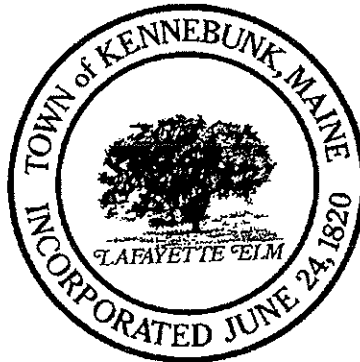


# Town of Kennebunk, Maine



## Charter Commission MEETING MINUTES

Wednesday, July 26, 2023

In-person meeting, Town Hall, 3<sup>rd</sup> 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](http://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.
- Absent: Ted Trainer.
- Also present: Merton Brown, Town Clerk; Natalie Burns, Town Attorney.

### 2. Public Comments

The Chair opened the floor for public comments on non-agenda items. There were no comments.

### 3. Old Business

- The Chair briefly summarized actions taken at the July 12 meeting.
- He added that the September 9 proposed date for a public meeting to discuss the best form of government for the town does not allow enough lead time to provide sufficient public notice via tax bills that will be mailed out. He proposed moving the meeting back one week, to September 16, and all members agreed to the change.
- He noted he had circulated a brief draft of a letter to be submitted to the Select Board to members earlier in the day requesting an extension of time for the Commission to complete its task of amending the current Charter, but will flesh this out a bit and re-send it for review.

- He also noted the work that B. Robinson and S. Bloomfield are doing to research a potential code of ethics, which will be placed on a future agenda for discussion, along discussion of the list of definitions S. Bloomfield has compiled.

#### 4. New Business

- Review and finalize Voters' Referendum and Initiative Article
  - M. Brown stated that items other than ordinances could potentially be handled through a referendum. N. Burns disagreed and pointed out that, in general, only ordinances could be considered, but in a Town Meeting form of government, measures other than ordinances can be placed on election ballots.
  - J. Vance noted that N. Burns had previously instructed that if the Form of Government was to change, we would need to revisit the language in Article 6.
  - Members discussed the type of ordinances that certain residents may have issues with and want to see changed; examples included beach parking, dogs on the beach and fireworks.
  - Sec. 6.01 Voters' Rights was reviewed.
    - **A straw vote to approve the section as written was taken, with unanimous approval.**
  - Sec. 6.02 Voters' Petition to Enact or Amend Ordinances was reviewed.
    - S. Sayers and J. Vance, in their draft of the article, suggested requiring 1500 signatures of registered voters of the Town to activate a Voters' Initiative. B. Robinson said 1500 was too high as she wanted to ensure voters could participate in Town government, and that perhaps 700 might be a better number. R. Smith said he wanted enough guardrails in place so that serial referendums don't become the way our town is run. After discussion, members elected to lower the number to 1000, which is still higher than the 7% specified in the current Charter.
    - C. Babbidge said that the term "unlawful" as used in sub-section (a) could be interpreted to mean something that is simply not currently allowed, but not necessarily breaking any State laws. D. Parkinson and N. Burns concurred. After discussion, members elected to leave the term "unlawful" in place.
    - In the same sub-section, (c), dealing with budget articles, was shortened.
    - B. Robinson suggested tightening the verbiage in the paragraph that began "once a completed Voters' Petition has been filed in the Office of the Town Clerk."
    - The last paragraph was modified to include the term "substantially" to describe the content of a new petition that could potentially be filed if an earlier petition didn't get enough signatures to be included in an election ballot; the goal is to prevent slight re-wording to create the illusion it's a different subject.
    - R. Smith asked if Section 6.03 (town attorney review of proposals for constitutionality/legality) should be moved under Section 6.02. He wanted to ensure all relevant procedures received sufficient review. After discussion, members elected to keep it as a separate section.
    - **A straw vote to approve with suggested changes was taken, with unanimous approval.**

