

Ryan Knapp, Chair
Judit DeStefano, Vice Chair
Neil Chaudhary
Dan Honan
Mary Ann Jacob
Chris Eide



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TOWN OF NEWTOWN

Minutes of the Legislative Ordinance Committee Meeting

The Ordinance Committee met on Wednesday June 7th, 2017 in Meeting Room 1 of the Municipal Center, 3 Primrose Lane, Newtown. Committee Chairman Ryan Knapp called the meeting to order at 7:00 pm.

Present: Ms. DeStefano, Mr. Eide, Mr. Chaudhary and Mr. Knapp. Mr. Honan arrived at 7:45

Absent: Ms. Jacob

MINUTES:

Ms. DeStefano moved to approve the minutes of 4/1/2017, Mr. Eide seconded.

Mr. Chaudhary commented that the minutes were well done and he felt as though he had attended.

3-0 in favor (Mr. Chaudhary abstained)

PUBLIC COMMENT:

None

Old Business

Review and Recommendation regarding Pension Committee ordinance language.

Mr. Knapp spoke to Ms. Jacob regarding the draft which she had updated to include committee comments. She is now sending the draft to the stake holders such as the First Selectman to make sure it contains all the substantive information it needs. Then she will report back with an updated draft for language review.

Review and recommendation regarding Ad-hoc committee for Policy and Planning for Roads and the roads ordinance language.

Mr. Knapp began by speaking to the Road Committee recommendations. He has read the entire roads report as well as our current Code and noted some highlights. Combining all three ordinances will be an extensive rewrite. The draft is 44 pages long and he would like to speak with legal regarding if that needs to all be published or only substantive changes.

The group discussed the current code and where things fit.

Mr. Knapp said the two big things are giving the Town a mechanism to accept roads that will never be conforming an exemption to our current acceptance process (which the Roads committee said was adequate) and a maintenance authorization similar to what currently only exists in policy. Both of these should still protect the Town and not compel infringement on property rights.

Ms. DeStefano asked about sending this to the stakeholders.

Mr. Knapp intends to do so once we have more of a draft. Hopefully before the next meeting.

Mr. Chaudhary addressed concerns about property ownership and boundary concerns by noting our current process and that once we have a way to adopt non-conforming roads, other things will fall into place.

Mr. Eide pulled up New Milford's minimum standards based ordinance.

Mr. Knapp preferred a case by case basis approach that does not beholden us to anticipate every scenario. He said there seem to be two ways to approach these roads, one is to grandfather roads which

predate our standards. He thought zoning was established in 1959 but would have to check that, and two would be to establish a process for roads that can't meet our standards due to physical challenges.

Mr. Eide had concerns about people who do not want to cooperate with the Town and the Town taking the road. He asked if there was Blight for roads.

Mr. Knapp said that he likes Glastonbury's code and how they deal with it.

Ms. DeStefano questioned why wouldn't someone give a road to the Town? With sewers they can force people to join.

Mr. Eide pulled up the Glastonbury code and noted that it limits what the Town will and won't do on non-town owned roads.

Mr. Knapp feels that gives the home owner an incentive to cooperate. The process is to protect the Town when a road is not up to code, rather than taking on a liability.

Mr. Chaudhary suggested a public safety exemption similar to Glastonbury's.

Mr. Eide will send the relevant Glastonbury language around to the group.

Mr. Knapp noted the authorization to plow and sand is awkwardly in the sidewalks ordinance. He also noted that roads has some references to sidewalks. Similar to Glastonbury, we can add authorization language, but was unsure of where it best fits.

Mr. Chaudhary referenced to policy suggestions in the roads report and suggested adding language to compel the Town to develop policy.

Mr. Knapp felt the substance of those policies are much more operational than legislative and should be handled by the process owners and administration.

Mr. Knapp also raised questions about the specificity of the current ordinance which applies to both the Town and developers. He would like to confirm with Public Works that it is current, nothing that there have been updates (referenced in the Roads Report) to the type of stone we use and the approach to drainage.

Review and recommendation regarding Public Act 14-33.

Mr. Knapp shared the draft of the farm buildings ordinance. It is essentially done.

Mr. Chaudhary has concerns about how this would impact revenue.

Mr. Knapp said that the frame work is done and we could send it to the LC, possibly with a recommendation, for an economic discussion at that level. The total is about \$50,000 in revenue and the Town does a lot for other entities. He said this does support our Plan of Conservation and Development and noted that we just spent about \$500,000 to buy the development rights on just one farm. The language does give the LC the flexibility to change this by resolution. That this is only for working farms that earn or spend \$15,000/year on farming.

