

ELIOT TOWN CHARTER COMMISSION

MINUTES – December 3, 2014

PRESENT: Charles Rankie, Jr. (Chair), Gary Sinden, Rosanne Adams, Roland Fernald, Robert Fisher, Dennis Lentz, John Murphy, Maryann Place, Edward Strong. Also present – 3 members of the public and Town Manager Dana Lee (who joined the table at 7:30).

Meeting opened at 7:00pm

BUSINESS

1. MOTION by Edward Strong, 2nd Maryann Place to approve the minutes of November 12, 2014 as corrected. VOTE: 9-0.
2. Public Comment: none
3. Correspondence:
 - a. Letters sent to Planning Board and Board of Appeals by the Chair requesting their input for our meeting in January and attendance if they wish. [attached] We will discuss this issue at our January 14th meeting.
 - b. Received FOAA requests (via Dana Lee, the town manager) [attached] from Donna Murphy for most recent draft of Article 4 and the letter from Mr. Donald Webber with his comments relative to the Fire Department. The Chair reported that he sent out a reply (1) attaching a copy of Article 4 which he noted was mistakenly sent out without our standard disclaimer and (2) explained that the comments of Mr. Webber were made at a Charter Meeting, the video and minutes of which are available on-line for public access.
 - c. Email from Robert Pomerleau with suggested wording for the Charter re: the Fire Chief which he had previously said he would draw up. [attached] The Chair passed out copies of this to the members.
4. Setting of Next Meetings: It was AGREED they will be January 14th and 28th of 2015.
5. The Chair asked if there was anything the Commission needs to do relative to the wording re; the Fire Chief in Article 4 having before us wording suggested by Mr. Pomerleau. Robert Fisher pointed out that the fire chief was going to get back to the Commission after receiving materials from the Commission. The Chair explained that we were going to send the proposed wording to the chief. Several members expressed that they liked the wording that was presented by Mr. Pomerleau and it was AGREED to discuss further when we talk about Article 4.
6. Article 8 – General Provisions [10/22/14 draft]: Edward Strong noted that all the changes he had noted have been incorporated into the present draft. It was AGREED not to discuss tonight but wait till we have the input from the Planning Board and Board of Appeals at our January 14th meeting.

ELIOT TOWN CHARTER COMMISSION

MINUTES – December 3, 2014

7. Article 4 – Administrative Organization [draft 11/12/14 and another copy with comments from the Town Manager in “red”]. Corrections, additions, and discussion included the following:

a. Article 4.1- Appointments: Dennis Lentz and several members questioned the reason for the need to have the Select Board confirm the Town Manager’s department head appointments, pointing out that it is the Town Manager who interviews and hires town officers. There was discussion noting that the Town Manager has the power to dismiss but that this is with the knowledge of the Select Board. It was noted by the Chair that such confirmation provides a system of checks and balances.

b. Article 4.4- Bonds: There was discussion and it was confirmed by Dana Lee that background checks are done on those people who need to be bonded to make sure they are able to be, before being appointed/hired and that the bond is paid for by the town.

c. Article 4.5- Department Heads: AGREED to put “except the fire chief” in parenthesis.

d. Article 4.8- Preparation and Presentation of Personnel Policies and Procedures: Minor corrections were made including “correct the errors” to “make changes”.

e. Article 4.9- Exempt and Specially Classified Positions: Discussion centered on the meaning and need for this article in the Charter. It was noted that personnel policies covers all non-union employees. Dana Lee pointed out that things like FMLA are not put in a union contract but would be in the Personnel policies as dictated by state and federal law and that those serving the town who are not being paid are not governed by the Personnel policies. He suggested that perhaps it should be stated more simply.

Dennis Lentz questioned the first sentence which seemed to be problematic. There was further discussion on the way this article was worded for it seemed that the two subjects “Exempt” and “Specially Classified Positions” should be separated.

Gary Sinden asked what we were trying to accomplish in the Article, since every employee is subject to the personnel policies and procedures manual unless a union or employment contract supersedes it. He suggested that no more than this needs to be said and could be simplified. The law is very specific as to who is exempt or not. Others offered more simplified wording.

It was AGREED to simplify and take out the wording of “C” and making it its own paragraph replace with the statement “All other town employees who are not otherwise exempted shall be subject to the Town’s Personnel Policies unless under a written agreement with other terms and policies”. Under this will be the statement made in C2 and C3 will be deleted. AGREED that the first sentence will be kept and subsections “A” and “B”. With the taking out of “special classified” it was AGREED that Denny Lentz will make note “in red” that the Article heading may need a new title.

ELIOT TOWN CHARTER COMMISSION

MINUTES – December 3, 2014

- f. Article 4.11- Assessment Review: AGREED that reference to a Board of Assessment Review will be removed.
- g. Article 4.12- Board of Assessment Review: AGREED to remove this article.
- h. Part D – Legal: The wording implied that the Select Board would need to go through the Town Manager in order to access legal counsel which is not correct. It was AGREED that the wording on this article needs to be looked at. The Chair asked if the Town Manager would work on the re-wording, to which he agreed.
- i. Part E – Appointed Officers/Officials: Dana Lee explained the comments he had submitted. He noted that employees of the town may have vested rights that would preclude them from not being appointed. The Select Board really doesn't have a choice to not reappoint unless they go through the proper process to terminate an employee through progressive discipline or they are in a probationary period. "Shall be reaffirmed or confirmed" might be a more clear statement of the Select Board's role after the appointment by the Town Manager.

