Agenda
Town Council Special Meeting
July 22, 2025
Lisbon Town Office
6:00 PM Meeting

Town Council
Fern Larochelle, Chair 2026
Chris Camire, Vice Chair 2027
Mark Lunt 2025
Normand Albert 2025
Jo-Jean Keller 2025
Nick Craig 2027
[Vacant Seat] 2027

1. CALL TO ORDER & PLEDGE TO FLAG
2. ROLL CALL
   Fern Larochelle, Chair 2026
   Chris Camire, Vice Chair 2027
   Mark Lunt 2025
   Normand Albert 2025
   Jo-Jean Keller 2025
   Nick Craig 2027
   [Vacant Seat] 2027
3. COUNCIL ORDERS, RESOLUTIONS, & ORDINANCES - I
   A. **(Order 2025-109)** Order to Place Petition for "Citizen Initiative to Change the Budget Process" on the Ballot for a Municipal Referendum
   B. Discussion of the External Review Requested from the Town Attorney Regarding a Recall Affidavit Submitted in Relation to Councilor LaRochelle
4. AUDIENCE PARTICIPATION & RESPONSE FOR AGENDA ITEMS
5. CONSENT AGENDA
   A. **(Order 2025-117)** *Consent Agenda Items*
      1. Municipal Accounts Payable of $131,471.65
      2. Set a Public Hearing for a Local Liquor License and a Special Entertainment with Alcohol License for Railroad Restaurant and Pub for August 19, 2025
6. PUBLIC HEARINGS
   A. Senior Tax Relief Ordinance
7. COUNCIL ORDERS, RESOLUTIONS, & ORDINANCES - II
   A. **(Order 2025-118)** Senior Tax Relief Ordinance - *Second Reading*
   B. Council Vacancy Interviews with Candidates Jeffrey Ganong, Chris Hodgkins, and William Kuhl
   C. **(Order 2025-119)** Appointment to Fill a Council Seat Vacancy until the November 2025 Municipal Election
8. AUDIENCE PARTICIPATION & RESPONSE TO NEW ITEMS
9. ADJOURNMENT

Town of Lisbon

Fern Larochelle Chair 2026
Christopher Camire, Vice Chair 2027
Mark Lunt 2025
Normand Albert 2025
Jo-Jean Keller 2025
Nick Craig 2027
[Vacant] 2027

MEMO

To: Town Council
From: Glenn Michalowski, Town Manager
Subject: **(Order 2025-109)** Order to Place Petition for “Citizen Initiative to Change the Budget Process” on the Ballot for a Municipal Referendum
Date: July 22, 2025

Summary

At the July 15, 2025 Town Council Meeting, the Town's previous Town Attorney, Kristin M. Collins of Preti-Flaherty, submitted a draft order (Order 2025-109) to accept the "Petition for Citizen's Initiative to Change the Budget Process" as a Charter Amendment and present a summarized version of the proposed amendment to the voters on the ballot at the November 2025 municipal election. The Council held a public hearing on the petition. During the agenda item, the Council discussed the petition and proposed order, before voting in favor of tabling the item. Also at the July 15, 2025 Town Council Meeting, the Town Council voted to change the Town's legal representation from Preti-Flaherty to Brann-Isaacson, with Michael Carey as the Town Attorney.

Today’s agenda packet includes a memorandum from Attorney Carey; the petition; the original proposed order, now labeled as Order 2025-109-A; Order 2025-109-B; and Order 2025-109-C. Three options for Order 2025-109 are being presented to the Council, but the Town Council can only approve one of the following three options for submitting the Citizen's Petition to the voters:

- Option A is the previous Town Attorney's proposal for submitting a summarized version of the Citizen's Petition to the voters as a charter amendment.

- Option B is the current Town Attorney's proposal for submitting a summarized version of the Citizen's Petition to the voters as a charter amendment, with some changes from Option A.

- Option C is the current Town Attorney's proposal for determining the Citizen's Petition to be a charter revision, which would require asking for the establishment of a Charter Commission on the ballot.

Both Option B and Option C include the adoption of Facts of Finding in support of the Council's decision on this order.

