

ELIOT TOWN CHARTER COMMISSION

MINUTES – JANUARY 28, 2015

PRESENT: Charles Rankie, Jr. (Chair), Gary Sinden, Rosanne Adams, Roland Fernald, Robert Fisher, Dennis Lentz, John Murphy. Also present – 2 members of the public.

ABSENT: Maryann Place (excused - family business), Edward Strong (excused - out of town)

BUSINESS

1. MOTION by Robert Fisher, 2nd Dennis Lentz to approve, as corrected, the minutes of January 14, 2015 with the proviso that if John Murphy finds other grammatical errors he will pass these on to the Secretary. VOTE: 6-0. John Murphy abstained as he had not had the opportunity to review completely.
2. PUBLIC COMMENT:
 - a. Donna Murphy asked the Commission to take another look at Article 4.E.- Job Descriptions and Qualifications. The Commission had previously removed the position of “Fence viewer”. She has researched and found it to be required under State Statute. Dennis Lentz noted that we had taken off “local sealer” as well.
3. CORRESPONDENCE:
 - a. Signed copy of the agenda
 - b. Copy of Nov. 4th minutes of the Planning Board [attached]
 - c. Note from the Town Clerk confirming the Article drafts that have been put on the Commission’s webpage on the town website. [attached] The Chair asked what the Commission would like done when a new update occurs. There was a consensus that the Chair should let the Town Clerk know that she can take the old down and put up the revised draft.
 - d. 3 FOAA requests from Donna Murphy [attached]
 - i. Request of 1-12-15 which was responded to on 1-14-15. (Discussed at last meeting)
 - ii. Request for all emails re: communications relative to the Charter from the personal and town emails of Charles Rankie from December 14 through last meeting.
 - iii. Request for Articles 1, 4, 5, 7 received on 1/23/15. These were emailed to Mr. Lee on 1/26/15.
4. The Chair asked, if there was no objection, to deviate from the agenda and take Article 5- Wastewater, out of order due to the Director of Public Works, Joel Moulton, being present at the meeting. No objection was made.

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5. Article 5- Wastewater:

- a. The Chair noted that we had previously decided to strike this article and keep it as a placeholder. Joel Moulton suggested that we may want to mention the Wastewater Collection System as a department under the Department of Public Works, which is responsible for its operation and maintenance. It is an established department that has its own operational plan and responsibilities and budget. It would make it a little more specific but still general. When asked by the Chair if he could come up with some specific wording Joel replied that he could do that given some more time.
- b. Gary Sinden raised the question as to whether Joel believes it belongs in the Charter since we already have an ordinance that covers all of the sewer issues. Joel replied that personally – yes. Gary then continued with the thought that if we are putting this in as a separate item then shouldn't we also include, as separate items, other things that are equally important such as roads, transfer station, etc.? He expressed the concern that once in the charter it is set in stone and in order to change a rule or procedure or we would have to from another Charter commission as opposed to the ordinances we have and department procedure that can be changed as needed.
- c. There was discussion about the language that might be used. Robert Fisher expressed that the wording should be general and not specific because things may change. Dennis Lentz noted that perhaps we were remiss in not expanding on departments and what they are in charge of. John Murphy said that it could be as simple as wording saying "Eliot has a transfer station and all the roads, bridges are monitored by the Department of Public Works" In the future, if that changes, then all you have to do is to change who has the responsibility for it.
- d. Gary Sinden reiterated his concern that the Charter not be loaded with things that could change such as the Transfer Station which it has discussed may be combined with Kittery.
- e. The Chair stated that it is important to have a position here and suggested that it be left as a placeholder with nothing in it since we do have a wastewater system
- f. Roland Fernald stated that the Wastewater system is under the Department of Public Works. The details of how each department works and what they are responsible for should be outside of the Charter where it will be easier to change if needed.
- g. Rosanne Adams said she agreed with Roland and that it would be better put under the departments we have. To put a little blurb under that department but it should not have its own article. She suggested keeping Article 5 as "reserved".
- h. John Murphy suggested putting something in the Charter that "under the Town Manager's authorities is the authority to set up departments as needed".

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- i. Gary Sinden made a MOTION, 2nd Rosanne Adams to remove Article 5- Wastewater. Leaving Article 5 reserved for future use. Dennis Lentz noted that in Article 4.12 (job descriptions and qualifications) that the department of public works and wastewater are not on there. The Chair raised the concern of not having all members present and that the Director of Public Works be given the opportunity to offer some input. Gary Sinden stated that he has not heard anything in this discussion to justify it (Wastewater) as being a separate article. VOTE: 3-4. Motion FAILED.
 - j. The Chair asked, if there were no objections, he would put this discussion back on the agenda for the next meeting and give Joel Moulton time to come up with some wording for consideration. Joel agreed he could come up with some wording in a week. There was no objection to this plan.
 - k. Denny Lentz asked if we want to put in Department of Public Works and put under that Sewer Superintendent and Road Commissioner added to Article 4.12. There was some discussion. He said he would make a note that we don't have the Department of Public Works under departments.
 - l. Joel stated that when he was hired the sewer was placed under his department. Operationally it has changed which is his concern for just wiping it out.
 - m. Robert Fisher raised the concern about the wording. That someday they may be separate - the Road commissioner and the sewer department. Might want to say this is one and this is the other and right now they are under one head.
 - n. The Chair thanked Joel Moulton for attending.
6. MEETING SCHEDULE: The Chair asked to set the February meetings for the 11th and 25th. There was no objection.
7. ARTICLE 1- Powers of the Town [12/17/14 draft]: The Chair asked if there were anything in particular that need to be dealt with.
- a. John Murphy suggested some corrections. No objections were made to the corrections. He suggested that we need to have something designating the end of an Article. A symbol or something such as "end of article". Donna Murphy suggested putting "page x of x" at the bottom of each page.
 - b. Robert Fisher questioned saying the town meeting which begins on the 2nd Tuesday of June adjourns to the Saturday immediately following the second Tuesday of June, noting that we might not always be adjourning to the following Saturday. There was discussion concerning the setting of the town meeting schedule; that town meeting might not be adjourned to the following Saturday and so should probably not be worded in the Charter

