HOME RULE CHARTER COMMISSION
Wednesday, December 18, 2019
Public Meeting Room / Eagle Town Hall
200 Broadway Eagle, CO

This agenda and the meetings can be viewed at www.Townofeagle.org.
Times listed are approximate and are subject to change.

CALL TO ORDER - 4:00 PM

ROLL CALL

ADOPTION OF AGENDA *Opportunity for amendment or deletions to this evenings agenda.*

CONSENT AGENDA *Consent agenda items are routine Town business, items which have received clear direction previously from the board, final land use file documents after the public hearing has been closed, or which do not require board deliberation. (5 Minutes)*

1. December 11, 2019 Minutes

PREVIOUS MEETING RECAP *The Charter Commission will review the previous meetings updates to the Draft Home Rule Charter and review additional information as requested.*

BUSINESS ITEMS *Items and / or Public Hearings are listed under Business may be old or new and may require review or action by the Board.*

1. Charter Review *(The Commission intends to consider the following sections of the draft Home Rule Charter, but may consider and discuss any aspect or section at the Commission's sole discretion. Public comment is welcomed and will be taken during each article discussed.)*

a. Full Charter Review Articles I-XIII

b. Parking Lot Items, Bill Shrum

COMMISSION DISCUSSION AND FUTURE AGENDA ITEMS

ADJOURN - 9:00 PM

I hereby certify that the above Notice of Meeting was posted by me in the designated location at least 24 hours prior to said meeting.

Jenny Rakow, CMC
Town Clerk

PUBLIC WIFI - TOEG – townofeagle2019

Town Board of Trustees
Wednesday, December 11, 2019
Public Meeting Room / Eagle Town Hall
200 Broadway Eagle, CO

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CALL TO ORDER - 4:00 PM

Meeting called to order at 4:08 p.m.

ROLL CALL

COMMISSIONERS PRESENT

Brent McFall, Chair
Jon Stavney, Vice Chair
Charlie Wick (5:24 p.m.)
David Gaboury
Janet Bartnik
Kraige Kinney
Paul Wisor

COMMISSIONERS ABSENT

Kyle Hoiland
Holli Snyder

STAFF

Brandy Reitter, Town Manager
Matt Mire, Town Attorney
Bill Shrum, Assistant to the Town Manager
Jenny Rakow, Town Clerk

ADOPTION OF AGENDA

MOTION: Vice Chair Stavney motioned to adopt the December 11, 2019 Agenda as presented. Motion was second and passed unanimously.

CONSENT AGENDA

1. December 4, 2019 Minutes

   MOTION: Vice Chair Stavney motioned to approve the consent agenda, with inclusion of Town Manager memo and Attorney updated charter edits. Motion was seconded and passed unanimously.

BUSINESS ITEMS

1. Charter Review

2. Article VIII - Town Finances and Borrowing

   Chair McFall opened Article VII.

   8.02 Annual Budget discussion regarding having a two-year budget cycle. Attorney stated this would be allowed as the charter is written. Town Manager stated deadlines were included for transparency and so council could

rely on staff preparing in a timely manner for discussion, public hearing and adoption by state deadline.

8.04 (2) (4) Inquiry on why the Charter dictates how the budget is presented. Attorney provided this is the minimal required.

8.04 (2) Request for clarification on language regarding United States.

8.04 (3) Clarification on if budget must show immediately preceding year or two preceding years. Attorney will check on statute requirements.

8.05 (2) Request to change language referring to copies of budget available from the town clerk office. Provide consistent language when custodian of records is mentioned to include also available by "customary" or adopted means of publication. Intent is that these records are not just available by going to clerk's office.

8.08 Other Funds. Request to add enterprise and special purpose funds.

8.09 Capital Program. Request to strike the beginning of sentence and include language that the council shall adopt long-range capital program and remove reference to town manager.

8.11 (2) Increase or Reduction of Appropriations. Change Mayor to Manager. Intent is Manager shall provide report to council.

8.13 Independent Audit. Inquiry on the time frame for audit to ensure it occurs prior to the next budget. Change language regarding copies of the audit are available from town clerk to include also available by "customary" or adopted means of publication. Intent is that these records are not just available by going to clerk's office.

8.14 and 8.15 Forms of Borrowing. Attorney confirmed that first paragraph outlines the necessary language for this section. Remaining language is redundant to state law. Request to include statement at end of section that all prior voter approvals shall be preserved, i.e. De Bruce. Further discussion on voter approved revenue bonds. Council always has option to refer to the voters. Concern about referencing TABOR as those laws are currently changing.

8.15 References to disposing of land and should an appraisal be required. Attorney did not feel this was necessary. A consensus was reached on this section on whether to require an appraisal for acquiring or disposing of property. Attorney will be removing it.

8.17 Municipal Investment – Discussed changing language from may to shall and change term to initiate and adopt guidelines. Requested to remove "initiate" and include the word "shall" adopt guidelines.

Commissioner Wick arrived 5.24 pm

Commissioner Wick handed out his comments on finance section. Discussed importance of citizen driven goals and built into the budget to ensure it is community based. It was determined that requiring surveys would not be part of the charter. This was considered a priority and should be a policy request for the board to adopt.

A poll was conducted on whether to include language in the charter requiring public engagement for goals of the community as it relates to budget. One was in favor and six were opposed to inserting language into the charter,

however, it would be a request for the council to adopt as a policy or budget strategy for creating the budget.

a. Public Comment

Chair McFall opened public comment. There was no public comment for Article VIII

3. Article IX Public Utilities, Franchises, and Use of Public Property

Chair McFall opened Article IX.

9.01 (1) Town Authority. Request to change language. First sentence shall read "….all utilities, public services and franchises…"

9.01 (2) request to include to authority to "operate." Request to change inhabitants to residents or rate payers.

9.01 (3) Redundant with section 9.03. Request to remove 9.03 related to water rights.

9.01 (2) add word "operate" with ...construct, condemn,….

9.03 Discussion on including requiring an appraisal in this section. This was deemed not necessary.

9.02 Grant of Public Utility Franchise. Inquiry on language regarding vote of the people. Attorney stated this is a TABOR provision. Request to remove end of this sentence. Attorney will provide red line showing this removal.

9.06 Term, Compensation, and Restriction. Request to include language that states "any public street or property shall revert back to the town until franchise is extended further."

9.06 (2) Inquiry on whether this language encumbers the town. Attorney stated this is standard.

9.07 Franchise Review. Request to remove, not necessary.

9.09 Franchise Records. Request to remove, not necessary. These are public records.

9.11 Revocable License. Change term "place" to "town-controlled property."

a. Public Comment

Chair McFall opened Article IX for public comment. There was no public comment.

4. Article X Taxation

Chair McFall opened Article X.

After discussion of entire Article, it was determined that 10.03 Expenditure of Revenues would be moved under Finance and the 10.01 and 10.02 would be removed as they have already been addressed in the Charter or in Statute.

a. Public Comment

Chair McFall opened public comment on Article X. There was no public comment.

5. Article XI Initiative, Referendum and Recall

Chair McFall opened Article XI.

11.01 (4) Initiative. Discussion on language “registered electors” and increase to 15%. Consensus to keep requirement of total electorate and not those that voted at last election. Further discussion on time allowed to collect signatures.

Tentative agreement to keep the language 10% of total registered electors as of the date of filing the petition and increase days to 45 from 30 for collecting signatures for both Initiative and Referendum.

11.02 Referendum. With regard to petition process the current is to default to statute and council has ability to change by ordinance. Regarding rules of petition process that relate to statute request to remove that language.

11.03 Petitioners’ Committee section will be removed. This section refers to statute and will be subject to future ordinances.

11.04 Form and Content of Petitions refers to statutory process and will be removed from the Charter.

11.11 Exceptions. Commission requested to keep language in this section and remove redundant language. Commission felt the term “economic development” was too broad. Requested additional information to determine how common using this term is in Charters.

11.12 Recall. Requested change from six months in office to one year.

11.12 (5) Requested removal of reference to ward or district.

11.12 (4) Requested change to 3 business days for clerk review of petition.

11.12 (5) Requested change to language to include council member or mayor. Remove ward and district language. Requested attorney review to make sure this section is not duplicative of statute. Additional request to put something in the Charter regarding where statute is referenced. Requested staff to do a summary of Charter for public.

a. Public Comment

Chair McFall opened public comment.

Scott Schlosser provided comment that referendum signature requirements are low at 5%. Felt it was too easy to do a referendum when unhappy. Agreed the time period of 30 to collect signatures was short.

6. Article XII Miscellaneous Provisions

12.01-12.05 Discussion determined these sections were not needed in the Charter; they are statutory rights of the Town.

12.06 Amendment. Discussion relating to this being the only section that states how the Charter can be amended, while the allowance is in Statute, would like language here to be specific on either language or reference to specific statutes on how the charter can be amended. Attorney will draft language to clarify this section for the electorate.

12.11 Indemnifying. Request to have attorney draft language that includes scope of employment to be integrated into the section.

a. Public Comment

Chair McFall opened public comment on Article XII. There was no public comment.

7. Article XIII Transition Period

Inquiry on penalties for charter violations. Attorney provided that there are no personal sanctions, the results could include invalidating the action taken that was in violation. Attorney will review and see if there is additional violation language that can be used.

