

ELIOT TOWN CHARTER COMMISSION

MINUTES – February 11, 2015

PRESENT: Charles Rankie, Jr. (Chair), Gary Sinden, Rosanne Adams, Roland Fernald, Robert Fisher, Dennis Lentz, John Murphy, Maryann Place, Edward Strong (via video teleconferencing from 7-9:20pm). 2 members of the public.

Meeting opened at 7:01 PM.

BUSINESS

1. MOTION by Robert Fisher, 2nd Roland Fernald to approve the minutes of January 28, 2015, as corrected, with the provision that if any grammatical corrections need to be made John Murphy will provide these to the secretary. VOTE: 6-0. (Edward Strong and Maryann Place abstained as they were not at the meeting. John Murphy arrived after they were approved)

2. PUBLIC COMMENT:
 - a. Donna Murphy noted that Article 7 which is on tonight's agenda was not on the website as was agreed to at the Charter Commission's previous meeting and asked why it was not there. The Chair explained that at the bottom of our agenda there is a notation that "copies of items will be available on the website or will be available at this meeting", and that it is just not there (posted) yet. He then handed out copies.

3. CORRESPONDENCE:
 - a. Memo from Joel Moulton, Public Works Director dated February 11, 2015 [attached] with his suggestions re: Article 5-Wastewater article.
 - b. The Chair noted that he had received a verbal apology from Donna Murphy for her outburst at the Commission's January 28th meeting and that he had thanked her for the apology. Ms. Murphy objected and stated it was not a charter issue and done at the charter meeting.

4. BUSINESS:
 - a. The Chair passed out the memo from Mr. Moulton and proposed that if there were no objections that the discussion on Article 5 – Wastewater - be postponed till our next meeting so that all could study the suggestions. There were no objections. Extra copies were available for the public.
 - b. Dennis Lentz noted that he did insert the comment made by Mr. Moulton at the last meeting into Article 5, but had not reinserted "fence viewer" into Article 4.E.

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- c. Table of Contents –
- i. Dennis Lentz explained that he had taken highlights from each of the Articles. It helped him to see where there was duplication. Charles Rankie said he had added update dates on each Article so we know which updated article we are working on. Mr. Rankie also noted that all the Articles are up on the town website except for Article 7, until after tonight.
- d. Article 7- Nominations and Elections [draft 12/17/14] There was discussion on each section and some of the corrections/discussion included:
- i. Article 7.1- Conduct of Elections: There was discussion on the reference to Article 1. Section 4- Intergovernmental Relations, which is noted in this article. Rosanne Adams questioned why this notation was there noting that the 4/23/14 draft had this notation but then it had been removed from the draft of 9/10/14. Several members thought this was a valid reference and others that it had no relevance. For the time being it was left in with correction that it be Article 1.4.
 - ii. Article 7.2- Nomination by Petition: Maryann Place explained the procedure that Kittery uses and is required by Statute. As a courtesy she notifies petitioners either way regarding whether a petition is complete.
 - iii. Article 7.3- Order of Candidates' Surnames: There was discussion about whether the Statute should be referenced. Maryann Place noted that in Kittery's charter, at the beginning of each article it just states that they follow either Statute 21A and 30A, so that if one is silent on a subject then it is covered by the other.
 - iv. Rosanne Adams asked to go back to Article 7.1. She questioned the reference to Article 1, Section 1.4 Intergovernmental Relations and that she believes it actually was referencing Article 1 Section 5 (1.5) – the Town Meeting. Dennis Lentz suggested taking the reference off all together. There was no objection and the reference was removed.
 - v. It was noted that 7.4 to 7.9 were originally in Article 1 – Powers of the Town – and were moved to this location.
 - vi. Article 7.5 – Eligibility: Dennis Lentz questioned the use of “elected town office” wording and the use of the terms town officer, town official, etc. John Murphy explained the use of terms “town office”, “town officer” (those who fill a town office such as selectmen) and “town official” which is anyone on the town staff.

