

AGENDA

ITEM

4.a.

**CLINTON BOARD OF SELECTMEN
TUESDAY, OCTOBER 13, 2009
6:30 P.M.
SELECTMEN'S ROOM, TOWN OFFICE**

MINUTES

CALL TO ORDER: Chairman Towne called the meeting to order at 6:30 p.m.

PLEDGE OF ALLEGIANCE: Chairman Towne led the Pledge of Allegiance.

SELECTMEN PRESENT / QUORUM: Chairman Jeff Towne, Vice Chair David Watson II, Randy Clark, Geraldine Dixon. Also present Town Clerk Pamela Violette and Deputy Town Clerk Shirley Bailey. Selectman Justin Cote was absent.

Approval of Selectmen's Meeting Minutes – September 22, 2009.

Selectman Clark moved the Board approve minutes of the September 22, 2009 meeting, seconded by Selectman Dixon. Vote 4 – 0 Approved

Resolution 09-13: Board of Selectmen Acknowledgment of Receipt of Citizen Petition to place the Police Department Budget on a warrant.

Michael Walton presented Petitions to the Board of Selectmen regarding the Town of Clinton Police Department .

Resident Leo Duprey presented a letter concerning the Police Department. Copy attached.

Selectman Clark moved the Board adopt Resolution 09-13, seconded by Selectman Dixon. Vote – 2 - 2 Motion failed. Selectman Clark moved the Board open Resolution 09-13 for discussion only, seconded by Selectman Watson. Board removed paragraphs 2 & 3 from Resolution 09-13. Vote 3 – 1 Approved as amended. Selectman Watson opposed.

Special Town Meeting Warrant December 8, 2009.

Selectman Clark moved Board approve the Special Town Meeting Warrant for December 8, 2009 seconded by Selectman Dixon. Vote 2 - 2 Motion failed.

Selectman Dixon moved Board insert Citizen Petition Article in the next town meeting warrant, second by Selectman Clark. Vote 4-0

Board appointment of Shirley J. Bailey, Deputy Town Clerk, as the Warden for the November 3, 2009 Referendum Election.

October 13, 2009 Selectmen Minutes

Selectman Dixon moved the Board appoint Shirley J. Bailey as the Warden for the November 3, 2009 Referendum Election seconded by Selectman Clark. Vote 4 – 0 Approved

Board adoption of the Maine Municipal Association Model Ordinance General Assistance Appendices (A-C) for the period October 1, 2009 to October 1, 2010 as revised September, 2009.

Selectman Clark moved Board adopt the Maine Municipal Association Model Ordinance General Assistance Appendices (A-C) for the period October 1, 2009 to October 1, 2010 as revised September, 2009 seconded by Selectman Dixon. Vote 4 – 0 Approved

Board appointment of Christopher L. Murdock, 1309 Main Street, Unit # 3, Clinton, Maine as a regular member of the Parks and Recreation Board for the term October 14, 2009 to June 30, 2012.

Selectman Clark moved Board appoint Christopher L. Murdock, 1309 Main Street, Unit # 3, Clinton, Maine as a regular member of the Parks and Recreation Board for the term October 14, 2009 to June 30, 2012, seconded by Selectman Dixon. After some discussion, the Board decided they would prefer more information concerning a resident that is being considered as board or committee member and have the resident attend a Selectmen's meeting. Selectman Clark withdrew his motion and Selectman Dixon also withdrew her second.

Board confirmation of the Town Manager's appointment of Robert G. Sharkey as the Code Enforcement Officer for the term October 6, 2009 through June 30, 2010.

Selectman Clark moved Board confirm the appointment of Robert G. Sharkey as the Code Enforcement Officer for the term October 6, 2009 through June 30, 2010 seconded by Selectman Dixon. Vote 4 – 0 Approved.

DISCUSSION ITEMS

Selectman Watson: Signage.

Selectman Watson stated a need for signs to notify the citizens of Clinton when there is voting.

Police Chief Runnels: Report to BOS regarding enforcement of Curfew Ordinance and requested future changes to the ordinance.

Chief Runnels stated the need for a change in the ordinance to hold parents responsible.

SUPPLEMENTS AND ABATEMENTS

Selectman Clark moved Board accept Abatement 2009 #7 Account #567 in the amount of \$2093.57 seconded by Selectman Dixon. Vote 4 - 0 Approved
Reason for request: 4 Units completely gutted prior to April 1, 2009

Selectman Clark moved Board accept Abatement 2007 #9 Account #105 PP in the amount of \$174.00 seconded by Selectman Dixon. Vote 4 - 0 Approved
Reason for request: Moved Personal Property out of town.

Selectman Clark moved the Board accept Abatement 2008 #10 Account #105 PP in the amount of \$184.32 seconded by Selectman Dixon. Vote 4 - 0 Approved
Reason for request: Moved Personal Property out of town.

Selectman Clark moved Board accept Abatement 2009 #11 Account #105 PP in the amount of \$184.32 seconded by Selectman Dixon. Vote 4 - 0 Approved
Reason for request: Moved Personal Property out of town.

Selectman Clark moved Board accept Abatement 2006 #12 Account #105 PP in the amount of \$190.80 seconded by Selectman Dixon. Vote 4 - 0 Approved
Reason for request: Moved Personal Property out of town.

Selectman Clark moved Board accept Abatement 2009 #13 Account #51 in the amount of \$711.17 seconded by Selectman Dixon. Vote 4 - 0 Approved Reason for request: Purchased 75 acres and were assessed for 100 acres.

Selectman Clark moved Board accept Abatement 2009 #14 Account #981 in the amount of \$299.52 seconded by Selectman Dixon. Vote 4 - 0 Approved
Reason for request: Assesses for 5.8 Acres only owns 2.77.

Selectman Clark moved Board accept Abatement 2009 #15 Account #978 in the amount of \$1265.66 seconded by Selectman Dixon. Vote 4 - 0 Approved
Reason for request: Did not purchase this parcel with sale.

