

Minutes of East Lyme Charter Revision Commission - 04/04/23

Date and time: 04/04/23 7:00 PM to: 04/04/23 9:00 PM

Present: Brooke Stevens, Recording Secretary, Marc Salerno, Vivek Purohit, Anna Johnson, Timothy Hagen , Wayne Blair , Jay Ginsberg, Larry Fitzgerald, Jeffrey McNamara, Absent:, Maryanna Stevens , Barry Sheckley

CC: Ed O'Connell, Town Attorney, Tracy Collins, Town Attorney, Kevin Seery, First Selectman

Location: East Lyme Town Hall, Upper Conf. Room, 108 Pennsylvania Avenue, Niantic, CT

Link: <https://app.meetingking.com/meetings/395554>

Topics

1. Call to Order & Pledge

Note Chairman Salerno called the Regular Meeting of the East Lyme Charter Revision Commission to order at 7:02 p.m. and led the Pledge of Allegiance.

2. Approval of Minutes

Note The Commission previously agreed that each subcommittee will approve their own set of meeting minutes.

2-1. Charter Revision March 21st, 2023, Regular Meeting Minutes

Decision MOTION (1)

Ms. Johnson moved to approve the Charter Revision Regular Meeting Minutes of March 21st, 2023, as presented.

Mr. Fitzgerald seconded the motion.

Motion carried, 7-0-1.

Mr. McNamara abstained from the vote due to his absence from the March 21st, 2023, meeting.

2-2. February 21st, 2023, Budget Subcommittee Minutes

Note (Tabled from previous meeting)

Decision MOTION (2)

Ms. Johnson moved to approve the Budget Subcommittee Meeting Minutes of February 21st, 2023, as presented.

Mr. Purohit seconded the motion.

Motion carried, 2-0-0.

2-3. March 21st, 2023, Budget Subcommittee Meeting Minutes

Decision MOTION (3)

Ms. Johnson moved to approve the Budget Subcommittee Meeting Minutes of March 21st, 2023, as presented.

Mr. Purohit seconded the motion.

Motion carried, 2-0-0.

RECEIVED FOR RECORD
EAST LYME, CT
2023 APR 13 A 8:09
Catherine M. Johnson
TOWN CLERK

2-4. March 21st, 2023, Town Commissions Subcommittee Meeting Minutes

Note As these minutes have not been filed yet, this item was tabled until the next meeting.

2-5. March 21st, 2023, Town Structure Subcommittee Meeting Minutes

Note The Town Structure Subcommittee did not meet on March 21st, 2023, so no approval of meeting minutes is needed.

3. Ex-Officio Comments

Note Mr. Seery had nothing to report. He added that Ms. Stevens didn't forward the final Budget Subcommittee question to him until this afternoon, so the research for that item hasn't yet been completed.

4. New Business

4-1. Open Discussion on Charter Topics Not Covered by Subcommittees

Note Mr. Salerno said the goal of today's meeting is to try to get through all the subcommittee work, have a discussion as whole, and make recommendations.

4-2. Summary of New Items Brought up for Consideration since October 18th, 2022, Charter Revision Kickoff Meeting

Note November 1st, 2022, Public Hearing, Public Comment:

"The addition of a town manager, who would be a professional, have the proper education, have experience, and give us stability.

An operations manager would just be adding to the town without considering if we have the right town management."

Note November 1st, 2022, Regular Meeting:

"Mr. Salerno and Ms. Hogan discussed how the topic of a Town Manager, which was brought up at the Public Hearing, should be investigated in addition to the research for an Assistant to the First Selectman (item #10 Consider the possible addition of an appointive officer named the "Operations Officer" to assist the First Selectman in the performance of his or her administrative duties.)"

Note November 1st, 2022, Regular Meeting:

"Mr. O'Connell asked that the settling of tax appeals be added to the Misc housekeeping portion of the agenda; the Charter says that lawsuits are settled by the Board of Selectmen, while the Assessor has generally been the party to settle tax appeals. He added that a line could be added stating that the Board of Selectmen can relegate tax appeals to the Assessor."

