



MEMORANDUM

To: Lynne Vanderslice, First Selectwoman
From: Ira W. Bloom, Esq.
Date: July 23, 2020
Re: Fire Commission Terms of Office

Issue:

Has the Wilton Fire Commission been operating in a lawful manner?

Executive Summary:

The Fire Commission is properly constituted and operating legally. Charter Section C-41, which provides that the term for appointed town officials “shall be two years and until a successor shall have taken office” can be reasonably interpreted to include members of the Fire Commission. The provision that terms are extended “until a successor shall have taken office” is not uncommon in other towns and has important value in providing for unforeseen contingencies. It is also true that the Charter variously uses the terms officers, officials and boards, and the next Charter Revision Commission should focus on this area and clarify the terminology.

Discussion:

Chapter 14A of the Wilton Code of Ordinance established the Wilton Fire Commission. Section 14A-1 provides that the Wilton Fire Commission shall have three members, and Section 14A-4 provides that such members be appointed for two-year terms. Specifically, Section 14A-4 states that:

Commissioners shall be sworn to the faithful performance of their duties and shall be appointed for a term of two years commencing on the first day of December, except that of the original three Commissioners appointed by the Board of Selectmen, the term of the first two appointed shall end on December 1, 1971, and the term of the third appointed shall end on December 1, 1972.

Although Section 14A-5 empowers the Board of Selectmen to appoint a new member for any remaining portion of a term in the event of a vacancy on the Commission, the Chapter is silent as to whether the completion of a two-year term by an existing member constitutes such a vacancy.

The Charter, however, provides at Section C-41 that the term for appointed town officials “shall be two years and until a successor shall have taken office.” While this language specifically applies to certain officials listed in Charter Section C-35, it also applies to “such *other appointed officers* as may be required by this Charter or by other law” under Section C-35. Because the Charter variously uses



the terms officers, officials and boards, the term “*officers*” in Section C-35 can be reasonably interpreted to include members of appointed boards and commissions, including those of the Fire Commission.

Charter Section C-41 further provides that “The terms of office of *other appointed officials* shall be the same [i.e, two years and until a successor shall have taken office] unless otherwise provided in this Charter or by other law creating the same.” Given that the Code provisions applicable to the Fire Commission are silent as to the effect on existing membership at the conclusion of the two-year term if a successor has not yet taken office, the Code does not “otherwise provide” for terms of office. Therefore, it is also reasonable to interpret Section C-41 as applicable to the Fire Commission members as “*other appointed officials*.”

While the Charter generally authorizes the establishment of the Fire Commission by ordinance, it also takes precedence where any ambiguities exist in the Code. “It is well established that a [town's] charter is the fountainhead of municipal powers. The Charter serves as an enabling act, both creating power and prescribing the form in which it must be exercised.” *Windham Taxpayers Ass'n v. Bd. of Selectmen of Town of Windham*, 234 Conn. 513, 529, (1995). Here, the Charter provides that the terms for appointed “officers” and “officials” is two years and until a successor has taken office. These provisions can be reasonably interpreted as applicable to the Fire Commission. As a result, if the term of any Fire Commission member has expired, but a successor has not yet been appointed, that member can lawfully continue acting in his or her capacity on the Fire Commission.