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- vii. Article 7.7 – Election: Dennis Lentz noted that the wording of this had come from the town clerk, Wendy Rawski.
1. Maryann Place noted that you don't necessarily have a State Primary every year and that it might be better just leave it the second Tuesday in June. There was CONSENSUS to do this.
 2. Rosanne Adams read from the Damariscotta Charter concerning the Annual Town Meeting, which gives the annual town meeting as being as just "in June", making it more general. She agreed to save this wording for a later discussion on the town meeting. Dennis Lentz read from Article 1.5 which outlines the detail of town meetings and their convening.
- viii. Article 7.8- Write-in Candidates: Rosanne Adams said she reviewed the past minutes and found nothing but can remember the discussion concerning setting a minimum number of write in votes required for an election. There was CONSENSUS that there be no limit to the number and to take out the present wording and to replace with "A write-in candidate shall be elected by plurality vote". It was noted there already is a process in case of a tie included in this Charter.
1. There was discussion of what would happen if no one took out papers and there were no write in candidates. It was suggested that then the Selectmen (Town Manager) choose to appoint until the next election. This is the procedure we presently have in the Charter for a vacancy. Rosanne Adams questioned this as being legal. This would only apply if there is a vacancy. John Murphy said he did not think so. John Murphy suggested that it needed to be handled in a different way and put in another section of the charter but not include in this article.
- Roland Fernald said that elected officials should not be appointed by the Selectmen, but that another election should be held at the next available time. John Murphy and Rosanne Adams agreed. The Chair asked, and Roland Fernald agreed to write up something for the Commission to look at.
- ix. Article 7.8- Write-in Candidates: The Chair asked that if there was no objection that discussion on this article be continued at the next meeting. No objection was made.
- x. Article 7.10-Vacancy of Office: There was CONSENSUS to take out the words "permanent disability" and "incompetence". Dennis Lentz noted it is also covered in Article 2.9.

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xi. Article 7.11- Forfeiture of Office:

1. There was CONSENSUS to remove mention of recall in this article, as discussed at a previous meeting.
2. There was CONSENSUS to insert in “D” the word “incarceration” after “punishable by one year”.
3. There was discussion concerning the criteria A-F:
 - a. Concerning E: Gary Sinden noted that there already is an ordinance regarding boards and committees. He also questioned how the criteria listed here would be measured and what would be the mechanism for a person’s forfeiture of office to be effected.
 - b. Dennis Lentz questioned who determines “forfeiture of office”.
 - c. Edward Strong said he would rather have recall than forfeiture. They are elected by the people and the people should be the only ones that can take the position away from someone.
 - d. Rosanne Adams said that when she looks at this section she sees the criteria that a citizen could use to decide if there is enough to warrant initiating a recall procedure. It is the voters that make the determination to call for forfeiture of office. Gary Sinden disagreed because having this list linked to recall will then limit the citizens to only those reasons listed in order to initiate a recall and that we shouldn’t limit the citizen’s rights [to recall].
 - e. Maryann read from Kittery’s Charter as it applies to the councilmen.
 - f. Dennis Lentz suggested that ‘forfeiture of office’ doesn’t belong in Article 7 at all, to which Rosanne Adams and Maryann Place agreed. Rosanne Adams suggested that what is written in this section needs to be consistent with what the Select Board has in their article.
 - g. There was CONCENSUS to strike section E.
 - h. There was CONCENSUS to strike section F as it is basically the same as D.

