

Minority Report of the 2024 Kennebunk Charter Commission
Filed by Commissioners Babbidge and Bloomfield

We submit to the Kennebunk Select Board and town residents this Minority Report to share our dissenting votes and clarify our views for voters and the administrative record.

We express our dissent because we believe the Commission, in making its final decisions, overstepped. The proposed Charter shifts significant authority away from voters and puts it, with two exceptions, in the hands of a new Town Council. We believe this results in an unnecessary and unacceptable transfer of power.

The process used by the Charter Commission did not follow common procedure. Normally, commissions would present a red-lined, final proposal so voters can see the current charter language that is being deleted, and compare the new language proposed on the same page. We lament that this procedural decision will likely make it more difficult for voters to do an article-by-article comparison. Nonetheless, in our limited space, we will clarify reasons for our opposition.

The Commission's informational input came primarily from top-down sources: Select Board members and their liaison, the Town Manager, the Town Attorney, and invited Maine municipal administrators. Community participation was always solicited; however, results from a public survey that indicated strong voter preference for retaining a Select Board were rejected. We believe more public input would have balanced and enriched our decisions, and likely reflected that improvements can be achieved without changing our form of government.

It was late in our deliberations that the Commission voted 7-2 to change our form of government. It was changed from town meeting in referendum, where voters have ultimate authority, to Town Council, where, except for budget and borrowing decisions, voters must appeal to the Council.

Our Town Attorney's guidance was that according to state law, the body deciding land use issues becomes the legislative authority. When the majority

of Commissioners voted to give that power to a Town Council, the die was cast. We dissented.

In Commission deliberations, two reasons were expressed for the change to Town Council: uninformed voters and inefficiency. We not only disagree, but recognize those points as long-held criticisms of democracy itself.

First, it was expressed that voters are largely uninformed and naïve when it came to voting. Land use issues were allegedly particularly troublesome. We believe it is presumptuous to assume what a voter may or can know. Robust outreach and education efforts should be practiced to increase voter awareness on countless issues and help ensure an informed electorate. We believe that the voting majority should continue to be trusted with the future of Kennebunk.

The second charge was the current process is too time-consuming. Very few examples were presented where a proposal was important enough to warrant a special referendum. To respond quickly to emergencies, we agreed with our fellow Commissioners to add new budgetary procedures but overall, we believe that the wish to streamline the process compromised our current methodical and organized governance.

What can voters do if the Town Council makes a very poor decision? They can mount a challenge. As part of petition protocols, this Commission set the requirement to 500 signatures to be submitted within 30 days of the Council's vote. Even the most passionate, civic-minded individuals could feel that number is insurmountable, leading to more apathy and less engagement by the public. We were uncomfortable with this burden and believe this new form of government makes it easier for people *not* to participate. That is fundamentally wrong; high hurdles stifle citizen action.

Lastly, the Commission presents this Charter as a comprehensive package. The most important question, changing form of government, deserves separate standing. Had there been any way for the Commission to put the change in form of government to voters in a separate up-or-down vote, we would have voted in favor of that option.

To summarize, the Commission diminished voter power. We expressed concern about the potential political weaponization of the recall process, and we agreed to change requirements to make it more difficult for citizens to use

it. The Commission added to provisions of forfeiture, therefore increasing the power of the Town Council to remove officials, elected or appointed, who allegedly misbehave. The Commission enabled the Town Council to decide land use issues, and made it more difficult for citizen initiatives to change ordinances.

Commissioners pointed out that if voters want to express themselves, they can come to the Town Hall and speak before the Council or make individual contacts. Most citizens, given life's responsibilities, will find that difficult. Commissioners also stated that redress is at the ballot box at the end of a three-year term. That is a long time to wait for change.

In this time of unprecedented threats to democracy and its institutions, is it wise to diminish the rights of citizenship in our town? Elected public servants should always acknowledge that ultimate authority rests with the people; it is important that this be the attitude among the members of our governing body. Some voters understand local issues better than others, but all of us should seek to understand. Community education on important issues should be a responsibility of our town's governing board.

We regret that we could not come to agreement to remedy the issues identified above. For two centuries since our town incorporated, we have relied on the wisdom of our citizens to determine their future; nothing is broken that warrants that to end. It is for these reasons that we oppose the new Charter as proposed.

Respectfully Submitted,
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July 31, 2024