

East Lyme Charter Revision Commission Draft Report to the Board of Selectmen

The East Lyme Charter Revision Commission, appointed by the Board of Selectmen on April 2, 2008, has concluded its study and debate of potential changes and amendments to the East Lyme Town Charter proposed by the Selectmen, the Public and members of the Commission. A description of each topic and the nature of the Commission's deliberation on each will follow herein.

Summary

We propose the following changes to the Town Charter:

1. That Section 7.3 be amended to require that the Annual Town Meeting be held for discussing the proposed town budget and, thereafter, that the proposed town budget be subject to an **automatic referendum** by machine vote. *Specific language proposed for this change is included in this report.*

2. That Section 4.1.1 be revised to provide that within **30 days** of taking office, the Board of Selectmen shall appoint, as required in Sections 4.2 and 4.3, unless otherwise provided by ordinance, the members of all Boards and Officers authorized by Charter.

3. That Section 5.4 having to do with a **Director of Health** be revised to read:

5.4 Director of Health.

The Board of Selectmen shall appoint a Director of Health for a term of four years who shall have the powers and duties prescribed by law or alternatively the Board of Selectmen may vote to join a District Department of Health as authorized by the Connecticut General Statutes.

4. That the Board of Tax Review be re-named the **Board of Assessment Appeals**.
Section 2.1.3 and Section 6.2.1.

5. That Section 3.3.1.5 and Section 7.7 be revised to increase the \$1,000 limit on **real estate purchases** by the Board of Selectmen to \$10,000.

The most significant revision is the proposed change which would require the Town Meeting vote on the annual budget be taken at an automatic referendum. This was the first item the Board of Selectmen charged the Commission to consider, and was of the most interest to both Commissioners and members of the public who communicated with us during the past year. We invite reference to the Commission's meeting minutes for details of the discussion/debate of this issue. A majority of the Commission felt that an automatic referendum will be a more fair and inclusive test of the public's will than a Town Meeting vote. The Town Meeting will still be held to present the budget and allow for public comment (and such other business as required). The budget has always been subject to public approval; the vote will now be conducted by different means.

A minority of the members felt that the existing format should be retained and that referenda should be the exception rather than the rule; and as the Town continues to grow, future charter revision commissions should consider alternatives to the Town Meeting referenda approval process.

Specific language for the revised Section 7.3 is as follows:

7.3 Annual Budget Meeting

The annual budget meeting shall be limited to a public presentation of the Town of East Lyme Budget by the Board of Finance, Board of Selectmen and Board of Education with an opportunity for public participation by comments and questions. After reasonable discussion, the moderator shall adjourn the meeting to a referendum on the voting machines. The budget resolution will be submitted to the persons qualified to vote in a town meeting by referendum by machine vote which shall take place not less than seven (7) or more than fourteen (14) days thereafter, on a day to be set by the annual budget meeting. At least five (5) days prior to such referendum, the Board of Selectmen shall publish in a newspaper having general circulation in the town a notice of such referendum, setting forth the date on which, the hours during which, and the locations at which the referendum will be held and the text of the questions as they will appear on the voting machine.

The text shall provide for approval/disapproval of the Budget of the Town of East Lyme.

- 1. In favor of the proposed Budget of the Town of East Lyme for the fiscal year July 1, ___ to June 30, ___ in the amount of \$_____.

Yes No

Should the budget section fail to be approved by a majority of those voting thereon, the Board of Finance shall forthwith revise estimated expenditures, without altering estimates of revenue except for omissions, clerical errors, or revisions of revenue to be received from the state, to arrive at revised spending levels and automatically submit the revised budget section(s) to referendum 14 days following the date the initial budget referendum was defeated. The Board of Finance shall hold at least one (1) public hearing upon five (5) days legal notice prior to submitting the revised budget section(s) for consideration. This process shall be repeated at two (2) week succeeding intervals until such time as the total budget is adopted.

In the event said budget is not adopted by the third Wednesday in June, business shall be conducted in accordance with Section 7-405 and 12-123 of the General Statutes, as amended.

Items 2 through 5 are relatively minor changes; the language of the charter is revised in each instance to reflect actual or common practice or procedures.

The Commission rejected a number of Charter revision items suggested variously by the Selectmen, the Public and individual members of the Commission. A majority felt that the Town Charter is the instrument that creates the form and structure of town government, and establishes administrative procedures and therefore should not be an instrument of policy or political expediency. It should not be revised or burdened with items that are best dealt with via town ordinance, or already subject to state statute. Each item proposed to the Commission was subject to this basic test: does the proposal, regardless of practical merit, belong in the Charter, or is it best considered elsewhere? Reference is invited to the Commission's meeting minutes for specifics of our discussions.

