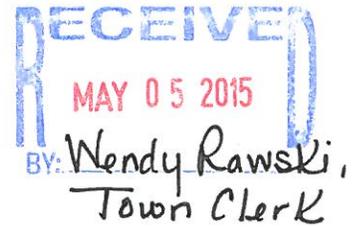


Eliot Harbor Commission  
Minutes for the March 16, 2015

Meeting



The Chair called the meeting to order at 6:00 pm

Roll Call

Doug Anderson, Ben Brickett, Lee Emery, Dave Emery, Cabot Trott, Lori Howell, Charles Rankie. Others present Grant Hirst, Harbor Master Richard Philbrick, Deputy Tom Phillips, Wendy Rawski and Dana Lee.

Charlie Rankie asked the chair to accept an alternate agenda for two reasons, first to accommodate the town clerk and second to review some rules and ordinances that we the Commission are in violation of. The Chair accepts the motion by Charles Rankie and seconded by Cabot Trott to accept the amended agenda (attached Document) All voted in favor motion past.

Reports of Officers and or Committees

Guest Speaker(s) Wendy Rawski, Eliot Town Clerk

Wendy spoke on the issue of excise tax to help clarify for the commission any need to include some wording within the ordinance to assist in the collection of these taxes from those moored within town as non-state residents. Wendy states that she doesn't believe it is the job of the commission nor of the Harbor Master to collect these taxes but that the ordinance should give some means of informant in the collection. Discussion followed some suggestion were made to hold the mooring holder responsible for any taxes owed to the town by those who may be renting, leasing or borrowing a mooring in town. State title 36 1501-1506 covers when and who will owe excise tax. More discussion followed on which section wording should be placed to allow assistance in collection. Some wording that was being asked for by Lee Emery and Cabot Trott would have it state that as an owner you are to notify user that they need to pay the tax to them or show proof that said tax has been paid. Lorie and Doug offered other wording to state that an application of a mooring permit may be denied if excise tax(s) from Boat(s) using the mooring holders mooring have not been paid in accordance to title 36 1501-1506. Charlie brought back up were Cabot suggested under sec 4 Responsibility of the Mooring Holder, to state that is the responsibility of the mooring holder to make sure that all users of their mooring are in compliance of town ordinance as well as state status and all excise taxes are paid. Discussion then turned to our time frame on having the ordnance turned in. Charles Rankie stated that to his knowledge no Commission member or alternate had been sworn in to date. Dana Lee asked Wendy if she would preform a mass swearing in ceremony. Wendy Rawski asked all to stand and raise their right hand and performed the swearing in process for all members.

Discussion on fee's were taken up Dana Lee talked to the Commission about the fee structure and how to approach it. One concern that was brought to the attention of the Commission is conflict of interest.

Special Committees, Moring Renewals.

Charlie brought up that after the discussion in the previous meeting with the Deputy Harbor Master that a dry run with the town office staff on the registration process would be nice. It found that the office staff did not have the documentation available and were not ready. It was pointed after some discussion that it was on the computers and that the Harbor Master has it. Discussion followed on the solution of having copies available.

Review of the "Report of the Eliot Harbor Commission" for publication in Town Report.

The Chair stated that he sent out copies to everyone by e-mail and asked if anyone had any input. Some discussion followed and it was thought that the letter needed to be written in a fashion that explained more on who, what, and where's of the Commission. Charlie Rankie offered some input to accomplish this and Lori Howell agreed that as a committee of two (Charlie and Ben) they could polish the letter and present it better. A formal motion was made by Lori and seconded by Ben to form the committee of two to write the letter and publish it without the need of returning to get approval from the Commission. Five members voted, four in favor motion passed.

