

ELIOT TOWN CHARTER COMMISSION

MINUTES – July 23, 2014

PRESENT: Charles Rankie, Jr., Gary Sinden, Rosanne Adams, Roland Fernald, Robert Fisher, Dennis Lentz, John Murphy, Maryann Place, Edward Strong.

Also Present: 1 resident

BUSINESS

1. MOTION by Robert Fisher, 2nd Dennis Lentz to approve the July 9, 2014 minutes as corrected. VOTE 9-0.
2. Public Comment: none
3. The Chair spoke about the posting of Article 6. He stated that we don't have the explanation ready yet. The Secretary will write something to go with it and the Chair will review. It will explain that there will be a public hearing on it but if you have any comments before then to please send them to the Commission as we are still in the process of working on them; that as we get closer to a public hearing on a completed draft the Commission will be releasing the other articles for review. The disclaimer that the Secretary sent to Dennis Lentz to put on was not correct as it referenced being released under FOAA statute. The disclaimer on the top of the document has been changed to "*This document is intended for informational purposes only. It is a working draft of the Eliot Maine Charter Commission. The Commission welcomes public comment on this Article.*" The Chair will send a copy to all members when he sends it to the Town Clerk.
4. Members discussed the response from MMA and a reference from *Black's Law Dictionary* brought by Maryann Place re: the legal definition of "moral turpitude". [both attached] MMA suggested a more concrete term such as "conviction of an offense punishable by one year or more in prison" might be clearer and easier to apply. Jack Murphy concurred with the MMA statement. Edward Strong explained that a conviction resulting in time over of year (365 days) would be a felony. The Chair suggested inserting in Article 2.9B (Forfeiture of Office) as #4 - "is convicted of a crime punishable by one year or more or moral turpitude" and #3 read "is recalled by the voters" as well as attach both the definitions we have used in the Charter for reference. It was noted that the wording is for crimes committed while in office. There was further discussion as to whether moral turpitude should be left in it. It was AGREED that the wording for 2.9B.4 read "if convicted, while in office, of a crime of moral turpitude or a crime punishable by one year or more (in prison)".
5. Article 2 – Select Board was reviewed by members. Corrections and discussion included the following:

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- a. Article 2.2-Eligibility and Qualifications: minor corrections and AGREED last sentence to read *Select Board members may serve, whether elected or appointed on special commissions, boards or committees authorized by State statute.*
- b. Article 2.3- Election and terms: “Select Board person” changed to “Select Board member” and minor corrections made.
- c. Article 2.4- Organizational Meeting: AGREED that Select Board shall be sworn in by the Town Clerk. It was noted that there is provision in statute should the Town Clerk not be able to do this. AGREED to add that in the absence of the Chair and Vice Chair the meeting called by the three remaining members would be chaired by the Secretary. (end of line 58, page 1)
- d. Article 2.7- Powers and Duties: AGREED to take off of the end of the first sentence “of which the Select Board members are the Chief executive officers.” Gary Sinden made the point that we do not have five CEOs. We have one CEO which is the Board acting as a unit. This could lead to some confusion and possibly conflict among members. AGREED that a minority report may be issued by more than one Board member and wording will be changed to express that.
- e. Article 2.7B- Remove for cause: changes were made to clarify the statement.
- f. Article 2.7.C – Create by ordinance: Maryann Place noted that we were to ask the Town Manager to comment on this section. Several members noted that the wording needs to be clearer. Gary Sinden suggested that this and the previous section perhaps needed to be broken down into a few sentences. Jack Murphy raised the issue of some ordinances, such as police ordinances for parking that don’t go to a public vote. Edward Strong said that in Kittery that would go to a vote of the people. Robert Fisher asked why such ordinances shouldn’t go to a vote of the people. Jack Murphy suggested that the Commission have Chief Short in to give his opinion on this section. AGREED that the words “by ordinance” were not necessary when speaking of the Board assigning additional functions or duties to offices, etc. and should be taken out as well as in the heading. The heading begins “*Create, change, and abolish offices.....*”
- g. AGREED to remove references to “agency” or “agencies” of the town in Article 2.7 and make sure that boards, commissions, and committees are listed .
- h. Jack Murphy suggested there be added to the powers and duties of the Select Board the duty to call the Annual Town meeting and any special town meetings as may be needed and prepare the warrants for these meetings. The Chair asked that Jack draw up some wording and make reference to Article 6 where it also occurs.