Selectman Clark moved Board accept Supplementary Assessment #5 Account #978 in the amount of \$1,265.66 seconded by Selectman Dixon. Vote 4 - 0 Approved

Selectman Clark moved Board accept Supplementary Assessment #6 Account #4 in the amount of \$2,185.73 seconded by Selectman Dixon. Vote 4 - 0 Approved

Selectman Clark moved Board accept Supplementary Assessment #7 Account #563 in the amount of \$1,099.16 seconded by Selectman Dixon. Vote 4-0 Approved

Selectman Clark moved Board accept Supplementary Assessment #8 Account, #281 in the amount of \$199.68 seconded by Selectman Dixon. Vote 4-0 Approved

TOWN MANAGER'S REPORT.

Expenditure Report: Town Clerk Violette reported spending as of September 30, 2009 was 25.60% compared to 24.65% last September.

Revenue Report: Town Clerk Violette reported excise tax revenue was down \$5,914.51 for September 2009.

OLD / NEW BUSINESS

Selectman Watson reported the Department of Transportation said it is up to the Town to do crosswalks. Michael Walton was told the same from DOT.

Selectman Watson responded to Michael Walton's statements from the September 22, 2009 Selectmen's meeting. Selectman Watson did not provide the Town Clerk with a copy of his statement for the minutes.

WARRANT Selectman Clark moved the Board accept Warrant #22 in the amount of \$211,473.78, seconded by Selectman Dixon. Vote 4 – 0 Approved

NEXT AGENDA ITEMS

Transfer Station: Paying for shingles
Sidewalks-crosswalks
Charter Revision
Railroad Crossing on Railroad Street
Executive Session – Town Manager

COMMENTS / QUESTIONS FROM THE PUBLIC CONCERNING MATTERS NOT RELATED TO ITEMS ON THE AGENDA. THE BOARD'S RULES OF PROCEDURE HAS IMPOSED A 15-MINUTE TOTAL TIME LIMIT.

ADJOURN: Selectman Clark motioned to adjourn at 8:43 PM seconded by Selectman Dixon. Vote 4 – 0 Approved

Respectfully Submitted

Shirley J. Bailey
Deputy Town Clerk

Good Evening:

My name is Leo Duprey; I've lived on the Mutton LN for the past 39yrs. In these 39yrs I, along with some of you in this room remember the days of Gerald Sylvester and Lee Butler. As some of you also remember they worked close with some of the ST troopers in town. Troopers like Lyndon Abbot, John Parkins, and Paul Stewart just to name a few.

I realize that times have changed out there along with the character of the town. It is in my opinion and the opinion of others that they haven't changed enough to warrant a full time PD with a budget of 175.000 this year, say nothing about the years to come. Having said that!

There has been some concern about Police response if we did not have a Clinton PD. I can tell you 1st hand that in the last 10 yrs since I have owned a certain piece of property in Clinton, and because of a boundary dispute, I have had the police at my home location 11 times. In those 11 times, less than a 3rd was town police. The other 2rds were State and County. And I might add that the state on a couple occasions were there in record time. All of this has been recorded in state and district court. I believe the fears and concerns of a slow response from ST and County if we did not have our PD have been exaggerated and unfounded.

You don't have to look very far for a town that has given up their PD. Norridgewalk took that step with fear and uncertainty, but knowing that their town also could not financially sustain a PD, and would have to rely on the State and county. Noridgewalk has 3297 towns' people and we have 3340. Not much difference from ours. I talked with the Noridgewalk town office people today to find out what, if any complaints they were hearing about not having a PD. One of the office people I talked to happen to be the daughter of the last Police Chief in Noridgewalk. She did say that at first some of the town's people were complaining that the police were not responding quickly enough, but once 911 addresses were implemented things seem to improve.

We have a couple of things going for us and that is, we now have 911 addresses and, we are right off the interstate. A state or county police officer

could leave the town of Waterville and be in Clinton in less than 7mins. This actually happen in one of the 11 visits I had from a State Police officer.

Maybe we could go back to someone like Gerald Sylvester or Lee Butler, someone who could get to know the people in town and work with State and County. It worked then, why couldn't it work now? Just a suggestion.

In closing I would just like to say that the voting people in this town have voted twice on this matter and twice voted to reject the PD budget. I believe it is the duty of the Board of Selectmen to up hold this vote.

Thank You

AGENDA

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4.b.

CLINTON FIRE DEPARTMENT

Chief Gary L. Petley
19 Church St.
Clinton, Maine 04927
207-426-8522

October 22, 2009

To: Mr. James Rhodes, Town Manager
From: Chief Gary Petley
Re: Fire Truck breakdown

As you know, on October 5, our Engine 6 (1968 American LaFrance Pumper) was enroute to Fairfield for a fuel detail at the bus garage. When the truck got off the I95 exit onto Rt 201 in Fairfield, the transmission failed, which required the truck to be towed back to Clinton for evaluation. The transmission was removed at Irving Trucking in Clinton, and taken to White and Bradstreet in Augusta for evaluation by their transmission expert. The technician was on vacation for two weeks and was able to look at it this week. (This same truck experienced a similar situation in 9/05, and had a bandaid job done to allow us to get through a few more years, hoping that maybe we could replace the truck in the very near future).

This time, however, the damage was more severe, and now requires a rebuild of the transmission. The parts are available, but due to the age of them (41 years), they are very expensive. The following is an estimate of the costs to rebuild and reinstall the transmission:

White and Bradstreet: Approx \$4,000 which includes a total rebuild, including 5 gears, sliding clutch, bearing kit, gear slider, etc, and labor.

Irving Trucking: Approx \$1,500 which includes removal of transmission, replacement of pressure plates, throwout bearing, clutch repair, and labor to reinstall all.

