

The commission will schedule a special meeting or meetings, if necessary, to consider revisions to our recommendation as suggested by the Board of Selectmen, in accordance with the provisions of CGS 7-191.

The commission continues to believe that it was legally constituted and has worked in accordance with that belief. We call to your attention the following facts:

1. The Board of Selectmen never voted to accept the opinion of the Town Counsel that the commission was not legally constituted.
2. No judicial finding was sought nor rendered invalidating the creation and appointment of the commission by unanimous votes of the previous Board of Selectmen.
3. The commission was created and appointed in accordance with precedent not only in Branford but also in every other town in Connecticut with a Board of Selectmen/RTM form of government. Town Counsel's opinion did not address these precedents. We believe they would weigh convincingly should a judicial determination of the matter ever be sought.

**Branford Charter Revision Commission
Draft Report 3/27/06**

This draft report from the Branford Charter Revision Commission is hereby submitted to the Branford Town Clerk for transmission to the Board of Selectmen, in accordance with Connecticut General Statutes Sec. 7-191.

Description and discussion of the work of the commission:

On Oct 5, 2005, the Branford Board of Selectmen voted unanimously to create a Charter Revision Commission. The establishment of the Commission by the BOS was consistent with the appointment of past Charter Revision Commissions in Branford, as well as appointments of charter revision commissions in the other Connecticut towns with a Board of Selectmen/RTM form of government.

On Oct. 19, 2005, The Board of Selectmen voted unanimously to name the nine individuals listed at the conclusion of this report to the Charter Revision Commission.

An organizational meeting of the commission was held on Nov. 2, 2005. Prior to the start of that meeting all nine members swore an oath of office which was recorded in the Town Clerk's office. At that meeting, Jonathan Clark was elected chairman and Jane Bouley secretary. A regular meeting schedule was set for the second and fourth Monday of each month. The first regular meeting was scheduled for Nov. 28, 2005, including a public hearing called for by state statute.

At the start of the meeting on Nov. 28, a policeman hand delivered a letter to the chairman from newly elected First Selectperson Cheryl Morris. In that letter she stated that in her judgment and in the opinion of Town Counsel, the Marcus Law Firm, the "... Commission is not a legally formed body and no further meetings should take place." A copy of the Town Counsel's opinion was enclosed. According to that opinion, the RTM, and not the Board of Selectmen, is the appropriate appointing authority of a charter revision commission in Branford pursuant to state statute.

Despite that opinion, the commission conducted the public hearing, discussed the First Selectperson's letter, and decided to write to the full Board of Selectman requesting action by that body regarding the Town Counsel's opinion. Since we had been appointed by the Board of Selectmen, not just the First Selectman, we felt we could not respond to the Town Counsel's opinion unless it was accepted by a vote of the Board of Selectmen.

The Board of Selectmen met on Dec. 7, 2005, and the Town Counsel explained to the full Board of Selectman the reasoning in the firm's opinion. The Board of Selectmen, however, has taken no formal action on that opinion.

At its Dec. 12, 2005, meeting, since the BOS took no action and gave no direction, the Charter Revision Commission resumed deliberations on its charge. Members of the commission agreed to seek information from the Connecticut Conference

of Municipalities on the issues in our charge, including election/appointment of Town Clerk and Tax Collector positions, the inclusion of Finance Director the town charter, how intradepartmental transfers are governed in other municipal charters, and the necessity of having an elected position of "Treasurer." It was also agreed to seek input from town appointed and elected officials who might be affected by recommended changes resulting from the commission's charge. In addition, it was decided to review the "Diversity of Interest" clause in the RTM portion of the charter in consideration of the 1984 State Supreme Court decision "Branford v. Buonocore," which held that clause to be unconstitutional.

At subsequent meetings of the commission (Jan. 10, Jan. 24, Feb. 27, March 13) it became clear to members of the commission that it was impossible to thoroughly study all of the issues before us without the cooperation and support of Branford's elected and professional employees, the full cooperation of CCM, and the advice of Town Counsel. The absence of a definitive resolution of the legal status of the commission itself made the achievement of harmonious working relations between the commission and other interested parties impossible. It also became clear that that the four month time limit on the work of the commission was unrealistic.

Although commission members requested information and input from elected and appointed town officials and staff; in general, no meaningful or helpful responses were received by the commission, except on the issue of intradepartmental budget transfers.

The one issue on which the commission does feel prepared to make a recommendation to the Board of Selectmen for consideration of the voters is in the area of intradepartmental budget transfers during the course of a fiscal year. Under the current charter, all transfers, no matter how small, within a department's budget must first be approved by a vote of the Board of Finance, followed by a vote of the RTM. This is a time consuming process, with authorization by the RTM often occurring after the transfer has, in fact, been made. The commission believes that the Board of Finance should be able to make transfers up to \$3000 without approval of the RTM. Accountability is provided by requiring that such transfers be reported to the RTM in a timely manner.

With this change, oversight would continue to be exercised by the Board of Finance, but the time consuming approval process of the RTM for these relatively minor intradepartmental transfers would be eliminated. The resolution passed by the commission recommending such a change is attached as part of this report.

Formal recommendation: See attached resolution

Respectfully submitted on behalf of the commission,

Jonathan Clark, Chairman