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that way. Adjourning to a “date certain” was offered as a possibility. There was question as to whether the town meeting date was set by statute. It was noted that the town meeting date was changed in the recent past from a March date to a June date and this was done by a vote of the town. There was no consensus on this topic. The Chair suggested making “2nd of Tuesday of June” RED to look at again and put in “date certain” as was previously suggested. There was no objection.

- c. Dennis Lentz explained that at a previous meeting it was decided to move Article 1.6 – Election of Officers, to the end of the article to Article 7. He said he would make the changes and prepare Article 1 for posting on the website.
8. ARTICLE 7 –Nominations and Elections [12/17/14 draft]: The Commission read from 7.4 (Elected Officials) through 7.11 (Forfeiture of Office) which had been moved from Article 1. Minor corrections were made to the Article. There were some minor corrections made and discussion on the following:
- a. Question raised as to whether there is a specific day upon which the election of town officials needs to take place. The reference in the Charter is to the State Election Day. John Murphy offered to look up the Statute and get that information to Dennis Lentz.
 - b. 7.8 – Write in Candidates: The Secretary offered to look into the minutes and find the previous discussion of this. The Commission had previously not set a limit to the number of write-in votes.
 - c. What happens if we put in a State Statute reference and then the Statute changes? If the law changes in the future does the Charter automatically change? Does the State Statute take precedence over what we have in the Charter? Charles Rankie offered to check on this.
 - d. 7.10 – Vacancy of Office: Consensus to remove “incompetence”.
 - e. 7.11 – Forfeiture of Office: There was discussion on the intent of this article section; who would take the action called for (forfeiture of office)
 - i. Gary Sinden expressed that the way this is written it limits the citizen’s right to initiate recall unless it is for 1 of these 4 reasons. Recall is a citizen’s procedure and can be brought forward for any reason. He suggested taking “recall” out of the wording and leaving the rest.
 - ii. Dennis Lentz read from Article 2.9.B which outlines the forfeiture of office for the members of the Select Board and suggested that the same be true for any town official/officers. There was no objection to reiterating this wording for town officials and officers.

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- f. 7.12 – School Administration: There was consensus to remove this section because the Charter has no jurisdiction over the schools.
 - g. 7.13- Determination of Election Results: John Murphy suggested and there was consensus to add the word “ any “ before “elected position”. Gary Sinden noted that as it is written now there would be no opportunity for a “recount” as any tie would go to a run-off election. He suggested inserting “following a recount” before “a run-off election”. There was no objection.
 - h. 1.15- Voting Machines: There was discussion on the wording explaining what the machines were to do. Rosanne Adams brought up a previous discussion and the statement by Maryann Place that the machines have to meet the requirements of the State. Rosanne suggested that following “...or counting the votes” that “consistent with State law” be added and the rest of the sentence removed. There was no objection.
9. Article 4 – Administrative Organization: The Chair asked, if there was no objection, that Article 4 be left for discussion for next meeting. There was no objection.
10. The Chair presented his thoughts for a Charter schedule, suggesting that it could go to a vote in June. He suggested that the Commission would be able to “finish up” any remaining Article discussions at the next two meetings,
- a. Gary Sinden questioned the suggestion by the Chair that we get a legal opinion after the public hearing. Following the hearing the Charter could change resulting in needing to resubmit to a legal opinion.
 - b. Dennis Lentz noted that we have to consider the Select Board’s schedule in light of the work that needs to be done on the Budget prior to the June town meeting.
 - c. Dennis Lentz asked if we are tracking all the public input that has come in. The Secretary said that she has been keeping track and has a listing, noting when things have been dealt with which she will provide for members.
 - d. The Chair referenced the “Table of Contents” that Dennis Lentz had drawn up and suggested that a disclaimer be put on it and copies distributed to members for our use and then posted on the website.
11. PRESS RELEASE: The Chair noted the article that was in the Portsmouth Herald last week.
[attached]

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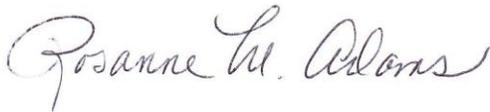
12. PUBLIC COMMENT:

- a. Donna Murphy spoke in opposition to the wording of Article 7.11 allowing the 5 members of the Select Board the power to remove members of boards and committees who have been elected by the voters and 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.

13. NEW BUSINESS: none

14. COMMISSION ROUNDTABLE: No comments.

Meeting adjourned at 9:10pm upon the MOTION of Robert Fisher, 2nd Roland Fernald. VOTE 7-0.



Approved: __February 11, 2015

Rosanne M. Adams
Secretary

CC: Committee Members
Eliot Town Clerk