Items rejected by the Commission:

Alternates to Board of Finance. A majority of Commission members felt that the Board of Finance is unique among town Boards and Commissions in that it spends the entire year on a single ongoing matter, rather than hearing individual cases or proposals throughout the year. Seating an alternate member temporarily seems ineffective. Also, the Board of Selectmen is authorized by statute to appoint alternates to Board of Finance, and the item need not be addressed in the Charter.

Bifurcation – Separate Referenda for General Government and Education Budgets.

There was some public support, and interest within the Commission for this issue. It is the consensus that although the idea may have merit, it deserves broader public exposure and debate before consideration as a permanent Charter Revision.

Participation of Public Employees on Boards and/or Commissions. It was proposed that employees of the Town be disqualified from serving on elected Boards or Commissions. This item is covered by state statute, and is beyond the purview of a municipal charter.

Four Year Term of Office for First Selectmen. This was proposed and defeated by voters just four years ago. Public comment and Commission debate were generally against re-visiting this item.

Review Statute for Filling Vacancy on Board of Selectmen. This item was added for consideration after being suggested during public hearing, but was rejected as not relevant to the Charter.

Facilities Manager. It was proposed by several sources that the Charter be revised to establish the position of a facilities manager to oversee the maintenance and physical plant operations of town-owned buildings and facilities, including the schools and other Board of Education properties. The item was debated at length throughout the past year, and enjoyed

considerable support. It is the consensus opinion, however, that this item is uniquely related to policy rather than procedure, and so fails to meet the standard for inclusion in the Charter. Establishment of such a position is possible by other means, including ordinance, and it is the understanding of the Commission that the Board of Selectmen continues to investigate the issue. Whether the Board of Education could be required by charter or ordinance to submit to a facilities manager is subject to considerable legal questions.

Police Commission. Some proposed that the Town establish, by Charter, a permanent Commission to oversee the operation of the Town Police. This issue had some support, but was rejected as not practical while the Town is served by the CT State Police through the Resident State Trooper program. A Police Commission may be appropriate for inclusion in the charter, or established by ordinance, at such time as the Town organizes a police department independent of the State Police.

Town Manager. Several suggested a public hearing, that the town reorganize the present form of government and establish the position of a hired (not elected) Town Manager. Generally, the Commission felt that the Town of East Lyme has been well served by the First Selectman, Board of Selectmen form of government.

Election of Selectmen by District. Rejected as unnecessary and inappropriate.

Enforcement Clause. A suggestion from public hearing, that the Charter should include language establishing means for the enforcement of Charter provisions. This was rejected as having no practical effect and covered by state statute.

Residency Requirement for Election. This proposal was to address the possibility that a candidate for an elected Town office need not be a resident of the Town until actually taking office. This was rejected as unnecessary, and covered by State Statute.

Retention of Minutes. It was suggested that Charter language create a requirement that the Board of Selectmen retain permanently all minutes it is required at present to keep for six years. This was rejected as of no practical effect, as the Town Clerk retains minutes of all Town Boards and Commissions in perpetuity.

Annual Town Audit Subject to Competitive Bid. It was proposed to revise the Charter to require that the Board of Finance award the annual Town audit by competitive bid. This was rejected as inappropriate for inclusion in the Charter, and best left in the hands of the Board of Finance.

Who Votes on the Budget? The Commission was asked to consider eligibility to vote on the annual budget; should non-resident property owners be excluded from voting? At present, all electors and persons owning taxable property in East Lyme are eligible. The Board generally

agreed that it is appropriate for taxpayers to be allowed to vote on the budget as set forth in the statutes.

Charter Section 8 – Can it be eliminated? On the advice of the Town Attorney, the Commission rejected the elimination of Charter Section 8 (see letter from Town Attorney attached.)

In accordance with CT General Statute 7-188, the Commission submits this draft report to its appointing authority, the Board of Selectmen. We will re-convene to consider changes and/or recommendations (if any) from the Selectmen after public hearing and review.

Respectfully submitted,

Leonard Goldberg, Chairman
East Lyme Charter Revision Commission

Date

Exhibits:

- Members of Charter Revision Commission
- Charge of Board of Selectmen
- Letter from town Attorney