

**TOWN OF ARUNDEL, MAINE
BOARD OF SELECTMEN MEETING**

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**Monday May 11, 2020
Town Office
7PM**

NOTE* Because of COVID-19 the public can listen/participate in this meeting by calling (425) 436-6316 Code 169421 at 7PM.

- I. Call to Order
- II. Approval of Agenda
- III. Public Forum – Public comment on non-agenda items
- IV. Approve Minutes of April 27, 2020
- V. Committee and Board Reports
- VI. **Manager's Report**
 - Town Office opening to public
 - Advertisement for Tax Collector/Customer Service
 - Reminder on Budget Board Meeting
- VII. Business
 - Land Use Ordinance Citizen Petition Status
 - Public Works Discussion on VW Grant and status of Truck
- XI. Other Business and Adjournment
 - Approval Payable Warrant
 - Adjournment

TOWN OF ARUNDEL
BOARD OF SELECTMEN
Monday April 27, 2020
Arundel Town Office
7 PM

Members present: Selectmen Jason Nedeau (by phone), Tom Danylik, Phil Labbe Velma Hayes (by Phone), Dan Dubois

Others: Town Manager Keith Trefethen, Roger Taschereau, Tad Redway (by phone), Rich Ganong (by phone), Susan Mathison (by phone), Richard Shea (by phone), Katherine Read (by phone), Catherine Kiernan (by phone).

Call to Order: Chairman Nedeau called the meeting to order @ 7:00PM. Because he was remote this evening the Board agreed to have the Town Manager coordinate the discussion.

Approval of Agenda: *MOTION Nedeau second Dubois “approve agenda as presented passed 5-0.*

Approval of Minutes: *MOTION Dubois second Danylik “approve minutes of April 13, 2020 as presented” passed 5-0. (Completed by Roll Call Vote)*

Managers Report:

-Quarantine Letter: Sent to Campground and Arundel Seasonal Cottages. No feedback on this voluntary request.

-Installation of Health Screens: Screens will be installed at the Town Office anticipating an opening to the Public. In addition a modification of hours will take place. Monday & Wednesday 6:30AM to 5PM, Tuesday & Thursdays 8AM to 6:30PM. Screens will also be installed at the new Municipal Building when we open.

-Furniture Review: Staff was able to discuss with the Furniture Company set up of their workspaces and addition needs for each space.

-Budget Reminder: Meeting set for Tuesday April 28, 2020 starting at 7PM.

Business:

Status of Recreation Bus: It was discovered a new Bus to lease was cost prohibitive and the Recreation Department had looked at a 2017 Bus that is available with WC Cressey in Kennebunk. **MOTION Labbe second Dubois “purchase a 2017 bus from WC Cressey for the price of \$65,900 provided that**

it is reviewed before the purchase by the Public Works Department” passed 5-0 (by roll call).

-ATM Date and Location: MOTION Dubois second Danylik “establish July 14th and July 15th for the referendum voting and Annual Town Meeting respectfully with these meetings to take place at the ML Day Gym” passed 5-0 (by roll call).

-Land Use Ordinance: The Board of Selectmen discussed with Planning Board Chairman Ganong and Planner Redway the proposed changes in the Citizen Petition section in the Land Use Ordinance being proposed to change. Board felt this was in direct conflict with 30-A 2522 and wanted both the Manager and Planner to gain some clarity from the Town Attorney.

-On-Premises License/Bentley’s Saloon: MOTION Labbe second Hayes “approve On-Premises License/Bentley’s Saloon as reviewed” passed 5-0 (by Roll Call).

-Special Amusement Permit Application: MOTION Dubois second Labbe “approve permit as reviewed with outside events as presented” passed 5-0 (by roll call)

-Vacation Accumulation: Selectmen reviewed the materials that were submitted in reference to Cost impact. The issue is that we have some employees who because of no fault on their own were unable to take their Vacation before they met a stage where they would lose time without taking any time. **MOTION Dubois Second Danylik “on a limited basis until July 31, 2020 allow employees to accumulate vacation time above their maximum but they must use or lose that accumulated time before July 31, 2020” passed 5-0 (by roll call).** Manager will review other communities to determine if we are unique and because we prevent our Public Works from taking time during the winter months see what accommodation we may make for them.