Recommendation

Attachments

1. 2025-07-18 B&I Memo to Council
2. Charter Petition Memo 070825
3. Memo and order re Citizens Petition
4. 2025-109 Options
5. Letter from Dean Willey
6. Findings of Fact - Turgeon
7. Dean Willey email with subject line - Rebuttal to Charlie Turgeon's 'Findings of Fact' - Need for Charter Commission
8. David Bowie's Letter

Brann & Isaacson

Michael E. Carey | Partner
mcarey@brannlaw.com
(207) 786-3566

M E M O R A N D U M

DATE: July 18, 2025
TO: Town Council, Town of Lisbon
FROM: Michael Carey, Town Attorney
SUBJECT: Whether a Proposed Charter Modification Is An Amendment or Revision

The "Citizen Initiative to Change the Budget Process," a proposed charter modification, is attached to this memorandum as Exhibit A. Tonight, the Town Council must determine whether it is a charter amendment or charter revision. Then, a question will be put before the voters in the November 4, 2025, municipal referendum. If the proposed charter modification is a charter amendment it will be on the referendum ballot, and if it is a charter revision the question will be whether to establish a charter commission.

I have been asked to advise the Council on its role in determining whether the petition is an amendment or revision; how that determination is made; whether the Council must follow the opinion of the prior Town Attorney[1]; and what are the timelines by which the Council must act. This memorandum focuses on those procedural questions.

In summary, it is the Council that must determine whether the proposed charter modification is an amendment or a revision, and it must support its decision with findings of fact. The Town Attorney will support the Council by drafting agreed-to findings of fact for adoption in written form later in the meeting. In advance of the meeting, Councilors and members of the public are welcome to provide suggested findings of fact, in writing, to the Town Clerk by electronic mail.

[1] Attorney Kristin Collins, the prior Town Attorney, opined in a July 8, 2025 memorandum that the proposed amendment does not contain any provision prohibited by the general laws, the United States Constitution or the Constitution of Maine, and that the petition requests a charter amendment. Attorney Collins found that the proposed charter modifications are not "inherently in conflict with any existing Charter provision. Moreover, they relate only to one subject matter – budget adoption. For these reasons, I conclude that the petition seeks a charter amendment, and that there is no need to call for a charter commission pursuant to 30-A M.R.S. § 2104(4)." There was no discussion, however, of the breadth or depth of the proposed modifications, which we recommend that the Council consider in making its determination.

I. The Council Must Determine if the Petition is a Revision or an Amendment.

A petitioners' committee may request that the petition form contain specific language about a Council role to determine whether the petition is a revision or an amendment. 30-A M.R.S. §2104(4). After receiving "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." *Id.* The petition form for the "Citizen Initiative to Change the Budget Process" did not contain the specific language. In light of that, what is the Council's role?

As discussed in *Fair Elections Portland v. City of Portland*, the Portland City Council considered a citizen-initiated petition that lacked the section 2104(4) language, as here. *See* 2021 ME 32, ¶ 14. Nonetheless, the Law Court concluded that state statute "authorizes municipal officers to review a proposed charter modification to determine whether it constitutes a revision rather than an amendment, even where the petition presenting the proposed modification does not include section 2104(4)'s optional language." *Id.*, ¶ 25. Even though the petitioner's committee did not include the required language on the petition form, the Council has the authority to determine whether the proposed modification is an amendment or revision.

A. The Council Looks at the Proposed Modification's Scope—its Breadth and Depth.

It "is of critical importance that the municipal officers—while exercising gatekeeping authority to implement the inhabitants' home rule power—examine how the specific proposal at issue would, if adopted, interact with the terms of the existing charter and the municipality's operations under the existing charter." *Id.*, ¶ 33. Whether a proposal is a charter amendment or a charter revision requires the evaluation "of its effect on the entire municipal charter" and "its practical effect on existing municipal policies, practices, and operations." *Id.*, ¶ 27. The "critical question is whether the proposed change is significant enough to require a (potentially) years-long inquiry into all aspects of the municipality's government. The distinction between an amendment and a revision, therefore, is essentially one of scope, in terms of both the breadth of what would be affected and the depth of what would be altered." *Id.*, ¶ 32.