The total amount to repair the truck has been estimated at no more than \$5,500. This would enable the truck to remain in service, hopefully, a few more years. But keep in mind that this truck is still 41 years old, and no crystal ball can tell us how many more years it has left. I have applied for a Fire Grant for a replacement truck, but it is a long shot. The truck is currently out of service, dead in the water. Our current ISO fire rating for the town is based on the availability of 3 trucks, and could have an adverse effect if downtime is prolonged. This truck also responds to all vehicle accidents, as it carries our extrication equipment, without tying up our front-line pumper.

Please advise if I may have the approval to repair the truck, to allow the truck to get back in service as soon as possible.



AGENDA

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5.c.

Maine Revised Statutes

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§2101

Title 30-A:

§2103

MUNICIPALITIES AND COUNTIES

HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Part 2: MUNICIPALITIES HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Subpart 2: ORGANIZATION AND INTERLOCAL COOPERATION HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Chapter 111: HOME RULE HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

§2102. Charter revisions, adoptions, procedure

1. Municipal officers. The municipal officers may determine that the revision of the municipal charter be considered or that adoption of a new municipal charter be considered and, by order, provide for the establishment of a charter commission to carry out that purpose as provided in this chapter.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

2. Petition by voters. On the written petition of a number of voters equal to at least 20% of the number of votes cast in the municipality at the last gubernatorial election, but in no case less than 10, the municipal officers, by order, shall provide for the establishment of a charter commission for the revision of the municipal charter or the preparation of a new municipal charter as provided in this chapter.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

3. Petition procedure. The following procedure shall be used in the alternative method set out in subsection 2.

A. Any 5 voters of the municipality may file an affidavit with the municipal clerk stating:

- (1) That the 5 voters will constitute the petitioners' committee;
- (2) The names and addresses of the 5 voters;
- (3) The address to which all notices to the committee are to be sent; and
- (4) That the 5 voters will circulate the petition and file it in proper form.

The petitioners' committee may designate additional voters of the municipality, who are not members of the committee, to circulate the petition.

Promptly after the affidavit is filed, the clerk shall issue petition blanks to the committee. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The municipal clerk shall prepare the petition forms at the municipality's expense. The petition forms shall be printed on paper of uniform size and may consist of as many individual sheets as are reasonably necessary.

(1) Petition forms shall carry the following legend in bold lettering at the top of the face of each form.

"Municipality of"

"Each of the undersigned voters respectfully requests the municipal officers to establish a Charter Commission for the purpose of revising the Municipal Charter or preparing a New Municipal Charter."

Each signature to a petition must be in ink or other indelible instrument and must be followed by the residence of the voter with street and number, if any. No petition may contain any party or political designation.

(2) The clerk shall note the date of each petition form issued. All petitions must be filed within 120 days of the date of issue or they are void.

(3) Each petition form shall have printed on its back an affidavit to be executed by the circulator, stating:

- (a) That the circulator personally circulated the form;
- (b) The number of signatures on the form;
- (c) That all the signatures were signed in the circulator's presence;
- (d) That the circulator believes them to be genuine signatures of the persons whose names they purport to be;
- (e) That each signer has signed no more than one petition; and
- (f) That each signer had an opportunity to read the petition before signing. [1987, c. 737, Pt. A, §2

(NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Petition forms shall be assembled as one instrument and filed at one time with the clerk. The clerk shall note the date of filing on the forms. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

4. Procedure after filing. Within 20 days after the petition is filed, the clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars which render it defective. The clerk shall promptly send a copy of the certificate to the petitioners' committee by mail and shall file a copy with the municipal officers.

A. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within 2 days after receiving the copy of the clerk's certificate.

Within 10 days after this notice of intention is filed, the committee may file a supplementary petition to correct the deficiencies in the original. This supplementary petition, in form and content, must comply with the requirements for an original petition under subsection 3. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Within 5 days after a supplementary petition is filed, the clerk shall complete and file a certificate as to its sufficiency in the manner provided for an original petition. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. When an original or supplementary petition has been certified insufficient, the committee, within 2 days after receiving the copy of the clerk's certificate, may file a request with the municipal officers for review.

The municipal officers shall inspect the petitions in substantially the same form, manner and time as a recount hearing under section 2531-A and shall make due certificate of that inspection. The municipal officers shall file a copy of that certificate with the municipal clerk and mail a copy to the committee. The certificate of the municipal officers is a final determination of the sufficiency of the petitions. [1993, c. 608, §4 (AMD).]

D. Any petition finally determined to be insufficient is void. The

clerk shall stamp the petition void and seal and retain it in the manner required for secret ballots. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1993, c. 608, §4 (AMD) .]

5. Election procedure. Within 30 days after the adoption of an order under subsection 1 or the receipt of a certificate or final determination of sufficiency under subsection 4, the municipal officers shall by order submit the question for the establishment of a charter commission to the voters at the next regular or special municipal election held at least 90 days after this order.

A. The question to be submitted to the voters shall be in substance as follows:

"Shall a Charter Commission be established for the purpose of revising the Municipal Charter or establishing a New Municipal Charter?"

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1987, c. 737, Pt. A, §2 (NEW). 1987, c. 737, Pt. A, §2 (NEW). 1987, c. 737, Pt. C, §106 (NEW). 1987, c. 737, Pt. C, §106 (NEW). 1989, c. 6, (AMD). 1989, c. 6, (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 9, §2 (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1989, c. 104, Pt. C, §§8, 10 (AMD). 1989, c. 104, Pt. C, §§8, 10 (AMD). 1993, c. 608, §4 (AMD).

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Office of the Revisor of Statutes

**7 State House Station
State House Room 108
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Maine Revised Statutes

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§2102

Title 30-A:

§2104

MUNICIPALITIES AND COUNTIES

HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Part 2: MUNICIPALITIES HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Subpart 2: ORGANIZATION AND INTERLOCAL COOPERATION HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Chapter 111: HOME RULE HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

§2103. Charter commission, membership, procedure

1. Membership. The charter commission shall consist of several voters in the municipality, elected under paragraph A, and 3 members appointed by the municipal officers under paragraph B.

