

Attachment 2/25/15

**Eliot Maine Charter Commission**  
1333 State Road  
Eliot, Maine 03903

February 15, 2015

Chief Jay Muzzeroll  
Eliot Fire Department  
1333 State Road  
Eliot, Maine 03903

Dear Chief,

Thank you for the time and thought you and members of the Eliot Fire Department have expended to date assisting the Charter Commission. We all have worked together to insert carefully chosen words that will clearly make the Fire Chief a Department Head under our Town Manager while not interfering with the Department's "self-rule". Please review with your leadership the wording below as it appears in Article 4 "Administrative Organization".

**4.5 Department Heads**

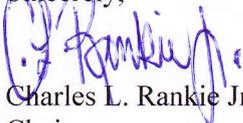
*All departments and offices under the direction and supervision of the Town Manager shall be administered by an officer or department head, appointed by the Town Manager, and are subject to the to the direction and supervision of the Town Manager.*

*The department head appointment exception is the Fire Chief who is elected by the Fire Department. As an elected department head the fire chief shall be responsible to the Town Manager in all administrative matters including but not limited to all federal and state workplace laws, personnel administration, budget administration and public safety policies. This charter shall supersede any conflicts with the Fire Department by-laws.*

After you have completed your review please provide the Charter Commission with a written reply. It is our hope to be ready for our second Public Hearing by April. Therefore, it is important to complete Article 4 well in advance.

You can send your reply via letter form to me at [crankie@eliotmaine.org](mailto:crankie@eliotmaine.org) or to the above address.

Sincerely,



Charles L. Rankie Jr.  
Chair

Cc: Commission Members

Eliot Town Clerk

Eliot Town Manager

*Attachment  
2/25/15*

## **Recall**

Robert G Pomerleau [bobgpom@yahoo.com]

**Sent:** Thursday, February 12, 2015 12:18 PM

**To:** Charles Rankie; Denny Lentz [mainelentz@comcast.net]

I'm providing some recommended language for "recalls" as discussed last night. I find it troublesome that anyone but citizens could remove an elected official and in particular that a selectboard could remove a member of the budget committee. The selectman have never had that authority for a good reason.

I apologize for the formatting but feel that is best left to Denny and to the board as to location, but I would remove it from Article 7 and place it all in the Article containing "recalls. You'll see that the one exception for voter removal only would be the residency requirement. I reinserted provisions for missing meetings as it simply should not be omitted. The number may be subject to change and discussion but it should be an issue in the charter.

### **FORFEITURE OF OFFICE**

An municipal officer or official, elected or appointed, shall forfeit his or her office or be subject to a recall or forfeiture proceedings as hereinafter provided if such person:

- a. lacks, at any time during his or her tenure of office, any eligibility or other qualifications for the office prescribed by this Charter or by law;
- b. intentionally violates any expressed prohibition of this charter;
- c. fails to fulfill the requirements of his or her office, including, but not necessarily limited to, failure to attend 3 or more consecutive regular meetings without being excused beforehand.
- d. is indicted or convicted of a felony or is indicted or convicted of any other offense which prevents them from fulfilling their obligation as a municipal officer or official; or
- e. is banned by a court of law from attending meetings or carrying out their duties of office as prescribed herein.
- f. Upon any violation of conflict of interest provisions within this charter.

### **RECALL OF ELECTED OFFICERS AND OFFICIALS - REMOVAL FROM OFFICE**

A. Any elected officer or official of the Town may be recalled and removed from elective office by the Registered Voters of the Town either by a citizen petition for recall or by a Warrant for recall Initiated by a majority vote of the Selectboard.

B. The Selectboard shall give written notice to said official of the receipt of a recall petition or warrant for recall and then shall schedule a public hearing, upon public notice as provided for Town Meetings, to be held within seven (7) days prior to the date of said election. At said hearing, which shall be presided over by a moderator, the petitioners and the officer or official whose recall is sought shall be provided opportunity to present reasons for or against recall.

C. If recalled in the voting, the official shall be deemed removed upon the certification of the voting results and may not seek election to any municipal office for a period of at least three (3) years from the date of such recall.

D. If an elected official fails to meet the residency requirements for the office, The Selectboard shall declare the position as vacant.

