



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Meeting Agenda

Home Rule Charter Commission

Thursday, December 15, 2022

6:30 PM

Town Hall Moffat Conference Room

Meeting Link: <https://bit.ly/HomeRuleCommission>

1. Call Meeting to Order

2. Roll Call and Verification of Quorum

3. Approval of Agenda

4. Public Comment

5. General Business

[23-014](#) Discussion Topic: Meeting Dates and Scheduled Topics

Attachments: [Meeting Schedule ver. 12-12-2022](#)

[23-016](#) Discussion Topic: Comments on Previously Discussed Articles

Attachments: [Running Draft-121322.pdf](#)

[23-017](#) Charter Review and Discussion: Elective Offices

Attachments: [Article 3 - working draft](#)

[23-018](#) Recap of Drafting Decisions

6. Adjournment



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Home Rule Charter Commission

Board Meeting Date: 12/15/2022

File #: 23-014, **Version:** 1

SUBJECT: General Business

Discussion Topic: Meeting Dates and Scheduled Topics

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Review attached meeting schedule.

ATTACHMENTS:

1. Meeting Schedule ver. 12-12-2020

DRAFT Outline for Home Rule Meetings Schedule

Based on Town of Eagle Charter

subject to change as needed

updated December 12, 2022

Meeting 1: December 1

Intros, Overview, Election of Chair & Vice Chair, Select meeting day and time

Recommendation for staff attendance: Town Clerk, TA and DTA

Meeting 2 – December 8

Preamble

Article I: General Provisions

Article II: Elections

Recommendation for staff attendance: TA, Town Clerk

Meeting 3 – December 15

Article III: Town Council

Recommendation for staff attendance: TA

Meeting 4 – January 5

Article IV: Town Administration, Appointed Officials and Town Departments

Article V: Boards and Commissions

Recommendation for staff attendance: TA, DTA, Parks and Recreation Director, Town Clerk

Meeting 5 – January 12

Article VI: Ordinances

Recommendation for staff attendance: TA, Town Clerk

Meeting 6 – January 19

Public Comment Session

Meeting 7 – January 26 TA has schedule conflict

Article VII: Municipal Court

Recommendation for staff: DTA, Police Chief, Municipal Court Judge

Meeting 8 – February 2

Article VIII: Town Finances and Borrowing

Recommendation for staff: TA, Finance Director

Article X: Taxation

Recommendation for staff: TA, Finance Director

Meeting 9 – February 9 TA has a schedule conflict

Article XI: Initiative, Referendum and Recall

Recommendation for staff: DTA, Town Clerk, Town Attorney

Meeting 10 – February 16

Public Comment Session

Article XIII: Transition Period (*if time permits*)

Preamble (*if time permits*)

DRAFT Outline for Home Rule Meetings Schedule

Based on Town of Eagle Charter

subject to change as needed

updated December 12, 2022

Meeting 11 – February 23

Article XII: Miscellaneous Provisions

Recommendation for staff: Town Attorney, TA, DTA, Finance Director, Parks & Rec Director

Meeting 12 – March 2

Article IX: Public Utilities, Franchises, and Use of Public Property

Recommendation for staff: TA, PW Director, Planning Director

Meeting 13 – March 9

Article XIII: Transition Period

Recommendation for staff: Town Attorney, TA, DTA

Meeting 14 – March 16

Public Comment Session

Meeting 15 – March 23 *Tentative because of Spring Break*

Review entire draft charter

Meeting 16 – April 6

Required Public Hearing

Meeting 17 – April 13

Final Edits from Public Hearing

Meeting 18 – April 20

Review and approval of Draft Charter



TOWN OF ERIE

645 Holbrook Street
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Home Rule Charter Commission

Board Meeting Date: 12/15/2022

File #: 23-016, **Version:** 1

SUBJECT: General Business

Discussion Topic: Comments on Previously Discussed Articles

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

This topic is provided for Charter Commissioners to bring up any additional thoughts on Articles discussed in previous meetings.