A. Voter members must be elected by one of the following methods:

- (1) Six voter members are elected in the same manner as the municipal officers, except that they must be elected at-large and without party designations;
- (2) One voter member is elected from each voting district or ward in the same manner as municipal officers, except that the voter member must be elected without party designation; or
- (3) Voter members are elected both at-large and by district or ward, as long as the number of voter members is the same as the number of municipal officers on the board or council of that municipality and the voter members are elected in the same manner as the municipal officers, except that they must be elected without party designation.

Election of voter members may be held either at the same municipal election as the referendum for the charter commission or at the next scheduled regular or special municipal or state election that is no more than 200 days after the referendum authorizing the charter commission. The names of the candidates on the ballot must be arranged alphabetically by last name. If the elections are held at the same time, the names of the candidates must appear immediately below the question relating to the charter commission. [2007, c. 495, §1 (AMD).]

B. Appointive members need not be residents of the municipality, but only one may be a municipal officer. The

municipal officers shall make the appointments in accordance with municipal custom or bylaws within 30 days after the election approving the establishment of the charter commission. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD); 2007, c. 495, §1 (AMD) .]

2. Organization. Immediately after receiving notice of the appointment of the members by the municipal officers, the municipal clerk shall notify the appointed and elected members of the charter commission of the date, time and place of the charter commission's organizational meeting. The clerk shall set the date, time and place of the meeting and give at least 7 days' notice of the meeting.

The charter commission shall organize by electing from its members a chairman, vice-chairman and a secretary and shall file notice of these elections with the municipal clerk. Vacancies occurring on the commission shall be filled by vote of the commission from the voters of the municipality, except that a vacancy among appointive members shall be promptly filled by the municipal officers. Members shall serve without compensation, but shall be reimbursed from the commission's account for expenses lawfully incurred by them in the performance of their duties.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

3. Regulations, staff. The charter commission may adopt regulations governing the conduct of its meetings and proceedings and may employ any necessary legal, research, clerical or other employees and consultants within the limits of its budget.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

4. Funding. A municipality shall provide its charter commission, free of charge, with suitable office space and with reasonable access to facilities for holding public hearings, may contribute clerical and other assistance to the commission and shall permit it to consult with and obtain advice and information from municipal officers, officials and employees during ordinary working hours. Within 20 days after the members of a charter commission are elected and appointed, the municipal officers shall credit \$100 to the charter commission account. A municipality, from time to time, may appropriate additional funds to the charter commission account. These funds may be raised by taxation, borrowed or transferred from surplus.

A. In addition to funds made available by a municipality, the

charter commission account may receive funds from any other source, public or private, except that no contribution of more than \$5 may be accepted from any source other than the municipality, unless the name and address of the person or agency making the contribution and the amount of the contribution are disclosed in writing filed with the clerk. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Prior to its termination, the charter commission shall file with the clerk a complete account of all its receipts and expenditures for public inspection. Any balance remaining in its account shall be credited to the municipality's surplus account. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

5. Hearings, reports, time limits. The following requirements regarding hearings, reports and time limits apply to a charter commission.

A. Within 30 days after its organizational meeting, the charter commission shall hold a public meeting to receive information, views, comments and other material relating to its functions. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The charter commission shall hold its public hearings within the municipality at the times and places set by the commission. At least 10 days before a hearing, the charter commission shall publish the date, time and place of the hearing in a notice in a newspaper having general circulation in the municipality. Hearings may be adjourned from time to time without further published notice. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Within 9 months after its election, the charter commission shall:

- (1) Prepare a preliminary report including the text of the charter or charter revision which the commission intends to submit to the voters and any explanatory information the commission considers desirable;
- (2) Have the report printed and circulated throughout the municipality; and
- (3) Provide sufficient copies of the preliminary report to the municipal clerk to permit its distribution to each voter requesting a copy. [1987, c. 737, Pt. A, §2 (NEW);

1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Within 12 months after its election, the charter commission shall submit its final report to the municipal officers. This report must include:

- (1) The full text and an explanation of the proposed new charter or charter revision;
- (2) Any comments that the commission considers desirable;
- (3) An indication of the major differences between the current and proposed charters; and
- (4) A written opinion by an attorney admitted to the bar of this State that the proposed charter or charter revision does not contain any provision prohibited by the United States Constitution, the Constitution of Maine or the general laws.

Minority reports if filed may not exceed 1,000 words. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The municipal officers may extend the time limits for the preparation and submission of preliminary and final reports of the charter commission for up to 24 months after the election of the commission if the extension is necessary to:

- (1) Properly complete the reports;
- (2) Have them printed or circulated; or
- (3) Obtain the written opinion of an attorney. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

6. Election. When the final report is filed, the municipal officers shall order the proposed new charter or charter revision to be submitted to the voters at the next regular or special municipal election held at least 35 days after the final report is filed.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

7. Charter modification summaries. When a proposed charter revision is submitted to the voters in separate questions as charter modifications under section 2105, subsection 1, paragraph A, and the municipal officers, with the advice of an attorney, determine that it is not practical to print the proposed charter modification on the ballot and that a summary would not misrepresent the subject matter of the proposed modification, a summary of the modification may be

substituted for the text of the proposed modification in the same manner as a summary is substituted for a proposed amendment under section 2104, subsection 6.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

8. Termination. Except as provided in paragraph A, the charter commission shall continue in existence for 30 days after submitting its final report to the municipal officers for the purpose of winding up its affairs.

A. If judicial review is sought under section 2108, the charter commission shall continue in existence until that review and any appeals are finally completed for the purpose of intervening in those proceedings. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

SECTION HISTORY

1987, c. 737, SSA2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, SSC8,10 (AMD). 2007, c. 495, §1 (AMD).