Other Business and Adjournment:

MOTION Dubois second Labbe approve payable warrant as reviewed” passed 5-0 by roll call vote.

MOTION Labbe second Dubois “to adjourn” passed 5-0 by roll call vote @ 8:38PM.

Respectfully submitted,

Keith M. Trefethen
Town Manager

TOWN OF ARUNDEL

468 LIMERICK RD ARUNDEL MAINE 04046 (207) 985-4201 FAX (207) 985-7589

BUSINESS MEETING 5-11-20

EXECUTIVE SUMMARY

BOS Members: The purpose of this summary presented is to give you some information over and above just the mentioning of the subject matter on the agenda. It is my hope that this information assists you in your decision making.

MANAGERS REPORT

-Town Office Open to Public: We are still looking at allowing the public back into the Town Offices starting June 1st. Presently you have agreed to modify hours so we have some enhanced morning and evening times and we are putting into place safety measures when the public returns, Safe Distancing, Masks required, only two at a time at the counter, wall mounted sanitizer for the public use.

-Tax Collector/Customer Service advertisement has been completed. In two days (this writing) we have 16 applications. The Town Clerk and I will review the application, develop a short list, and begin the interviews.

-Budget Board and you all are schedule to meet on Tuesday May 12, 2020. A draft warrant with the warrant articles will be provided along with new Budget Sheets for the entire budget.

BUSINESS

-Land Use Ordinance Petition Status: Tad and I spoke with the Town Attorney. Her opinion that if changes in the petition process are to be proposed to essential make it more stringent than those changes belong in the Municipal Charter. When I review the Municipal Charter 14.7 (see attachment) Amendment it spells out the process required in Arundel. She suggested that perhaps an amendment process instead of a revision would not need a "Charter Commission". Based on my review of Arundel's Charter either an amendment/revision will require a Charter Review Committee. At this time Tad will speak with the Planning Board about the removal of the Citizen Petition section in the Land Use Ordinance.

-Public Works Discussion/VW Grant and Status of Truck: Roger wishes to have a discussion with you all on the Status of the Truck and some unique aspects of securing the Truck that have come up as a result of COVID-19

OTHER BUSINESS AND ADJOURNMENT

- (a) Account Payable and Payroll Warrants: Provided at Meeting for review.

Town Manager

From: Leah B. Rachin [LRachin@dwmlaw.com]
Sent: Thursday, May 07, 2020 10:31 PM
To: 'Town Manager'; 'Tad Redway'
Subject: Follow Up Regarding Petition Provisions of the Land Use Ordinance

Keith and Tad,

This will follow up on our conversation this afternoon. You had asked me to review the provisions in the Town's land use ordinance (the "LUO") relating to petitions seeking to amend the LUO and to discuss how they dovetail with state law. As discussed, I share Tom's concern about certain parts of section 1.8.2. Specifically, those provisions that require petitioners to pay administrative fees associated with public hearings and attorney's fees to review petitioned amendments.

Per our conversation, in the absence of any specific local provisions addressing petitions, state law dictates. Title 30-A M.R.S. section 2522, provides:

On the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10, the municipal officers shall insert a particular article in the next warrant issued or shall within 60 days call a special town meeting for its consideration.

Once the clerk has certified the signatures on the petition, the normal procedure kicks in that governs in the normal course when an amendment is proposed by either the Selectmen or the Planning Board, (i.e., public hearing, etc.). Accordingly, because Maine statute already provides a road map for how to deal with petitioned ordinance amendments, the simple fix would be to simply remove sections 18.2.1.c and 18.2.1.d.1 from the LUO.

For all of the reasons we discussed, I believe it makes sense to require legal review prior to placing a warrant article for petitioned amendments on the ballot. I believe that such a requirement, however, would be better placed in the Charter than in the LUO. While municipalities can exercise home rule authority to change the requirements for citizen's petitions under Title 30-A (to make them more or less rigorous than state law), this should be done in a municipal Charter rather than an ordinance.