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- i. There was CONSENSUS to keep sections A-D in this article.
 - j. There was CONSCENUS to put a note concerning 7.11 that we may wish to move it to another article.
 - k. Gary Sinden suggested that the mechanism - who actually removes the person -should be stated. He suggested and there was a CONSENSUS to replace the first sentence with “An elected official may forfeit his office and be removed by the municipal officers if...”.
- xii. 7.13- Determination of Election Results:
- 1. There was CONSENSUS to change second sentence to read “In case of a tie for any elected positions”.
 - 2. Maryann Place suggested inserting a reference to title 30A in “B”. There was no objection.
 - 3. School Administration: Dennis Lentz noted that we took out this section when it was in Article 1, yet we mention the election of school board members in Article 7.4. He read the statement that was removed from the Rockport Charter and said he believed that the statement is important. He questioned whether we should have some statement. The Chair suggested that we ask the School Director for the documentation on the formation of the district. Robert Fisher stated that this should be the criteria that these people get elected by the town.
 - a. There was no objection to getting a copy of the SAD 35 formation paperwork.
 - b. Rosanne Adams noted that some charters do mention that they are part of a school district, elect X number of people and give some explanation of it.
5. Article 4- Administrative Organization [12-17-14 draft]: The Article was read through with the following changes/discussion:
- i. Article 4.5- Department Heads: There was CONSENSUS to reference that the Fire Chief is elected by “members” of Fire Department in accordance with their Constitution and Bylaws. Gary Sinden question whether the wording concerning the Fire Chief has gone to him for review. The Chair confirmed that he had not sent the wording out. There was CONSENSUS for the Chair to send this out to the Fire Chief.

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- ii. Edward Strong logged out of the meeting. He went to follow along through the town website.
 - iii. Part E – Appointed Officers/Officials: There was CONSENSUS to make consistent the wording concerning appointments after the town meeting takes place with what is in Article 4.1.
 - iv. Article 4.12 – Job Descriptions and Qualifications: There was CONSENSUS to put back in fence viewer, sealer of weights and measures. There was discussion as to whether or not the list was needed in the Charter. The Chair noted that the Town Manager said it was necessary to maintain that list. Maryann Place noted that it was not an updated list and didn't feel it should be in the Charter and just refer to State Statute. Gary Sinden suggested that we pick up the discussion of this at the next meeting. There was no objection.
6. PRESS RELEASE: The Secretary reported that she wrote to the Portsmouth Herald reporter Ralph Morang and thanked him for his recent article.
7. PUBLIC COMMENT:
- i. Robert Pomerleau commented on
 - 1. a) Article 7.5 (Eligibility) and said he didn't see that it was a bad thing for people to be able to run for more than one office at the same time. Today he can run for more than one office and didn't see why the Commission would want to change this. If elected to both would still have to resign one position.
 - 2. b) In the December 3rd minutes it is said that the changes were being sent to the Fire Chief.
 - 3. c) Regarding "forfeiture of office" and recall he could see the need for the Selectmen to take action but not sure how he or others would feel about the selectmen being able to remove an elected official. He suggested that recall could be initiated by a warrant put forth by the selectmen as well as citizen's petition. He said he was more comfortable with selectmen initiating a warrant after a hearing and letting the citizens decide or letting the citizens petition to have that done rather than leaving to the selectmen to remove another elected official from office. Leaving in the listing of criteria that is presently there gives the grounds to be used for the board of selectmen to initiate such a warrant, although you can't limit the criteria for the citizens to use.
 - ii. Donna Murphy commented on article 7.11 (Forfeiture of Office) saying that only criteria A and C are appropriate and that it should be up to the voters to remove those they have elected by initiating a petition. The criterion is also very

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subjective. She also noted that in some places we use numbers (7.2) and in others it is written out and that it needs to be consistent in the document.

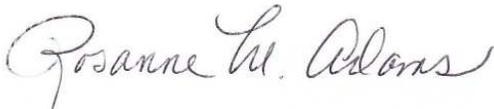
8. NEW BUSINESS – none

9. COMMISSION ROUNDTABLE:

- i. Rosanne Adams said that regarding previous discussion we had concerning the State Statutes and what effect, if any, it might have on the Charter, if the Statute should change she had found something in another Charter that we might want to use. She will send it to the Chair who will send out to members to look at.
- ii. The Chair suggested that Article 5, Article 7.8 and Article 4.12 to the end be reviewed at the next meeting. Gary Sinden suggested that Article 5 be considered at the meeting following the next, as he will not be able to attend the next meeting. There was no objection

10. Next Meeting: February 25th.

Meeting adjourned at 9:50pm on the MOTION of Robert Fisher, Gary Sinden 2nd. VOTE 8-0.



Approved: February 25, 2015

Rosanne M. Adams
Secretary

CC: Committee Members
Eliot Town Clerk