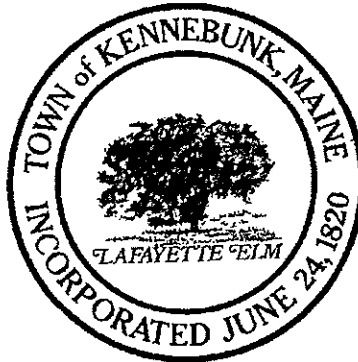


Town of Kennebunk, Maine



**Charter Commission
MEETING MINUTES
Wednesday, April 26, 2023
In-person meeting, Town Hall, 3rd Floor, 1 Summer Street, Kennebunk**

**This meeting was held in person and televised on Cable TV Channel 5.
It is available for public viewing at any time at TownHallStreams.com.**

Chairman Christian Babcock called the meeting to order at 6:30pm.

1. Roll Call

Secretary Janice Vance called roll:

- Present: Susan Bloomfield, Janice Vance (Secretary), Brenda Robinson, Stephen Sayers, Christopher Babbidge, Christian Babcock (Chair), Durward Parkinson, and Ted Trainer.
- Absent: Richard Smith (Vice Chair) (excused due to medical).
- Also present: Merton Brown, Town Clerk; Heather Balsler, Town Manager.

2. Public Comments

C. Babcock opened the floor for public comments on non-agenda items. Seeing none, he closed the public comment period.

3. Guest Speaker: Nathan Poore (Falmouth Town Manager)

N. Poore, a resident of Kennebunkport, explained that he began his municipal career in Kennebunk in 1989 as Assistant Town Planner, advancing to other positions over time. He was Administrative Manager in Fryeburg, which then replaced that position with a full Town Manager spot that he filled. He has been Town Manager of Falmouth for several years now. Falmouth has a Town Manager/Town Council form of government. The town's charter was originally created in the 1960s, with some changes since then, including the move to a Regional Assessing program, and increasing the percentage of registered voters' signatures for a recall from 10% to 20% (referendums are 10%). He gave a brief overview of his duties.

T. Trainer asked about the balance of governance between the Town Manager and Town Council, and noted that N. Poore had stated he frequently seeks guidance from Town Council and staff, despite the charter giving the Town Manager significant power. T. Trainer was also intrigued by the fact the charter allows the Town Council to conduct investigations into various affairs. N. Poore noted that even without the Town Meeting that is still used in many towns, Falmouth receives significant input from residents through public hearings on the budget and other matters. No budget has yet failed. There are checks and balances required, for instance, for expenditures over a certain amount. N. Poore said he was extremely impressed with the quality of the officials in Falmouth, and C. Babcock asked how that had been accomplished. N. Poore said there was a conscious effort to seek out qualified residents for office.

S. Bloomfield asked if N. Poore felt the percentage of required signatures for recalls was anticipated to change; N. Poore felt it would not. C. Babcock looked up Falmouth's recall language online at this point and noted that no reasons were required for recall.

D. Parkinson said that he couldn't imagine Falmouth, given its size (JV: 12,444 during the 2020 census), functioning well with a Select Board/Town Meeting form of government. He wondered if moving to a Town Council format was simply a matter of evolution as a town grew. N. Poore said it was size + complexity. He noted that Kennebunk is a "full service" community, and complex in comparison with many other towns due to a commercial district and being coastal. He also felt that having a Town Council form of government was a plus in attracting and keeping Town employees.

C. Babbidge asked about the size of Falmouth's Town Council (7), if they were "at large" (yes) rather than wards (no wards). He asked if there was any resident frustration that the lack of a town meeting deprived anyone of being heard. N. Poore said no, as there were so many other ways residents could provide input and feedback on town decisions.

M. Brown asked if the Town Clerk was elected or appointed. N. Poore said the position was appointed and that in his view that was preferable because it was a professional position, which an elected person may or may not have the qualifications to perform.

B. Robinson asked about citizen committees: did they exist, and if so, what was their role? N. Poore said yes, and that all were appointed by Town Council. He mentioned several by name. He said the town sets up an annual "work plan" meeting, where committees get together to go through goals for the year, using Comp Plan strategies and other identified needs, and assign the work of achieving those goals to specific committees. There are other subcommittees, such as a Land Use Committee and an Ordinance Committee, where the chairs meet once a month to go through goals and projects. That is in addition to regular staff meetings.

T. Trainer asked if the Town Manager interfaces directly with committees. N. Poore said typically not, that is delegated to staff liaisons and Council liaisons, who report back at Town Council meetings. T. Trainer asked what action takes place if it's discovered there is an issue with a committee. N. Poore said that goes through the same channels, but he is able to get involved if necessary to help resolve problems.

C. Babbidge asked if a resident can contact a Council member directly with a problem or question, or contact a committee. N. Poore said the Council member or committee would direct such a resident to bring the issue to a meeting, where it would receive public discussion.

N. Poore said the town had found value in creating Fact Sheets about questions or issues that were often asked by residents. That gave staff and Council members the ability to point people directly to an online or printed explanation. The town also creates a newsletter that covers important issues.

Gayle Spofford, Kennebunk resident and school board director, approached the podium to mention that there are non-school board volunteers who work with school board committees on specific projects. She also asked N. Poore if Falmouth had a remote option for Council members to participate in meetings, and he said yes.

C. Babcock thanked N. Poore for coming to speak with the Commission.

4. Old Business

- a. Review Action Items
 - i. None
- b. Recall Article Draft
 - i. C. Babcock noted that Commission members had been sent a second draft for review, which would be discussed under New Business.