Unfinished Business

Eliot Harbor Ordinance Fee's the commission continued to go over the Ordinance and discussed the fee schedule for the permits and how they should be set and by whom. Also it was suggested by Lee to add a fee for the application for the waiting list as well. Discussion followed on how the waiting list works followed. The Chair then presented numbers as in comparison to Kittery's mooring fees and how the towns differed on income. Members expressed that it would have been nice to this have information prior to the meeting to have a chance to go over it first. Ben stated that the Town of Eliot has 2,102 linear feet of boats register in town and a138 residential moorings as well as 48 commercial moorings for a total of 186 moorings registered last year. This translates to moorings registration fees of 4,680 dollars and the registered footage total of 2,078 dollars for a total of 6,758 dollars of income last season. The Chair then plugged the Town of Kittery's fees into the Town of Eliot's number for comparison and came up with a total of 40,512 dollars of income from fees. Charlie Rankie and Lori Howell pointed out that people should know what the difference is between the towns such as more services provided under those fees. Discussion went back to deadlines and Ben wanted to be able to show something for this town meeting when Lori and others wanted to make sure that the quality is there and not push for this next meeting. Cabot reminded people that no matter if it's this meeting or one in November the changes don't take effect until 2016. Lee and Doug asked if we could have finished drafts of the ordinance sometime before the Commission sits down to finalize it.

A motion to introduce Loris notes on Ordinance changes into the minutes was made by Charlie as requested by the Secretary and seconded by Doug all in favor the motion past.

A motion to adjourn was made by Doug and seconded by Dave at 08:53 PM all were in favor motion past.

Respectfully submitted

A handwritten signature in black ink, appearing to read "B. Cabot Trott". The signature is fluid and cursive, with a long horizontal stroke at the end.

B. Cabot Trott

Secretary Eliot Harbor Commission.

Attached Documents: Harbor Commission By Laws, Eliot Ordinance Governing Boards, Commission & Committees, Amended Agenda.

## TOWN OF ELIOT, MAINE

### Eliot Harbor Commission By-Laws

Adopted 07-24-14

#### Article I – Name

The name of this organization shall be the “Eliot Harbor Commission,” hereinafter referred to as the Commission. Members of the Commission serve without compensation.

#### Article II – Purpose

**Section 1.** The purpose of the Commission shall be to implement the Eliot Harbor Ordinance, hereinafter referred to as “The Ordinance”, and to recommend amendments as may be needed.

**Section 2.** The Commission shall have and shall exercise the powers as authorized by “The Ordinance”, and additionally, any other power legally authorized by State Statute and by the Board of Selectmen and/or as legally authorized by the citizens of Eliot at the annual Town Meeting.

**Section 3.** It shall be the policy of the Commission to carry out its functions in a fair and impartial manner without regard to race, creed, national origin, ethnic background, sex, handicap and/or social or community standing of any person.

All decisions by the Commission will be made as expeditiously as possible after careful consideration and due deliberation. The interests of all individuals, groups of individuals, and/or organizations using the harbor and its water-related facilities will be considered equally.

### **Article III – Membership**

**Section 1.** The Commission shall consist of five (5) Regular Members and two (2) Alternate Members, all of whom shall be residents of Eliot, and shall be appointed by the Board of Selectmen to serve staggered three (3) year terms.

**Section 2.** When there is a permanent vacancy, the most senior Alternate Member shall be appointed to fill the unexpired term. Another Alternate Member shall be recommended by the Town Manager after consulting with the Commission and appointed by the Board of Selectmen within sixty (60) days.

**Section 3.** Alternate Members shall attend all meetings and participate in the Commission proceedings but shall not vote unless designated by the Chairperson to act for a Regular Member who is absent or otherwise unable to vote.

**Section 4.** Failure of any Member (Regular or Alternate) to attend three (3) consecutive regularly scheduled meetings of the Commission or five (5) regular meetings during one (1) calendar year shall constitute an attendance violation, and unless previously excused, may result in dismissal if so determined by the Chairperson.

**Section 5.** A Member of the Commission may be removed from office for cause by a majority of the Board of Selectmen.

### **Article IV – Officers and Duties**

**Section 1.** The Commission shall elect for one (1) year terms a Chairperson, a Vice Chairperson, and a Secretary from the Regular Members. Election of Officers shall be at the regularly scheduled meeting in July, and the one (1) year term shall run from August 1 to July 31 of the year following. Any Officer may be re-elected.

**Section 2. Duties of Officers and Sub-Committees:**

A) Chairperson:

- 1) Shall be the spokesperson for the Commission;
- 2) shall vote on all matters;
- 3) shall be the contact with the press and other media;
- 4) may appoint Members or Alternates to special sub-committees;
- 5) and, may call special meetings.

B) Vice Chairperson:

- 1) shall preside at meetings of the Commission in the absence of the Chairperson.

C) Secretary

- 1) Shall keep Minutes of all meetings of the Commission;
- 2) shall distribute copies of the Minutes to the Town Clerk, and any other parties affected by rulings of the Commission;
- 3) and, shall post notices of special meetings.