Mr. Eide suggested that if we do not recommend the program, we could still give it to the LC so that it is on record for future Councils.

Ms. DeStefano reminded the group that when you give one person a tax break, other people's costs go up.

Mr. Chaudhary said he feels torn.

Mr. Honan spoke to the history of the ordinance request.

Mr. Knapp said there is no need to act tonight. He would like to send several ordinances to the Council conqueringly so they can run through the process in parallel.

Review and Recommendation regarding acquisition and disposition of real property ordinance.

Ms. DeStefano reviewed her draft and asked how she should proceed including information she is structuring it like other ordinances and filling in detail behind the Charter. She is doing a rewrite of the Chapter in a new format similar to what was done on Alarms.

Mr. Knapp suggested that she include everything she can with comments and we can do a read through as a group, noting that it is easier to delete than to add content.

Mr. Chaudhary commented that if no action is taken, the language appears to default to sell property obtained for non-payment of taxes.

Mr. DeStefano will circulate her draft.

The group will do a line by line read through at the next meeting.

Review and Recommendation regarding abatement for volunteer fire, ambulance and underwater rescue personnel.

Mr. Knapp discussed the logistics of bring this forward with other ordinances so that we can run the processes in parallel. Still waiting on answers to the questions.

PUBLIC COMMENT:

None.

Ms DeStefano motioned to adjourn at 9:10. Mr. Chaudhary Seconded. All in Favor

Respectfully Submitted,

Ryan W. Knapp
Ordinance Committee Chairman

Draft Ordinance for Farm Building Tax Exemption

Adopted: (Date) , Effective: (Date)

Section 1. Title.

This Ordinance shall be known and may be cited as “An Ordinance Providing a Property Tax Exemption for Farm Buildings.”

Section 2. Legislative Authority.

This Ordinance is enacted pursuant to the provisions of Section 12-91(c) of the Connecticut General Statutes, as it may be amended from time-to-time.

Section 3. Findings and Purpose.

The Legislative Council of the Town of Newtown finds that the preservation of farming and farmland is vitally important to retaining Newtown’s rural character and quality of life, works towards the Plan Goals in the Newtown Plan of Conservation and Development, and promotes economic and environmental sustainability. Therefore, pursuant to *Connecticut General Statutes* § 12-91(c), as amended, the Town of Newtown seeks to protect, preserve and promote the health, welfare and quality of life of its people by providing a tax exemption for certain farm buildings.

Section 4. Applicability and Benefits.

(a) For a farmer who qualifies for the farm machinery exemption under **Connecticut General Statutes § 12-91(a)**, any building used actually and exclusively in farming, as “farming” is defined in Section 1-1 of the Connecticut General Statutes, except for any building used to provide housing for seasonal employees of such farmer, upon proper application being made in accordance with this section, shall be exempt from property tax to the extent of an assessed value of **one hundred thousand dollars**.

(b) This exemption shall not apply to any residence of any farmer.

(c) Annually, within thirty days after the assessment date, each individual farmer, group of farmers, partnership or corporation shall make written application to the Assessor for the exemption provided in subsection (a) of this section, including therewith a notarized affidavit certifying that such farmer, individually or as part of a group, partnership or corporation, derived at least fifteen thousand dollars in gross sales from such farming operation or incurred at least fifteen thousand dollars in expenses related to such farming operation, with respect to the most recently completed taxable year of such farmer prior to the commencement of the assessment year for which such application is made, on forms prescribed by the Commissioner of Agriculture. Failure to file such application in said manner and form within the time limit prescribed shall be considered a waiver of the right to such exemption for the assessment year. Any person aggrieved by any action of the Assessor shall have the rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the doings of the Assessor.

MOTION to amend §185-48 of the Code Book by adding the following sections:

§185-48

P. Should a road be judged by the Selectman's Office to be unable to meet the modified design standards established under §185-47, the First Selectman shall bring a recommendation to the Legislative Council to exempt the road from the modified design standards and accepted.

Q. The following roads have been accepted by the Town, pursuant to §185-48P:

Road	Miles

MOTION to rename Ch. 204 Article I of the Code Book to "Town Maintenance of Private Roads", strike §204-2 and replace with language below:

§204-2 Maintaining in order to provide emergency services

A. The Board of Selectmen is hereby empowered and directed to provide the following services on private roads to the extent necessary to provide residents of the Town of Newtown wherever situated with police, fire, ambulance and other emergency protection throughout those portions of each year that such road services are required to maintain suitable access to such residents by emergency vehicles. The foregoing shall not be construed as authorizing such services for any private road on which there are fewer than three occupied residences or which is in such condition as to create a hazard to Town equipment; nor shall the Board of Selectmen be required to provide such services beyond the last inhabited house on any private road. Such services shall in no way adversely affect the clearing of accepted Town roads and shall be performed on a schedule to be established by the Board of Selectmen in its discretion.