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§2103

Title 30-A:

§2105

MUNICIPALITIES AND COUNTIES

HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Part 2: MUNICIPALITIES HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Subpart 2: ORGANIZATION AND INTERLOCAL COOPERATION HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Chapter 111: HOME RULE HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

§2104. Charter amendments; procedure

1. Municipal officers. The municipal officers may determine that amendments to the municipal charter should be considered and, by order, provide for notice and hearing on them in the same manner as provided in subsection 5, paragraph A. Within 7 days after the hearing, the municipal officers may order the proposed amendment to be placed on a ballot at the next regular municipal election held at least 30 days after the order is passed; or they may order a special election to be held at least 30 days from the date of the order for the purpose of voting on the proposed amendments.

A. Each amendment shall be limited to a single subject, but more than one section of the charter may be amended as long as it is germane to that subject. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Alternative statements of a single amendment are prohibited. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

2. Petition by voters. On the written petition of a number of voters equal to at least 20% of the number of votes cast in a municipality at the last gubernatorial election, but in no case less than 10, the municipal officers, by order, shall provide that proposed amendments to the municipal charter be placed on a ballot in accordance with paragraphs A and B.

A. Each amendment shall be limited to a single subject, but more than one section of the charter may be amended as long as it is germane to that subject. [1987, c. 737, Pt. A, §2 (NEW);

1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Alternative statements of a single amendment are prohibited. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

3. Petition procedure. The petition forms shall carry the following legend in bold lettering at the top of the face of each form.

"Municipality of"

"Each of the undersigned voters respectfully requests the municipal officers to provide for the amendment of the municipal charter as set out below."

No more than one subject may be included in a petition.

In all other respects, the form, content and procedures governing amendment petitions shall be the same as provided for charter revision and adoption petitions under section 2102, including procedures relating to filing, sufficiency and amendments.

4. Amendment constituting revision. At the request of the petitioners' committee, the petition form shall also contain the following language:

"Each of the undersigned voters further requests that if the municipal officers determine that the amendment set out below would, if adopted, constitute a revision of the charter, then this petition shall be treated as a request for a charter commission."

Upon receipt of a petition containing this language, the municipal officers, if they determine with the advice of an attorney that the proposed amendment would constitute a revision of the charter, shall treat the petition as a request for a charter commission and follow the procedures applicable to such a request.

5. Action on petition. The following procedures shall be followed upon receipt of a petition certified to be sufficient.

A. Within 10 days after a petition is determined to be sufficient, the municipal officers, by order, shall provide for a public hearing on the proposed amendment. At least 7 days before the hearing, they shall publish a notice of the hearing in a newspaper

having general circulation in the municipality. The notice must contain the text of the proposed amendment and a brief explanation. The hearing shall be conducted by the municipal officers or a committee appointed by them. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Within 7 days after the public hearing, the municipal officers or the committee appointed by them shall file with the municipal clerk a report containing the final draft of the proposed amendment and a written opinion by an attorney admitted to the bar of this State that the proposed amendment does not contain any provision prohibited by the general laws, the United States Constitution or the Constitution of Maine. In the case of a committee report, a copy shall also be filed with the municipal officers. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. On all petitions filed more than 120 days before the end of the current municipal year, the municipal officers shall order the proposed amendment to be submitted to the voters at the next regular or special municipal election held within that year after the final report is filed. If no such election will be held before the end of the current municipal year, the municipal officers shall order a special election to be held before the end of the current municipal year for the purpose of voting on the proposed amendment. Unrelated charter amendments shall be submitted to the voters as separate questions. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

6. Summary of amendment. When the municipal officers determine that it is not practical to print the proposed amendment on the ballot and that a summary would not misrepresent the subject matter of the proposed amendment, the municipal officers shall include in their order a summary of the proposed amendment, prepared subject to the requirements of section 2105, subsection 3, paragraph C, and instruction to the clerk to include the summary on the ballot instead of the text of the proposed amendment.

[1991, c. 622, Pt. X, §10 (AMD) .]

SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1987, c. 737, Pt. A, §2 (NEW). 1987, c. 737, Pt. A, §2 (NEW). 1987, c. 737, Pt. C, §106 (NEW). 1987, c. 737, Pt. C, §106 (NEW). 1989, c. 6, (AMD). 1989, c. 6, (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 9, §2 (AMD). 1989, c. 9, §2 (AMD).

1989, c. 104, §§8,10 (AMD). 1989, c. 104, Pt. C, §§8, 10 (AMD). 1989, c. 104, Pt. C, §§8, 10 (AMD). 1991, c. 622, §X10 (AMD).

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§2104

Title 30-A:

§2106

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MUNICIPALITIES AND COUNTIES

☑ [STATUTE SEARCH](#)

HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

☑ [CH. 111 CONTENTS](#)

Part 2: MUNICIPALITIES HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

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Subpart 2: ORGANIZATION AND INTERLOCAL COOPERATION HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

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§2105. Submission to voters

The method of voting at municipal elections, when a question relating to a charter adoption, a charter revision, a charter modification or a charter amendment is involved, shall be in the manner prescribed for municipal elections under sections 2528 to 2532, even if the municipality has not accepted the provisions of section 2528. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Charter revision or adoption. Except as provided in paragraph A, in the case of a charter revision or a charter adoption, the question to be submitted to the voters shall be in substance as follows:

"Shall the municipality approve the (charter revision) (new charter) recommended by the charter commission?"

A. If the charter commission, in its final report under section 2103, subsection 5, recommends that the present charter continue in force with only minor modifications, those modifications may be submitted to the voters in as many separate questions as the commission finds practicable. The determination to submit the charter revision in separate questions under this paragraph and the number and content of these questions must be made by a majority of the charter commission.

(1) If a charter commission decides to submit the charter revision in separate questions under this paragraph, each question to be submitted to the voters shall be in substance as follows:

"Shall the municipality approve the charter modification recommended by the charter commission and reprinted (summarized) below?"