- D) Any Sub-Committee shall report its findings and conclusions to the Commission, which shall have the authority to accept, reject, amend or modify the report by majority consent.

**Section 3.** Individual Members of the Commission may have the Secretary enter their Minority Report as a part of the Minutes and permanent record.

**Section 4.** An Officer of the Commission may be removed from office for cause by a two-thirds (2/3) majority of the Members voting, and with a special election to be held at the next regularly scheduled meeting to fill any vacant office.

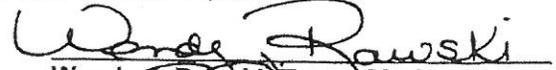
## **Article VII – Appeals**

**Section 1.** See Section XVI of the Town of Eliot Harbor Ordinance.

## **Article VIII – Amendments**

**Section 1.** The Commission shall have the authority to amend these By-Laws by a two-thirds (2/3) vote of those present at a regular meeting, provided that the amendment is in accord with the Eliot Harbor Ordinance and that a written notice shall have been given each Member at the prior meeting; the written notice to include the text of any proposed amendment.

ELIOT, MAINE

  
Wendy J. Rawski, Town Clerk

ORDINANCE GOVERNING  
BOARDS, COMMISSIONS, AND COMMITTEES

COPY

**1. Purpose:**

It is essential for good government that the various boards, committees and commissions (referred to herein as "boards") of the Town of Eliot, Maine shall perform their board functions in accordance with this ordinance.

**2. Repeal and Replacement:**

Upon adoption, this ordinance repeals and replaces the ordinances entitled "Ordinance Governing Boards, Commissions, and Committees", dated March 26, 1977, as amended on Marcy 26, 1983, March 24, 2001, and March 23, 2002 and "Standards of Conduct-Conflicts of Interest Policy for the Town of Eliot, Maine" dated March 1977 and amended March 1983 and March 2001.

**3. Definitions:**

A. Kinds of Boards:

Boards specifically mentioned and listed are not to be considered a complete listing of all boards. Some boards are project specific and dissolve at the completion of such project.

Town Standing Boards – These are permanent boards authorized or required by State Statute, Eliot Ordinances, or by Town Meeting. This ordinance applies only to elected or appointed (by the Board of Selectmen) town boards.

BOS Advisory Committees – These are committees formed by the Board of Selectmen (BOS) to advise the BOS in specific areas; they may be terminated by the BOS or may be transformed finally into permanent Town standing committees.

Ad Hoc Committees – Any of the boards may have any number of ad hoc committees, each made up of regular(s), alternate(s), associate(s), or volunteer(s) in a number sufficient to accomplish the ad hoc purpose. All actions and products of ad hoc committees are legally the actions and products of the parent board. These Ad Hoc Committee members need not be sworn in by the Town Clerk.

B. Kinds of Members:

- Regular Member: One of the full members, elected by voters or appointed by the BOS as specified by State Statute, by Town Ordinance, or by BOS designation. Only these members may be board officers. Only these members, or alternate members temporarily named as voting members, may make motions, second motions, or vote.
- Alternate Member: A member appointed by the BOS, with the same right to enter discussion as a regular board member, but who does not vote and neither makes nor seconds motions unless appointed by the board chairperson, during a meeting, to replace an absent or recused regular member. An alternate member may not hold office.
- Associate Member: An associate member is a member who is appointed by the BOS, who acts as an advisor, advocate, or participating party to the board's mission. These

members are authorized to provide input in the same manner as regular members, but are not authorized to make or second motions, vote, hold office, or officially represent the board. There may be any reasonable number of associate members.

#### C. Other Definitions:

- Quorum: For Eliot boards a quorum is a number equal to the simple majority of the number of regular members of a board. Note: The Chairperson may appoint alternates to serve as regular members to make up the quorum.
- Official: Officials of the Town of Eliot are defined as all employees of the Town of Eliot and all persons serving on boards.