(1) Snow plowing and ice sanding;

(2) Sweeping;

(3) Surface patching;

(4) Oiling and incidental sanding;

(5) Installation and maintenance of any official traffic-control devices and street signs as defined in G.S. § 14-297, which are approved by the traffic authority.

B. If the town considers it necessary to public safety or otherwise desirable to provide additional work, services or improvements to private roads eligible for maintenance under §204-2 (A), such work, services or improvements may be provided by the town or its designees provided an agreement is executed between the town and the owners of the land upon which the road rests, or which the road benefits, concerning the work, services or improvements. The town may decline to provide additional work, service or improvements unless the agreement apportions costs among the parties.

ARTICLE III. - PRIVATE ROADS AND STREETS^[3]

Footnotes:

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Editor's note—An ordinance of Nov. 23, 1982, amended the 1960 Code by repealing §§ 2401—2403, which had been codified herein as Art. III, §§ 17-31—17-33. Said ordinance enacted new §§ 2401—2406, of which 2401, 2403—2406 have been codified, at the editor's discretion, as a new Art. III, §§ 17-31—17-35.

Sec. 17-31. - Purpose.

This article shall govern the manner in which the town may provide certain maintenance to roads that are not accepted public highways.

(Ord. of 11-23-82)

Note— See editor's note for Ch. 17, Art. III, found at the bottom of page CD17:8, for former derivation of Ch. 17, Art. III.

Sec. 17-32. - Private roads approved for maintenance.

- (a) The department of public works is authorized to provide those maintenance services described in section 17-33 of this article for the following private roads, or parts thereof as the case may be, that were in use prior to January 1, 1945:

	<i>Miles</i>
Birch Trail	0.29
Carini Road	0.16
Carter Court	0.10
Chestnut Hill Terrace	0.07
Cotton Hollow Road	0.47
Cross Trail	0.04
East Lake Shore Trail	0.27

Fern Street	0.17
Green Cemetery Road	0.24
Hilltop Trail	0.04
Hopewell Heights	0.17
Lake Shore Trail	0.31
Laurel Trail	0.22
Montano Road	0.08
Owens Lane	0.20
Pearl Street	0.06
Pine Tree Lane	0.19
Roaring Brook Plaza	0.08
Sherbrook Drive	0.14
Springside Trail	0.33
Trymbulak Lane	0.22
Washington Street	0.17

- (b) Maintenance services shall be provided for the private roads listed in this section only if such roads are reasonably safe. The director of public works shall inspect, or cause to be inspected, the listed private roads and shall determine if they are reasonably safe for use by town employees providing the maintenance services. If a private road is not reasonably safe, no maintenance services shall be provided by the town unless the owners of the private road, or owners of property abutting the private road, as the case may be, properly correct the unsafe condition or conditions.
- (c) The private roads, or parts thereof, approved for maintenance shall be shown on a map which shall be available for public inspection in the town clerk's office.

(Ord. of 11-23-82)

Note— See editor's note for Ch. 17, Art. III, found at the bottom of page CD17:8, for former derivation of Ch. 17, Art. III.

Sec. 17-33. - Maintenance services to be provided.

- (a) Notwithstanding maintenance provided to private roads under the former ordinance, maintenance services provided under section 17-32 of this article shall be limited to the following services:
 - (1) Snow plowing and ice sanding;
 - (2) Sweeping;
 - (3) Surface patching;
 - (4) Oiling and incidental sanding;
 - (5) Installation and maintenance of any official traffic-control devices and street signs as defined in G.S. § 14-297, which are approved by the traffic authority.
- (b) If the town considers it necessary to public safety or otherwise desirable to provide additional work, services or improvements to roads approved for maintenance under section 17-32 of this article such work, services or improvements may be provided by the town or its designees provided an agreement is executed between the town and the owners of the land upon which the road rests, or which the road benefits, concerning the work, services or improvements. The town may decline to provide additional work, service or improvements unless the agreement apportions costs among the parties.

(Ord. of 11-23-82)

Note— See editor's note for Ch. 17, Art. III, found at the bottom of page CD17:8, for former derivation of Ch. 17, Art. III.

Sec. 17-34. - Acceptance for maintenance not to be construed as acceptance as public highway.

Approval of a private road for maintenance, improvement or hard-surfacing under section 17-32 of this article and/or approval of additional work, services, or improvements under section 17-33 shall not be considered acceptance of that road as a public highway.

