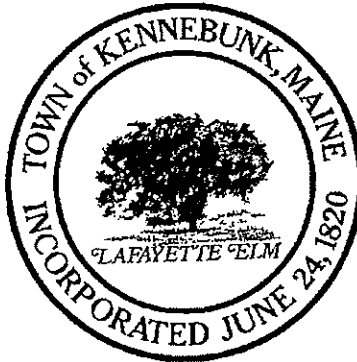


Town of Kennebunk, Maine



Charter Commission MEETING MINUTES

Wednesday, June 14, 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: Christian Babcock (Chair); Richard Smith (Vice Chair); Janice Vance (Secretary), Christopher Babbidge, Susan Bloomfield, Durward Parkinson, Brenda Robinson, Stephen Sayers, Ted Trainer.
- Also present: Merton Brown, Town Clerk; Natalie Burns, Town Attorney; Heather Balsler, Town Manager.

2. Public Comments

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

3. Old Business

- Review Recall Article Section 7.03 and Section 7.04
 - Discussion was moved to New Business.

4. New Business

- Discuss Required Notice of Progress Made
 - M. Brown reminded the Commission that State law requires that the Commission issue a report nine months after the November election of six members to provide a narrative

of progress made in updating the charter, and that time is approaching. Action item: C. Babcock will author a draft progress report for members to review.

- Review Recall Article
 - C. Babbidge presented a draft he had written that contains proposed language changes to several parts of Vacancy, Forfeiture and Recall. The first two parts will be held for discussion at the next meeting, with the Recall language discussed tonight.
 - Section 7.01: Recall of Elected Officials – C. Babbidge’s proposed changes would tighten this section a bit. Commission members agreed that S. Sayers and J. Vance, who are working on the Recall document, should consider C. Babbidge’s language.
 - Section 7.02: Grounds for Recall of an Elected Official – S. Sayers explained the length of the copy has been shortened due to pulling some descriptions out and re-purposing them in a new Definitions article, which S. Bloomfield is assembling; specifically, these are definitions of misfeasance, malfeasance, nonfeasance, and “qualifying crime.” Members reviewed the changes and agreed with this reformatting and with the definitions provided.
 - Section 7.03: Performance of Elected Official’s Duties Is Not A Valid Ground for Recall – C. Babbidge proposed replacing this title with *“An Elected Official’s decisions, made in the proper performance of his duties, are not valid grounds for Recall.”* After discussion, members agreed to re-title this section *“Disagreements With An Elected Official’s Decisions, made in the proper performance of his duties, are not valid grounds for Recall”* as it was a better description.
 - Section 7.04: Notice of Intention to Request a Recall Election – Members made no changes to this section. C. Babcock noted that in the overall document we will need to carefully define the intent of Forfeiture (action initiated by the Select Board) vs Recall (action initiated by the voters).
 - Section 7.05: Petition for Recall Election - R. Smith asked for clarification of what was meant by the third paragraph, which is intended to prevent petitioners from taking the signatures obtained on a Notice of Intention, copying them, and presenting them as part of the signatures required for the actual Petition. J. Vance and S. Sayers will adjust the wording to ensure the meaning is clear. Gayle Spofford, a member of the School Board, pointed out that this section’s verbiage allows 30 days for petitioners to obtain the required number of signatures, but that gives them an extra few days if the 30 day expiration date falls on a weekend or holiday. She felt it best not to provide this additional time. J. Vance said they discussed this after comments at the previous meeting, and that the only real solution, if the Commission felt they wanted to provide no more than 30 days in any possible case, was to change the requirement to 28 days, which, if the expiration date falls on a weekend, would effectively give petitioners 30 or, in the event of a Monday holiday, 31 days. G. Spofford asked if the Town Clerk could hold off giving out the petition forms so petitioners couldn’t take advantage of the extra time, but N. Burns said no, that the Town Clerk does not have discretion to alter the process. C. Babcock pointed out there is already a high bar for petitioners to overcome in the number of signatures that must be obtained. B. Robinson asked if there was concern that from a voter’s perspective we were actually setting too high a bar. M. Brown said the point of the process was to ensure it is clear to petitioners that recalls are to be used only for very serious reasons. D. Parkinson posed the possibility that it

could be late in the day when the Town Clerk notifies the Agent that a petition is ready for pick-up and since the notification day is designated as Day 1 for signature collection, petitioners could feel they were deprived of a full day, and this could be a point of contention. T. Trainer said he understood the concern but felt that we would get a good read on that perception once we finished this draft and circulated it to the public for review. S. Bloomfield asked how the Agent would know, or be informed, when and if individual petition signers changed their mind and requested the Town Clerk to remove their names, as removals could result in an insufficient number of signatures. M. Brown said historically very few people request their names to be withdrawn, but it certainly did happen during the 2022 recall, because some petitioners misrepresented the nature of the petition, a deception that was later discovered; people felt lied to and wanted their names removed. There was discussion of how to ensure the potential for abuse was eliminated or reduced, with acknowledgement that dishonest people will attempt to mislead people, and that publicity from the town or area newspapers is important to making sure the public knows the truth. After discussion, consensus was that signers will be permitted to change their minds and have their names removed.