ATTACHMENTS:

1. Running draft - 121322

Article 1
General Provisions

Commented [HMG1]: Switched from Roman numerals but can reconsider and may re-order articles

1.01 Name and Boundaries. The municipal corporation heretofore existing as the Town of Erie, located in Boulder and Weld Counties, State of Colorado, shall remain and continue a body politic and corporate and under this Charter shall be known as the Town of Erie, with boundaries the same as presently established, until changed in a manner authorized by law.

1.02 Form of Government. The municipal government established by this Charter shall be a Council/Manager form of government.

Commented [HMG2]: Add description of council/manager?

1.03 Authority.

(1) The Town shall have all the authority of local self-government and home rule and all authority possible for a municipality to have under the Constitution and laws of the State of Colorado.

(2) The enumeration of any particular authority in this Charter shall in no way be deemed to limit or exclude the exercise of any authority.

(3) All authority shall be exercised in the manner set forth in this Charter or, if not provided for in this Charter, in such manner as provided for by ordinance, resolution, or state statute.

1.04 Rights and Liabilities. By the name of the Town of Erie, a municipal corporation, the Town shall have the following rights and liabilities:

(1) The right to perpetual succession.

(2) The right to own, possess, and hold all property, real and personal, heretofore owned, possessed, and held by the Town, and to manage and dispose of all trusts in any way connected therewith.

(3) The right to purchase or otherwise acquire property on which there are delinquent taxes or special assessments and to dispose of them in like manner as any other property.

(4) The right to succeed to all rights and liabilities of the Town.

(5) The right to acquire all benefits of the Town and to assume and pay all bonds, obligations and indebtedness of the Town.

(6) The right to sue and defend, plead and be impleaded in all courts and places and in all matters and proceedings.

(7) The right to purchase, lease, receive, hold, and enjoy, or sell and dispose of real and personal property.

Commented [HMG3]: Address open space separately

(8) To establish public works and provide public utilities and other public services as permitted by law.

Commented [HMG4]: Monument's provision related to utilities and public works

(9) The right to adopt, have, and use a common seal and alter the same.

(10) The right to adopt ordinances and resolutions on all matters unless otherwise prohibited by this Charter or by laws applicable to home rule municipal corporations in the State of Colorado.

(11) The right to have all rights, powers, and liabilities applicable to Colorado home rule municipal corporations as set forth in Article XX of the Colorado Constitution and Title 31, Colorado Revised Statutes, and other applicable statutes, as amended.

Article 2 Elections

2.01 Election Laws. Town elections shall be governed by the Colorado Municipal Election Laws, as amended, except as otherwise provided in this Charter or by ordinance hereafter enacted.

2.02 Types of Elections.

(1) Regular municipal elections shall be held on the Tuesday following the first Monday in November of each odd-numbered year.

(2) The Mayor and each Council Member shall take office at the first regular meeting of the Council in new year following certification of the election, and shall continue in office until their successors have been elected and take office or a vacancy occurs.

(3) Special Town elections shall be held in accordance with the provisions of this Charter and the Colorado Municipal Election Laws as amended, except as otherwise provided in this Charter or by ordinance hereafter enacted. Any special Town election may be called by resolution of the Council not less than forty-five (45) days in advance of such election or when required by this Charter or by statute. The resolution calling a special Town election shall set forth the purposes of such election.

2.03 Nonpartisan Elections. All municipal elections shall be nonpartisan.

Commented [HMG5]: Address campaign finance separately

2.04 Recall. Any elected official of the Town may be recalled at any time after the completion of one hundred eighty (180) days in office by the electors entitled to vote for a successor of such official, as set forth in the Colorado Constitution, C.R.S. § 31-4-501, *et seq.*, as amended, and Section 11.12 of this Charter.

Commented [HMG6]: Confirm all cross-references



TOWN OF ERIE

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Home Rule Charter Commission

Board Meeting Date: 12/15/2022

File #: 23-017, **Version:** 1

SUBJECT: General Business

Charter Review and Discussion: Elective Offices

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The charter chosen to be used as the starting point is from the Town of Eagle, Colorado. Charter sections planned for tonight's meeting:

Article 3: Elective Offices

For tonight's discussion the following staff have been requested to attend:

Malcolm Fleming, Town Administrator

Debbie Stamp, Town Clerk

ATTACHMENTS:

1. Article 3 - working draft

**Article 3
Elective Offices**

3.01 Town Council and Mayor.

(1) The Council shall include a Mayor and six (6) Council Members. The positions of Mayor and Council Member are separate offices.