*Attachment  
2/25/15*

## MMA Info Charters

Robert G Pomerleau [bobgpom@yahoo.com]

Sent: Thursday, February 12, 2015 2:51 PM

To: Charles Rankie; Denny Lentz [mainelentz@comcast.net]

### Info from MMA that might be useful for clarification of some language i.e. "prohibited acts"

**Vacancies - attendance and forfeiture of office:** Nearly every charter contains some express language describing how a municipal officer's position shall become vacant. As discussed above, municipalities can by ordinance expand on the statutory vacancy standards for municipal officials, other than municipal officers, but the creation of special vacancy provisions for the municipal officers must be accomplished by charter (30-A MRSA § 2602). Typically, a charter will list the standard, statutory causes of vacancy (death, resignation, failure to qualify, failure to be elected, removal from the municipality, removal from the election district, etc.), but 80% of existing charters go on from there to add special forfeiture of office provisions.

Beyond the normal definitions of vacancy, the forfeiture standards are typically three: violation of an express charter prohibition, conviction of a felony or "misdemeanor involving moral turpitude", and unexcused failures to attend council meetings. Over half the charters in Maine consider poor attendance, as defined in the charter, as cause for forfeiture. The most often-used attendance standard is failure to attend three consecutive council meetings. Less commonly employed charter provisions require the annual municipal report to include all council members' attendance records. A few charters automatically forfeit a councilor's quarterly pay if attendance levels fall below 50%-or some other percentage-of-scheduled meetings for the quarter. At least five charters in Maine create the same attendance standards for other municipal boards, such as the school committee.

Several charters establish a qualifying age of 21 for any elected official. In the absence of express charter language, the age of majority, 18 years, would apply as the qualifying age.

**Prohibited acts:** Nearly every municipal charter has a list of four or five express prohibitions that apply to all municipal officers, officials and employees. The standard list prohibits: discriminatory appointment or removal on the basis of race, gender, ethnicity, religion, or age; the making of false statements or perpetration of fraud; the acceptance of bribes; the solicitation of favors or special privileges; and interference in any person's rights to political activity and expression.

In addition to merely prohibiting such activity, and in addition to making such activity the grounds for forfeiture of elected office, 16 charters include language that disqualifies from office for a number of years an elected official who performs a prohibited act. The disqualification period is typically five years.

Attachment  
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**ELIOT TOWN CHARTER COMMISSION**  
**PUBLIC HEARING – CHARTER SUGGESTIONS – JANUARY 11, 2014**

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- **BOS/APPEAL** The ability of citizens to petition a decision made by the selectmen and that during the process the selectman's decision be put on hold until the process is carried through to a vote. [Bill Hamilton]
- ~~that when a referendum is passed by x% of the voters that it referendum cannot be revisited (or include a time frame for being able to bring the subject up again)~~  
~~[Carol Selsberg]~~ **Resubmitted**
- **Consent agreements** and authority of the BOS and BOA to issue them – believe that it should be spelled out in the charter. He sees a narrow view of selectmen involvement and their ability to resolve issues which are the result of punitive action [Bill Hamilton]
- ~~That town officers being members of more than one board is an issue that needs to be addressed~~  
~~[Bill Hamilton]~~ **ADDRESSED**
- Adopt a policy on conflict of interest [Bob Pomerleau] **ADDRESSED**
- Establishment of an "ethics board" (?) to provide redress for townspeople [Bob Pomerleau]
- Process for citizens when the selectmen violate their own policies [Donna Murphy]
- ~~Provide for an equitable division of party members for elected or appointed officials and add gender to this also~~ [Carol Selsberg] **Resubmitted ATTACHED 2/12/14 MINUTES**
- **BUDGET COMMITTEE:** Provide for the Eliot Budget Committee the right to communicate directly with Department Heads during the budget process [Carol Selsberg]
- ~~That those delinquent on their taxes not be eligible to hold elected or appointed positions in the town~~  
~~[Carol Selsberg]~~ **Resubmitted ATTACHED 2/12/14 MINUTES**
- ~~When a paid official performs similar duties for another community then his/her pay will be reduced a certain percentage based on time spent in each place regionalization~~ [Carol Selsberg] **Resubmitted ATTACHED 2/12/14 MINUTES**
  - **HIRING/APPOINTMENTS** That nepotism be prohibited in appointments and hiring [Carol Selsberg]
  - That administrative appeal be taken to its highest level before taking it to court. [Carol Selsberg]
  - **WEBSITE: CHARTER PROCESS** ~~That when each of the draft forms of the charter are written there be pagination and line numbers, strike through marks for progressive changes, etc. so public can see and follow the changes as it goes along.~~ [Grant Hirst] **DETERMINED TO WORK FROM "CLEANED UP" DRAFT 2/12/14**