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Charter amendment. In the case of a charter amendment the question to be submitted to the voters shall be in substance as follows:

"Shall the municipality approve the charter amendment reprinted (summarized) below?"

3. Voter information. Reports shall be made available and summaries prepared and made available as follows.

A. In the case of a charter revision or charter adoption, at least 2 weeks before the election, the municipal officers shall:

- (1) Have the final report of the charter commission printed;
- (2) Make copies of the report available to the voters in the clerk's office; and
- (3) Post the report in the same manner that proposed ordinances are posted. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. In the case of a charter amendment, at least 2 weeks before the election, the municipal officers shall:

- (1) Have the proposed amendment and any summary of the amendment prepared under this section printed;
- (2) Make copies available to the voters in the clerk's office; and
- (3) Post the amendment and any summary of that amendment in the same manner that proposed ordinances are posted. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Any summary must fairly describe the content of the proposed amendment and may not contain information designed to promote or oppose the amendment. [1991, c. 622, Pt. X, §11 (AMD).]

[1991, c. 622, Pt. X, §11 (AMD) .]

4. Effective date. If a majority of the ballots cast on any question under subsection 1 or 2 favor acceptance, the new charter, charter revision, charter modification or charter amendment becomes effective as provided in this subsection, provided the total number of votes cast for and against the question equals or exceeds 30% of the total votes cast in the municipality at the last gubernatorial election.

A. Except as provided in subparagraph (1), new charters, charter revisions or charter modifications adopted by the voters take effect on the first day of the next succeeding municipal year.

(1) New charters, charter revisions or charter modifications take effect immediately for the purpose of conducting any elections required by the new provisions. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Charter amendments adopted by the voters take effect on the date determined by the municipal officers, but not later than the first day of the next municipal year. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1987, c. 737, Pt. A, §2 (NEW). 1987, c. 737, Pt. A, §2 (NEW). 1987, c. 737, Pt. C, §106 (NEW). 1987, c. 737, Pt. C, §106 (NEW). 1989, c. 6, (AMD). 1989, c. 6, (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 9, §2 (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1989, c. 104, Pt. C, §§8, 10 (AMD). 1989, c. 104, Pt. C, §§8, 10 (AMD). 1991, c. 622, §X11 (AMD).

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§2105

Title 30-A:

§2107

MUNICIPALITIES AND COUNTIES

HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Part 2: MUNICIPALITIES HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Subpart 2: ORGANIZATION AND INTERLOCAL COOPERATION HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Chapter 111: HOME RULE HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

§2106. Recording

Within 3 days after the results of the election have been declared, the municipal clerk shall prepare and sign 3 identical certificates setting forth any charter that has been adopted or revised and any charter modification or amendment approved. The clerk shall send one certificate to each of the following: [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Secretary of State. The office of the Secretary of State, to be recorded;

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

2. Law library. The Law and Legislative Reference Library; and

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

3. Clerk's office. The office of the municipal clerk.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

SECTION HISTORY

1987, c. 737, §2A, C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §8, 10 (AMD).

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Title 30-A:

§2108

MUNICIPALITIES AND COUNTIES

HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Part 2: MUNICIPALITIES HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Subpart 2: ORGANIZATION AND INTERLOCAL COOPERATION HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Chapter 111: HOME RULE HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

§2107. Effect of private and special laws

Private and special laws applying to a municipality remain in effect until repealed or amended by a charter revision, adoption, modification or amendment under this chapter. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

1987, c. 737, §2, C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§8, 10 (AMD).

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§2107

Title 30-A:

§2109

MUNICIPALITIES AND COUNTIES

HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Part 2: MUNICIPALITIES HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Subpart 2: ORGANIZATION AND INTERLOCAL COOPERATION HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Chapter 111: HOME RULE HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

§2108. Judicial review

1. Petition. The Superior Court, upon petition of 10 voters of the municipality or on petition of the Attorney General, may enforce this chapter. The charter commission may intervene as a party in any such proceeding.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

2. Declaratory judgment. A petition for declaratory relief under Title 14, chapter 707, may be brought on behalf of the public by the Attorney General or, by leave of the court, by 10 voters of the municipality. The charter commission shall be served with notice of the petition for declaratory judgment.

A. If 10 voters petition for declaratory relief, they shall serve the Attorney General and the charter commission with notice of the preliminary petition for leave. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The Attorney General or the charter commission may intervene as a party at any stage of the proceedings. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The petitioners are liable for costs. However, the court has discretion to award costs and reasonable attorney fees to the petitioners. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

3. Judicial review. Any 10 voters of the municipality, by petition, may obtain judicial review to determine the validity of the procedures under which a charter was adopted, revised, modified or amended. The petition must be brought within 30 days after the election at which the charter, revision, modification or amendment is approved. If no such petition is filed within this period, compliance with all the procedures required by this chapter and the validity of the manner in which the charter adoption, revision, modification or amendment was approved is conclusively presumed. No charter adoption, revision, modification or amendment may be found invalid because of any procedural error or omission unless it is shown that the error or omission materially and substantially affected the adoption, revision, modification or amendment.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

4. Resubmission upon judicial invalidation for procedural error. If the court finds that the procedures under which any charter was adopted, revised, modified or amended are invalid, the Superior Court, on its own motion or the motion of any party, may order the resubmission of the charter adoption, revision, modification or amendment to the voters. This order shall require only the minimum procedures on resubmission to the voters that are necessary to cure the material and substantial errors or omissions. The Superior Court may also recommend or order other curative procedures to provide for valid charter adoption, revision, modification or amendment.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

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AGENDA

ITEM

5.e.