(2) The Mayor and all Council Members shall be elected at large by the registered electors of the Town. **[See provisions below re: districts.]**

(3) The Mayor and all Council Members shall be elected to serve four (4) year terms unless a two (2) year term is required to restore staggered positions on the Council. In such case, the four (4) year term(s) shall go to the candidate(s) with the highest number of votes, and the two (2) year term(s) shall go to the candidate(s) with the next highest number of votes.

(4) No elected Mayor or Council Member shall serve more than two (2) consecutive terms in one office.

(5) Terms shall not be considered consecutive if they are at least two (2) years apart or are for separate offices. For the purposes of this limitation, terms to which an individual is appointed shall not count as a term.

(6) **Nomination requirement.**

(Monument) Town Council and Mayor.

The Town Council shall consist of the Mayor and six (6) Council Members. Two (2) Council Members and the Mayor will be elected at-large. Two (2) of the Council Members shall be elected from each of the two (2) residential districts.

(Monument) Council Districts.

(1) The Town is hereby divided into _____ districts:

(a) District __ shall consist of ...

(b) District __ shall consist of ...

(c) District __ shall consist of ...

...

(2) Changes in the boundaries of districts may be made, by ordinance, to maintain a similar population apportionment among districts. Changes shall be

Commented [HMG1]: This is a local term limit. Without it constitutional term limits apply - Art. XVIII, Sec. 11:
- no more than 2 consecutive 4-year terms or 3 consecutive 2-year terms;

- terms are considered consecutive unless they are at least four years apart.

With voter approval (such as by approval of this Charter), the Town can "lengthen, shorten or eliminate the limitations on terms of office imposed by this Section 11."

Commented [HMG2]: With this provision, partial terms are not counted as terms for term limit purposes. It is helpful to address how to treat partial terms and how to calculate whether they count as a term for term limits purposes

Commented [HMG3]: Placeholder to create HR nomination requirement. Statutory default is 10 signatures for Town total or 10 per ward; City is 25 signatures total or 25 per ward. C.R.S. 31-10-302.

Commented [HMG4]: Monument Sections 2.1 and 2.2 re: districts

effective for purposes of any regular or special municipal election only if the ordinance approving the change is effective at least one hundred and eighty (180) days prior to any such election.

(3) Territory added to the Town shall become a part of one of the districts, or may result in creation of a new district, as may be determined by ordinance. The creation of districts by this Charter and any change in the boundary of any district shall not disqualify any member of Town Council from office before the expiration of the term for which the incumbent was elected or appointed.

3.02 Authority of the Council.

(1) The Council shall have the following authority:

(a) To enact and provide for the enforcement of all ordinances necessary to protect life, health, safety, welfare and property;

(b) To declare, prevent and summarily abate and remove nuisances in accordance with due process;

(c) To preserve and enforce good government, general welfare, order and security of the Town and the inhabitants thereof;

(d) To enforce ordinances and regulations by fines or imprisonment as permitted by state law, or by both fines and imprisonment for each and every offense; and

(e) To delegate to boards and commissions, within the limitations of the Constitution and this Charter, such functions and authority of the Town as the Council deems proper and advisable.

(2) The Council shall deal with the administrative service solely and directly through the Town Manager. Neither the Mayor nor any Council Member shall dictate the appointment of or direct or interfere with the work of any employee under the Town Manager.

(3) The Council shall be the legislative and governing body of the Town and shall exercise, except as otherwise provided in this Charter, all powers conferred upon or possessed by the Town.

(4) In the case of a vacancy on the Council, the Council shall declare a vacancy according to standards set forth by ordinance or by C.R.S. § 31-4-303, as amended. The Council shall adopt by resolution procedures for filling any such vacancy.