Note November 15th, 2022, Town Commissions Subcommittee Meeting:

"Although not part of our charge, the subcommittee feels we should develop criteria that can be used to determine what Commissions should be included in the Charter and which should be created by ordinance."

"The subcommittee discussed whether the charter should mandate a maximum time between reviews. Although we felt the Board of Selectman should have the authority to convene a Charter Review Commission at any time, we considered setting a maximum time between reviews to make sure that the Charter does not get out of date."

Note December 6th, 2022, Regular Meeting:

"Mr. Sheckley mentioned imposing term limits not to exceed two consecutive terms which the Commission discussed. He said there are people trying to figure out how they can get membership on boards since they're finding they're pretty much locked out because of incumbents, and there are some boards that seem like they have a lifetime membership."

Note "Mr. Seery explained that once you're elected, even if you fail to come into the office, you still get paid your full salary. The Commission discussed how this has led to staffing shortages and related issues. The Commission questioned what's appropriate in terms of being out of town when in an elected position, and said they need clarification of what it means to be out of town.

Ms. Johnson said there should be some kind of time off policy and Mr. Salerno said he thinks that this is an item they should look into."

Note "The Commission discussed how a time off and sick time policy can be addressed in the unaffiliated handbook, but they would need to determine what is permissible for them to alter in terms of elected positions."

Note "Mr. Ginsberg said he couldn't help but notice while reading the Charter that it's not gender neutral and asked about entertaining nongendered language."

Note February 7th, 2023, Regular Meeting:

"Bifurcation of the budget."

Note "Ms. Johnson said they're in support of "the possible amendment of Section 6.3 to provide that projects funded entirely by grants from the State of Connecticut which do not require an appropriation of town funds need not be approved by the Board of Finance or at a Town Meeting."

She added that they're thinking of adding language "along as all provisions of the grant have been met, and any operating grants- grants that involve future budgets, would still need to be overseen."

Note "Ms. Johnson said she has another housekeeping item in regard to the Charter; the Charter reads that a copy of the annual proposed budget can be viewed in the First Selectmen's Office, and the Town stopped doing this once the budget became available to view online."

Note "Mr. McNamara mentioned the high cost of newspaper publications and the Commission discussed substituting "electronic and website notice" for newspaper publication."

Note March 7th, 2023, Regular Meeting:

"Mr. Salerno and Mr. Blair discussed how new information was given to them about the suggestion that the Aquifer Protection Agency be part of the Conservation Commission. Mr. Blair said they're not in total agreement with making the Aquifer Protection Agency part of the Charter. Mr. Salerno said the Subcommittee discussed putting items required by the State into the Charter, and how if a Commission is listed in the Charter, it must be staffed."

Note "Mr. Salerno said two Commissions listed in the Charter are now defunct and at a minimum, they need to clean this up."

Note "Mr. Salerno said the Conservation Commission would love to be part of the referral process, but putting this into the Charter is a bit too detail orientated."

Note March 21st, 2023, Regular Meeting:

"Ms. Johnson said when she reviewed the Charter again, she noticed under Section 3.3., Board of Selectmen, General Powers, Duties and Procedures, item 3.3.1.5. reads:

'with Board of Finance approval, to purchase real estate, the price of which shall not exceed ten thousand dollars and accept gifts of real estate.'"

Note "Ms. Johnson said she also noticed a housekeeping item:

Section 6.2.2.,

'The Tax Collector shall then collect the tax in accordance with the General Statutes. The due date shall be July 15th unless otherwise provided by the town in accordance with the General Statutes.'

Ms. Johnson said taxes are actually due July 1st, and Mr. Seery noted that the Town Attorney is able to fix an obvious error or typo like this, without Charter Revision."

Note Ms. Johnson, Mr. O'Connell, and Mr. Salerno discussed how the amount of \$10,000 is listed in Section 3.3.1.5, Section 7.7, and Section 6.3.1, and how it might be best to bundle these items together and change all for consistency.

