

ELIOT TOWN CHARTER COMMISSION

MINUTES – August 13, 2014

PRESENT: Charles Rankie, Jr., Gary Sinden, Rosanne Adams, Roland Fernald, Robert Fisher, Dennis Lentz, John Murphy, Maryann Place, Edward Strong. 1 member of the public.

Meeting opened at 7:00pm.

BUSINESS

1. MOTION by Roland Fernald, 2nd Edward Strong, to approve the minutes of July 23, 2014 as written. VOTE: 9-0.
2. Review of Charter timetable: The Chair referencing MRS 30-A.2103 reviewed the timetable given us to produce a preliminary report. The Commission was elected on November 5, 2013. At present we are 8 days beyond the 9 month deadline given us to produce the preliminary report. In the statute we are allowed up to 12 months additional time. Members discussed how much more time might be needed, following which there was a MOTION by Rosanne Adams, 2nd Edward Strong to ask the Board of Selectmen for an extension, as allowed by Maine Statute, of 12 months to complete the preparation of the final report of the Charter Commission. VOTE: 9-0.
3. Review of Article 2 – Select Board: The members went through the document in preparation for submitting to the public for comments, noting previously agreed upon corrections. The following Articles were discussed and actions taken:
 - a) Article 2.2 – Eligibility and Qualifications: There was discussion as to whether it was important to leave in the reference to the Select Board members being able to serve on boards, committees and commissions as authorized by state statute. Some felt it was necessary to keep this in and others felt it would not be necessary. It was AGREED to strike this sentence.
 - b) Article 2.7.C – Create by Ordinance: Members AGREED that the word “agency” and “agencies” should be struck.
 - c) Article 2.7 - Powers and Duties: It was AGREED to add another duty and the wording that John Murphy provided the Commission - namely for the Select Board to “call the Annual Town Meeting and any additional special town meetings as may be needed, and prepare the warrants for these meetings”. Denny Lentz read an email he had received from resident Robert Pomerleau regarding the Select Board’s role in negotiating labor contracts in that “the Select Board shall be the sole negotiating and contracting authority for the Town of Eliot in labor negotiations. The final approval of all labor contracts shall be contingent on voter approval by referendum vote for the total cost of the contracts.” It was AGREED that Denny Lentz will add and highlight the suggested wording for members to review. Gary

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Sinden suggested that this issue should be reviewed by an attorney. There was some discussion and it was AGREED to save further discussion once we can read and think about what Mr. Pomerleau is suggesting.

- d) Article 2.8- Prohibitions: It was AGREED that “ or individual members of the Board” will be stricken from the first sentence.
 - e) Article 2.8.B- Interference with Administration: The Chair noted that Edward Strong has been working up some language to insert and review for this section. Ed will get that to Denny Lentz to insert “in red” for discussion.
 - f) Article 2.11C- Voting and Quorum: Rosanne Adams referenced the previous minutes’ additional wording for this section which had not yet been inserted. AGREED to insert the statement from the July 23rd minutes. (page 4: 2.11C)
 - g) Article 2.11B – Rules, Record Keeping and Journal: AGREED to strike out the first paragraph.
 - h) Article 2.15- Emergency Ordinances: It was AGREED that the number of votes by which emergency ordinances can be adopted shall be by an affirmative vote of the majority.
 - i) It was AGREED that this Article will get another reading at the next meeting.
4. Review of Article 8- General Provisions (first reading):
- a) Article 8.1- Initiative and Referendum: There was discussion as to the need for this to be here and the possibility that it is referenced elsewhere in the Charter or should be in another section such as the “Powers of the Town” as well as possible placement in the definition section rather than here. AGREED to take out the words “definition” and “procedure” which occur as headings in “A” and “B”, respectively. Maryann Place read Kittery’s wording of this article. It was AGREED to have Denny Lentz take Kittery’s wording, tailor it to Eliot’s government, insert, and highlight so it can be looked at again. In order to gain an understanding of the elements of this article John Murphy read the reference given (30A- MRS, Section 2528(5)).
 - b) Article 8.2- Elected or Appointed Officers: Terms: AGREED to change title to “Appointed Municipal Officers: Terms” and strike the first 2 sentences.
 - c) Article 8.3- Swearing in Officers: AGREED to add wording suggested by John Murphy to first sentence so that it reads – “Every Town officer or official cannot act or officiate until sworn to the faithful discharge of the duties incumbent...” It was AGREED that the “oath” for town officials should be included and that we will seek out from our Town Clerk the exact wording which the town uses.

