HOME RULE CHARTER COMMISSION
MINUTES
Wednesday, December 11, 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

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, Chair

Jenny Rakow, CMC Town Clerk