Confirmation on how to challenge the charter adoption, it would only be by initiative.

a. Public Comment

Chair McFall opened public comment on Article XIII. There was no public comment.

8. Review of Articles I-VII

3.01 (2) Town Council. Strike "unless the council establishes by ordinance voting districts and wards."

4.02 Town Manager. Clarification needed for term "seated." This would mean a majority of entire council seated. Intent is to prevent only three people making decision.

3.01 (2) Request to articulate that the mayor is elected at large.

3.01 (2) Remove reference to districts and wards. Request to make clear that persons cannot run for two offices.

3.01 (4) Request to clarify serving more than two terms consecutively in same office.

1.04 (6) Change "high speed internet" to language that will have longevity.

3.06 Conflict of Interest. Request to change this section title to Code of Conduct and Ethics. Include conflict of interest within the code of conduct. In addition, provide language that explains the code of conduct will address conflict of interest in detail. Request to move last sentence to first sentence.

Request to check charter for gender neutral references.

4.02 Change language to "at the will" of the council for all references within the Charter.

4.05 Town Clerk. Additional language for "shall attend all meetings" and include designee.

Article V. Boards and Commissions. Town Attorney will put new enumeration powers in it in plain language the council has the right to appoint committees.

7.02 Police Department. Discussion on why this is the only department listed. Request to strike 7.02 as council has power to create departments, including police department without listing prescriptive requirements of the chief of police.

a. Public Comment

Chair McFall opened public comment on review of Articles I-VII. There was no public comment.

COMMISSION DISCUSSION AND FUTURE AGENDA ITEMS

Request to review entire charter and changes made at the next meeting. Staff will provide a summary of parking lot notes for the public comment. Request to have commission review article on metro districts and whether the charter could have language to address the concerns raised.

ADJOURN – 8:15 PM

Approved:
Date:

Brent McFall, Mayor

Jenny Rakow, CMC Town Clerk

Preamble

The Charter Commission of the Town of Eagle, under the authority granted by the Constitution of the State of Colorado, by the Municipal Home Rule Act of 1971 and by the electors of the Town has crafted this Home Rule Charter for consideration by those electors. Through this Charter and the local government that it defines the people of Eagle reserve their right to address matters of local concern at the local level. The Home Rule Charter enables the people of Eagle to fully enjoy the benefits of self-governance and to provide for a successful future for the community by establishing a municipal government that is accessible, responsive, accountable, responsible and professional.

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Article I
General Provisions

1.01 Name and Boundaries. The municipal corporation heretofore existing as the Town of Eagle, Eagle County, State of Colorado, shall remain and continue a body politic and corporate and under this Charter be known as the Town of Eagle, with boundaries the same as presently established, until changed in a manner authorized by law.

1.02 Form of Government. The municipal government established by this Charter shall be a Council/Manager form of government.

1.03 Authority.

(1) The Town shall have all the authority of local self-government and home rule and all authority possible for a municipality to have under the Constitution and laws of the State of Colorado.

(2) The enumeration of any particular authority in this Charter shall in no way be deemed to limit or exclude the exercise of any authority.

(3) All authority shall be exercised in the manner set forth in this Charter or, if not provided for in this Charter, in such manner as shall be provided for by ordinance, resolution, or state statute.

1.04 Rights and Liabilities. By the name of the Town of Eagle, a municipal corporation, the Town shall have the following rights and liabilities:

(1) The right to perpetual succession.~~;~~

(2) The right to own, possess, and hold all property, real and personal, heretofore owned, possessed, and held by the Town and does assume and shall manage and dispose of all trusts in any way connected therewith.~~;~~

(3) The right to purchase or otherwise acquire property on which there are delinquent taxes or special assessments and to dispose of them in like manner as any other property.

(4) The right to succeed to all rights and liabilities of the Town.~~;~~

(5) The right to acquire all benefits of the Town and does assume and shall pay all bonds, obligations and indebtedness of the Town.~~;~~

(6) The right, by the name of the Town of Eagle, to sue and defend, plead and be impleaded in all courts and places and in all matters and proceedings.~~;~~

(7) The right to purchase, lease, receive, hold, and enjoy, or sell and dispose of real and personal property; provided, however, that disposal of land designated as a park or open space area shall require prior approval by the Town's registered electors, subject to the following limitations:

(a) "Disposal" means divesting the Town of the full fee interest in the land;

(b) Disposal of less than one-half (1/2) acre of land, even if designated as a park or open space area, shall not require voter approval provided the Council makes an express finding that use of the land after disposal will be for a public purpose; and

(c) The Town may by ordinance further regulate and protect the designation, conveyance and disposition of Town land in use as parks or open space areas.

(8) The right to establish municipal water works, wastewater treatment works, ~~–~~water and sewer systems, internet services, and other utility systems.~~;~~

(9~~8~~) The right to adopt, have, and use a common seal and alter the same ~~at its pleasure~~.~~;~~

(10~~9~~) The right to adopt ordinances and resolutions on local and municipal matters unless otherwise prohibited by this Charter or by laws applicable to home rule municipal corporations in the State of Colorado.~~; and~~

(11~~10~~) The right to have all rights, powers, and liabilities applicable to Colorado home rule municipal corporations as set forth in Article XX of the Colorado Constitution and Title 31, Colorado Revised Statutes, and other applicable statutes, as the same now exist or as they may hereafter be amended.

Article II
Elections

2.01 Election Laws. Town elections shall be governed by the Colorado Municipal Election Laws as now existing or hereafter amended or modified except as otherwise provided in this Charter or by ordinance hereafter enacted.

2.02 Types of Elections.

(1) Regular municipal elections shall be held on the Tuesday following the first Monday in November of ~~2018~~ 20__ and in each even numbered year thereafter.

(2) The term of any Mayor or Council Member that ends in April of ~~2018~~ 20__ shall be extended until the first regular Council meeting that is held in January following the November ~~2018~~ 20__ election, so long as the new elected Council Members take office pursuant to Section 2.02 (3).

(3) The Mayor and each Council Member shall take office at the first regular meeting of the Council held in January of the year following their election so long as the election has been finally certified and shall continue in office until their successors have been elected and take office or a vacancy occurs.

(4) Special Town elections shall be held in accordance with the provisions of this Charter and the Colorado Municipal Election Laws. Any special Town election may be called by resolution of the Council not less than thirty (30) days in advance of such election or when required by this Charter or by statute. The resolution calling a special Town election shall set forth the purpose or purposes of such election.

2.03 Nonpartisan Elections. All municipal elections shall be nonpartisan. ~~In accepting a nomination, a candidate shall by affidavit, filed with the Town Clerk, attest to the fact that he or she has not become a candidate as the nominee or representative of or because of any promised support from any political party, committee, convention or organization representing or acting for any political party~~.

2.04 Recall. Any elected official of the Town may be recalled at any time after the completion of six (6) months in office by the electors entitled to vote for a successor of such incumbent, as mandated in the Colorado Constitution; C.R.S. § 31-4-501, *et seq*., as may be amended from time to time; and Section 1~~0~~1.12 of this Charter.

Article III
Town Council

3.01 Town Council. The Town Council, hereafter referred to as the Council, shall consist of seven (7) members.

(1) The Council shall include a Mayor and six (6) Council Members. The positions of Mayor and Council Member are separate offices.

(2) All members of the Council shall be elected at-large by the registered electors of the Town~~, unless the Council establishes by ordinance voting districts and wards~~.

(3) All Council Members shall be elected to serve four (4) year terms unless a two (2) year term is required to restore staggered positions on the Council. In such case, the four (4) year term(s) shall go to the candidate(s) with the highest number of votes, and the two (2) year term(s) shall go to the candidate(s) with the next highest number of votes.

(4) No elected Council Member shall serve more than two consecutive terms in one office; provided that terms shall not be consecutive if they are at least two years apart or are for different offices. For the purposes of this limitation, terms to which an individual is appointed shall not count as a term.

3.02 Authority of the Town Council.

(1) The Council shall have the following authority:

(a) To enact and provide for the enforcement of all ordinances necessary to protect life, health, safety, welfare and property;

(b) To declare, prevent and summarily abate and remove nuisances in accordance with due process;

(c) To preserve and enforce good government, general welfare, order and security of the Town and the inhabitants thereof;

(d) To enforce ordinances and regulations by ordaining as permitted by state law for municipal court jurisdiction, or imprisonment as permitted by state law, or both fine and imprisonment for each and every offense; and

(e) To delegate to boards and commissions, within limitations of the Constitution and this Charter, such functions and authority of the Town as it deems proper and advisable.

(f) The Council shall deal with the administrative service solely and directly through the Town Manager, and neither the Council, its members, nor ~~committees~~ boards or commissions shall either dictate the appointment or direct or interfere with the work of any officer or employee under the Town Manager.

~~(2) No enumeration or particular authority granted to the Council shall be construed to impair any general grant of authority herein contained or granted by the State Constitution, or to limit any such grant of authority of the same class or classes as those so enumerated.~~ The Council shall be the legislative and governing body of the Town and shall exercise, except as otherwise provided in this Charter, all powers conferred upon or possessed by the Town and shall adopt such laws, ordinances, and resolutions as it deems proper.