Note In Mr. Connell's email dated April 3rd, 2023, he conveyed the following:

"Yes, the date in 6.2.2 should be July 1. The town is now on the Uniform Fiscal Year, which provides that the due date is July 1 of each year. The existing date of July 15 is a holdover from the previous system, which was ok because we have the 'unless otherwise provided...' language. As long as we're cleaning up historical anomalies, we should change the date to July 1.

I suspect that you intend the Charter reference to be Section 3.3.1.5 rather than 3.3.5.1. I also suspect you are referring to Section 7.7, which provides that 'The sale of real estate or the purchase of real estate the price of which is over ten thousand dollars shall require the approval of a town meeting.' You are correct that Section 3.3.1.5, which provides that the Board of Selectmen, with Board of Finance approval, shall have sole power to purchase real estate the price of which shall not exceed ten thousand dollars, has usually been considered in tandem with Section 7.7.

Both Sections have a limit of \$10,000. It is likely that the framers of the Charter intended that this figure would reflect the minimal nature of certain real estate transactions. So, if one of the Sections is proposed to be amended it would make sense to also consider amending the other Section."

Note Mr. O'Connell set he met with Ms. Vitagliano, the Town Assessor. He explained that most times an appeal is defended by the tax assessor, but the Charter reads that the Board of Selectmen has the sole power to settle lawsuits against the town.

Note Mr. O'Connell said all these years we've been operating in somewhat of an undefined gray area, but it could be said that the Board of Selectmen is impliedly delegating that power to the to assessor, so we don't think we're that far off base, but it's better to clear up.

Note Mr. O'Connell said the assessor can have the authority to settle real estate taxations to the Superior Court, which results in a payment to the landowner of \$40,000 or less, and they gave a chart which shows all that results, and that's for cases which have been adjustments of \$2,285,000 or less.

Note Mr. O'Connell said Ms. Vitagliano agrees with the structure but thinks the amount should be raised periodically in the future.

Note Mr. Salerno asked about tying it to the inflation index and Mr. O'Connell said he wouldn't suggest that since there are so many different ways to define inflation.

Note The Commission discussed how \$10,000 was determined in 1965, and that same amount today is \$95,500.

Note Mr. O'Connell said he knows there was discussion about mandating a Charter review every 5-10 years, and if that is the case, this item could be reexamined during every review.

Note Mr. McNamara said he's more concerned about the \$10,000 town meeting obligation, and he doesn't think it's unreasonable to change this amount to \$100,000.

Note Mr. Hagen said they could have the stipulation that every 10 years, they review the Charter.

Note Ms. Johnson said they can see how the \$40,000 amount works in terms of tax appeals and adjust accordingly in the future.

Note The Commission discussed how Section 7.7 and Section 6.3.1 could be changed to \$100,000, and Section 3.3.1.5 could be \$40,000.

Note Mr. McNamara observed that the 40,000 limit doesn't preclude the Assessor from going to the Board of Selectmen.

Note Ms. Johnson said the Budget Subcommittee recommendation on the appropriation side is to increase it to one half of 1%, that's consistent with some other area towns that they have looked at. She thinks that might be too much for the land deal, but she certainly thinks \$100,000 for land purchases might make sense.

Note After further discussion the entire Commission agreed with the 10-year Charter review mandate.

Note Mr. Salerno asked about the item "Consider a full-time elected officials work schedule, be structured the same as town officials," and Mr. McNamara said if they pursue making the Tax Collector and Town Clerk hired positions, then he doesn't think they need this component.

Note Mr. Salerno said he would like to keep this one open and he asked what's the definition of being out of town?

Note Mr. McNamara asked who would be monitoring this? He explained how as a Probate Judge, every quarter he is required to list his time off.

Note Mr. Seery said they could look at putting that into the unaffiliated handbook.

Task Mr. Salerno asked Mr. Seery to have Ms. Christensen investigate structuring elected officials work schedules the same as town officials.

Owned by Kevin Seery, First Selectman due 04/18/23

Note Mr. Salerno suggested they discuss incorporating gender neutral language during the next meeting.

