

ELIOT TOWN CHARTER COMMISSION

MINUTES – October 8, 2014

PRESENT: Charles Rankie, Jr. (Chair), Gary Sinden, Rosanne Adams, Roland Fernald, Robert Fisher, Dennis Lentz, John Murphy (arrived 7:20), Maryann Place (arrived 7:08), Edward Strong. Three members of the public and the reporter from the Portsmouth Herald were in attendance.

Meeting opened at 7PM.

BUSINESS

1. MOTION by Robert Fisher, 2nd Edward Strong to accept the Minutes of September 24, 2014 as read. VOTE: 7-0
2. Public Comment: None
3. Correspondence:
 - a. Robert Pomerleau relative to referendums (attached). It references the York, Maine budget referendum. The Chair offered to send out to members the complete York Maine budget referendum if anyone wishes a copy.
4. It was AGREED to wait until the Fire Chief is present before discussing the Fire Department further.
5. Article 8 – General Provisions (using draft 9-24-14)
 - a. Article 8.1- General Authority: It was noted that we had decided previously to delete the suggestion from the citizen. Gary Sinden passed around copies of the statement he had written regarding limiting repeat petitions (attached) and the members discussed the wording. There were feelings for and against having a limit. Comments included:
 - i. Not allowing a repeat petition to be brought up within a year of the previous attempt was infringing on citizen's rights.
 - ii. There may be times when there may be different information that could turn the vote around either one way or the other and the citizens should be able to bring it up again.
 - iii. The Selectmen already have the right to limit repeat petitions – the so called “ping-pong” effect. The petition issue, if substantially the same, would not be allowed.
 - iv. The Selectmen can make the determination as to whether to place on a warrant.
 - v. The question was asked as to why it is needed in the first place? Just because an article is being brought up a number of times? Only because it is repetitious?
 - vi. It was noted that: repeat voting costs money although the Selectmen have the ability to determine when it is put before the voters and can put it along with other things and not just at a special vote for the one issue; a citizen's petition according to the statute has to be put on warrant.
 - vii. Suggest wording that Select Board cannot bring it back within a year; that it can only be brought back by Citizen's petition by 35% of the number of voters in the last Gubernatorial Election.

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- viii. It was noted that at the public hearing this was something that people were strongly for; that an issue being brought over and over again thwarts the will of the people; it is disrespectful and undemocratic to keep bringing the same issue back up just because one side doesn't like the outcome of the vote.
- ix. Waiting a year allows a cooling off period.
- x. Placing on the petition the reasoning behind bringing it up again would make clear why the need to ask for another vote.
- xi. The situation that brought this up was the sewer issue.
- xii. Perhaps we should make the petition # higher for a repeat petition of this nature.

It was suggested that perhaps this section (8.1) should be under a different article such as 2.14 (page 5). It was AGREED to make a note to possibly move this should we agree on the restrictive language.

Maryann Place spoke to the wording in Kittery's Charter.

Gary Sinden again read his revised statement (inserting "if substantially the same"). Motion by Gary Sinden, 2nd Edward Strong. Jack Murphy expressed opposition to limiting citizens in this way to be able to do what they want to do. Gary Sinden spoke to the issue of limiting citizens by again bringing up something that citizens have voted down for another vote within a very short period of time. A citizen's vote should stand. VOTE: 6-3. AGREED to put this wording in RED with a note to discuss relocating it later.

- b. Article 8.7 – Public Bulletin Board: Robert Fisher noted that times have changed since the days when people gathered at the store to get their information about the town and that all town information should be available on the town's website. We publicize for people to use the website and the alert system. That should be the primary place for the public to get their information. He mentioned an incident this past month and Rosanne Adams explained that a meeting didn't get posted. She suggested that the wording should say "shall be posted on the town website" and that if you are going to have a website it should be mandatory that meetings, etc. should be posted there.

It was AGREED to add "town's website" to the end of the second sentence and to change "should" to "shall be posted" in both the 2nd and last sentence.

It was noted that we have not said anywhere in the Charter that the town "will have a website".

- c. The need for discussion of the possible election of the Board of Appeals and Planning Board was noted by Gary Sinden. The Chair stated that time constraints did not allow him to get the letter out to the boards to ask for their input as decided upon at a previous meeting. It will be done by the next meeting.

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- d. Robert Fisher questioned allowing the Chairperson of town committees and boards to make their own decision as to whether they will use the video-streaming that we have or not. He felt that if it is available then they should use it. He asked where this might be put in the Charter. The Chair noted that it would either need to be in the Charter or as an amendment to an ordinance. Maryann Place suggested that it could be in this article. John Murphy suggested changing the heading of Article 8.7 to “Public Bulletin Boards, Website, and Video-streaming”. It was AGREED to place some wording for video-streaming, if available, in this article. Denny Lentz agreed to write some language for this.
- e. 8.10- Appointed Committee, Commission, and Board Service: Members reviewed, noting previous corrections that had not been made to this version and made other corrections.
- f. There was further discussion on limiting the number of committees, boards, and commissions that one can serve on to 2. There were strong feelings both for and against any limitation as well as the limitation number.