(Ord. of 11-23-82)

Note— See editor's note for Ch. 17, Art. III, found at the bottom of page CD17:8, for former derivation of Ch. 17, Art. III.

Sec. 17-35. - Planning and zoning.

Nothing in this article shall be construed to modify or change any of the requirements laid down by the town plan and zoning commission and approved by the town for the acceptance of new roads as public highways.

(Ord. of 11-23-82)

Cross reference— Plan and zoning commission, § 15-36 et seq.

Note— See editor's note for Ch. 17, Art. III, found at the bottom of page CD17:8, for former derivation of Ch. 17, Art. III.

Secs. 17-36—17-45. - Reserved.

Sec. 18-8. - Maintenance of private easements and rights-of-way.

- (a) *Residential real property.* All residential land and buildings, but does not include property owned by the State of Connecticut or the Town of North Stonington.
- (b) *Benefited property or property that benefits.* Includes residential real property burdened by an easement or right-of-way, the owner of which residential real property uses such easement or right-of-way.
- (c) *Easement or right-of-way.* A right to use adjoining property that transfers with the land.
- (d) The owner of any residential real property that benefits from an easement or right-of-way, the purpose of which is to provide access to such residential real property, shall be responsible for the cost of maintaining such easement or right-of-way in good repair and the cost of repairing or restoring any damaged portion of such easement or right-of-way. Such maintenance shall include, but not be limited to, the removal of snow from such easement or right-of-way.
- (e) If more than one residential real property benefits from such easement or right-of-way, the cost of maintaining and repairing or restoring such easement or right-of-way shall be shared by each owner of a benefited property, pursuant to the terms of any enforceable written agreement entered into for such purpose. In the absence of such agreement, the cost of maintaining and repairing or restoring such easement or right-of-way shall be shared by each owner of a benefited property in proportion to the benefit received by each such property.
- (f) Notwithstanding the provisions of subsections (d) and (e) of this section, any owner of a benefited property who directly or indirectly damages any portion of the easement or right-of-way shall be solely responsible for repairing or restoring the portion damaged by such owner.
- (g) If any owner of a benefited property refuses to repair or restore a damaged portion of an easement or right-of-way in accordance with subsection (f) of this section, or fails, after demand in writing, to pay such owner's proportion of the cost of maintaining or repairing or restoring such easement or right-of-way in accordance with subsection (e) of this section, an action for specific performance or contribution may be brought in the Superior Court against such owner by other owners of benefited properties, either jointly or severally.
- (h) In the event of any conflict between the provisions of this section and an agreement described in subsection (e) of this section, the terms of the agreement shall control.

Sec. 18-9.- Private roads approved for Town maintenance.

- (a) *Private road.* A road on privately-owned property open to public passage that has not been given to or accepted by a government entity
- (b) This section shall govern the manner in which the Town may provide certain maintenance to private roads.
- (c) The Board of Selectmen shall perform a level of maintenance for the following private roads equivalent to that which was previously provided by the Town of North Stonington Highway Department through longstanding past practice, as reflected herein:

<i>Private Road</i>	<i>Miles</i>	<i>Type</i>	<i>Level of Maintenance</i>
Armstrong Pentway	.41	unimproved	occasionally provide material; plow and sand after all accepted roads
Avery Lane	.03	improved	surface patching/paving; regularly plow and sand
Billings Road Ext.	.11	unimproved	grading; regularly plow and sand
Cedars Road	.62	unimproved	regularly plow and sand
Cranberry Bog Rd.	.52	unimproved	grading; regularly plow and sand
Patricia Avenue	.60	unimproved	grading; regularly plow and sand
Princess Lane	.31	improved	surface patching/chip sealing; regularly plow and sand
Wrights Road	.50	unimproved	grading; regularly plow and sand

- (d) Maintenance above and beyond the foregoing, including but not necessarily limited to private road reconstruction, drainage work, and tree and brush removal, shall not be the responsibility of the Town. Owners of property shall continue to be responsible for any maintenance and repairs over and above that provided by the Town under this section.
- (e) Structural deterioration which may cause the said road to cease to be passable will be the responsibility of the owners, and the Town may require that said road be upgraded to passable condition before maintenance may continue.
- (f) Nothing in this section shall be construed to modify or change any requirements established by the Planning and Zoning Commission and/or included in the Town of North Stonington Zoning Regulations.