TOWN OF CLINTON

DOG CONTROL ORDINANCE

ADOPTED NOVEMBER 7, 2000

REVISED JUNE 8, 2004

SECTION 1. PURPOSE:

This ordinance is adopted in the exercise of municipal home rule powers under the Maine Constitution and 30-A M.R.S.A. Section 3001, and as expressly authorized under 7 M.R.S.A. SECTION 3950. The purpose of the ordinance is to regulate dogs in the Town of Clinton, and to specifically comply with the provisions of 7 M.R.S.A. Chapters 725 and 727 by controlling dangerous dogs, dogs running at large, barking dogs, and dogs that pose a threat to the health, safety, comfort, convenience, and general welfare of the residents of the Town. It is the intent of this ordinance, without unreasonably restricting owners and their dogs in their normal activities, to hold owners responsible for the unlawful conduct of their dogs.

SECTION 2. DEFINITIONS:

As used in this ordinance, unless the text clearly otherwise indicates, the following words and phrases have the following meanings:

- A. "Attack," "Attacks," and "Attacking" mean an unprovoked actual biting or an assault by a dog that occurs without provocation by a showing of the teeth, growling or barking, or any combination of these acts, from which a person reasonably receives an impression of impending or imminent physical harm by the dog to himself or herself, to others, or to a domestic pet or farm animal.
- B. "Dog" has the meaning provided under 7 M.R.S.A. Section 3907 (12-C) and includes dogs of either gender.
- C. "Owner" means any person or persons, firm, association, corporation, or other legal entity, owning, keeping, harboring, in possession of or having the control of a dog, and includes the parents(s) or guardian(s) of a minor who owns, keeps, harbors, is in possession of or has control of a dog.

D. "Dangerous Dog" means the following, regardless of the location of the dog at the relevant time:

- (1) A dog that attacks a person, regardless of whether it causes physical harm to the person, provided at the time of the attack the person is not trespassing with criminal intent on the owner's premises.
- (2) A dog that attacks a domestic pet or farm animal and causes harm to the domestic pet or farm animal.
- (3) A dog that causes serious injury or death to an animal other than a domestic pet or farm animal.

E. "Running at Large" means a dog being off the premises of the dog's owner and not under the control of an owner of the dog who is physically capable of controlling and restraining the dog by a leash, cord, chain, or "at heel" command, or otherwise restraining the dog by voice or other command control to which the dog is obedient.

SECTION 3. DANGEROUS DOGS

A. Notice to Owner. An owner who is given notice (which need not be in writing) by the Town's Animal Control Officer, any law enforcement officer, or any state official that the owner's dog has bitten or is reasonably believed to have bitten any person, or has or is reasonably believed to have in any way injured any person so as to cause an abrasion of the skin to that person, shall not without further written authorization by an officer or official, sell, give, or otherwise convey the ownership or possession of that dog, or remove, suffer or permit that dog to be moved beyond the boundaries of the Town, except to or under the care of a licensed veterinarian, or of an Animal Control Officer, or a law enforcement officer. An owner receiving such notice shall immediately place the dog under confinement for a period of at least ten (10) days and shall promptly obey all rabies detection and control directions of an Animal Control Officer, licensed veterinarian, law enforcement officer or state official concerning that dog. An owner receiving such notice shall comply with all applicable regulations of the Maine Commissioner of Agriculture and the Maine Commissioner of Human Services and their authorized officials, employees, and agents in matters of rabies detection and control.

Special Restraint of Dangerous Dogs. An owner of a dog that has been determined by a court to be a dangerous dog shall ensure that the dog is restricted at all times to the premises of that owner, except when being transported by a secure motor vehicle to a veterinarian or to some other premises of that owner, or to the custody of an animal control officer or law enforcement officer. The owner of such a dog will ensure that the dog, when out of doors on the owner's premises, is either contained within a secure enclosure or is fastened with a secure latch to a reinforced chain restraint, the length of which is such that the dog may in no event approach any closer than three (3) feet to any mail receptacle or entrance or exit to a house or other building, end or edge of a driveway, walkway, stoop or stairs leading to an entrance, edge of a lawn, property boundary or public sidewalk, or home fill pipe or utility meter or point on the ground generally below any other wiring or piping. The owner shall ensure that the restraint is maintained and secure at all times the dog is out of doors on the owner's premises and not in a secure, fenced-in enclosure.

SECTION 4. DOGS CONSTITUTING A NUISANCE

- A. Barking Dogs. No owner of a dog shall suffer or permit that dog by loud, frequent, or habitual barking, howling, or yelping to disturb the peace of another person. Upon first violation the owner of the dog shall be issued a written warning. Any further incidents shall be deemed a violation of this ordinance and the owner will be issued a civil uniform summons and complaint.
- B. Chasing of Persons or Vehicles. It shall be unlawful for an owner or keeper of a dog to allow such dog to run after or chase persons, bicycles, automobile or other motor vehicles.
- C. Impoundment of Nuisance Dogs. Any dogs constituting an nuisance as set out in either section above, may be impounded by any member of the humane shelter, a law enforcement officer, or the Town's Animal Control Officer if the owner cannot be reasonably located. The owner of the dog shall pay the full cost incurred for the board and shelter of the animal.

SECTION 5. RUNNING AT LARGE

A. General Prohibition.

No owner of a dog shall cause or permit that dog to run at large within the Town. . A dog, while in or on the way or place other than a public way or other municipal property, shall be deemed to be under restraint within the meaning of this ordinance if it is otherwise controlled by a leash, cord, or chain, or is "at heel" or otherwise under the voice or other command control of a person and obedient to that persons' command. Nothing in this ordinance shall be held to require the leashing or restraint of any dog other than a dangerous dog while on the owners premises.

An owner of a dog shall ensure that the dog, when on any public way and on all municipal property, including but not limited to the Town's parks and public ways, municipal sidewalks and recreational and athletic fields, is on a leash or tether at all times and is accompanied by an owner who is physically or by effective voice or other command able to control and restrain the dog from an attack and who tends the leash or tether at all times while the dog is on municipal property, and who does not permit the dog to run at large on municipal property. An owner accompanying a dog on municipal property other than an owner with visual acuity accompanying a seeing eye dog, so-called, on municipal property, shall collect any feces or vomitus deposited by the dog and dispose of the same in a sanitary, lawful manner.