Commented [HMG5]: This is an important provision protecting employees from Council pressure and influence. It requires Council to defer to the Town Manager on employment matters

Commented [HMG6]: This is where you could specify a requirement to look back to prior unsuccessful candidates for appointment if a vacancy occurs within x days of the election (and the prior candidate is willing)

Commented [HMG7]: Without an ordinance setting different standards, C.R.S. 31-4-303 would apply to allow Council to fill a vacancy by appointment or by calling a special election. A special election is triggered if the Council does neither within 60 days after the vacancy occurs.

Commented [HMG8]: This defers the question of what the process for appointment to fill a vacancy would look like, but requires Council to define it by resolution.

3.03 Qualifications to Serve on Council.

(1) No person shall be eligible to be elected or appointed to the Council, or to remain seated on the Council, unless they are:

- (a) A citizen of the United States of America;
- (b) A registered elector of the Town;
- (c) A resident of the Town for a period of no less than twelve (12) consecutive months preceding the election; and
- (d) Currently eligible to vote in Colorado general elections.

(2) No person who is an employee of the Town may serve on the Council. Any Town employee elected to the Council shall be deemed to have resigned as an employee on the date of taking office on the Council.

- (a) No person may be a candidate for both Mayor and Council Member at the same election.
- (b) A person may be a candidate for the office of Mayor while serving as a Council Member and, if not elected Mayor, may serve out their term as a Council Member.

(3) The Town Clerk shall be the judge of all qualifications for candidates for Council, except as otherwise provided by ordinance.

3.04 Council Meetings.

(1) The Council shall meet regularly at least once each month, unless increased by ordinance, at a day, ~~and~~ hour and place fixed by the Council.

(2) Four (4) members of the Council shall constitute a quorum, but, in the absence of a quorum, a lesser number may continue any meeting or hearing to a later time or date, and in the absence of all members, the Town Clerk may adjourn any meeting.

(3) All regular and special meetings of the Council shall be open to the public, and citizens shall have a reasonable opportunity to be heard. Written minutes of the proceedings of each meeting shall be kept by the Town Clerk and signed by the Mayor.

3.05 Voting.

(1) Votes by each Council Member and the Mayor for and against shall be taken upon the passage of all ordinances and resolutions and entered upon the minutes of the Council proceedings.

Commented [HMG9]: This requires a record of voting for each member - roll call votes; not voice votes of ayes and nays

(2) To be adopted, every non-emergency ordinance shall require the affirmative vote of a majority of the Council present, and every emergency ordinance shall require the affirmative vote of two-thirds (2/3) of the Council present.

Commented [HMG10]: 2/3 of those present is lower than statutory requirement of 3/4 of the members found at C.R.S. 31-16-105

(3) To be adopted, every resolution and motion shall require the affirmative vote of a majority of the Council present.

(4) Every Council Member present and the Mayor if present shall vote on every matter unless the Council Member or the Mayor is excused from voting due to a conflict of interest as provided in Section 3.06 below. If a Council Member or the Mayor refuses to vote without being excused, the Town Clerk shall consider the refusal as an affirmative vote.

Commented [HMG11]: Requires a vote unless a conflict of interest is declared; no abstentions allowed

3.06 Code of Conduct and Ethics. The Council shall adopt by resolution a Code of Conduct and Ethics, which shall address Council conflicts of interest and behavior. No Council Member or Mayor shall vote on any question in which they have a conflict of interest. A conflict of interest occurs when a Council Member or Mayor has a substantial personal or financial interest in the outcome of the question, whether direct or indirect, or on any questions concerning their own conduct, as may be further defined in the adopted Code of Conduct and Ethics. The adopted Code of Conduct and Ethics shall specify penalties for violations of its provisions as well as for violations of this Charter.

Commented [HMG12]: If Erie already has such a code, this reference can be changed to match it or acknowledge it. The existing code, if any, should be updated following Charter adoption if it will set out penalties for Charter violations.

3.07 Compensation of Mayor and Council Members.

(1) The Mayor and Council Members shall receive such compensation as the Council shall by ordinance prescribe.

(2) The Council shall neither increase nor decrease the compensation of the Mayor or any Council Member during their term of office.

(3) The Mayor and Council Members may, upon order of the Council, be paid such necessary *bona fide* expenses incurred in service on behalf of the Town as are authorized by the Council.