(2~~3~~) In the case of a vacancy on the Council, the Council shall declare a vacancy according to standards set forth by ordinance or by C.R.S. § 31-4-303, as may be amended. The Council shall adopt by resolution procedures for filling any such vacancy~~, and shall appoint a member to fill a vacancy until the next regular election, unless the Council determines to fill the vacancy by Special Election~~.

3.03 Qualifications to Serve on Town ~~of~~ Council ~~Members~~.

(1) No person shall be eligible to be elected or appointed to the ~~office of Mayor or~~Town ~~-~~Council ~~Member~~ unless he or she meets the following requirements:

(a) Is a citizen of the United States of America;

(b) Is a registered elector of the Town; ~~and~~

(c) Is a resident of the Town for a period of no less than twelve (12) consecutive months preceding the election; and~~.~~

(d) ~~No person who has been convicted of a felony shall be eligible to be elected or appointed to the office of Mayor or Council Member~~Is currently eligible to vote in state general elections.

(e) No person who is an employee of the Town may serve ~~as Mayor or Council Member~~on the Town Council. Any Town employee

elected ~~as Mayor or Council Member~~to the Town Council shall be deemed to have resigned as an employee on the date of taking office.

(f) No person may be a candidate for both Mayor and Council Member at the same election.

(g) A person may be a candidate for the office of Mayor while serving as a Council Member and, if not elected Mayor, may serve out his or her term as a Council Member.

(2) The Town Clerk shall be the judge of the election and of all qualifications for candidates for Town Council ~~Members~~, except as otherwise provided by ordinance.

3.04 Council Meetings.

(1) The Town Council shall meet regularly at least once each month, unless increased by ordinance, at a day and hour and place to be fixed by the rules and proceedings of each Council.

(2) Four (4) members of the Town Council shall constitute a quorum, but, in the absence of a quorum, a lesser number may continue any meeting and/or hearing to a later time or date, and in the absence of all members the Town Clerk may adjourn any meeting for not longer than one (1) week.

(3) All regular and special meetings of the Town Council shall be open to the public, and citizens shall have a reasonable opportunity to be heard. Written minutes of the proceedings of each meeting shall be kept by the Clerk and signed by the Mayor.

3.05 Voting.

(1) Votes for and against shall be taken upon the passage of all ordinances and resolutions and entered upon the minutes of the Town Council proceedings. The minutes of each meeting shall reflect the specific vote of each Council member.

(2) Every ordinance shall require the affirmative vote of a majority of the Council ~~Members~~ present, to be adopted, and every emergency ordinance shall require the affirmative vote of two-thirds of Council ~~Members~~ present to be adopted.

(3) Every resolution and motion shall require the affirmative vote of a majority of the Council ~~Members~~ present and voting unless required otherwise in this Charter.

(4) ~~Refusal by a~~Every member of Council ~~Member to~~ shall vote on every matter unless ~~shall be the equivalent of an affirmative vote for an ordinance, resolution, or motion and may be grounds for a finding of misconduct or malfeasance by the Council Member unless~~ the ~~Council M~~member is ~~refraining from or is~~ excused from voting due to a conflict of interest as provided in Section 3.06 below.

3.06 ~~Conflict of Interest~~Code of Conduct and Ethics. The Council shall adopt by resolution a Code of Conduct and Ethics, which shall address Council conflicts of interest. No member of the Council shall vote on any question in which he or she has a conflict of interest. A conflict of interest occurs when ~~the~~ a member of Council ~~Member~~ has a substantial personal or financial interest in the outcome of the question, whether direct or indirect, or on any questions concerning his or her own conduct, as may be further defined in the adopted Code of Conduct and Ethics. The adopted Code of Conduct and Ethics shall specify penalties for a member of Council's violation of its provisions as well as for a Council member's violation of this Charter.~~A conflict of interest does not include general personal interest in the outcome of the matter. All Council Members are required to disclose and provide details regarding his or her conflict of interest to the Council.~~

3.07

3.07 ~~Whether or not a disclosure is made by the Council Member, the other members of the Council shall determine, by a vote of the remaining members of the Council, whether the Council Member shall be excluded from consideration, discussions, and voting on the issue.~~

3.07

3.07 ~~If a conflict of interest is not disclosed and is established with respect to a matter already considered by the Council, the remaining members of the Council shall take any action they deem to be in the best interests of the Town, including, but not limited to, terminating the unperformed portion of any contract entered into when such a conflict of interest existed. Failure to disclose a conflict of interest may be grounds for a finding of misconduct or malfeasance by the Council Member.~~

3.07

3.07 ~~If the Council determines that a conflict does not exist, the Council Member is required to vote on the question. If the Council Member continues to refuse to vote, such abstention will constitute an affirmative vote on the question and may be grounds for a finding of misconduct or malfeasance by the Council Member.~~

3.07

3.07 ~~If a conflict is established that results in the recusal or excusal of a Council Member, that Council Member shall physically leave the Council chambers and refrain from participation during all consideration, discussion, and voting on the issue on which the Council Member has the conflict.~~

3.07

3.07 ~~If a conflict is established that results in the recusal or excusal of more than one Council Member so that less than a quorum remains to consider an issue, a Council Member may vote notwithstanding subsection (4) of this Section if his or her participation is necessary to enable the Council to act.~~

3.07

3.07 Compensation of Council Members. The members of ~~the~~ Council ~~, including the Mayor,~~ shall receive such compensation as the Council shall by ordinance prescribe.

(1) The Council shall neither increase nor decrease the compensation of any member during his or her term of office.

(2) Members of Council ~~Members~~ may, upon order of the Council, be paid such necessary bona fide expenses incurred in service on behalf of the Town as are authorized by the Town Council.

3.08 Oath of Office. Before entering upon the duties of the office ~~the~~ of Mayor ~~and every~~or Council Member, every person shall take, subscribe before, and file with the Town Clerk the following an oath or affirmation:

> I, (name), swear (or affirm), that I will support the Constitution of the United States, the Constitution of the State of Colorado, the Charter and the ordinances of this Town, and will faithfully perform the duties of my office.

3.09 ~~Voting Districts. Voting districts and wards may be created by ordinance.~~

~~3.10~~ Mayor Pro Tem. A Mayor Pro Tem shall be elected by the Council from its own membership at the first meeting in January following each biennial election.

(1) The Mayor Pro Tem shall serve until the January Council meeting following the next regular Town election, and shall act as Mayor during the absence or disability of the Mayor.

(2) In the event of absence or disability of both the Mayor and the Mayor Pro Tem, the Council shall designate another of its members by majority vote to serve as Acting Mayor during such absence or disability.

(3) Any Mayor Pro Tem or Acting Mayor, while serving as such, shall retain all authority granted herein to Council Members and may, at the conclusion of his or her service as Mayor Pro Tem or Acting Mayor, serve out the remainder of his or her original term.

3.~~11~~10 Special Meetings.

(1) Special meetings of the Council shall be called by the Town Clerk on the verbal request of any four (4) Council Members, on at least twenty-four (24) hours' notice to each member of the Council.

(2) Written notices of any special meeting and the topic of any special meeting shall be posted ~~in at least one (1) public place at least twenty-four (24) hours prior to the meeting~~consistent with the posting of notice for regular Council meetings. No business shall be transacted at any special meeting of the Council unless such business has been stated in the notice of such meeting.

3.11 Executive Sessions.

(1) Any Council meeting may be recessed into an executive session by the affirmative vote of a majority of the members present and may be closed to the public for the ~~following~~ purpose~~s~~ of considering any of the following matters ~~only~~:

(a) The purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest.~~To determine a position relative to issues subject to negotiation, to receive reports on negotiation progress and status, to develop strategy, and to instruct negotiators;~~

(b) Conferences with an attorney for the Town for the purposes of receiving legal advice on specific legal questions.~~To consider the acquisition or disposal of real property if, in the judgment of the Council, premature disclosure of information might give any person an unfair competitive or bargaining advantage;~~

(c) Matters required to be kept confidential by federal or state law or rules and regulations. The Council shall announce the specific citation of the statutes or rules that are the basis for such confidentiality before holding the executive session.~~For matters of attorney-client privilege, to receive legal advice from an attorney representing the Town, and for matters required by law to be kept confidential;~~

(d) Specialized details of security arrangements or investigations, including defenses against terrorism, both domestic and foreign, and including where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law. ~~For matters critical to the personal safety of elected officials and for matters involving the protection and security of Town property;~~

(e) Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.~~For personnel matters except if the employee who is the subject of the session has requested an open meeting, or if the personnel matter involves more than one employee, all of the employees have requested an open meeting;~~

(f) Personnel matters except if the employee who is the subject of the session has requested an open meeting, or if the personnel matter involves more than one employee, all of the employees have requested an open meeting.~~To deliberate on evidence presented to the Council while acting in a quasi-judicial capacity; or~~

(g) Consideration of any documents protected by the mandatory nondisclosure provisions of the Colorado Open Records Act, C.R.S. § 24-72-200.1, *et seq*., as amended~~To consider additional matters for which an executive session is permitted under the Colorado Revised Statutes concerning the meetings of local public bodies~~.