- Section 7.06: Certification of the Petition and Notification – Members made no changes to the copy in this section.
- Section 7.07: Status of Elected Official During Pendency of Recall Election – This was a new section added after discussion at previous meetings, designed to create a process for the Select Board to hold public hearings and make a decision on whether an official under recall should cease participation until the recall election took place. R. Smith said he was concerned about the phrase “exceptional circumstances” as it was subjective, and he felt that officials should not be suspended while a recall attempt played out. C. Babcock said he did not want this section in the charter at all – it put the Select Board in the position of playing judge and jury, and took what started as a voter action and changed it into an administrative action (recall vs forfeiture). S. Sayers explained that in authoring this section he and J. Vance had taken into consideration concerns that allowing someone accused of a serious crime to remain on a board was a risk to the Town. T. Trainer said the process fell into legal vs. political perception – that although it was intended to protect the Town, voters could feel shortchanged. B. Robinson felt this provision belonged in Forfeiture rather than Recall, as allegations were not proven until the recall process was concluded. J. Vance said it seemed as though consensus was that this new section should be removed, and C. Babcock agreed. D. Parkinson said Forfeiture would provide the necessary action. J. Vance mused that theoretically it was possible for both a Forfeiture and a Recall to happen simultaneously, and members agreed. C. Babbidge reiterated that presumption of innocence until proven guilty was bedrock law. The section will be removed.
- Section 7.08: The Recall Election – A new paragraph had been added to this section to make it clear that a minimum number of voters needed to actually show up and vote during a recall election in order for the election to be valid. Members agreed with this concept and discussed the actual minimum number, which was proposed to be 4000. N. Burns said state language used something like “30% of registered voters who voted during the last gubernatorial election.” Members liked using a hard number, as was used in other parts of the proposed recall language, to avoid having the Town Clerk parse previous election numbers. After calculations, comparing the number of

registered voters and how many typically voted in different types of elections, members decided to change the number to 3000. D. Smith cautioned that in using a high bar in the number of signatures and votes that we not to create a charter that voters do not accept.

- Section 7.09: Recall Election Ballot Requirements – C. Babbidge stated that he did not want to include the section of the ballot language that allows voters to select a new candidate if the elected official is recalled. He felt the recall should stand alone, and that a board could function for a time if it was missing a member and a later election was held to replace the recalled official. Both N. Burns and D. Parkinson recalled instances in other towns when the majority, or all, of a board was wiped out due to resignations or other actions, and it effectively shut down a significant part of the town’s government for an extended period of time. T. Trainer suggested making the ballot language two separate questions with a better explanation of why voters would need to vote for a candidate in addition to whether to recall the current one. Members agreed to go this route.
- Section 7.10: Recount – No changes were made to this section.
- Section 7.11: Results of Recall Election – There were no changes made to this section. J. Vance asked M. Brown to confirm that the proposed definition for “Town Records Book,” which is referred to in this section, was correct, and he did.
- Section 7.12: Limitation on Repeat Recall Petitions – There were no changes made to this section.
- Section 7.13: Periodic Review – This was a new section intended to ensure that the “hard numbers” of required signatures be trued up periodically so that they accurately reflect changes in voter registration rolls over time; and requires a new commission to review the charter at ten year intervals. After discussion, C. Babcock proposed that this section be moved to the charter’s last section that details follow-up procedures, minus the ten year requirement.

5. Consideration and Approval of Minutes

C. Babcock moved to approve the minutes of the May 24, 2023 meeting. The motion was seconded by T. Trainer. The vote to approve was unanimous.

6. Action Items

- Recall: J. Vance and S. Sayers will make the requested changes and distribute the next version of the document for members to review, with the goal of having this draft ready for wider distribution.
- Forfeiture: the current draft language along with C. Babbidge’s suggested changes will be discussed at the next meeting, to try to conclude this section.
- Other: C. Babcock noted that J. Vance and S. Sayers are willing to tackle the Initiative and Referendum section next, but if anyone else wanted to take this section, he would entertain offers (none were forthcoming). S. Bloomfield will continue collecting definitions. Form of Government will be the next big subject to be tackled. Once members are happy with the Recall and Forfeiture sections, they will be posted to the town website for public viewing.

7. Adjourn

A motion to adjourn the meeting at 8:40pm was made by T. Trainer and seconded by R. Smith. The vote to adjourn was unanimous.

Respectfully submitted,
Janice Vance (Secretary)

A handwritten signature in cursive script that reads "Janice Vance". The signature is written in black ink and is positioned below the typed name.