

Local Government of the Future Subcommittee Advisory Commission on Intergovernmental Relations

Tuesday, May 25, 2021

Note: This document is ACIR staff notes written during this subcommittee meeting. It is a public document and has been provided to meeting participants for their review and revised in accordance with any comments received but is not approved minutes of the meeting.

An audio recording is available at:

https://portal.ct.gov/-/media/ACIR/Meetings/2021/2021-05-25_ACIR_LGF_Audio.mp3

Members present: John Filchak, Leah Grenier (alt.), Francis Pickering, Lon Seidman, Brendan Sharkey (Chair), Bob Valentine, Lyle Wray (Vice-Chair)

Other Participants: Dan Morley, Meghan Portfolio, Richard Porth

ACIR staff: Bruce Wittchen

1. Call to order

Commission chair Sharkey called the meeting to order at 10:32.

2. Discussion of [3/2/2021 meeting notes](#), if necessary

There was no discussion.

3. Discussion of Local Government of the Future initiative

a. Legislative update

Commission chair Sharkey said the ACIR's main bill, [HB 6448](#), has not been acted on yet.

- b. As described in Sec. 5 of the [ACIR's draft 5/7/2021 minutes](#), discuss the possible review of Home Rule and updating of the ACIR's [Home Rule in Connecticut: Its History, Status and Recommendations for Change](#) (1987) and the former UConn Institute for Public Services' [Home Rule in Connecticut](#) (1964).

Commission chair Sharkey said the question for this group is whether the ACIR should consider another look at Home Rule. He highlighted that some members have pointed out that the term is being used incorrectly and noted that current legislative initiatives are prompting discussions of it. He mentioned that old reports address the topic and that CT is a [Dillon's Rule](#) state and said it would be appropriate to take another look at the topic. He mentioned a report, [Dispelling the Myth of Home Rule: Local Power in Greater Boston](#), that Commission member Filchak had forwarded.

Commission vice-chair Wray and Commission member Filchak pointed out that this issue is settled constitutional law and there was a discussion of folding this topic into the broader Local Government of the Future (LGF) initiative in a positive way. Bruce Wittchen said the report on Home Rule in Greater Boston and related reports had not been sent to everyone in this meeting and forwarded John Filchak's email to them.

Commission vice-chair Wray said Dillon's Rule does not need to be relitigated and said other states have a different intergovernmental approach. Other states have a less centralized transportation

agency. It is not constitutionally or statutorily driven; it is their practice. Commission member Filchak pointed out that some of the documents he had forwarded expand the municipal role and the state-municipality relationship:

[Dispelling the myth of Home Rule: Local power in Greater Boston](#)

[Let towns have more power and regional planning may follow](#)

[Principles of Home Rule for the 21st Century](#)

Commission vice-chair Wray said the question is what relationship do we want? He noted that CT's approach to federal Community Development Block Grants is unique. Commission member Filchak said the status quo is not working in CT and Commission vice-chair Wray recommended the group choose a manageable 3-5 areas for the review of Home Rule. Commission member Filchak recommended that zoning and collaborative housing authorities be included.

Commission chair Sharkey said the focus of the full ACIR had been on the haphazard use of the term "Home Rule" and a desire to clarify it. He said a new history of the concept is unnecessary but agreed with addressing a few areas as discussed today and folding it into the LGF initiative. Doing this would facilitate the LGF efforts. There was further discussion of an approach beginning with a restatement of Home Rule followed by some specific applications.

Commission member Seidman said another aspect of this is how free towns are to work together. He believes school districts did more things jointly at the time of the 1964 UConn-IPS report than they are able to do now. This is important for smaller towns now.

Richard Porth noted that state pre-emptions were in effect from the beginning of zoning. Commission member Valentine said state education requirements should be modified to enable towns to collaborate in education without the need for a unanimous vote to get into or out of a regional school district. He also noted the differences between statutory and charter municipalities.

Commission member Pickering said it is important to avoid over-simplifying the current debate. He said people can be aware of the extent of the state's power but disagree with the state using it for a particular purpose. Commission member Valentine said towns have options regarding land use and that is what some people have in mind when they refer to Home Rule. This is the crux of the affordable housing debate.

Commission chair Sharkey noted that state wetland statutes do not make local commissions autonomous: they work as agents of the state and the towns on both sides of a wetland crossing a municipal border have a say. Commission member Filchak added that farmers can work in a wetland as of right, but they first must establish that right and can only do what is in statute. Commission member Valentine said many requirements are open to interpretation. There was a discussion of non-zoning approaches to local land use control.

Commission chair Sharkey asked if it would be appropriate to include others in this work, such as UConn or a municipal/constitutional law attorney. There was further discussion and general agreement to do so. Commission member Valentine pointed out that he found the UConn-ISP guides to be very helpful as a new 1st Selectman, but added that they can be confusing because the Board of Finance guide was updated more recently than the Board of Selectmen guide.

There was further discussion of what the subcommittee will recommend to the full ACIR. Commission chair Sharkey restated that they will recommend the report begin with a synopsis of what Home Rule does and does not mean, with explanations of applications to a few key issues.

Commission member Filchak noted that some of the reports he had forwarded regarding the state-local relationship are about the expansion of local authority. Commission member Valentine highlighted the need for outside legal expertise in this effort, pointing out that a town meeting can over-rule the Board of Selectmen and added that some people believe they can over-rule a Housing Authority.

Commission member Filchak said researchers at the Federal Reserve and Kennedy School might be able to help with this. Commission member Sharkey recommended the ACIR work on this through the summer and try to clarify this topic before the 2022 legislative session. He said he can start drafting language for it and there was general agreement with this approach. Richard Porth recommended the report cite examples of state preemption, especially regarding zoning. Commission chair Sharkey said he will not be at the next ACIR meeting and said the full group can weigh on these recommendations then.

c. Next steps

There was no further discussion.

4. Adjourn

The meeting was adjourned at 11:20.

Notes prepared by Bruce Wittchen, OPM