CHAPTER 8 ACQUISITION OR DISPOSITION OF REAL PROPERTY

8-01 General Provisions

- (a) Definitions: The following terms shall have the meaning ascribed to them below.
- (1) **Real Property:** The term "Real Property," as defined herein, shall include any town-owned parcel of land, structure, or interest in such land or structures. The term **Real Property** shall not include parcels with an appraised value of less than \$20,000 nor leases that have terms, with options, of less than 5 years.
 - (2) **Acquisition:** The term "Acquisition" shall include, without limitation, the
 - (i) Receipt of real property as a result of non-payment of taxes or property exchanges,
 - (ii) Acceptance of gifts, with or without conditions,
 - (iii) Acceptance of a leasehold, or
 - (iv) Purchase of real property.
 - (3) **Disposition:** The term "Disposition" shall include the sale, exchange, abandonment, or other disposition of **Real Property** and shall also include any decision to permit leases of **Real Property**. The **Disposition** of **Real Property** shall be restricted to:
 - (i) **Real Property** that is not needed for municipal purposes now or in the foreseeable future,
 - (ii) **Real Property** that is required to facilitate the **Acquisition** of improved or unimproved **Real Property** for a project already funded, or
 - (iii) **Real Property** that is not under the management of another **Town Body**, as provided for in this Charter.
- (b) The **Town** shall have all the powers set forth in the **General Statutes** and in this Charter to acquire and dispose of **Real Property**. Detailed processes or procedures for the

CURRENT
CHARTER

Acquisition and Disposition of Real Property shall be provided for in **Town** ordinances. If such ordinances are not available, the Legislative Council shall initiate the creation of such ordinances within 60 days of the effective date of this Charter. Such ordinances shall be consistent with requirements provided in Sections 8-05 and 8-10. For parcels with a value of less than \$20,000 or leases that have terms, with options, of less than 5 years Sections 8-05 and 8-10 need not apply.

- (c) If the transfer of **Real Property** provides consideration, in whole or in part, for the **Acquisition** of other real property, the appraised value of the transferred **Real Property** shall be included for the purpose of making an appropriation as if it were a cash payment.

8-05 Acquisition of Real Property

- (a) A recommendation to acquire real property shall be initiated by the First Selectman, with the approval of the Board of Selectmen, and presented to the Legislative Council.
- (b) The Legislative Council, subject to the availability of appropriations for the specific purpose, may authorize the **Acquisition** of real property with a majority consisting of at least six (6) affirmative votes. Exceptions to the power of the Legislative Council to acquire real property include the following:
- (1) The Planning and Zoning Commission shall have the power to accept on behalf of the **Town** all open spaces, parks, playgrounds, real property for the purpose of widening or realignment of existing public highways, conservation easements, conservation restrictions, and easements for drainage, slope or similar purposes that it requires to be provided by a subdivider as a condition of subdivision approval. Title of said property shall be free and clear of all encumbrances that are unacceptable to the Planning and Zoning Commission.
- (2) The Board of Selectmen shall have the power to acquire real property for public highways and related purposes as provided in Subsection 2-115(d)(7).

Fix per Bob Hall
w/ 805c draft
changes.
covered?
8-05 (D)

- (c) Prior to a Legislative Council vote to acquire real property, the following shall be completed.
 - (1) The Finance Director shall prepare and submit a **Financial Impact Statement** to the Board of Finance and Legislative Council, as provided in Section 7-25, for all property **Acquisition** other than those excepted in Subsection 8-05(b) and
 - (2) An appraisal of said real property from an appraiser licensed or certified by the State of Connecticut is required.
- (d) If the real property proposed to be acquired is for purposes for which a mandatory referral is required by Section 8-24 of the **General Statutes**, said referral shall be made before any action is taken.
- (e) As provided in Subsection 6-35(e), if the real property proposed to be acquired requires an appropriation of \$1,500,000 or more, said **Acquisition** shall require approval of a referendum.
- (f) Following the approval of the Legislative Council or referendum to acquire real property, the Board of Selectmen shall authorize an officer, board or commission to act on behalf of the **Town** in such **Acquisition**.