(2) The general subject matter of any executive session shall be stated in the motion calling for the session. No formal action, no final policy decision, no rule, regulation, resolution, or ordinance, and no action approving a contract or calling for the payment of money shall be adopted or approved at any session closed to the public.

(3) Only the Mayor, members of the Town Council, the Town Manager, and the Town Attorney shall attend executive sessions. Other persons may be invited to attend an executive session upon the affirmative vote of a majority of the Town Council members present, and the Town Manager or Town Attorney may be excluded upon the affirmative vote of a majority of the Town Council members present~~Only the Mayor and members of the Town Council shall attend executive sessions provided; however, that other persons may be invited to attend executive sessions by the Mayor and Council~~.

(4) The provisions of this Section 3.11~~2~~ are specifically intended to supersede any conflicting provisions of Colorado statutes governing open meetings and executive sessions.

Article IV
Town Administration, Appointed Officials and Town Departments

4.01 Mayor. The Mayor shall be the presiding officer of the Council and the recognized head of the Town government for all legal and ceremonial purposes. The Mayor, or anyone acting as Mayor as provided for in Section 3.~~10~~ 09 of this Charter, shall have the following duties, authorities, and responsibilities:

(1) To vote as a regular Council Member without veto power upon any question;

(2) To sign all contracts binding the Town, all conveyances of interests in land by the Town, all ordinances and resolutions, and any other documents requiring his or her signature except as may be delegated by ordinance to the Town Manager or as otherwise provided by ordinance and attested by the Town Clerk under the Seal of the Town; and

(3) To have such other authority as may be conferred upon the Mayor by the Council so long as that grant of authority is not in conflict with the provisions of this Charter.

(4) In case of ~~riot, insurrection or extraordinary~~ emergency, the Mayor shall assume the authority to execute any action necessary for the protection of life and property.

(a) Such authority may include but not be limited to establishing regulations governing conduct and activities related to the cause of the emergency, and if the emergency situation continues, the Mayor shall convene the Council which may take such action as it deems necessary.

(b) Any unilateral action taken by the Mayor during an emergency shall be temporary in nature and duration and shall be effective only until the Council may be convened to ratify the action.

(5) In the event it becomes necessary, the line of succession provided in this Charter shall be followed. The Council shall have the authority to provide for the continuity of government of the Town in the event of ~~natural or enemy caused~~ disaster. Such authority shall be employed in a manner that will preserve representative government to the Town and that will provide an orderly line of succession of officers, notwithstanding the provisions of this Charter. Such succession shall commence with the Mayor and the Mayor Pro Tem, and shall then revert to Council

Members, then through an orderly line of succession of the administrative department heads.

4.02 Town Manager. The Town Manager shall be the chief ~~administrative~~ executive officer of the Town and shall serve at the will ~~pleasure~~ of the Council.

(1) The Council, by a majority vote of those then in office, shall appoint a Town Manager without a definite term and at a salary fixed from time to time by resolution of the Council.

(2) The Town Manager shall be accountable to the Council and shall perform such duties as provided by ordinance, and/or as provided by the direction of the Council, so long as such direction is not contrary to this Charter or the Ordinances of the Town.

(3) The Town Manager may only delegate to others the authority and duties prescribed to his or her position to the extent allowed by ordinance.

(4) The Town Manager may appoint a Town department head to function in his or her capacity during short absences.

(5) The Town Manager may hire staff as such are provided for the Town's budget.

(6) The Town Manager shall prepare an annual budget and submit it to the Council.

4.03 Town Attorney. The Town Attorney shall be an attorney licensed to practice law in the State of Colorado and shall be appointed to the position by a majority vote of the Council then in office ~~at the first January meeting of the Council following each regular Town election~~.

(1) The Town Attorney shall serve at the ~~pleasure~~ will of the Council~~,~~ without a definite term~~, and~~ at a salary or hourly rate fixed from time to time by resolution of the Council.

(2) The Town Attorney shall be responsible to the Council and shall perform such duties as provided by ordinance.

4.04 Municipal Judge. The Municipal Judge shall be an attorney licensed to practice law in the State of Colorado and shall be appointed to the position by a majority vote of the Council then in office ~~at the first January meeting of the Council following each regular Town election~~.

(1) The Municipal Judge shall serve at the ~~pleasure~~ will of the Council~~,~~ without a definite term~~, and~~ at a salary fixed from time to time by resolution of the Council.

(2) The Municipal Judge shall be responsible to the Council and shall perform such duties as provided by ordinance.

4.05 Town Clerk. Town Clerk shall be hired by the Town Manager as an employee of the Town. The Town Clerk or a designee shall attend all meetings of the Council, shall keep a permanent ~~journal~~ record of its proceedings, and shall have the following other duties and responsibilities:

(1) To be custodian of the Town Seal, affix it to all documents and instruments requiring the seal, and attest to the same.

(2) To be custodian of all papers, documents and records pertaining to the Town, the custody of which is not otherwise provided for.

(3) To certify by his or her signature all ordinances and resolutions enacted or passed by the Council.

(4) To provide and maintain in the Town Clerk's office a supply of forms for all petitions required to be filed for any purpose by the provisions of this Charter or by ordinances enacted hereunder.

(5) To review the sufficiency of all petitions required to be filed for any purpose by the provisions of this Charter or by ordinances enacted hereunder. Yet, nothing contained herein shall require the Town Clerk to advise any petitioner as to how petitions shall be completed prior to their submittal to the Town Clerk.

(6) To administer oaths of office.

(7) To perform such other duties as may be prescribed by this Charter or by the Town Manager.

4.06 Town Departments.

(1) The Council may by ordinance create, consolidate or dissolve any Town department ~~in order to achieve more efficient operation or administration~~.

(2) All departments and department heads of the Town, except as otherwise provided in this Charter, shall be under the supervision and control of the Town Manager.

(3) All department heads hired after the effective date of this Charter shall be hired by the Town Manager and shall be considered, at all times, at-will employees of the Town. The provisions of this Section 4.06~~07~~ are specifically intended to supersede conflicting state law on this matter, including C.R.S. § 31-4-307.

Article V
Boards and Commissions

5.01 Existing Boards and, Commissions ~~and Committees~~. All boards, ~~,~~ and commissions ~~and committees~~ existing at the time this Charter is adopted shall continue as established by ordinance, except as otherwise provided by this Charter or subsequent ordinance.

5.02 Right to Establish, Amend and Abolish.

(1) The Council may create any boards or, commissions, ~~or committees~~ including advisory and appeal boards, provided that no such board or, commission ~~or committee~~ shall have authority to perform functions or duties otherwise assigned in this Charter or to interfere with any function or duty otherwise assigned in this Charter. Unless otherwise required by law or this Charter, all boards and, commissions ~~and committees~~ shall be created by ordinance, which shall prescribe the duties delegated by the Council and the qualification of members.

(2) Each board and, commission ~~and committee~~ shall elect its own chairman and vice-chairman from among its members. Each board and, commission ~~and committee~~ shall operate in accordance with its own rules of procedure, except as otherwise directed by the Council. All board, and commission ~~and committee~~ meetings shall be open to the public, and copies of all records and minutes of all meetings shall be kept and placed in the office of the Town Clerk for public inspection. Reports shall be made to the Council as the Council shall require.

(3) The Council may increase, reduce or change by ordinance any or all of the duties and procedures of any board or, commission ~~or committee~~ existing at the time of the adoption of this Charter or as created by ordinance thereafter.

(4) Any board or, commission ~~or committee~~ existing at the time this Charter is adopted, or created under the provisions of this Section, which is not required by statute or this Charter, may be abolished by the Council.

(5) Terms and conditions of appointment and composition of all boards, and commissions ~~and committees~~ shall be determined by ordinance, except that appointment of a member to any board or, commission ~~or committee~~ shall require a majority vote of the Council, and removal of any member from a board or, commission ~~or committee~~ shall require a two-thirds (2/3) affirmative vote by the Council and, in no case, fewer than five (5) affirmative votes for removal.

Article VI
Ordinances

6.01 Action by Ordinance Required. In addition to such acts of the Council that are required by other provisions of this Charter to be by ordinance, every act creating indebtedness, authorizing borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, or placing any burden upon or limiting the use of private property shall be by ordinance. However, this Section shall not apply to the budget adoption or other appropriations as defined in Section 8.05 of this Charter.

6.02 Form of Ordinance. Every ordinance shall be introduced in written or printed form. The enacting clause of all ordinances shall be: NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF EAGLE, COLORADO. Every ordinance introduced shall be deemed to contain a severability clause, whether stated therein or not.

6.03 Adoption Procedure for Ordinances. With the exception of emergency ordinances, each ordinance shall be presented to the Council twice, and the following procedure shall be followed in adopting any ordinance:

(1) The ordinance shall be introduced at a regular or special meeting of the Council and read by title.

(2) After introduction, the Council shall vote to amend, pass, or reject the ordinance, or take other action as it deems appropriate.

(3) If passed or amended at the first reading, the ordinance shall be introduced to Council at a subsequent meeting and, if required by the Code, the Council shall conduct a public hearing on the ordinance.