3.08 Oath of Office. Before entering upon the duties of the office of Mayor or Council Member, every person shall take, subscribe before, and file with the Town Clerk the following an oath or affirmation:

I, (name), swear (or affirm), that I will support the Constitution of the United States, the Constitution of the State of Colorado, the Charter and the ordinances of this Town, and will faithfully perform the duties of my office.

3.09 Mayor Pro Tem and Acting Mayor.

(1) A Mayor Pro Tem shall be elected by the Council from its own membership at the first Council meeting following the final certification of each biennial election. The Mayor Pro Tem shall serve until the Council meeting following the final certification of the next regular Town election, and shall act as Mayor during the absence of the Mayor.

(2) In the event of absence of both the Mayor and the Mayor Pro Tem, the Council shall designate another Council Member by majority vote to serve as Acting Mayor during such absence.

(3) Any Mayor Pro Tem or Acting Mayor, while serving as such, shall retain all authority granted herein to Council Members and may, at the conclusion of their service as Mayor Pro Tem or Acting Mayor, serve out the remainder of their original term.

3.10 Special Meetings.

(1) Special meetings of the Council shall be called by the Town Clerk on the verbal request of a majority of the entire Council or the Mayor, on at least twenty-four (24) hours' notice to each Council Member and the Mayor.

(2) Written notices of any special meeting and the topic of any special meeting shall be posted consistent with the posting of notice for regular Council meetings. No business shall be transacted at any special meeting of the Council unless such business has been stated in the notice of such meeting.

3.11 Executive Sessions.

(1) Any Council meeting may be recessed into an executive session by the affirmative vote of two-thirds (2/3) of the ~~quorum~~ Council present and may be closed to the public for the purpose of considering any of the following matters:

(a) The purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest.

(b) Conferences with an attorney for the Town for the purposes of receiving legal advice on specific legal questions.

(c) Matters required to be kept confidential by federal or state law or rules and regulations. The Council shall announce the specific citation of the statutes or rules that are the basis for such confidentiality before holding the executive session.

(d) Specialized details of security arrangements or investigations, including defenses against terrorism, both domestic and foreign, and including where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law.

Commented [HMG13]: This is consistent with the Open Meetings Law, C.R.S. § 24-6-401, et seq. (the "OML"). The topics for executive sessions are a little broader, but the 2/3 affirmative vote of those present is the same as the OML. I am suggesting a change from "quorum present" as used in the OML to "Council present," because it is more clear.

The idea is to preserve the OML as it exists now in case of statutory changes later to narrow or limit it.

(e) Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

(f) Personnel matters except if the employee who is the subject of the session has requested an open meeting, or if the personnel matter involves more than one employee, all of the employees have requested an open meeting.

(g) Consideration of any documents protected by the mandatory nondisclosure provisions of the Colorado Open Records Act, C.R.S. § 24-72-200.1, *et seq.*, as amended.

(h) Any other matter authorized by the Colorado Open Meetings Law, C.R.S. § 24-6-401, *et seq.*, as amended.

(2) The general subject matter of every executive session shall be stated in the motion calling for the session, unless doing so would compromise the purpose of the executive session. No formal action, no final policy decision, no rule, regulation, resolution, or ordinance, and no action approving a contract or calling for the payment of money shall be adopted or approved at any executive session.

(3) The Mayor, Council Members, the Town Manager, and the Town Attorney may attend executive sessions. Other persons may be invited to attend an executive session upon the affirmative vote of a majority of the Council present, and the Town Manager or Town Attorney may be excluded upon the affirmative vote of a majority of the Council present.

(4) The provisions of this Section are specifically intended to supersede any conflicting provisions of Colorado statutes governing open meetings and executive sessions.

Commented [HMG14]: By requiring an "affirmative vote" this formalizes a process for including guests or excluding the Town Manager or Town Attorney



TOWN OF ERIE

645 Holbrook Street
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Home Rule Charter Commission

Board Meeting Date: 12/15/2022

File #: 23-018, **Version:** 1

SUBJECT: General Business

Recap of Drafting Decisions

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The Commission Chair will provide a recap of all the drafting decisions agreed to by the Commission during tonight's meeting.

ATTACHMENTS:

1. None