As discussed, the procedure required to be followed when changes to a municipal charter are proposed differ depending on the nature of the change. If the change is an "revision," (which contemplates a fundamental change in the way the town governs itself), then a charter commission must be convened to consider the change prior to it going to the town meeting. If the change is an "amendment," (which is merely a change or correction of some detail), it can be accomplished by town meeting vote. I believe that the change contemplated here would be an "amendment" not a "revision," and therefore, could be voted on by the town meeting.

I would be happy to assist with any such Charter amendment if the Board of Selectmen is interested in considering it. If the Board is, then this might also be a good time to consider any other changes to the Charter the Board believes are advisable.

Let me know if/how I can assist going forward.

Best,

Leah

Leah B. Rachin

Attorney

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DrummondWoodsum

ATTORNEYS AT LAW

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14.5 REMOVAL OF APPOINTED OFFICIAL OR EMPLOYEE

14.5.1 Any official, department head, or employee appointed by the Town Manager may be removed by him at any time after written notice pursuant to the Town's Personnel Policy. The decision of the Town Manager shall be subject to appeal to the Board, provided such official, department head, or employee submits a written notice of appeal to the Board within thirty (30) days of notification of removal. [Amended 11/8/05]

14.6 SEVERABILITY [Amended 11/8/05]

14.6.1 If any portion of this Charter is held invalid or unconstitutional, this decision shall not affect the validity of the remaining portions thereof. If the application of this Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

14.6.2 If any provision of this Charter is held invalid by reason of any conflict with State or Federal law, the provisions of the applicable State or Federal law shall automatically become incorporated in this Charter in place of the invalid Charter provision.

14.7 AMENDMENT [Amended 11/8/05]

14.7.1 This Charter may be revised or amended according to Title 30-A M.R.S.A. Section 2102, 2104, and 2105.

14.7.2 Amendments to this Charter may be initiated, framed, and proposed:

- a. by request of the Board to a Charter Review Committee* to be appointed by the Board; or
- b. by the registered voters of the Town, by petition, containing the full text of the proposed amendment and signed by registered voters of the Town equal in number to at least ten percent (20%) of the total number of the last gubernatorial election, or a minimum of fifty (50) signatures; or

c. by the appointed Charter Review Committee*.

**NOTE: Although no standing Charter Review Committee exists within the Charter, the Home Rule Statute allows for the establishment of a Charter Review Committee in the event revisions/amendments to the Charter are requested by the voters or the Board. [Amended 11/2/04]*

A public hearing shall be held at least thirty (30) days prior to voting on the amendment(s).

14.8 AMENDMENT OF STATE STATUTES

14.8.1 Any reference herein to the Statutes of the State (M.R.S.A.) is made to those Statutes of the State in effect as of the effective date of this Charter, together with any amendments to said Statutes.

14.9 TRANSITION PROVISIONS

14.9.1 ADMINISTRATIVE OFFICERS: All elected and appointed positions shall continue in office and in the performance of their duties until the expiration of their term, or until their successor is duly elected or appointed in accordance with the provisions of this Charter.

14.9.2 EXISTING CONTRACTS: All rights, actions, proceedings, prosecutions, and contracts of the Town or any of its departments, pending or unexecuted when this Charter goes into effect and not inconsistent herewith, shall be enforced, continued, or completed in all respects as though begun or executed hereunder.

14.9.3 ORDINANCES: All ordinances of the Town in force at the time this Charter takes effect, not inconsistent with the provisions of this Charter, shall continue in force until amended or repealed.

14.10 STATE AND MUNICIPAL LAWS

14.10.1 All Town ordinances, resolutions, orders, and regulations which are in force when this Charter becomes fully effective are repealed to the extent that

Title 30-A: MUNICIPALITIES AND COUNTIES
Part 2: MUNICIPALITIES
Subpart 2: ORGANIZATION AND INTERLOCAL COOPERATION
Chapter 111: HOME RULE

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

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

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

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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.

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

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.

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

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

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

[PL 1991, c. 622, Pt. X, §10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 622, §X10 (AMD).

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public.
If you need legal advice, please consult a qualified attorney.