### 4. Membership:

#### A. Selection:

- (1) Any adult (18 years of age) resident interested in serving on an elected board should inquire for details of the Town Clerk at Eliot Town Hall.
- (2) Any adult resident of the Town of Eliot is eligible to serve on appointed boards. Such residents shall express their interest in serving (both new and by re-appointment) on an appointed board or boards in writing to the BOS, which will maintain a list, by board, of interested residents. The BOS shall call upon this list to make all new appointments and re-appointments. On the applications, each applicant should include brief reasons supporting his/her appointment. Applicants should consider their ability to provide unbiased participation on a regular and continuing basis when writing their desire to serve. Each applicant shall be provided a copy of this ordinance at time of application.
- (3) Any appointed board member whose term will end at Town Meeting should notify the BOS 30 days prior to Town Meeting of their intention to either seek reappointment or not.
- (4) Approximately one month before the Annual Town Meeting, the BOS shall remind the citizens of Eliot of the need for volunteers to the various boards. This reminder shall be made in the Town Report, in newspaper advertisements, on the Town Website, and by posting within the Town.
- (5) Vacancies on some boards must be filled as prescribed by applicable state law. Other board vacancies will be filled by election or appointment as determined by the BOS or the legislative body (Town Meeting). Terms of elected officials expire on the specific anniversary year at midnight of the day after the conclusion of the annual town meeting. Terms of appointed officials expire on the specified anniversary year when their replacement appointees have been appointed, notified and sworn in by the Town Clerk (for those who must be sworn) or thirty days after the midnight of the day after the conclusion of the annual town meeting, whichever is earlier.

The BOS shall take up the business of appointments of new members and reappointments of members in good standing to annual vacancies on boards beginning no later than the second regularly scheduled meeting after the close of the

annual town meeting. The BOS shall complete appointment of members as soon as availability of suitable candidates allows.

In instances where authorized by state law or town ordinance the BOS shall appoint the prescribed number of alternates. The BOS has the authority to appoint alternates to other appointed boards. When filling a vacancy of a regular member, the BOS will take into consideration the seniority of the alternate member(s) who have filed a letter of interest for the vacancy, but will also consider their attendance record and other board activities.

- (6) Appointed vacancies (by resignation, e.g.) other than anniversary term expirations shall be filled by the BOS as soon as possible after posting ( not in the newspapers) the vacancy for 12 days. Each such appointment will be for the remainder of the un-expired term. The BOS shall cause the filling of similar un-expired elected vacancies in accordance with the state law.
- (7) Following appointment to a board, each regular and alternate member (except of those described as Ad Hoc or BOS Advisory Committees) must be sworn into office by the Town Clerk prior to acting as a member of that board.
- (8) The advisory boards established by the BOS, such as the Sewer Committee and the TV Committee, need not be sworn by the Town Clerk. These committees' continued existence shall be re-affirmed yearly by the seated BOS following the annual Town Meeting.

#### B. Removal of Members:

- (1) Members of appointed boards may be removed for just cause as prescribed by State Law.
- (2) In addition to the above, the BOS has the authority to remove appointed members for cause. Examples of "cause" include, but are not limited to, knowingly violating the conflict of interest standard and the standard of conduct as specified herein, and excessive absences as defined in 5 (4) below.
- (3) The advisory boards of the BOS may be dissolved by voted action of the BOS at any time when the BOS feels they have served their purpose and are no longer needed. When such a board's continued usefulness has become established, it may be elevated to a Standing Committee of the Town, by vote at Town Meeting.

#### 5. Procedures:

- (1) Each board shall elect officers, as a minimum consisting of a chairperson, a vice-chairperson, and a secretary. Election of officers shall take place annually at the first regular meeting of the board subsequent to the BOS action to fill vacancies as prescribed above or as soon as possible thereafter. Loss of an officer during the year shall be remedied by election at a subsequent meeting.
- (2) Each board shall schedule regular meetings, generally at least once a month. Notice of the dates of these regular meetings shall be posted at the town offices (Town Hall). A regular meeting may be cancelled if there is no business that requires a meeting. The board chairperson (or acting chair) may call special meetings as and when the need arises and notice of these meetings shall be posted in the town offices and as required by law. Each board shall determine a method suitable for member notification of cancelled and special meetings. This notification will generally be by telephone or e-mail.