(4) After the second introduction and public hearing, if applicable, the Council shall vote to amend, adopt, or reject the ordinance, or take other action as it deems appropriate.

(5) If the ordinance is adopted by the Council, either as presented or as amended, it shall be published ~~by title only, together with a statement that the full text is~~and available for public inspection ~~and acquisition in the office of the Town Clerk, shall be sufficient publication unless publication in full is required by subsequent ordinance~~.

(6) Except as provided in this Article, the ordinance shall be effective 5 days after publication or at such later date as specified in the ordinance.

(7) The method of official Town publication of ordinances shall be set by ordinance.

(8) The ordinance shall be signed by the Mayor and attested to by the Town Clerk, and affidavits of publications shall be retained with the ordinance in the Town's records.

6.04 Emergency Ordinances.

(1) The Council may adopt an emergency ordinance if necessary for the immediate preservation of public property, health, welfare, peace, or safety. Determination by the Council as to the existence of an emergency shall be final and conclusive.

(2) Emergency ordinances shall also meet the following criteria:

(a) The facts determining the emergency shall be specifically stated in the ordinance.

(b) No ordinance granting, renewing, or amending any franchise, or imposing any new tax, tax rate increase, mill levy above that for the prior year, valuation for assessment ratio increase for a property class, extension of an expiring tax, or tax policy change directly causing a net tax revenue gain to the Town shall be adopted as an emergency ordinance.

(3) An emergency ordinance may be introduced and adopted at any regular or special meeting. An emergency ordinance shall take effect upon adoption. Following adoption, an emergency ordinance shall be published in full.

6.05 Codification.

(1) The Council shall cause the ordinances of a general and permanent character to be codified and thereafter maintained in current form. Revisions to the codes may be accomplished by reference as provided in Section 6.06 of this Charter.

(2) Any ordinance that is not of a general and permanent nature shall not be codified.

6.06 ~~(3) Review and codification of ordinances shall be accomplished at least every two years.~~

6.06 Adoption of Codes by Reference.

(1) The Council by ordinance may adopt by reference any code by the federal government, State of Colorado or by any agency of either of them, or by any municipality, or by recognized trade or professional organizations, or amendments or revisions thereof. The procedure of adoption of a code by reference shall be as provided in the Colorado Revised Statutes applicable to the adoption of codes by reference.

(2) Every ordinance adopting a code by reference shall contain a notice that copies of the code are available at the office of the Town Clerk.

(3) ~~, and a~~Any penalty clause in such a code may be adopted only if set forth in full in the adopting ordinance.

6.07 Public Records. All public records of the Town of Eagle shall be open for inspection by any person at reasonable times in accordance with applicable law.

6.08 Fines and Penalties for Ordinance Violations. Penalties for the violation of Town ordinances shall be established by ordinance. No fine or sentence for such violation shall exceed the maximum established by Colorado Revised Statutes for municipal ordinance violations.

Article VII

~~Enforcement of Laws and Ordinances~~Municipal Court

7.01 Municipal Court.

(1) There shall be a Municipal Court that shall have jurisdiction to hear and determine all cases arising under this Charter or the ordinances of the Town. The scope of the Municipal Court's jurisdiction is hereby expressly declared not to be exclusive, original jurisdiction over matters arising under this Charter and ordinances.

(2) The powers of and the procedure in the Municipal Court and the manner of enforcement of its orders and judgments shall be as provided for by ordinance presently enacted or hereafter enacted. The Municipal Court shall be a qualified Municipal Court of record and all proceedings therein and evidence at trials shall be kept by verbatim record.

(3) The Council shall provide a suitable place and all supplies and personnel necessary for the proper functioning of the Court.

(4) The Council shall provide by ordinance for the enforcement of its ordinances by fine or imprisonment.

(5) The Municipal Court may provide for the granting of probation and the conditional suspension of sentences; and

(6) ~~Each day of an ordinance violation may be treated as a new and separate offense, punishable according to the maximum penalties set for that violation.~~

(6) The Municipal Court shall be presided over by the Municipal Judge~~., who shall meet the criteria for that position set forth in Section 4.05 of this Charter.~~

~~Department of Public Safety.~~

~~(1) There is hereby created a Department of Public Safety, the director of which shall be the Marshall or Chief of Police who shall be an employee of the Town.~~

~~The Marshall or Chief of Police shall be a certified peace officer, as that designation is defined by the Peace Officers Standards and Training Council (P.O.S.T.) at C.R.S. § 24-31-305, as that statute may be amended from time to time.~~

Article VIII
Town Finances and Borrowing

8.01 Fiscal Year. The fiscal year of the Town, and all of its agencies, shall begin on the first day of January and end on the thirty-first day of December of each year.

8.02 Annual Budget. A proposed budget for the ensuing fiscal year shall be delivered to the Council by the Town Manager on or before the fifteenth day of October of each year.

8.03 Budget Hearing.

(1) The Council shall hold a public hearing on the proposed budget on or before the thirtieth day of November of each year.

(2) Notice of the time and place of such hearing shall be published at least once seven (7) days prior to such hearing, and copies of the proposed budget shall be made available to the public by depositing them in the office of the Clerk.

(3) The Council may at any time before final adoption increase, decrease, add or strike out any item in the budget.

8.04 Scope of Annual Budget.

(1) The budget shall provide a complete financial plan of all Town funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Town Manager deems desirable or the Council may require.

(2) In organizing the budget, the Town Manager shall utilize fund, department, revenue, and expenditure/expense classifications and groupings congruent with generally accepted budgetary practices for municipal governments ~~in the United States~~ in keeping with guidelines published from time to time by the Government Finance Officers Association of the United States and Canada or its successor entity. The budget shall include a budget message from the Town Manager highlighting the key features of the proposed budget. The budget shall lay out a clear plan for all the operations, programs, capital acquisitions, projects, and debt service payments of the Town.

(3) The budget shall display beginning fund balances/funds available, revenues and other sources of funds, expenditures/expenses and other uses of funds, transfers between funds, and ending fund balances/funds

available for all governmental and proprietary funds of the Town, as defined by the Governmental Accounting Standards Board (GASB) or its successor entity. These displays shall include the actual, audited amounts for at least the immediately preceding year, the budgeted amounts for the current year, estimated amounts for the current year, and proposed amounts for next fiscal year.

(a) Reasonable provisions for contingencies may be budgeted for any fund.

(b) The total of proposed expenditures/expenses including contingencies shall not exceed the total of beginning fund balances/funds available plus revenues and other sources of funds for any fund.

8.05 Adoption of Budget and Appropriation.

(1) Not later than the thirty-first day of December each calendar year, the Council shall adopt a resolution adopting the budget and a resolution adopting the annual appropriations. All such annual appropriations shall lapse at the end of each fiscal year.

(2) ~~Copies of the budget as adopted shall be a public record and shall be made available to the public in the office of the Town Clerk.~~ Budget records are public records that shall be conveniently available to the public.

(3) If the Council fails to adopt a budget by this date, the amounts appropriated for the operation of the various departments and areas of the Town during the prior fiscal year shall be deemed adopted for the current fiscal year on a month to month basis, with all items prorated accordingly until such time as the Council adopts the budget for the current fiscal year.

8.06 Certification of Tax Levy.

(1) As required by law, the Council shall fix the amount of tax levy that shall be assessed, if any, upon each dollar of assessed valuation of all taxable property within the incorporated limits of the Town, and the Council shall cause the same to be certified to the County as required by law.

(2) If the Council should fail in any year to make such levy as above provided, the rate last fixed shall be the rate for the ensuing fiscal year, which rate shall be levied as by law provided.

(3) The Town shall not be bound by Colorado's so-called Gallagher Amendment, Article X, Section 3, of the Colorado Constitution, regarding valuations for assessment on real and personal property, which amendment does not apply to any Colorado home rule municipality.

8.07 General Fund. The General Fund is the Town's primary operating fund. All revenues not specifically allocated to any other fund shall be placed in the General Fund.

8.08 Other Funds. In addition to funds provided for in this Charter, the Council may by ordinance establish other funds as it deems necessary and appropriate in accordance with Generally Accepted Accounting Principles (GAAP). The ordinance establishing such funds shall clearly state the purpose for the fund.

8.09 Capital Program. ~~If required by t~~The Town Council ~~by motion, resolution or ordinance, the Manager~~ shall ~~prepare and submit to the Council~~adopt a long-range capital program, the contents of which are designated by the Council, simultaneously with the recommended budget.

8.10 Transfer of Funds. Except as may be restricted by law, the Council may by resolution transfer any unencumbered appropriation, balance, or portion thereof from a fund to another.

8.11 Increase or Reduction of Appropriations.

(1) The Council may modify appropriations by resolution during the fiscal year for unanticipated budgetary issues. Such modified appropriations shall not cause total expenditures within a fund to exceed the beginning fund balance~~/~~ or the funds available plus anticipated revenues and other sources of funds within the fund as estimated in the budget.

(2) If at any time during the fiscal year it appears probable to the ~~Mayor~~ Town Manager or his or her designee that the ~~fund balance/~~funds available plus anticipated revenues and other sources of funds within any fund will be insufficient to meet the amount appropriated, ~~he or she~~ the Town Manager shall provide a report to the Council without delay recommending any steps to be taken to correct the deficiency. The Council shall then take such further action as it deems necessary to correct the deficiency.