Maryann Place shared Kittery’s ordinance wording and the process for selection of members to committees, etc. She explained that applicants are asked to give their 1st, 2nd, and 3rd choice for appointments. The date and time of each application is noted. Each department then has a list (or pool) and the name is put on each list for the committees they have put in for. If an opening occurs on the committee that was the person’s first choice then they are given a choice to stay on the one they are on or resign and move to their 1st choice. If a person, for whatever reason, declines an appointment when available his/her name goes to the bottom of that committee’s list.

There was general agreement that it would be good to have wording that states that a person who is not serving on a committee would have preference over someone who is already serving on one.

Robert Pomerleau offered as a solution to the two issues involved with this – that 1) if there is no one else to serve there is no harm to them being on more than one and 2) that you have to be careful that individuals don’t exercise too much power in the town. He suggested that no individual may serve on more than 2 provided that there are no other applicants available and that no person may chair more than 2 committees.” Mr. Pomerleau was asked by the Chair and he agreed to write something up. It was AGREED that he will send the wording to Dennis Lentz who will incorporate it after the first sentence of Article 8.10.

- g. It was AGREED to save the discussion for appointment or election of the Planning Board and Board of Appeals for another meeting. Noted in RED at the end of the article.
- h. The Commission AGREED to have one more reading of this article before posting to the website.

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6. Meeting with Fire Chief: The Fire Chief had expressed through email (read by the Secretary) that he was not able to meet tonight. It was noted that at the our last meeting he spoke of taking our thoughts to the membership at their next meeting (October) which will be after our second meeting this month. It was AGREED to ask Chief Muzeroll meet with us at our first meeting in November.
 - a. There was discussion about the possible wording for Article 4.17 submitted by Charles Rankie. Rosanne Adams said she would have to look very carefully at the wording “be responsible for the proper administration of all departmental affairs as outlined in the town of Eliot Personnel Policy” to see if there is anything that would conflict with their Constitution and Bylaws as to how they are treated. Others felt that there were conflicts. She noted that there are other charters that reference their fire department’s existing Constitution and Bylaws.

Denny Lentz brought up the issue of what happens if the Selectmen do not appoint the Chief whom the fire department membership has voted in. It was noted that the Maine Statute presents 3 ways for the Chief to be chosen – 1) appointed by Selectmen unless it is provided for the Chief to 2) Voted on by the citizens, 3) voted in by the members of the Fire Department. Our Fire Department Ordinance states that the Selectmen upon certification from the Secretary of the Fire Department shall appoint the person that is duly chosen and qualified by the members to serve as Fire Chief. The Selectmen do not have a choice because of the ordinance that provides that the members of the Fire Department choose their Chief and other officers. There is presently no tie beyond that between the Fire Chief and the Town Manager. The proposed statement would provide that tie. Gary Sinden noted that there is no connection as shown in the State Statute and the Town Ordinance including the issue of discipline. We have no direct relationship. Roland Fernald noted that they have wording for discipline among themselves in their Constitution. Roland asked if since the Fire Chief gets a stipend does he fall within the town’s personnel ordinance. Edward Strong said he asked the town manager about this but there is nothing written down saying he is a department head and answers to the town manager. Roland then questioned if he was an employee to which Edward answered that courts have ruled that firemen are employees even though they are not full time. They are covered by worker’s comp when they are working. Denny Lentz stated that he found something in the State Statute that the Fire Chief is accountable from a financial standpoint to the administrator of the municipality, but couldn’t find anything else to link him.

It was AGREED to leave out “as outlined in the town of Eliot Personnel Policy” in Article 4.17 with additions by Mr. Rankie and to submit this to the Fire Chief for comment and discussion at our November 12th meeting. The Chair said he would ask the Chief to respond to this before the meeting.

It was AGREED to ask Dana Lee to join us for this meeting.

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Edward Strong suggested that rather than (in the Fire Department Ordinance) saying that the Select Board shall “appoint” the Chief, it should say “certify” the department’s election of their Chief, since they have no say over the selection of the Chief.

7. Next Meeting – AGREED to November 12th and at that time decide if there will be another in November.

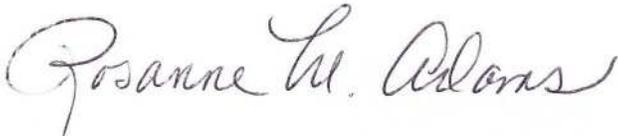
8. Public Comment:

- a. Robert Pomerleau suggested taking a good look at the town’s personnel policies and make sure that we are not exempting the Fire Department from those requirements of law such as non-discrimination, etc. He took a quick look and doesn’t see those requirements in their Constitution.

9. Commission Roundtable:

- a. Edward Strong requested a copy of the email from the Fire Chief that was referenced by the Secretary and copy of the newest Fire Department Constitution and Bylaws which will be sent out by the Secretary.
- b. Maryann Place asked for any handouts from the meeting she missed.

Meeting adjourned at 9:05 pm upon the Motion of Robert Fisher, 2nd Edward Strong. VOTE: 9-0.



Approved: October 22, 2014

Rosanne M. Adams
Secretary

CC: Committee Members
Eliot Town Clerk