# ELIOT TOWN CHARTER COMMISSION

## CHARTER SUGGESTIONS – at Commission meetings

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Robert Pomerleau –

- ~~Using another town charter as a template to work from when developing our own.~~
- ~~○ Move public comment to the beginning of the meeting as the Selectmen do.~~
- ~~○ clear separation re: the responsibilities of the selectmen and the town manager. **IN**~~

### **PROCESS**

- **Language re: Public Meetings-** submitted 11/23/14

#### **Meetings to be open to the public.**

1. Proceedings open to the public. Except as otherwise provided by statute, all public proceedings including all boards, committees and commissions, must be open to the public and any person must be permitted to attend a public proceeding.

2. Public Right to Speak. Any member of the public shall be allowed the opportunity to speak on any subject, motion or vote at such proceedings.

#### **Public notice**

Public notice shall be given for all public proceedings including all boards, committees and commissions. This notice shall be given within 5 days of the public proceeding, except that for regularly occurring meetings or unusual and sudden circumstances, when a minimum of 3 days notice shall be provided. In the event of an emergency meeting, a minimum of 2 days notice must be provided using all means of available communication to the public and local media.

- The Fire Chief shall be responsible to the Town Manager in all administrative matters including but not limited to all federal and state workplace laws, personnel administration, budget administration and public safety policies. This chapter shall supersede any conflicts with the Fire Departments by-laws.  
11/12/2014

Donna Murphy –

- the issue of filling vacancies in town committees/boards : it would be better to be able to fill a vacancy by appointment or special election sooner than the 120 days being discussed as including in the charter.
- ~~Need to make the Charter document “gender neutral”~~ **In process**

Carol /Bill Selsberg

- REFERENDA

~~Subsequent to the duly published results of a referendum, no further referendum shall be allowed, the subject of which is substantially similar, unless same is held within twelve (12) months of the date the original referendum was published and any petition for a referendum is accompanied by a proper indemnification executed by at least one tax paying resident of the Town of Eliot indemnifying the Town that in the event of a similar result as the initial referendum, any and all costs incurred by the Town to conduct such referendum are reimbursed including, but not limited to employee overtime compensation, expenses related to moderator, facility, security, printing, copying, publishing, postage. In the event such costs are not promptly reimbursed to the Town~~

# ELIOT TOWN CHARTER COMMISSION

## CHARTER SUGGESTIONS – at Commission meetings

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they may be collected in the same manner as real estate taxes.– **Decision not to hold residents accountable for costs**

### ○ REGIONALIZATION

Initial Shared Compensation of Shared Employees:

(1) The Town of Eliot shall not contribute more than its fair share of a shared employee's compensation and the percentage of contribution shall be calculated as follows: The average compensation of such shared employee as then paid for similar services in each participating community, increased by an amount not exceeding twelve (12%) percent thereof, diminished by the amount reasonably calculated as representing the compensation for such efforts for the communities other than the Town of Eliot.

(2) Benefits: The cost of all benefits to be provided to such shared employee shall be shared by the participating communities in the same percentage as determined in subparagraph (1) above.

(3) Vacation: Vacation periods for shared employees shall be provided as if such employee was employed by one (1) community.

### ○ ETHICS

(1) It is hereby determined that nepotism is undesirable and shall be avoided.

(2) In the event a member of any Board, Commission or duly appointed Committee of the Town of Eliot is delinquent in his or her obligation to pay taxes to the Town of Eliot, such member shall have his or her right to vote in such Board, Commission or Committee suspended until and unless such delinquency is fully discharged. In the event such delinquency continues for twelve (12) or more months it shall be cause for removal by the appointing or elective authority.