- B. Special Restrictions Governing Dogs on Municipal Property An owner of a dog shall ensure that the dog, when on any public way and on all municipal property, including but not limited to the Town's parks and public ways, municipal sidewalks and recreational and athletic fields, is on a leash or tether at all times and is accompanied by an owner who is physically or by effective voice or other command able to control and restrain the dog from an attack and who tends the leash or tether at all times while the dog is on municipal property, and who does not permit the dog to run at large on municipal property. An owner accompanying a dog on municipal property other than an owner with visual acuity accompanying a seeing eye dog, so-called, on municipal property, shall collect any feces or vomitus deposited by the dog and dispose of the same in a sanitary, lawful manner.

- C. Identification. An owner shall ensure that the owner's dog, if three (3) months old or older and out of doors, whether on or off the premises of the owner, unless confined within a secure enclosure or container, wears a collar or harness to which there must be securely attached an identification tag containing information linking the dog to its owner, such as the owner's name, address (if any), telephone number (if any), or vaccination tag number. Alternatively, any owner may provide for identification by having the dog wear such a collar that is at all times clearly and legibly embroidered with the information required by this section, or by having the dog wear such an embroidered collar which, in combination with one or more security tags, shows the required information.

SECTION 6. PENALTY

For an initial violation of this ordinance by an owner, the owner shall be ordered to pay a civil penalty of not less than fifty dollars (\$50.00) but not more than two hundred and fifty dollars (\$250.00). In determining the amount to be forfeited, the court shall consider any evidence in mitigation, extenuation, or aggravation it considers pertinent to the offense, including but not limited to the civility and degree of cooperation exhibited by the owner. [For each succeeding violation, the penalty shall be increased by a minimum of fifty dollars (\$50.00) above the penalty for the immediately preceding violation]. All penalties awarded and all sums recovered shall accrue to benefit the Town of Clinton. An owner found to have violated this ordinance shall pay all fees, court costs and the Town's reasonable attorney's fees, if any.

For purposes of illustration of the penalty provision only, if an owner were found in a single court proceeding to have committed four violations, and if the penalty for the initial violation were set at \$100.00, then the penalties for the succeeding violations would be \$150.00, \$200.00, and \$250.00, for a total of \$700.00 in penalties. Similarly, if there occurred thereafter a second enforcement action for a new single violation against the same owner and there was a finding of a violation, then the penalty for the violation would be \$300.00.

SECTION 7. PROCEDURE ON VIOLATION

Any law enforcement officer authorized by the municipal officers, on complaint of any person on his or her own initiative, may initiate prosecution for violation of this ordinance by filing a complaint with the Maine District Court and

serving a summons and a copy of the complaint upon the owner. Any law enforcement officer certified by the Maine Criminal Justice Academy may represent the Town in the District Court in the prosecution of alleged violations of this ordinance. In the alternative, the municipal officers may engage and appoint counsel to prosecute the alleged violations of the ordinance and violations of the state law under 7 M.R.S.A. Part 9.

- A. Order of the Court. If, upon hearing, the court determines that the ordinance has been violated, the court shall impose an appropriate penalty. If the court determines that a dog is a dangerous dog, the court may order the owner to muzzle the dog, to restrain the dog, and to confine the dog to the owner's premises. However, if the court finds that the dog has killed, maimed, or inflicted more than *de minimus* bodily injury upon a person, or upon a domestic pet or farm animal, or if the court determines that the dog has a history of attacks, then the court may order the dog to be euthanized at the owner's expense.
- B. Failure to Abide by a Court Order. An owner's failure to comply with an order issued pursuant to paragraph A immediately above constitutes a violation of this ordinance and may be punishable upon a new summons or as contempt following issuance of a show cause order on affidavit of a law enforcement officer. If an order of euthanasia is not complied with by the time set by the court, the court may, upon application by any law enforcement officer or other person and upon notice to the owner, issue a warrant to any law enforcement officer or constable in the municipality where the dog is found to destroy the dog and make return of the warrant to the court within 14 days from the date of the warrant. The owner shall pay all costs of any supplementary proceedings and all reasonable costs for seizure and euthanasia of the dog. A failure to pay such costs by any time stated in the order of the court for making such a payment constitutes a distinct violation of the ordinance, which may also be punished on proceedings for contempt after issuance of a show cause order.
- C. Complaint for Dogs Presenting Immediate Threat to the Public. After filing a complaint in District Court and before the hearing, the dog shall be subject to muzzling, restraint, or confinement upon its owner's premises upon order of the law enforcement officer who filed the complaint to the owner if that officer believes that the dog poses immediate threat to the public. The officer may prescribe the degree and means of restraint or confinement. Failure to comply

shall constitute a distinct violation of the ordinance. Upon failure to comply and after notice to the owner, the officer may apply to the District Court for an order of authorization to take possession of the dog that poses immediate threat to the public and turn it over to the care of a suitable person or organization at the owner's expense. The court, in its final order, shall include an order to the owner to pay such expense in a stated amount.

Nothing in this ordinance is intended to bar or limit the right of individuals to make written complaint concerning dangerous dogs pursuant to state law or bar or limit any authorized law enforcement officer from proceeding to act upon such a written complaint in accordance with state law.

SECTION 8. EFFECTIVE DATE

This ordinance shall take effect upon passage.

This ordinance shall supersede all previous dog ordinances, which are hereby repealed from and after the effective date of adoption of this ordinance.

SECTION 9. SEVERABILITY

Should any portion of this ordinance be found invalid for any reason by a court of competent jurisdiction, then all portions not found invalid shall remain unaffected and continue in full force and effect.