- (3) Each regular member and alternate member is expected to attend all meetings and participate fully in the general conduct of the board. The chairperson shall be notified of any anticipated absence from each regular and special meeting. In view of the need to rely on volunteers for appointed boards, justifiable absences for personal, work, and family conflicts are acceptable. If a long-term absence is anticipated, the member should discuss the potential impact on the board's ability to perform its intended (and possibly legal) function with the chairperson.
- (4) Absences will be reviewed by the board and determined to be excusable or not. "Excessive absence" is the sum of unexcused absences amounting to more than 25% of all meetings held over any 12 month period. The chairperson of each board shall report any excessive absences to the BOS in a timely manner.
- (5) Any member of the Planning Board or the Board of Appeals who was absent during any presentation or discussion of materials that the member is being asked to vote on must sign a statement or state publicly for the record that the member has read the minutes and reviewed any documents received and discussed at the missed meeting(s).
- (6) Each board shall adopt rules of order and/or conduct for the purpose of consistency in meetings. All meetings are public meetings, held in places where potential attendees are not or will not feel inhibited to attend. These rules shall be submitted to the Town Clerk where they are to be placed on file and be available to any interested party or entity to view. As a guide refer to the By-Laws and Rules of Order of the Eliot Board of Selectmen. Executive Sessions, where public attendance is excluded, are authorized only within the strict guidelines of state law.
- (7) Public notification of the conduct of the board's business shall be in accordance with state law and any applicable town ordinances. If additional notification is appropriate to keep the public informed, the board should adopt procedures such as published or posted agenda, website notices, newspaper articles or paid newspaper notices. The Town Clerk should be notified of each board's normal process.
- (8) Boards shall record minutes of each meeting. Included in the minutes must be the names of the board members attending and those absent and absent as excused, a description of the business taken up (the level of detail is discretionary), each motion for action by a member and the disposition of the action (a record of the vote by name is not required except where applicable to satisfy state law or requested by a member). The minutes shall be approved by a majority of the members. The original of these approved minutes shall be signed by the board chairman or secretary in accordance with the board's rules of procedure and filed with the Town Clerk.
- (9) Meetings may be held only with at least the required quorum of members who are eligible to vote being present. A simple majority (unless otherwise stated in law or ordinance) of the quorum or more members present and eligible to vote will carry the vote. A member who disqualifies himself or herself or is disqualified by action of the board will not be counted in determining a quorum.
- (10) A motion that has been seconded will carry on a vote of a simple majority of the eligible members present and voting unless otherwise stated in law or ordinance. Each eligible member is expected to vote on each action of the board as presented. For the greatest service to the purpose of the board, any member who anticipates he or she will not be able to vote should step aside at the beginning of the procedure and allow an alternate to be seated if the board is so equipped. A member who abstains during a vote will have his or her presence counted in determining a simple majority. Where not prohibited by state law the chairman will vote only to break a tie vote. For a vote to be legal, the member must cast

it during a legally constituted meeting of the board. A member can not vote by proxy, telephone, post mail, or e-mail.

- (11) If not otherwise dictated by law or ordinance, a motion to reconsider a prior action of the board must be made by a member who had voted in the majority on that action. The second to that motion may be by any member who participated in the original voting. A vote to reconsider must be timely and must be taken up no later than the next regularly scheduled meeting and completed, if reconsidered, by the following regular meeting. If a vote to reconsider is passed the board may, at its pleasure, take additional testimony during their deliberation.
- (12) Each board is expected to operate within its budget. The chairperson will be responsible to oversee the expenditures of the board, and will submit its costs to the town treasurer for payment after approved by the board. Unilateral expenditure of town funds is prohibited.
- (13) Communication between board members either by email, telephone, face-to-face, etc. is covered by Maine's "Freedom of Access Act" (1-MRSA Section 401 et seq.) which prohibits conduct of board business except at a public board meeting. Thus, board members will discuss board business only in a public meeting except as follows:
  - a. Business legally conducted in executive session.
  - b. Communications between board members to call a meeting – without discussing the substance of the purpose of the meeting.
  - c. A report of one board member to other board members without generating discussion. Such report shall be shared with the public, either as correspondence or as an agenda item at the board's next regular meeting, unless the report is otherwise confidential or may be discussed in executive session.
  - d. If less than the majority of the board is requested by the board to draft a report, ordinance, etc. for the board, then that communication between those members need not be on the agenda or correspondence so long as the final product is presented to the board in public session – unless exempted from public session by Maine law. These board members may not share any such correspondence with other board members other than those appointed by the board to draft such.
- (14) In order to encourage and regulate communication between boards, any communication or request from one board to any other should occur between their chairpersons. The purpose is to eliminate multiple requests for the same information and to allow all interested parties to share the requested information. The chairperson must be informed of and will coordinate all requests for information from a board to any source inside or outside the Town of Eliot. This is not meant to preclude any individual member from gathering information as long as the chairperson is informed in advance and the information is shared with the entire requesting organization upon receipt. To insure all parties concerned have the same information, all requests will be written.