~~(3) Only voters of the Town of Eliot shall serve on any Board, Commission, or duly appointed Committee and he or she shall serve on only one such Board, Commission, or duly appointed Committee.~~ **In process 9/14**

(4) Where this Charter or State law requires the membership of a Board, Commission or duly appointed Committee to be comprised of a designated number of representatives of a political party, such representation shall also be deemed to be gender sensitive.

Anne Sweeney

○ Local Food and Community Self-Governance [ see complete document for more info]  
Purposes to : Provide citizens with unimpeded access to local food; enhance local economy, protect access to farmers markets, roadside stands, farm based sales; support economic viability of local food producers and processors; preserve community social events where local foods are served or sold; preserve local knowledge and traditional food ways

# ELIOT TOWN CHARTER COMMISSION

## CHARTER SUGGESTIONS – at Commission meetings

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### Donna Murphy

- Spoke against 2.9.B.5 wording allowing Select Board to remove member of a committee or board that has been elected by the people – takes away power of the people electing them. [6/24/14]
- Spoke against the recall provision having a petition number of “35% of the number voting in the last gubernatorial election”. She said this was too high a number. [1/28/15]

### Commission members

- Personnel policies (job descriptions, etc.) should be reviewed and updated each year
- Bonding of major construction on town buildings
- Recall provisions for elected officials
- Election of Board of Appeals and Planning Board rather than appointment
- “Removal for cause” and “suspension for cause”
- ~~Fire Department oversight issues – set up specific time to discuss w/Fire Chief personnel and citizens [5/14/14 meeting]~~
- Citizen recourse [4/23/14 – Gary]
- ~~Board of Appeals/Planning Board [4/23/14 – Gary]~~
- When changing time/place annual meeting give year’s notice to residents (voted on by residents?) [4/23/14 – Bob]
- ~~Issue of reconsideration of written ballot during town meeting – put with discussion of Town Meetings. Gary offered to work on some additional language for this [4/23/14 meeting]~~
- ~~Board of Assessment Review issue – do we want – agreed to leave out for time being; possible talk about at public hearing [4/23/14 meeting]~~
- Maryann asked to devise some language for “declared write-in” to look at regarding elections. [5/21/14 meeting] Discussed w/ Article 6.3 Budget Committee.
- Definition of “amending” vs “revision of the Charter [5/21/14 meeting]
- Voter Authority from article 6.9 will be put under Article 1- the Town Meeting article [5/21/14 meeting]
- Town Manager will be asked to look at Article 2.7.C – Create by ordinance – for input [6/24/14 meeting]
- Wording in Article 6.6.C and 6.6.D added to reference “or referendum vote”. [6/24/14 meeting]
- Issue of Budget Committee members making recommend to BOS re: member vacancy to be discussed again [7/9/14]
- ~~Article 2.11C – Select Board – more discussion on 3 affirmative votes to pass motion [7/9/14 meeting]~~

**15.0 AMENDMENT OF STATE STATUTES**

Any reference herein to the statutes of the State (M.R.S.A.) is made to those statutes of the State in effect as of the effective date of this Charter, together with any amendments to said statutes occurring after the date of enactment of this Charter.

*Attachment  
2/25/15*

**RE: Charter Commission Meeting Minutes**

Charles Rankie

**Sent:** Wednesday, February 25, 2015 2:59 PM

**To:** Wendy Rawski

Wendy

I will review with Rosanne our Secretary at tonight's meeting.

clr

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**From:** Wendy Rawski

**Sent:** Thursday, February 19, 2015 4:16 PM

**To:** Charles Rankie

**Subject:** Charter Commission Meeting Minutes

Hi Charlie,

Can you please update me on the status of minutes for the Charter Commission Meetings? The last set I have on file is for the 12/03/14 meeting so I am missing 12/17/14, 01/14/15, 01/28/15 and 02/11/15. I understand the minutes for 02/11 will be approved at the next meeting on the 25<sup>th</sup> but the other three sets should be approved and available for the public. I do have a request for them which has prompted my email request to you.

Thank you,

*Wendy J. Rawski, CCM*

*Town Clerk*

*Town of Eliot, Maine*

*1333 State Road*

*Eliot, ME 03903*

*Ph. 207.439.1817 ext. 18*

*Fax 207.439.1415*