8-10 Disposition of Real Property

- (a) The First Selectman, with the approval of the Board of Selectmen and the Legislative Council by a majority vote of its membership, may propose the **Disposition of Real Property**.
- (b) **Real Property** acquired for non-payment of taxes shall be sold unless the Legislative Council by a majority of at least six (6) affirmative votes to retain said property.
- (c) After the proposal to dispose of **Real Property** is made the **Town** shall:
 - (1) Post a sign conspicuously on said **Real Property** within 14 days for the duration of the **Disposition**,

- (2) Provide public notice of the availability of said **Real Property** according to Subsection 1-25(b) within 14 days,
- (3) Have all properties affected in the proposed **Disposition** appraised by an appraiser licensed or certified by the State of Connecticut to ascertain their values both before and after the transaction.
- (4) Circulate, within 5 days, the proposal for comment to all boards and commissions having an interest in the **Disposition** of said **Real Property**.
- (5) Comply with **General Statutes**, when applicable, concerning the **Disposition** of public property, including but not limited to holding a public hearing [Section 7-163e of the **General Statutes**] and referring the proposed **Disposition** to the Planning and Zoning Commission [Section 8-24 of the **General Statutes**].
- (d) Upon meeting said requirements of Subsection 8-10(c), the Legislative Council may vote to sell or otherwise dispose of said **Real Property** as required by the **General Statutes**, if applicable, or by majority vote.
 - (1) The Legislative Council may recommend that the Board of Selectmen consider factors other than obtaining the highest price, such as considering the buyer's binding commitment to use the real property for a specific purpose and where there is a benefit to the **Town**.
- (e) Where the Legislative Council votes to sell or otherwise dispose of **Real Property** having an appraised value of \$1,500,000 or more said action shall require approval of a referendum.
- (f) Following the approval of the Legislative Council or referendum, if needed, to dispose of **Real Property**, the First Selectman is authorized to take all steps necessary to carry out the sale or other disposition, including:
 - (1) If the **Disposition** is to sell the **Real Property**, the First Selectman shall determine the method of sale that is in the best interest of the **Town**, including public auction or

private sale – with or without listing the property for sale with a real estate broker. If the decision is made to sell the **Real Property** by private sale, the price and terms of the contract of sale shall be established by the First Selectman with the approval of the Board of Selectmen and confirmed by an affirmative vote of at least eight (8) members of the Legislative Council.

(2) If the **Disposition** is to permit the lease of **Real Property**, the First Selectman shall:

- (i) Authorize an officer, board, commission or authority, if needed, to negotiate the term(s) of the lease(s),
- (ii) Present the negotiated lease(s) to the Board of Selectmen for approval, and
- (iii) Present the approved lease(s) to the Legislative Council for approval.

see 8-20

- appraiser?

- circulating to other boards?

NOTE This is a draft from the CRC that was shortened in the final Charter. Information for reference.

comply w/
8-05 +
8-10

CHAPTER 8 ACQUISITION OR DISPOSITION OF REAL PROPERTY

8-01 General Provisions

- striking*
- (a) The Town shall have all the powers set forth in the General Statutes and in this Charter to acquire and dispose of real property.
 - (b) Use of the words "real property" shall be construed to include any definition thereof from any source under Connecticut law and shall include, without limitation, any interest in real property, except that where the interest in real property is a lease then Section 8-20 shall control.

defined in definitions

8-05 Acquisition of Real Property

- (a) Prior to consideration of acquisition of real property by purchase or for the nonpayment of taxes, the Finance Director shall submit a Financial Impact Statement to the Board of Finance and the Legislative Council as provided in Section 7-25.
- (b) The Town's acquisition of real property includes any of the following methods:
 - (1) Required dedication to the Town for open space, highways or other purposes by the Planning and Zoning Commission in connection with approval of the subdivision of land;
 - (2) Non-payment of taxes as provided for in the General Statutes, including without limitation by foreclosure, summary foreclosure or sale by the tax collector to the Town following a public auction which does not produce a bid in excess of the amount of tax, interest and fees due and owing on said parcel;
 - (3) By purchase from the owner or by gift by the owner; and
 - (4) By exercise of the Town's power of eminent domain.
- (c) In acquiring real property the following procedure shall be used:
 - (1) If the property proposed to be acquired is for purposes for which a mandatory referral is required by Section 8-24 of the General Statutes, said referral shall be made before any action is taken by the Legislative Council.
 - (2) The Legislative Council, subject to appropriations for the specific purpose and following the recommendation of the First Selectman with the approval of the Board of Selectmen, may authorize the purchase or acquisition, including without limitation the acceptance of gifts, with or without conditions, of real property for all Town purposes. Exceptions include:
 - (i) Real property acquired for non-payment of taxes,
 - (ii) Real property required to be dedicated in connection with the subdivision of real property and
 - (iii) Acquisition of real property for public highways and related purposes.
 - (3) Following a decision by the Legislative Council to acquire real property, the Board of Selectmen shall authorize an officer, board or commission to act on behalf of the Town in such acquisition.
- (d) The Planning and Zoning Commission shall have the power to accept on behalf of the Town all open spaces, parks, playgrounds, real property for the purpose of widening or