#### **6. Posting:**

The Board of Selectmen shall determine public places within the Town of Eliot for public postings. All boards shall post, at a minimum, in those public places notices of board meetings and elections and public hearings. This posting shall not replace any other posting requirements in any other ordinance or state law. These postings may satisfy all or part of any other ordinance or state law-posting requirement.

#### **7. Standard of Conduct:**

All officials of the Town of Eliot shall practice standards of conduct, which prohibit engaging in any criminal or other conduct prejudicial to the government or affairs of the Town of Eliot or adverse to the health, benefit, and welfare of its residents. This includes any action which might result in or create the appearance of using an official position for private gain, giving preferential treatment to any person, impeding town government efficiency or economy, losing complete independence or impartiality, making decisions outside official channels, or adversely affecting the confidence of the public in the integrity of the town government.

**8. Conflict of Interest:**

Each board member should review the state law on conflict of interest. Maine law encompasses four conflict of interest situations that can occur:

Financial conflict of interest – see 30-A MRSA sec. 2605 or succeeding law

Incompatibility of office

Prohibited appointments or employment – see 30-A MRSA sec.2606 or succeeding law

Bias – see 1 MRSA sec. 71(6) or succeeding law.

**9. Appearance of a conflict of Interest;**

Even if no actual conflict of interest exists, a board member would be well advised to avoid even the appearance of a conflict in order to maintain the public's confidence in the board's work.

**10. General Provisions:**

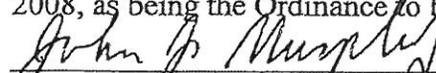
(1) The effective date of this ordinance is the date of adoption by town vote.

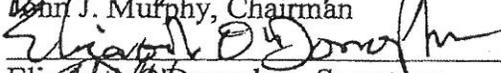
(2) This ordinance may be amended through action of any town meeting authorized by warrant to consider such amendment. Boards may adopt additional rules of procedure or organization providing they do not invalidate or circumvent any of the provisions of this ordinance. Each additional rule or procedure so adopted must be maintained on file in the Town Clerk's office of the Town of Eliot.

(3) Conflict with other ordinances: except for its preceding version, this ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit, or provision of law. Where this ordinance imposes a greater restriction on boards than provided for by law, this ordinance shall prevail.

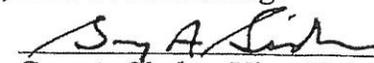
(4) Validity and severability: should any section or provision of this ordinance be declared by the courts to be invalid such decision shall not invalidate any other section or provision of this ordinance.

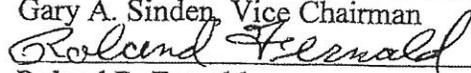
We, the undersigned, being the Municipal Officers of the Town of Eliot, Maine, hereby certify the foregoing Ordinance "Ordinance Governing Boards, Commissions, And Committees" dated June 10, 2008, as being the Ordinance to be voted on at the June 14, 2008 Town Meeting.

  
John J. Murphy, Chairman

  
Elizabeth O'Donoghue, Secretary

  
Michael T. Moynahan

  
Gary A. Sinden, Vice Chairman

  
Roland R. Fernald

Dated: May 22, 2008

Town of Eliot  
Harbor Commission Agenda  
March 16th @ 6.00pm @ Town Hall

\* Amended

Roll Call

Reading and approval of minutes Jan 19, 2015 & FEB 16, 2015

Reports of Officers and or Committees

GUEST SPEAKER(S)

\* Harbor Masters Report

REVIEW - ELIOT ORDINANCE GOVERNING BOARDS, COMMISSIONS & COMMITTEES  
- HARBOUR BY-LAWS

\* Special Committees and or guest speakers

MORNING RENEWAL -

\* Review of the "Report of the Eliot Harbor Commission" for publication in Town Report

Unfinished Business -- Continue with review of Eliot Harbor Ordinance, Sections X thru IXX

New Business - AGENDA FORMAT.

Adjournment OATH OF OFFICE.