Note Mr. Salerno asked for thoughts on term limits for elected and appointed officials.

Note Mr. Ginsberg said he doesn't see the point for elected positions, and that in the case of appointed positions, they can simply choose not to reappoint someone.

Note Everyone agreed that they would not recommend term limits for elected and appointed officials.

Note Mr. Salerno said they previously discussed listing appointed Board in the Charter and said he will take a further look at this item, and they can discuss it at the next meeting.

Note Mr. Ginsberg discussed how it would be helpful to have a statement in the Charter which states that that they're required to do what the State mandates.

Note Mr. McNamara said the statement could be "as mandated by Connecticut General Statutes..."

Note The Commission discussed the housekeeping item of changing the availability of the budget from a hard copy in the First Selectman's office, to electronic means via the website. The entire Commission supported making this change.

Note Mr. Hagen asked if they could return to their discussion about Section 6.3.1 and said that the recommendation of .5% of the annual budget seems a bit high.

Note Ms. Johnson said that's talking about the aggregate amount of special appropriations, if you had one appropriation that was \$100,000, then after that, you would you need to continuously go to town meeting; \$100,000 today would be one vehicle for Public Works, and any other appropriations would be subject to town meetings.

Note Mr. Hagen and Mr. McNamara said they thought it was one expenditure.

Note Ms. Johnson said \$10,000 requires a town meeting, everything is at least \$10,000, which is why you're having town meetings all the time.

Note Mr. McNamara asked if it would be per item if they set it at \$100,000 and Ms. Johnson said that it says "not to exceed the aggregate in one fiscal year."

Note Ms. Johnson observed that even \$100,000 could translate into one item.

Note Mr. Hagen said you don't want to set the figure at \$400,000 and Ms. Johnson said generally speaking, there isn't typically one item that's \$400,000.

Note Mr. Hagen said a fire truck is and Ms. Johnson said in this case of a fire truck, the town typically bonds for those, and you wouldn't have to go to town meeting because you would have to get the bond resolutions.

Note Ms. Johnson said this is why they came up with the one half of 1%, and Mr. Purohit said it's consistent with nearby towns.

Note Mr. Salerno suggested they continue this conversation once they reach the old business portion of the agenda. He asked everyone to look at the list of new items for consideration, and anything they haven't discussed today, they can discuss at the next meeting.

5. Old Business

Note Meeting of the whole to discuss the work of the Town Commissions Subcommittee, Town Budget Subcommittee, and Town Structure Subcommittee.

5-1. Town Commissions

Note The Town Commissions Subcommittee will focus on items #2, #3, #12 & #13- Consider possible merger of the Planning Commission and Zoning Commission. Consider possible amendment of Section 2.7 to provide four-year terms of Selectmen and two- or four-year terms of First Selectman. Consider the possible amendment of Section 2.5.411o provide that an appointee to a vacancy in an elective office shall serve the remainder of the term that was filled. Consider reinstating the Conservation Commission which will be comprised of members from both the Inland Wetlands Agency and the Commission for the Conservation of Natural Resources.

Note Mr. Salerno read the Town Commissions Subcommittee Report into the record.

 [2023-04-04_Town_Commission_Subcommittee_Recomendations.docx](#)

Decision The Commission discussed the Subcommittee recommendations and agreed that the Planning and Zoning Commission should not be combined.

Decision The Commission discussed the Subcommittee recommendation to modify the charter to allow for four-year terms for First Selectman and staggered four-year terms on the Board of Selectmen, and the entire Commission agreed with this recommendation.

Decision The Commission discussed the Town Commission Subcommittee recommendation that the appointee of a vacancy in elected office should serve remainder of the term, and the entire Commission agreed with the recommendation.

Decision The Commission discussed how the Town Commission Subcommittee does not recommend reinstating the Conservation Commission; referrals can and should be accepted similar to how Planning Commission and Zoning Commission interact with one another. The entire Commission concurred.

Note Mr. Salerno noted the Subcommittee recommends that the Aquifer Protection Agency consider adding language to the bylaws to notify and request feedback from the Conservation of Natural Resources should a policy change be considered.