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- d) Article 8.4- Conflict of Interest: Gary Sinden raised the thought this is a good prologue to a conflict of interest section and that it does belong here in General Provisions. AGREED to add wording to second line of the first sentence so that it reads "... impartial and responsible to the citizens as a body.... This makes it clear that the Select Board is responsible to all citizens and not to individual citizens.
 - e) Article 8.4A: Minor corrections to grammar were made to Sections A.1 and 2, making sections more direct and easier to read and understand. AGREED to strike the present wording and add the wording from the Kittery Charter for further review by the Commission.
 - f) Article 8.4A.3: AGREED to add to the end of the sentence "and the town of proper allocation of funds and materials."
 - g) Article 8.4.B: Maryann Place read the Kittery wording and it was AGREED to take out the definition of family contained in this paragraph and insert Kittery's wording for review.
 - h) Article 8.4D: John Murphy read for the Commission 30-A MRS, Section 2605 re: conflict of interest. There was discussion as to whether a person with a conflict of interest needs to physically step down from a seat with the board, committee, or commission and the as to whether they should leave the room and not be able to speak or just sit with the public and be allowed to speak. It was AGREED that they have a right to be allowed to speak but should remove themselves from the official seated position and take a seat with the public. Maryann Place read Kittery's wording for this issue and it was AGREED to insert the portion regarding "rights retained" of a person who has recused himself. Gary Sinden offered to check on the County's language regarding this also.
 - i) Article 8.7- Public Bulletin Board: AGREED that reference to School Board will be taken out and the word "shall" will replace "should" as it refers to things being posted on the bulletin board.
 - j) It was AGREED at the next meeting to start the review with Article 8.8 –Recall of Elected Officials.
5. Press Release: The Secretary noted that it would be nice to get an article in since we don't seem to be getting our meetings always posted in the papers. The Chair reported that Sentinel newspaper's has posted requirements for news articles and suggested that perhaps he could take some of the wording from the Town Report and adapt it for an article.
6. Public Comment: None
7. New Business/Commission Roundtable:

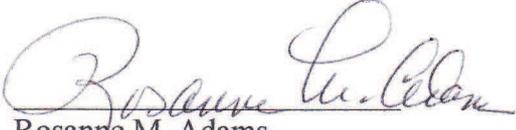
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- a. Robert Fisher referenced Roland Fernald's comment that the Selectmen have been putting together some changes to their rules and regulations. Robert stated that we will have to look at these and not automatically put it in the Charter. Roland Fernald explained this and noted that we need to be aware of what the policies are and instead of putting them in the Charter we should be referencing these policies. It was AGREED to that we should have a joint meeting with all the Selectmen to discuss the pertinent articles in the Charter.
 - b. Gary Sinden made MOTION that the Chair contact MMA for a legal opinion on the issue of town meeting being the final ratifier (decider) of a union contract vs the Board being the final ratifier. Gary clarified that he was talking about the financial aspects of the contract. He noted that the town could be cited for not negotiating in good faith if the Board were allowed to negotiate but the town made the final decision. This motion was 2nd by Roland Fernald. VOTE: 9-0.
 - c. It was AGREED, at the request of the Chair, to write to MMA and ask for a list of law firms that specialize in the review of charters. Robert Fisher suggested that there may be others not recognized by MMA that should be asked.
 - d. Denny Lentz noted that there will be a need for someone to be hired to format the [Charter] document once it is completed. The Chair suggested that the Town Manager might field this task out to town office staff.
 - e. Denny Lentz spoke to clarify the issue of the town voting on labor contracts and that it wasn't the town voting on the contract but just deciding on the salary aspect of the contract. There was discussion on this and Gary Sinden pointed out that that is what happens now with citizens voting on the budgets of the departments and with the ability to reduce these. One can make the argument that the salaries are too high and reduce the warrant article. Robert Fisher spoke to how union contracts are negotiated and the need for management to place on the table what the town can afford. General discussion on this followed.
 - f. Maryann Place spoke to the issue of residency requirements in the Qualifications for Municipal Office article. Kittery is presently dealing with changing their charter in this regard. She read Kittery's proposed language and it was AGREED that she will submit it to Denny Lentz for inclusion and further review by the Commission.
8. Next meeting – August 23rd, 7PM.

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Meeting adjourned at 9: 35pm upon MOTION by Robert Fisher, 2nd by Edward Strong. VOTE: 9-0.


Rosanne M. Adams
Secretary

Approved:

August 27, 2014
September 10, 2014

CC: Committee Members
Eliot Town Clerk