- Sec. 6.03 Town Attorney to Review Voters' Petition for Illegality and Ambiguity was reviewed.
  - The title was changed to read "Town Attorney to Review Voters' Petition for Illegal or Unconstitutional Matter."
  - The lead time needed for this review prior to placement on a ballot was doubled from 30 to 60, and in agreement with N. Burns, members wanted to limit review to whether the proposal included matters that were illegal or unconstitutional. Three sets of verbiage were proposed, with no clear consensus; these will be revisited at the next meeting:
    - Version 1: Any Voters' Petition filed in conformity with the requirements of this Article shall be reviewed by the Town Attorney at least 60 Calendar Days prior to placement on the ballot to ensure there are no illegal or unconstitutional provisions being proposed.
    - Version 2: Any Voters' Petition filed in conformity with the requirements of this Article shall be reviewed by the Town Attorney at least 60 Calendar Days prior to placement on the ballot to correct non-substantive, typographical, grammatical or other minor errors and to ensure there are no illegal unconstitutional provisions being proposed.
    - Version 3: Any Voters' Petition filed in conformity with the requirements of this Article shall be examined by the Town Attorney at least 60 Calendar Days prior to placement on the ballot to ensure that there are no illegal or unconstitutional provisions being proposed. The Town Attorney shall provide a letter to the Select Board, and to the Agent, stating whether the Voters' Petition has satisfied such legal review, or, in his/her opinion, contains provisions that violate the Constitution or Maine law.
  - C. Babbidge expressed concern about saying the Town Attorney was "authorized" to correct the form of a petition, and members decided to change "authorized" to "shall," with the limitations already discussed.
  - Both S. Bloomfield and J. Vance asked whether it made sense to have the Town Attorney review the petition language prior to a petitioner gathering signatures, and further discussion took place around the overall process. Members agreed that voters should have a means to propose changes to Town rules, but there should be enough of a hurdle in place to discourage frivolous proposals.
  - N. Burns noted that any proposals to change land use ordinances would still need to go to the Planning Board for a public hearing, per state law. Members elected not to include language specifying it, at this time.
  - S. Bloomfield asked where a voter could get guidance on how to write a proposed ordinance properly. Options could include reviewing state laws, ordinances from other towns, and paying for a private attorney to provide an opinion on the form and substance of the proposals. B. Robinson said it was incumbent upon such a person to do his/her homework and present a well-written, well-researched piece.
  - **A straw vote to approve with suggested changes was taken, which failed 3-4 with one abstaining.** S. Sayers said he would change his vote to "yes" if the Town Attorney was given the right to suggest, but not change unilaterally, minor

matters of spelling, grammar or form, but the decision to accept those suggestions remain with the Petitioners. J. Vance and S. Sayers will include 3 versions of the Town Attorney's specified actions as outlined above after further discussion in the next draft for members to consider.

- Review and discussion of Sec. 6.04 Public Hearing and Election was postponed to the next meeting. J. Vance and S. Sayers will make the changes discussed this evening and re-send the document to members.

#### 5. Action Items

- Don Gerrish, a former town manager who is now a recruiter and consultant, will attend the August 23 meeting to discuss Form of Government. C. Babcock will email Select Board members and current and past town managers to invite them to attend.
- B. Robinson and S. Bloomfield will present their research on a potential code of ethics at the next meeting. They sent preliminary information to members via email.

#### 6. Consideration and Approval of Minutes

C. Babcock moved to approve the minutes of the July 12, 2023 meeting, with two typographical corrections. The motion was seconded by B. Robinson. The motion passed unanimously, with one abstention (C. Babbidge) and one absent member (T. Trainer).

#### 7. Adjourn

A motion to adjourn the meeting at 8:10pm was made by B. Robinson and seconded by C. Babcock. The vote to adjourn was unanimous.

Respectfully submitted,  
Janice Vance (Secretary)

*Janice Vance*  
*w/changes noted*