Note Mr. O'Connell said both of those entities are created by ordinance, so Charter Revision doesn't have to address this.

Decision The Commission further discussed the Subcommittee recommendations and Mr. Salerno said he will mark these items as closed. He said if anyone wants to touch up the language, they can let him know.

5-2. Town Budget

Note The focus of the Town Budget Subcommittee are items #1 , #7, #8, & #9- Consider possible elimination of automatic budget referendum provision in Section 7.3 of the Charter. Consider the possible amendment of Section 6.3.4 to provide that if the Board of Finance does not act on requests for special appropriations or transfers of funds within specified time, the result is an automatic approval. Consider the possible amendment of Section 6.3 to provide that projects funded entirely by grants from the State of Connecticut which do not require an appropriation of town funds need not be approved by the Board of Finance or at a Town Meeting. Consider the possible amendment of Section 6.3,1 to provide that the current dollar threshold of \$10,000 for special town meetings be raised.

Note Ms. Johnson read the Budget Subcommittee Report into the record.

 [Budget_sub_committee_report.docx](#)

Note Ms. Johnson said they're not recommending the elimination of the automatic budget referendum since it's more efficient to have one, the cost can be budgeted, and it can be scheduled in advance so that the tax office is provided sufficient time to print bills.

Note Mr. Salerno asked if they discussed having a threshold instead, having a referendum if it exceeds a certain amount?

Note Ms. Johnson said they didn't, but that it's certainly something they can discuss, and Mr. Salerno said he's wondering if that's more of a middle ground.

Note The Commission further discussed the automatic budget referendum process.

Note Ms. Johnson said the Budget Subcommittee is recommending that if the Board of Finance does not act on requests for special appropriations or transfers of funds within specified time, the result is an automatic approval.

Decision Ms. Johnson discussed the rationale detailed in their report and the rest of the Commission agreed with the recommendation.

Note Ms. Johnson reported that they haven't finished their discussion about considering the amendment of Section 6.3- to provide that projects funded entirely by grants from the State of Connecticut which do not require an appropriation of town funds need not be approved by the Board of Finance or at a Town Meeting.

Note Ms. Johnson said that they would like additional research on this item to get their thoughts together, but they're leaning towards recommending it. She added that they would like to include a clause that if it's a grant that's going to make some sort of an automatic operating budget increase, then those are the ones that would be treated differently.

Note Mr. O'Connell discussed how they can help craft the language once the changes have been decided upon.

Task Mr. Salerno asked that Mr. Seery send the question for research that Ms. Stevens sent him today.

Owned by Kevin Seery, First Selectman due 04/05/23

Decision After further discussion, the entire Commission agreed with the amendment, and decided to get help from Mr. O'Connell and Ms. Collins in regard to the appropriate language.

Note Ms. Johnson said they're recommending that the current dollar threshold of \$10,000 for special town meetings be raised to one half of 1% of the of the total current annual budget.

Note Mr. Salerno said this was the item they were discussing earlier in the evening, and Mr. Hagen commented that \$400,000 might be a bit too high.

Note The Commission discussed how the wording needs to be changed, that even if they changed it to \$100,000, one item could need to go before a town meeting.

Note The Commission had an in-depth discussion about what "aggregate" means.

Note Mr. Blair asked how come the approval is not just for the increase for that year since the budget for the previous year has been approved already?

Note Mr. Ginsberg wondered if it's even necessary to have the word "aggregate," which the Commission discussed.

Note Mr. Salerno went back to Mr. Blair's comments and said capital expenditures are put into the budget, and the budget is approved.

Note Mr. Hagen directed everyone to the language-
"may make special appropriations from the cash surplus or any approved contingency fund in the amount not to exceed the aggregate on."

He said it's actually talking about a special appropriation, like unanticipated, unapproved funds are needed; funds that weren't budgeted.

Note The Commission had a detailed discussion about whether many of these approvals and town meetings are actually even required, if the items have already been approved in the budget.