Charter 8-05(4)(1) per BOS

Out in Ordinance per BOS H.
805 (5)(1) in new charter

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realignment of existing public highways, conservation easements, conservation restrictions, and easements for drainage, slope or similar purposes that it requires to be provided by a subdivider as a condition of subdivision approval. The subdivision map showing said real property, restrictions and easements shall not be filed in the Town Clerk's office until all deeds, easements and restrictions have been properly executed, title is free and clear of all encumbrances, the town attorney has notified the Town Clerk that said deeds, easements and restrictions meet said conditions and accomplish the purposes for which they are required, and said deeds, easements and restrictions, except for a deed for the road which is to become a public highway, are recorded concurrently with filing the subdivision map. Approval by the commission is not subject to any right of appeal. Title to real property shall be conveyed by warranty deed.

8-10 Sale or Disposition of Real Property Acquired for Non-Payment of Taxes

- (a) Real property acquired for non-payment of taxes shall be sold unless the Legislative Council by at least seven (7) affirmative votes to retain said property for potential use.
- (b) If the Legislative Council so votes there shall be a waiting period of 180 days after the vote to permit the Legislative Council to make a final determination whether or not to retain said real property. The Legislative Council may vote at any time to terminate the waiting period.
- (c) Before making a final determination to retain said real property for a specific town purpose the Legislative Council shall follow the same procedure set forth in Subsection 8-05(c) above as if it were an acquisition of real property rather than a retention.
- (d) Upon a vote to terminate the waiting period, or upon the expiration of the waiting period without action by the Legislative Council to retain said real property, the First Selectman shall sell said property, taking all steps required by Section 8-15 of this Charter.

8-15 Procedure for the Sale of Real Property

The Town shall take the following steps in order to sell or dispose of real property:

- (a) The First Selectman, with the approval of the Board of Selectmen, and the Legislative Council by a majority vote of its entire membership, may propose the sale, exchange or other disposition of town-owned real property. Before any other action is taken on the proposal, the Town shall have notice of the availability of said real property for sale warned according to Subsection 1-25(b); and the property appraised by a licensed real property appraiser who shall submit a written copy of the appraisal to the First Selectman and the Legislative Council in confidence. If the proposal is to sell to, or exchange town-owned land with, an adjacent property owner the impact of the acquisition of the town-owned land on the value of the real property already owned by said owner shall be included in the appraisal in addition to the value of the land being exchanged. If the town-owned property being sold or exchanged is only part of a tract of contiguous land owned by the Town, the appraisal shall also include the impact on the value of the remaining property. The appraisal shall not be disclosed to any other person while negotiations are ongoing. The appraisal shall be open for public inspection if the proposal becomes the subject of a hearing or meeting open to the public.
- (b) Should the Board of Selectman or the Legislative Council by a majority vote decide to continue the process after receiving the appraisal, the proposal shall be circulated for comment to all boards and commissions having an interest in the sale or disposition of the real property in question, at a minimum the Planning and Zoning, Inland Wetlands, Parks and Recreation, Conservation, and Economic Development Commissions.

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- (c) All dispositions of real property shall require approval of the Legislative Council. Prior to said approval:
- (1) The Legislative Council shall have received a written report from all the boards and commissions which received a referral or after 35 days have passed from the date the referral was requested and;
 - (2) The Planning and Zoning Commission shall hold a hearing on the proposal as required by Section 8-24 of the General Statutes;
 - (3) The Legislative Council shall hold a hearing on the proposal as required by Section 7-163e of the General Statutes. Notice of such hearing shall be given by posting a notice in the Town Clerk's office and on the town website, and on a sign located on the property, at least 15 days prior to the date of the public hearing, and noticed twice according to Subsection 1-25(b), the first not more than 15 nor less than 10 days prior to the date of the public hearing, and the second not less than 2 days after the first publication and not less than 2 days prior to the hearing. *omitted
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- (d) Upon meeting said requirements of Subsection 8-15(c), the Legislative Council may vote to sell or otherwise dispose of said real property by the requisite number of votes, with or without conditions. This vote must include a finding that:
- (1) The real property in question is excess land not needed for municipal purposes now or in the foreseeable future, or
 - (2) The sale or disposition of the town-owned real property is for the purpose of facilitating acquisition of improved or unimproved real property for a project already funded which is more suited to accomplishing said project than the real property already owned, or *omitted*
 - (3) In exceptional circumstance fully described in its action, the Legislative Council may recommend the sale or disposition of said property to the Board of Selectmen having considered factors other than obtaining the highest price, such as considering the buyer's binding commitment to use the property for a specific purpose deemed beneficial to the town.
- If the Legislative Council votes to sell or otherwise dispose of said real property, the First Selectman is authorized to take all steps necessary to carry out the sale or other disposition in accordance with the procedure set forth herein.
- (e) Where the Legislative Council votes to sell or otherwise dispose of real property having an appraised value of \$1,500,000 or more said action shall require approval of a referendum.
- (f) The First Selectman, with the approval of the Board of Selectmen, shall determine whether a sale by public auction or a private sale, with or without listing the property for sale with a real estate broker, is in the best interest of the Town.
- (g) If the decision is made to sell the real property at public auction such sale, including the terms thereof, shall be noticed twice according to Subsection 1-25(b), with the first such notice at least 30 days prior to the auction date and the last not more than 15 days prior to the auction date.
- (1) The successful bidder at the auction shall submit a deposit of ten percent (10%) of the successful bid immediately after the auction is ended, with the balance due within 30 days of the close of the auction, which date may be extended for up to an additional 30 days by the Board of Selectmen. If the successful bidder at auction is unable to make such ten percent (10%) deposit immediately upon acceptance of his bid, said bidder and *omitted*