8.12 ~~Publication~~ Records of Authorized Expenditures. Records of e~~E~~xpenditures authorized to be made are public records that shall be conveniently available to the public ~~need not be published, but the Town Clerk shall maintain a record on~~

~~file of the same, which record shall at all reasonable times be available for public inspection.~~

8.13 Independent Audit. An independent audit shall be made of all Town accounts for each fiscal year and more frequently if deemed necessary by the Council. Such audit shall be made by certified public accountants selected by the Council who shall complete the audit in accordance with state regulations. Copies of such audit shall be made available for public inspection at the office of the Town Clerk.

8.14 Forms of Borrowing.

(1) The Town may, subject to any applicable limitations in the Colorado Constitution, including any requirements for voter approval, borrow money and issue securities or enter into other obligations to evidence such borrowing in any form and in any manner determined by the Council to be in the best interests of the Town. All prior Town borrowing, securities, or financial obligations, including without limitation those involving voter-approved waivers or amendments to constitutional limits, remain in full force and effect.

(2) In addition to being authorized by this Article to issue bonds for any municipal purpose as authorized by law, the Town is specifically authorized, by ordinance, with or without an election, as determined by the Council, to issue revenue bonds or otherwise to extend its credit for the purpose of purchasing, equipping, constructing, or otherwise acquiring, extending or improving a water, sewer, or other public utility, facility or project, provided that the bonds or other obligation shall be made payable from the net revenues derived from the operation of such system, utility or project, or from the proceeds of any tax other than the general ad valorem tax imposed by the Town.

(a) Such bonds shall not be issued until a public hearing on the question of issuance of the same shall have been held.

(b) Notice of such hearing shall be published ~~at least fifteen (15) days prior to the public hearing~~.

8.15 Long-Term Rentals and Leaseholds.

(1) In order to provide necessary land, buildings, equipment and other property for governmental or proprietary purposes, the Town may enter into long-term installment purchase contracts and rental or leasehold agreements. Such agreements may include an option or options to

purchase and acquire title to such property within a period not exceeding the useful life of such property. Each such agreement and the terms thereof shall be concluded by an ordinance duly enacted by the Council.

(2) The Council may provide for payment of installments thereof out of the general ad valorem tax levy, by the imposition of rates, tolls or service charges for the use of such property or any part thereof, out of any other available municipal revenues or by any combination of the foregoing methods.

8.16 Short-Term Notes. The Town by ordinance may borrow money without an election in anticipation of the collection of taxes and issue short-term notes to evidence the amount so borrowed. Any such short-term notes shall mature within twelve (12) months.

8.17 Municipal Investments. The Council ~~may initiate and~~shall adopt guidelines for municipal investments as long as those guidelines comply with the following conditions:

(1) Such guidelines are subject to any applicable limitations in the Colorado Constitution, including any requirements for voter approval; and

(2) Such guidelines are determined by the Council to be in the best interest of the Town.

8.18 The Town is authorized to collect, retain and expend all of the sales and use tax revenues and all revenues generated by the Town, subject only to those limitations previously approved by the voters, notwithstanding any limitation contained in Article X, Section 20, of the Colorado Constitution or any other law.

Article IX
Public Utilities, Franchises, and Use of Public Property

9.01 Town Authority.

(1) The Town shall have and exercise with regard to all utilities, public services and franchises, including water and water rights and acquisition thereof and bonded indebtedness in connection therewith, all municipal authority and functions now existing and that may be hereafter provided by the Colorado Constitution and Colorado Revised Statutes.

(2) The Town shall have authority, within or without the territorial limits of the Town, to construct, condemn, purchase, acquire, ~~and~~ lease and operate public works, utilities and assets, equipment and everything in relation to or in connection therewith, in whole or in part, for the use of the Town, ~~and~~ its inhabitants, and those it serves.

~~The Town shall have the authority to exchange water rights owned by it for water rights owned by other persons, entities, municipalities or quasi-municipal corporations. The Town shall also have the right to contract with such aforementioned persons or entities for the purpose of forming consolidated water or sewer districts or for furnishing any municipal services that Council determines are in the best interest of the Town.~~

(3) Except as otherwise provided by the Colorado Constitution or this Charter, all authority concerning the granting, amending, revoking or otherwise dealing in franchises shall be exercised by the Council.

9.02 Grant of Public Utility Franchise. Grants of public utility franchises and all extensions and amendments shall be granted only by ordinance. The granting of franchises by the Town shall be limited only by the provisions of the Colorado Constitution and statutes that are applicable to home rule municipalities as now in effect or as hereafter amended ~~and shall be submitted to the vote of the people if required by the Colorado Constitution~~.

9.03 Water Rights. The Town shall have the authority to buy, exchange, lease, sell, own, control and otherwise deal in water rights.

9.04 Utility Rates. The Council shall, by resolution, establish rates, rules and regulations for services provided by municipally owned utilities.

9.05 Extraterritorial Utility Service. If the Council desires to extend the municipal utilities beyond Town boundaries, it shall do so by ordinance.

9.06 Term, Compensation, and Restriction.

(1) No franchise, lease or right to use the streets or the public places or property of the Town shall be granted for a term that exceeds twenty (20) years. Every grant of a franchise shall fix the amount and manner of payment of compensation to be paid by the grantee for the use of the same. Such compensation shall be paid as provided and be subject to mutual periodic renegotiation, and failure to pay shall result in forfeiture of the franchise at the option of the Council. This provision shall not except the grantee from any lawful taxation upon his or its property, nor from any license, charges or other impositions levied by the Council, not levied on account of the use granted by the franchise.

(2) Every non-Town owned public utility, whether it has a franchise or not, shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges, and other public places as shall arise from its use thereof and shall protect and save the Town harmless from all damages arising from said use.

(3) Every such public utility may be required by the Town to permit joint use of its property and appurtenances located in the streets, alleys or other public places of the Town by the Town and by other utilities insofar as such joint use may be reasonably practicable.

~~Franchise Review. Each franchise granted under the provisions of this Charter shall include a section specifying a periodic review of said franchise.~~

9.07 Assignment of Franchise. Any assignment or leasing of a franchise shall be considered forfeiture unless consent is given by the Council by ordinance.

9.08 Franchise Records. Franchise records are public records that shall be conveniently available to the public. ~~The Council shall cause to be kept in the office of the Town Clerk and open~~ to the public ~~for view, a~~ franchise record~~s. in which shall be transcribed copies of all franchises granted by the Town. The record shall give the name of the grantee and any assignees. The record shall be a complete history of all such franchises and shall include a comprehensive and convenient reference to all actions at law affecting the same, copies of all annual reports, and such other information and matters of public interest as the Council may from time to time require.~~

9.09 Existing Franchises. All franchise ordinances of the Town in effect at the time that this Charter is adopted shall remain in full force and effect according to their provisions and terms until the expiration date provided in such ordinance or until modified by another franchise.

9.10 Revocable License. The Council may grant a license at any time for the temporary use, control or operation of any ~~street, alley or Town owned place,~~ Town-controlled property, ~~-~~provided such licenses shall be revocable ~~by~~ at the will of the Council, ~~at its pleasure,~~ regardless of whether or not such right to revoke is expressly reserved in such license.

ARTICLE X
~~Taxation~~

~~Municipal Taxation. The Council may adopt by ordinance municipal taxes as long as those taxes comply with the following conditions:~~

~~(1) Such taxes are subject to any applicable limitations in the Colorado Constitution, including any requirements for voter approval; and~~

~~Such taxes are not prohibited for home rule municipalities by the Colorado Constitution.~~

~~Authority to Acquire and Dispose of Property.~~
~~Expenditure of Revenues.~~

~~(1) The Town shall be authorized to collect, retain and expend all of the sales and use tax revenues and all revenues generated by the Town, subject only to those limitations previously approved by the voters, notwithstanding any limitation contained in Article X, Section 20, of the Colorado Constitution or any other law.~~

~~(2) The Town hereby declares its intent not to be bound by Colorado's so-called Gallagher Amendment, Article X, Section 3, of the Colorado Constitution, regarding valuations for assessment on real and personal property, which amendment does not apply to any Colorado home rule municipality.~~

~~Article XI~~
Initiative, Referendum and Recall

101~~1~~.01 Initiative.

(1) The initiative power, reserved by Article V, Section 1(9), of the Colorado Constitution, is hereby extended to the registered electors of the Town as to that Town legislation that is subject to the initiative power reserved in said Constitution.

(2) The Town shall follow constitutional and statutory requirements for the initiative process as the same now exist or as they may hereafter be amended.

(3) A measure shall be initiated pursuant to the Colorado Revised Statutes that establish procedures for a municipal initiative, except as otherwise provided in this Charter and in ordinances not inconsistent with this Charter.

(4) An initiative petition shall be signed by registered electors of the Town equal in number to at least ~~fifteen~~ ten percent (10~~5~~%) of the total number of registered electors of the Town as of the date of filing the petition.

(5) The Town Clerk shall not count as valid any signature on an initiative petition if the date of the signature is prior to the date the form of the petition was approved by the Town Clerk.