Note Mr. O'Connell said a special appropriation is something other than the annual budget.

Note Ms. Johnson shared the following:

Special appropriations are typically from other reserve funds that the town has.

In order to spend those funds, you need to go through the special appropriations process.

Items that are in the general fund operating budget wouldn't typically go through special appropriations.

The only time there would be a special appropriation needed for the general fund. would be if there was an item that was severely under budgeted, or catastrophic.

Other than that, it's all use of reserve funds, that are in other funds.

Note The Commission discussed the example of \$25,000 for sidewalk repair, and how it has already been approved in the budget.

Note Mr. Salerno asked if a town meeting would be required when it came time to spend that money, and Mr. Seery confirmed that it would.

Note Mr. Hagen said he doesn't believe that they actually need to have a town meeting for that.

Note The Commission further discussed appropriations that require a town meeting.

Note Mr. Salerno said it sounds like they gotten into the bad habit of going through this process, when they don't actually have to.

Note The Commission further discussed whether the \$10,000 should be changed to one half of 1%.

Note Mr. McNamara said if the Charter is going to be required to be reviewed every 10 years, why not change the amount to \$100,000?

Note Mr. Salerno said they could make it \$100,000 and keep it within a department, so there's not a race for a special appropriation.

Decision After further discussion the entire Commission agreed to change the amount from \$10,000 to \$100,000.

Note The Commission returned to the subject of the automatic budget referendum with the addition of a threshold.

Note The Commission discussed what an appropriate threshold would be and settled on 5%.

Note Mr. O'Connell clarified that it would be 5% of the previous approved annual budget.

Decision The entire Commission agreed that the automatic budget referendum should have a threshold of 5%.

5-3. Town Structure

Note The Town Structure Subcommittee will focus on items #4, #5, & #10- Consider possible removal of Town Clerk and Tax Collector from elective offices and add said offices to administrative offices.

Consider the possible exemption from the residency requirement set forth in Section 4.1 .2, certain appointive offices, such as Director of Emergency Management, Dog Warden, etc., and the offices described in Sections 5.3- 5.7.

Consider the possible addition of an appointive officer named the "Operations Officer" to assist the First Selectman in the performance of his or her administrative duties. This group will also look into the concept of a town manager government system, and the cleanup of appointed Board(s) language.

Housekeeping item- Relegation of Tax Appeals to the Town Assessor.

Decision Mr. McNamara said they're recommending removal of Town Clerk and Tax Collector from elective offices and add said offices to administrative (hired) offices. The entire Commission agreed with the recommendation.

Decision Mr. McNamara said they're recommending the exemption from the residency requirement set forth in Section 4.1 .2. The entire Commission agreed with the recommendation.

Decision Mr. McNamara said they're not recommending the possible addition of an appointive officer named the "Operations Officer", the position is needed, but doesn't belong in the Charter. The entire Commission agreed with the Subcommittee comments.

Note Mr. McNamara said they can continue the discussion about full-time elected officials having the time off structure as town officials.

Note Mr. Salerno said they can disband the subcommittees at this point and remove that portion from future agendas.

Note Mr. Salerno said they will talk about the remaining items at the next meeting and set the Public Hearing date as well.

6. Public Delegations

Note There was none.

7. Adjournment

Note The next Regular Meeting of the Charter Revision Commission is scheduled for April 18th, 2023.

Decision MOTION (4)

Mr. McNamara moved to adjourn the April 4th, 2023, Charter Revision Commission meeting at 8:59 p.m.

Mr. Blair seconded the motion.

Motion carried, 8-0-0.

Note Respectfully Submitted,
Brooke Stevens, Recording Secretary

Task Summary

New Tasks

Task Mr. Salerno asked Mr. Seery to have Ms. Christensen investigate structuring elected officials work schedules the same as town officials.

Owned by Kevin Seery, First Selectman due 04/18/23

Task Mr. Salerno asked that Mr. Seery send the question for research that Ms. Stevens sent him today.

Owned by Kevin Seery, First Selectman due 04/05/23