Roland Fernald noted that the Fire Chief, being made a department head, is appointed after the first of the year rather than after Town Meeting. Edward Strong noted that we had exempted the Fire Chief from being under "appointed officials". The Chair suggested adding "annually" under the Fire Chief in 4.17.

Roland Fernald questioned members choosing to not make the wording clearer in the Charter regarding the possibility that the Select Board might not appoint and then be caught in the situation that Dana explained. Dana Lee suggested adding a cautionary note something to the effect that "employees may have vested rights that would preclude them from not being appointed. The Chair asked if something might be placed in the Selectmen's bylaws. Dana Lee suggested that perhaps it could and should - i.e. "before you fail to vote in favor of reappointing do realize that these people may have vested labor rights". It was AGREED to leave "E" as it is for the present.

- j. Article 4.13 Town Clerk: Maryann Place questioned the wording of the requirement for Maine State Certification. She and Wendy Rawski are Certified Clerks of Maine and got their certification though the Maine Town City Clerk's Association. Maine State Certification requires college courses over a period of 2-3 years. It was AGREED to take out the Maine State Certification and change to "any qualifications required by Maine State Law".

ELIOT TOWN CHARTER COMMISSION

MINUTES – December 3, 2014

- k. Part E – Appointed Officers/Officials: There was feeling that perhaps the officials only have to be referenced and not listed; that perhaps there is too much in the charter regarding their qualifications and duties.
- i. Maryann Place noted that job descriptions would have the qualifications and duties in them and that referencing state law would be enough. Edward Strong agreed.
 - ii. Several members suggested referencing the state statute under each position. Maryanne Place suggested that the reference be “state law” rather than the statute since they may change.
 - iii. Dana Lee suggested that perhaps the important thing is to reference the positions that are required by State Law and those that the town has. Dana presented a copy of those positions and their state statute reference as provided to him by the Maine Municipal Association. The Chair explained how we got to the point of defining the positions in the Charter. Roland Fernald noted that the duties may change over the years. Maryann Place cautioned that things do change and having the type of wording we now have in the Charter may cause a problem in the future. Robert Fisher recommended that we only take the positions we want and have.
 - iv. Dana Lee suggested that it might be more important for citizens to have something in the Charter saying that the Board of Selectmen shall be required through the Town Manager to maintain up-to-date job descriptions and qualifications for the positions thereby appointed under section [article] xxx. Several members agreed.
- l. Dennis Lentz offered to go through the list and put together a general paragraph to cover the listed positions and to include the comments submitted by Mr. Pomerleau concerning the fire chief, as well as any other explanations we wish, for further review. Roland Fernald objected to having our present wording concerning the Fire Chief in the Charter. That he is a department head and is treated as any other department head and for example don't have to say again that he reports to the town manager. There is no need for further explanation. Rosanne Adams asked that Mr. Pomerleau's comments be put in “red” since we had not fully discussed the wording.
- m. Dana Lee explained that the town is required to statutorily appoint certain positions and there is a form that is submitted to the state with that list.
- n. Members went through the list noting those we have.

ELIOT TOWN CHARTER COMMISSION

MINUTES – December 3, 2014

8. Press Release: No report.

9. Public Comment:

- a. Robert Pomerleau explained that his wording suggestion concerning the Fire Chief was in an effort to improve the position the Commission was taking. He found the wording “administrative services” was vague and he was trying to further elucidate what specifically those words referred to and prevent leaving any gray areas. That if one was to err it should be on the side of giving the Town Manager more authority over the fire chief. His personal opinion is that the Fire Chief should be treated the same as any other department head and the Town Manager should be able to hire and fire him. The fire chief is not like any other department head [because of the department’s by-laws].

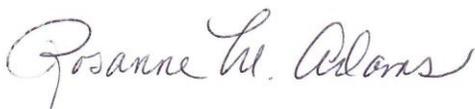
10. New Business:

- a. Edward Strong will be using Skype while in Florida. Gary Sinden has agreed to help the Chair in setting this up.
- b. The Chair has been going through Dennis Lentz’s index to see what work is before the Commission. He is hoping to work on this with Dennis so the Commission can take a good look at it at the next meeting. Dennis noted that he can see the redundancy of some of the information in the Charter and that there occurs a slight difference in wording on some of the same subjects in various places.

11. Commission Roundtable:

- a. Robert Fisher announced that the citizen’s petition, concerning voting on the town budget through referendum, has been submitted to the town for verification. He explained the possible procedure that is being proposed for accomplishing the referendum vote.
- b. Gary Sinden said that he had a possible conflict with the next meeting date – December 17th.

Meeting adjourned at 9:15 pm upon MOTION by Robert Fisher, 2nd Edward Strong. VOTE: 9-0.



Rosanne M. Adams
Secretary

Approved: December 17, 2014

CC: Committee Members
Eliot Town Clerk