101~~1~~.02 Referendum.

(1) The referendum power, reserved by Article V, Section 1(9) of the Colorado Constitution, is hereby extended to the registered electors of the Town as to those ordinances that are subject to the referendum power reserved in said Constitution. Such ordinances shall be referred pursuant to the Colorado Revised Statutes that establish procedures for a municipal referendum, except as otherwise provided in this Charter and in ordinances not inconsistent with this Charter.

(2) The Town shall follow constitutional and statutory requirements for the referendum process as the same now exist or as they may hereafter be amended.

(3) A referendum petition shall be signed by registered electors of the Town equal in number to at least ten percent (10%) of the total number of

registered electors of the Town as of the final date of publication of the ordinance at issue.

(4) The Town Clerk shall not count as valid any signature on a referendum petition if the date of the signature is prior to the date the form of the petition was approved by the Town Clerk.

(5) Complete referendum petitions must be filed within ~~thirty~~ forty-five (~~30~~45) days after adoption by the Council of the ordinance sought to be reconsidered.

(6) When a valid referendum petition is filed with the Town Clerk, the ordinance sought to be reconsidered shall remain in effect until such time as:

(a) The Council, at its discretion, suspends the ordinance pending an election, or

(b) The ordinance is voted down in an election held for that purpose, or

(c) A court order reverses the ordinance.

10~~1~~.03 Petitioners' Committee. Any two (2) registered electors of the Town may commence initiative or referendum proceedings by filing with the Town Clerk during regular business hours an affidavit stating the following:

(1) Identification of the ordinance that may be subject to a referendum or initiative petition;

(2) They will constitute the Petitioners' Committee; and

(3) Stating their names and mailing address to which all notices to the Committee are to be sent.

10~~1~~.04 Form and Content of Petitions.

(1) The petition shall set out in full the proposed initiative or cite the ordinance sought to be reconsidered. All pages of the petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. Each signature shall be executed in nonerasable ink and shall be followed by the printed name, street address of the person signing and date of signature. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance or proposed Charter amendment sought to be considered.

(2) The form of petition shall be submitted to the Town Clerk, during regular business hours, for review and approval. The Town Clerk shall approve or reject the form of the petition no later than five (5) business days following the date on which the Clerk received the petition for review.

101.05 Affidavit of Circulator. Each page of a petition shall have attached to it when filed, an affidavit executed by the circulator thereof stating the following:

(1) The affiant's name, address, and the date the affiant signed the affidavit;

(2) That the affiant has read and understands the laws governing the circulation of petitions;

(3) That the affiant was eighteen (18) years of age or older at the time of circulating the petition;

(4) That the affiant personally circulated the petition;

(5) That all signatures were affixed in his or her presence;

(6) That the affiant believes the signatures to be the genuine signatures of the persons whose name they purport to be;

(7) That, to the best of affiant's knowledge, all signatures are of persons who are registered electors of the Town of Eagle;

(8) That the affiant has not paid or will not in the future pay, and that the affiant believes that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix the signer's signature to the petition.

101.06 Procedure After Filing.

Within thirty (30) working days after a petition is filed, the Town Clerk shall complete a certificate as to its sufficiency and as to the validity of the signatures thereon, specifying if it is insufficient the particulars wherein it is defective. The Town Clerk shall promptly send by mail a copy of the certificate to the Petitioners' Committee.

101.07 Action by Town Council. When an initiative or referendum petition has been finally determined sufficient, the Council shall, within thirty (30) days, either:

(1) Adopt the ordinance as submitted by the initiatory petition; or

(2) Repeal the ordinance, or part thereof, referred to by referendum petition; or

(3) Determine to submit the proposal provided for in a petition to the registered electors of the Town; provided, however, the Council shall have power to change the detailed language of any proposed initiative ordinance and to affix the title thereto without changing the meaning of the initiative ordinance.

10~~1~~.08 Results of Election.

(1) Initiative. If a majority of the registered electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the same election, the one (1) receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(2) Referendum. If a majority of registered electors voting on a referred ordinance vote for repeal, it shall be considered repealed upon certification of the election results.

(3) Amendment or repeal. An ordinance adopted by the electorate may not be amended or repealed for the period of six (6) months after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be reenacted for a period of six (6) months after the date of the election at which it was repealed; provided, however, that any ordinance may be adopted, amended or repealed at any time by appropriate referendum or initiative procedure in accordance with the foregoing provisions of this Article, or if submitted to the electorate by the Council on its own motion. A proposed ordinance or proposed Charter amendment that fails at the election held to consider it shall not be refiled as an initiative petition for at least six (6) months after the election held to consider said ordinance or Charter amendment.

10~~1~~.09 Town Council Referral. The Council shall have the power to submit to a vote of the registered electors of the Town, without receipt of any petition, any proposed ordinance or any question.

10~~1~~.10 Withdrawal of Petition. No initiative or referendum petition may be withdrawn once it has been certified as sufficient by the Town Clerk.

10~~1~~.11 Exceptions. Notwithstanding these provisions for initiative and referendum, the following ordinance matters shall not be subject to initiative and referendum:

(1) Ordinances addressing budgets, capital programs, appropriations, levies of taxes, economic development, and salaries of Town officers or employees shall not be subject to initiative.

(2) Ordinances addressing budgets, capital programs, appropriations, levies of taxes, ~~economic development,~~ salaries of Town officers or employees, special elections, emergencies, authorization of issuance of improvement district bonds payable in part from special assessments, levying special assessments, or contractual obligations of the Town shall not be subject to referendum.

10~~1~~.12 Recall.

(1) A petition to recall any Council Member may be filed at any time after the Council Member has been in office for six (6) months, pursuant to the Colorado Revised Statutes that establish procedures for the recall of municipal elected officers, as the same may be amended from time to time, except as otherwise provided in this Charter and in ordinances not inconsistent with this Charter.

(2) A petition to recall a Council Member must be presented to the Town Clerk for review and shall name not less than three (3) and not more than five (5) registered electors who shall represent the recall effort and specify a mailing address where notices related to the petition shall be sent.

(3) The petition shall include a statement, in not more than two hundred (200) words, of the grounds on which the recall is sought.

(4) No recall petition shall be circulated until approved as to form by the Town Clerk. The Town Clerk shall approve or disapprove the form of the petition by the close of the ~~second~~ third business day following submission of the proposed petition, and the Clerk shall mail notice of his or her action to the Council Member sought to be recalled on the day that any such petition is approved.

(5) A petition to recall a Council Member shall be signed by registered electors of the Town, ~~or, if applicable, ward or district from which the Council Member was elected and a petition to recall the Mayor shall be signed by registered electors of the Town~~. Each signature shall be executed in nonerasible ink and shall be followed by the printed name,

street address of the person signing and date of signature. The signers shall number at least twenty-five (25) percent of the number of eligible electors of the ~~ward, district, or~~ Town~~, as applicable,~~ at the last preceding regular election.

(6) The Town Clerk shall not count as valid any signature on a recall petition if more than thirty (30) days have elapsed between the date the petition was approved by the Town Clerk and the date of the signature.

(7) The signed recall petition shall be submitted to the Town Clerk during regular business hours, and the Town Clerk shall issue a statement to the mailing address provided in Section ~~11~~10.12(2) and the incumbent of the number of valid signatures and whether the recall petition is sufficient or insufficient by the close of business on the fifth business day after the petition is filed.

(8) Written protests to the determination of sufficiency may be filed by registered electors of the Town within fifteen (15) days after the filing of the petition. Protests shall be processed in accordance with the Colorado Revised Statutes.

(9) If a recall petition is determined sufficient, the Town Clerk shall submit it to the Town Council at the first regular meeting of the Council after the close of the protest period.

(10) The recall election shall be held not less than thirty (30) days nor more than ninety (90) days from the date of the determination of the sufficiency of the petition. However, if a regular municipal or statewide general election is scheduled to be held within one hundred eighty (180) days after submission of a recall petition, even though that election is not the one at which the office held by the person sought to be recalled would otherwise be filled, the recall election shall be held at the same time as that regular municipal or statewide general election.

(11) After one (1) recall petition and election, no further petition shall be filed against the same person during the term for which Council Member was elected or appointed, unless the signers number at least fifty (50) percent of the number of registered electors at the last preceding regular election.

Article XI~~I~~
Miscellaneous Provisions

1~~2~~1.01 Purchase, Sale or Lease of Real Property. The Council by ordinance may purchase, sell, exchange or dispose of any interest in real property. The Council by resolution may lease, for such a term as the Council shall determine, any real property to any person, firm or corporation, public or private.

1~~2~~1.02 Eminent Domain. The Town shall have the right of eminent domain for all municipal purposes, either within or without the limits of the Town.

1~~2~~.03 Contracts with Other Governmental Entities. The Council may by resolution enter into contracts or agreements with other governmental or quasi-governmental entities.

1~~2~~.04 Bequests, Gifts and Donations.

(1) The Council, on behalf of the Town, may receive or refuse bequests, gifts and donations of all kinds or property in fee simple or in trust, for public, charitable or other purposes, and do all things and acts necessary to carry out the purposes of such bequests, gifts and donations, with the power to manage, lease, sell or otherwise dispose of the same in accordance with the terms of the bequests, gifts or trust.