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his/her agent shall be disqualified from future bidding at any re-auction of said real property. If said deposit is made but the successful bidder does not close within said time limits for any reason, time being of the essence, said deposit shall be retained by the Town as liquidated damages, and the Town shall be free to start the sale process again.

- (2) All other terms under which the sale is conducted shall be determined by the First Selectman with the concurrence of the auctioneer.
- (h) If the decision is made to sell the real property by private sale, the price and terms of the contract of sale, subject to the terms of this subsection, shall be established by the First Selectman with the approval of the Board of Selectmen and confirmed by an affirmative vote of at least eight (8) members of the Legislative Council. In setting the price the First Selectman shall consider the appraisal required by Subsection 8-15(a). Any such contract of sale shall contain a provision to the effect that if the buyer fails to close on the date set for closing in the contract (or as extended by agreement between the Town and the buyer) the Legislative Council may declare the contract terminated if not closed by a date certain, not more than 14 days from the date of the vote, time being of the essence. If the buyer fails to close by said "time of the essence" date the buyer shall be in breach of the contract and any deposit paid shall be retained by the Town as liquidated damages.
- (i) The requirements of Subsections 8-15(a) through (h) inclusive shall not apply to private sales of town-owned land where a written appraisal by an appraiser certified or licensed by the State of Connecticut has been obtained and neither the value of the property being sold or transferred nor the benefit to the purchaser exceeds \$20,000.00.
- (j) If the transfer of town-owned real property provides consideration, in whole or in part, for the acquisition of other real property, said transfer is an in-kind payment, and the value thereof must be included for purposes of making an appropriation as if it were a cash payment.

8-20 Leasing of Real Property

- (a) All leases shall be negotiated by the First Selectman, with the final, written version subject to approval by the Board of Selectmen. The proposed lease shall be executed by the First Selectman and the tenant or the landlord, as the case may be, conditioned on the actions set forth in Subsections 8-20(c) and (d) taking place.
- (b) Before negotiations are undertaken, the First Selectman shall obtain a written opinion by a licensed real estate appraiser of the fair market rent for the real property in question for the proposed term and a financial impact statement from the Finance Director. The opinion of fair market rent shall be confidential. Where the term of the proposed lease and all options to renew is for 5 years or less, it shall be optional with the First Selectman whether or not to obtain an opinion of fair market rent.
- (c) If the Board of Selectmen vote to approve the proposed lease, an outline of the lease including, without limitation, the rent and term, including all options, shall be circulated to the boards and commissions listed in section 8-15(b) for comment. Where the proposed lease is of town-owned real property, and following receipt of said comments or after 35 days without receiving comments, a public hearing on said proposed lease shall be held by the Legislative Council pursuant to Section 7-163e of the General Statutes.
- (d) If the Planning and Zoning Commission approves the lease following the Section 8-24 hearing and the term of the proposed lease, including all options to renew, is for 5 years or

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less, the Legislative Council may vote to reject the proposed lease if it acts within 20 days of the close of the public hearing; otherwise the proposed lease shall take effect as written. A majority vote of the Legislative Council to enter into the proposed lease is required if the term of the proposed lease, including all options to renew, is for more than 5 years unless the Planning and Zoning Commission votes to disapprove the lease following the Section 8-24 hearing. If disapproved by the Planning and Zoning Commission, any such lease shall require the affirmative vote of at least eight (8) members of the Legislative Council.

- (e) The power to enter into leases of space in the Edmond Town Hall is governed by Special Act 98 of the 1931 session of the Connecticut General Assembly.