5. New Business

- a. Dick Smith and Durward Parkinson recall first draft feedback
 - i. D. Smith was absent; D. Parkinson said he would hold his comments until general discussion.
- b. Recall Article Second Draft Review
 - i. J. Vance said she and S. Sayers had continued to refine the draft but had questions for the Commission, and for Town Attorney Natalie Burns, who was not present.
 - ii. S. Sayers described the difficulty he and J. Vance had in finding a balance between “too stringent” and “not stringent enough” in listing reasons for recalling an official. He went through the recall reasons Rep. Dan Sayre recently proposed in a bill (LD 1443) that was heard by the State Legislature’s Committee on State and Local Government last week. He and J. Vance liked some of that language and wanted to discuss including part of it in the next draft. He noted that several Commission members had sent written testimony in for the public hearing on LD 1443 and two other recall bills under consideration.
 - iii. M. Brown asked who would determine whether someone committed alleged actions, as stipulated in the charter, and S. Sayers referred to proposed language he and J. Vance had written but wanted discussion on (and N. Burns’ feedback), which would require allegations to be investigated by an appropriate town committee, the town attorney, etc. J Vance also asked if typically the Town ever performed background checks on prospective elected or appointed officials, in order to weed out any potential issues before a new member came on board. M. Brown said there are some checks but not a traditional criminal background check. Members discussed the recent situation of NY state representative George Santos, whose fabrication of his entire resume and biography wasn’t discovered until after he was elected; how can we prevent a similar situation from occurring in Kennebunk?
 - iv. C. Babbidge said he liked the state usage of terms such as “felony” or “misdemeanors” rather than “committing a crime” as those terms are easily understood. D. Parkinson mentioned “class C, class D crimes” as useful terms also.

- C. Babbidge read from language he had written and distributed via email prior to the meeting, and expressed concern that determining valid reasons for recall almost required a court decision; it was hard to do, especially in a timely manner. He preferred to not have specific reasons, but put the onus on the petitioner, who would state that the facts “are in the view of the petitioner.” He said the goal of a public hearing after the filing of a recall petition would be to “hear both sides.”
- v. G. Spofford pointed out that during last year’s recall, those who were accused didn’t want to have to go before the public to defend themselves against accusations that were clearly made up; it was frankly humiliating.
 - vi. S. Sayers said that the genius of Rep. Sayre’s language was that it spelled out what wasn’t grounds for recall (basically administration of that person’s duties).
 - vii. C. Babbidge explained that spending more time on section 7.02 to spell out the intent of what a recall should be for, rather than creating a type of “police force” to interpret recall reasons, might be helpful in setting expectations.
 - viii. D. Parkinson agreed, saying he wanted to ensure the Town Clerk is never put into a position of gatekeeping, that amending section 7.02 to set the tone and philosophy, should go a long way.
 - ix. C. Babcock referred back to Forfeiture of Office, which is a related function, and said that by focusing on this first, should make the recall section flow easier. He suggested Forfeiture be worked on next. J. Vance said she and S. Sayers had recognized this symbiotic relationship and had a draft already started.
 - x. T. Trainer noted that recalls are a political process, and wanted to refer to C. Babbidge’s language for general guidance; he likes the idea of a general statement with a vision that guides us. He also noted that the Commission would still need to look at how to handle the school board and its unique reporting structure, and that the state legislature may pass rules that affect this.
 - xi. J. Vance explained that all three state bills currently contained an “out” by saying that “unless specified differently by the municipality” the state language prevailed, although there was always a risk the bill language could change prior to passage. The next step for the legislature’s consideration of the bills is a committee work session scheduled for May 4 at 1pm. The public can listen in online but cannot make comments or ask questions.
 - xii. B. Robinson said in general she would prefer not to receive proposed language changes via email, and would like to go through changes “live” during the meeting. She agreed with S. Sayers’ comment that Rep. Sayre’s use of “what does NOT constitute actions for recall” language was excellent and would like to include that. She reiterated how harmful an untrue accusation is, and that the onus should be on the part of the accuser to present proof; C. Babcock noted the current draft’s attempt to spell out examples of just that.
 - xiii. J. Vance asked about advancing language regarding forms of government; would other members of the Commission be tasked with starting this project. C. Babcock said he envisioned introducing that as soon as the Commission had completed its substantive work on the recall language, and that he’d opt to kick off the discussion with a public announcement inviting comment.

6. Action Items

- a. J. Vance and S. Sayers to Submit for Next Meeting:
 - i. Forfeiture of Office

- ii. Use T. Trainer, C. Babbidge and B. Robinson's suggestions for section 7.01
- iii. Continue to massage section 7.02

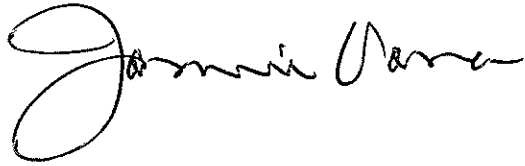
7. Approval of Minutes

T. Trainer moved to approve the minutes of the April 12, 2023 meeting. The motion was seconded by B. Robinson. The vote to approve was 8 in favor, and one absent (R. Smith).

8. Adjourn

A motion to adjourn the meeting at 8:30pm was made by B. Robinson and seconded by C. Babcock. The vote was unanimous.

Respectfully submitted,
Janice Vance (Secretary)

A handwritten signature in black ink that reads "Janice Vance". The signature is written in a cursive style with a large, looped initial "J".