(2) The Council may provide in each annual budget for the amount, if any, of money that the Council may have available to donate for public, charitable or other purposes. The Council may delegate the responsibility for such bequests, gifts and donations to such persons as the Council may deem advisable.

1~~2~~.05 Contracts for Purchases, Leases, and Construction of Public Works.

(1) The Council may establish procedures for entering into contracts for purchases, contracts for leases and contracts for construction of public works.

(2) Purchases of or contracts for supplies, material, equipment or improvements shall be made under such requirements regarding competitive bidding as shall be prescribed by Town Council.

1~~2~~.06 Amendment.

(1) In addition to the provisions otherwise stated in this Charter, this Charter may be amended in the manner provided by Article XX of the

Constitution of the State of Colorado at any general election or special election called for such purpose under the following circumstances:

(a) Upon ~~questions that submitted~~proposed amendments referred to the Town electors by a majority of the Council; or

(b) Upon ~~questions~~ proposed amendments submitted by electors pursuant to the initiative process~~submitted by the electors~~.

(2) If provisions of two (2) or more proposed amendments adopted or approved at the same election conflict, the amendment receiving the greatest number of votes shall prevail on the conflicting issue.

11~~2~~.07 Effect of Colorado Revised Statutes. The power to supersede any law of the State of Colorado now or hereafter in force, insofar as it applies to local or municipal affairs, shall be reserved to the Town, acting by ordinance, subject only to restrictions of the State Constitution and subsequent amendments to this Charter and by ordinance. Unless otherwise provided by this Charter or by ordinances adopted by the Council hereunder, the statutes of the State of Colorado shall be in effect.

11~~2~~.08 Severability. If any provision, article, section, sentence, clause or part of this Charter, or the application thereof to any person or circumstance, is adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such adjudication shall not affect, impair or invalidate the Charter as a whole or any part hereof other than the parts so adjudged to be invalid, and to this end, the provisions of this Charter are declared to be severable.

11~~2~~.09 Chapter Titles and Subheadings. The Chapter titles and subheadings in this Charter are inserted for convenience and reference only and shall not be construed to limit, describe or control the scope or intent of any provision herein.

11~~2~~.10 Construction of Words. Except as otherwise specifically provided or indicated by the context hereof, all words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter but shall extend to and include the time of the happening of any event or requirement for which provision is made herein. The singular number shall include the plural, the plural shall include the singular, and the masculine gender shall extend to and include the feminine gender and neuter. "Person" may extend to and be applied to bodies politic and corporate and to partnerships as well as individuals.

11~~2~~.11 Indemnification of Mayor and Council. The Council may indemnify any Council member, the Mayor, any employee or any appointed official who was or is a

party or is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding by reason of the fact that he or she is or was an officer of the Town, against expenses (including attorney fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit, or proceeding if he or she acted in good faith within the scope of his or her employment, ~~and~~ in a manner he or she reasonably believed to be in the best interest of the Town, and had no reasonable cause to believe his or her conduct was unlawful.

Article XII~~I~~
Transition Period

1~~3~~2.01 Purpose of Transitional Provisions. The purpose of this Article is to provide for an orderly transition from the present Town government of Eagle to a Home Rule Town government under provisions of this Charter. The provisions of this Article shall constitute a part of this Charter only to the extent necessary to accomplish that purpose.

12~~3~~.02 Effective Date of Charter. This Charter shall become effective immediately upon voter approval at a regular or special election held for the purpose of considering this Charter.

12~~3~~.03 Continuation of Appointed Officers and Employees.

(1) All appointed officers and all employees of the Town at the time this Charter is adopted shall continue in that office or employment that corresponds to the Town office or employment that they held prior to the effective date of this Charter.

(2) They shall, in all respects, be subject to the provisions of this Charter, as though they had been appointed or employed in the manner provided in this Charter, except that any officer or employee who holds a position that this Charter provides to be held at the pleasure of Council shall hold such position only at such pleasure regardless of the term for which he or she was originally appointed or hired.

12~~3~~.04 Continuation of Prior Town Legislations. All bylaws, ordinances, resolutions, contracts, rules and regulations of the Town in force at the time this Charter becomes effective shall continue in full force except insofar as they conflict with the provisions of this Charter or are subsequently amended or repealed by ordinance enacted under authority of this Charter.

12~~3~~.05 Savings Clause. This Charter shall not affect any suit pending in any court or any document heretofore executed in connection therewith. Nothing in this Charter shall invalidate any existing contracts between the Town and individuals, corporations or public agencies.

THE TOWN OF EAGLE
CHARTER COMMISSION
CERTIFICATE OF FINAL ADOPTION

We, the undersigned, present members of the Town of Eagle Home Rule Charter Commission, duly elected by the people of Eagle, Colorado, at a regular election held on _____, under the authorization of Article XX of the Constitution of the State of Colorado, to frame a Home Rule Charter for the Town of Eagle, do hereby certify that the foregoing is the Proposed Charter as finally approved and adopted by the members of the Charter Commission on the ~~5th~~ ___day of ~~January, 2016~~_____, for submission to the Town of Eagle Board of Trustees for referral to the people of Eagle at the general election of _____.

Respectfully submitted to the Board of Trustees at Eagle, Colorado, the ___ day of _____, 20___.

_____ _____

_____ _____

_____ _____

_____ _____

_____

Comprehensive Parking Lot List for the Charter Commission

Things to Take to the Public

Meeting #2

Article 3.01.2 – Should the town have an "at large" mayor or one appointed by the council?

Article 3.01.3 – Should the town have a limit of 2 terms with a 2-year cooling off period, 3 terms as a limit, or no term limits?

Meeting #3

3.01 – Should board members serve 2 or 3 terms at a time?

6.02 – What timeframe should we have between the date of publication and when an ordinance would take effect.

Meeting #4

What percentage should it take to get an Initiative or Referendum on the ballot? The charter commission proposed 10% of registered electors and 45 days to collect.

Legal Questions That Need Review

Meeting #2

Article 1 – should we consider Eagle a "city" or a "town" and what is the threshold for us to have a choice.

Article 2 – Does the "other utility services" clause in the right for the town to purchase and build utilities cover something that is not a "utility", like Broadband?

Article 2 – what was the intention by the affidavit to state no outside political party affiliation in running for elected position? Is there precedent for this?

Article 3 – Is there anything in the state statute that would prohibit the town any opportunities for Economic Development that we would compromise by not including it in the charter and only relying on statute for Executive Sessions?

Meeting #3

1.04(6) – What does “disposal” mean? (regarding disposal of parkland and property)

3.02(e) – Article VII – How do we phrase that the board defers to the court to hear appeals?

3.02(2) – They would like the language to be clearer for this section

3.12 – The section needs cleaned up, and to include the Town Manager and Attorney in Exec. Sessions by default.

4.01(2) – Board of Trustees needs to be able to delegate the Town Manager to sign contracts

5.02 – Committees and commissions, distinction between time and legal authority, need for open records steps, and appointment process?

7.01(1) – Is this language complete? Janet thought there might be missing words

7.02 (2) – Can we have this language reflect a desire to have the Police Chief POST certified, but not required at the date of hire?

Meeting #4

7.02 – Do we need the language in here regarding Public Safety? Is this limiting?

8.04(3) – Is only one previous year budget lower than statute? Should budgets be presented with the two previous years?

9.06(2) – Does this language encumber the town?

9.08 – What constitutes “assignment” and when would the town have a say on a new franchise?

11.01 – Can initiatives take 45 days to submit? (I believe this was answered, statute was 180)

11.02 – What subjects would and would not qualify for referenda? 11.11 mentioned “economic development, and what does that mean?

11.12 – Can we strike the recall section and simply refer to state statute with a general paragraph?

12.11 – Scope of employment covered in indemnification?

Notes for Suggested Legislation

Meeting #2

Article 1 – Suggestion for a resolution outlining the process for filling vacancies

Article 2 – legislation creating a park/open space overlay that does not allow for the town to dispose of it without a vote of the people. This was something Matt was going to look into as well.

Article 3 – Suggestion to improve the gravity of conflict of interest, particularly around serving on multiple boards that may have a relational interest

Meeting #3

1.04(6) – Could we create a designated "Open Space" zoning like they have in Vail?

2.02 – Serving on the Board of Trustees is a non-partisan role.

2.0 (general) – Should the town consider an approval voting or ranked voting process?

3.02.3 – Can we adopt a transparent process for qualifying appointments to boards and commissions?

> Also, adopt a code of ethics to be adopted by resolution of the Board

> Within the code of ethics, stipulate that you can only serve on one elected board at a time.

4.01 – Should the Town craft an Emergency Declaration Ordinance?

4.03 – Does there need to be language in the charter about the "competency" and "residency" requirement for the Town Manager?

Meeting #4

8.04 – Should we have a public engagement process for plans, policies, goals, and strategies for the Town to include as feedback and to help constitute the budget process?

9.03 – Should the town specifically require an appraisal before dealing with transfer or disposal of water rights and property?

Misc. – Should there be a general penalty clause that would cover council members violating the town charter?