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- i. Article 2.7.E – Adopt and Annual Budget: The word “annual” was placed before “Town Meeting”.
- j. Article 2.9.C – Filling of Vacancies: Edward Strong reminded the members that he has prepared a draft that we will be looking at regarding the procedure for the filling of vacancies on elected boards such as the Budget Committee.
- k. Rosanne brought up that the Select Board confirms department heads, etc. yearly and questioned if it was included somewhere in the Charter. Need to go back to this.
- l. 2.7H- Provide oversight, liaison and leadership - AGREED to take out the last words “which serve at its pleasure” and place Jack Murphy’s wording “to accomplish the town’s needs and purposes.” AGREED to remove wording “as deemed advisable”.
- m. 2.8- Prohibitions: minor grammatical corrections.
- n. Denny Lentz asked if there might need to be a prohibition regarding interference with other elected committees. Jack Murphy recommended a “C”. Rosanne Adams agreed. AGREED that Denny Lentz would put a note for “C” here to look at this again.
- o. Jack Murphy suggested that the Statute references be moved in rather than all the way to the left implying that they reference the section after rather than the section above. Rosanne Adams suggested that we see just what the reference refers to before making a decision. It is unclear as to whether or not they actually refer to all the points in a section or just some of it. No decision at this time
- p. Article 2.9: grammatical changes
- q. Article 2.9.C” Filling of Vacancies: Should read “A vacancy on the Board must be filled in accordance with the procedure outline in Section 2.3.”
- r. Term limits for Select Board members was discussed and it was AGREED to take this out. It was argued that the voters should make the decision how long they want to have someone.
- s. Article 2.11- Procedure: minor changes were made.
- t. Article 2.11B- Rules, Record Keeping and Journal. AGREED to change “Journal” to “Minutes”. The Rosanne Adams presented some additional wording for this section because Statute only calls for the motion and vote to be recorded. Selectmen review bylaws and procedures each year. It was AGREED to add this as a third paragraph, for review, to help define just what would be included in the minutes.

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- u. 2.11.C – Voting and quorum: There was discussion on whether binding actions of the Board should have to receive 3 affirmative votes. There was feeling that requiring this could bind the hands of the Selectmen in the possibility that with a quorum of 3 there might be a vote of 2-1 resulting in no action being able to be taken. The Chair reiterated that any action of the Board can be brought up at the next meeting for reconsideration. It was noted that a person voting on the winning side of a motion would have to be the one to bring it back up for reconsideration. Rosanne Adams felt that if we do not accept this then it should be expressly stated that such a vote of less than 3 could be brought up at the next meeting. Edward Strong suggested that it might be worded so to be able to be brought up at the next meeting of a full board. It was AGREED that the sentence referencing “three affirmative votes” will be stricken and the following substituted: *Any action of the board receiving less than 3 affirmative votes may be brought up for reconsideration by any member at the next regularly scheduled meeting.* Note: reconsideration would not have to be initiated by a person voting on the winning side of the motion. Anyone could bring it up for reconsideration.

- v. 2.12 – General and Administrative Ordinances: AGREED to take out last sentence as it refers to preparation and publication of Annual Town Report.

- w. 2.15- Emergency Ordinances: Maryann Place brought Kittery’s charter wording for discussion and possible use. There was discussion about having a supermajority vs. a simple majority (at least 3 votes) putting emergency ordinances into effect; the possibility of having a short board and an emergency arising and then not having all in agreement; that in a true emergency those present should be in agreement. It was noted that the quorum in Eliot under the charter would be 3 (all members exercise their vote). Edward Strong explained that in Kittery they have more things in ordinances than Eliot does and that having a supermajority vote is not a problem there. Roland Fernald and Edward Strong spoke in favor of only needing a majority no matter how many are present. In that case, having only 3 in attendance then 2 votes would carry a motion. Several members felt that even with a short board, with the bypassing of safe guards it should require 3 affirmative votes. It was AGREED to modify Kittery’s ordinance to meet our needs and to leave the number of affirmative votes blank and revisit again. (see 7-23-14 draft of Article 2 for wording)

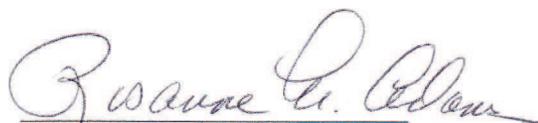
- x. Article 2.16 - Authentication and Recording of Ordinances: It was AGREED that the ordinances and resolutions adopted by the Board will be authenticated by the signatures of the Select Board members in attendance as opposed to just the Chair signing.

- y. Following the discussion and because of the number of changes and questions still to be answered the Chair suggested another reading of the Article and the members AGREED.

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6. Review of Article 5 – Wastewater: Jack Murphy suggested that this article was not necessary and our present our sewer system falls under Public Works. We do not have a wastewater department. Gary Sinden reiterated that if such a department was needed it could be created by ordinance. AGREED to delete this Article in its entirety.
7. Review of Article 8 – General Provisions : The Chair suggested that we wait and discuss at the next meeting and members AGREED.
8. August Meetings – AGREED to meet August 13th and 27th.
9. The Chair reported that the town manager had wanted to be here to discuss the Select Board but was unable to.
10. Press Release – The Secretary will submit press releases to the papers following the posting of Article 6 on the town website.
11. Public Comment – none
12. New Business -
 - a. The Chair asked members to think about whether members want to will have a glossary. The Chair and Denny Lentz noted that they have each been working on an index for the Charter.
13. MOTION by Robert Fisher, 2nd Edward Strong to adjourn. VOTE 9-0.

Meeting adjourned at 9:00 pm



Rosanne M. Adams
Secretary

Approved: August 13, 2014

CC: Committee Members
Eliot Town Clerk