In looking at the *breadth* of the proposed change, "a proposed amendment would not, if enacted, materially affect the municipality's implementation, in the course of its operations, of major charter provisions that are not mentioned in the proposed amendment." *Id.* "In terms of *depth*, an amendment would not, if enacted, make a profound and fundamental alteration in the essential character or core operations of municipal government." *Id.*

If the Council finds that the breadth, depth, or both of the "Citizen Initiative to Change the Budget Process" is significant enough to justify a charter commission, the proposed modification is a charter revision. *Id.*

B. Findings of Fact Must Support the Council's Determination.

In *Fair Elections Portland*, the City Council did not make findings of fact, and the Law Court found that the interactions between the proposed charter modification and the existing charter were "not at all obvious," so the Law Court vacated the Superior Court's judgment for Portland and ordered the case remanded to the City Council to adopt findings of fact. *Id.*, ¶ 38.

II. The Town Attorney's Role Is to Provide the Council with Advice.

It is the Council that must determine whether the petition is a charter amendment or revision, as discussed above, after seeking an attorney's advice. Statute does not require the Council to follow the attorney's advice, nor does it limit the number of attorneys from whom the Council may seek counsel.

The facts of *Fair Elections Portland* highlight the Council's primacy in this process. In that case, the Law Court found that a City Attorney's memorandum to Council, without Council findings of fact, did not provide sufficient findings for the City to base its determination. *Id.*, ¶ 36. In that case, the Court found Council debate transcripts were insufficient because the Court can neither "infer that any particular comment represents the decision of the City Council nor deduce the City Council's reasoning based on the comments as a whole." *Id.*, ¶ 37.

Based on the evidence presented to and considered by the Council, Brann & Isaacson can advise whether the proposed modification is an amendment or a revision. It is likely that there is some evidence from which councilors might conclude that moving appropriations authority from the Council to referendum is modification of sufficient depth to constitute a charter commission. Similarly, some evidence may support a determination that the petition affects major charter provisions that are not mentioned in the proposed amendment. The Council should make its determination after considering and weighing all evidence.

III. Timeline.

The Town's timeline if the Council determines that the proposed modification is a charter revision is different from the timeline if it determines it is a charter amendment.

A public hearing on the proposed modification was held at the regular July 15, 2025 Council Meeting. If the Town Council determines that the proposal is a charter amendment, the Council has 7 days after the public hearing to file with the Town "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." 30-A M.R.S. §2104(4). Attorney Collins has issued such a written opinion. The Council must decide, tonight, the final draft of the proposed amendment. Then, the proposed amendment shall be on the ballot for the next regular or special municipal election. *Id.*, (5)(C).

On the other hand, if the Council determines that the proposed modification constitutes a revision of the charter, then the petition for "Citizen Initiative to Change the Budget Process" shall be treated as a request for a charter commission, 30-A M.R.S. §2104(4), and "the question that the municipal officers must submit to the voters is whether to convene a charter commission," *Fair Elections Portland, Inc.*, 2021 ME 32, ¶ 9; 30-A M.R.S. §2104(5).

We recommend that the Council conduct its work tonight, as follows:

1. After deliberation, it should determine whether the proposed charter modification is a charter amendment or revision.
2. The Council should then debate and reach consensus on Council findings of fact to support the determination.
3. If the Council determines that the proposed charter modification is a charter amendment, it also should determine the final draft of the proposed amendment to be summarized for the ballot.
4. The Council should issue one of two orders:
    a. Order 2025-109-B would determine that the proposed modification is a charter amendment, adopt findings of fact, and determine a final draft summary for the ballot.
    b. Order 2025-109-C would determine that the proposed modification is a charter revision, adopt findings of fact, and submit a question for the ballot to establish a Charter Commission.

Municipality of Lisbon, Maine

Petition for **Citizen's Initiative to Change the Budget Process**

Exhibit A

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

Amendment to Charter Article VI - Financial Provisions, Section 6.06 - Council Action on Budget

**Note: All signers must read the proposed legislation on the reverse of this page before signing*

	Signature *(ink only)*	Physical Street Address	Printed Name
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

CIRCULATOR'S AFFIDAVIT

Required by Maine State Statute 30-A, §2102: I attest that I personally circulated this form, that each of the _____signatures were affixed in the circulator's presence, that the circulator believes them to be the genuine signatures of the person whose names they purport to be, that each signer has signed no more than one petition, and that each signer had an opportunity to read the proposed changes to the Lisbon Town Charter before signing.

_____ Subscribed and sworn to before me this _____ day of _____, 2025.

(Circulator's Signature)

_____

Notary Public (seal here)

Date Issued: _____ Date Filed: _____ Time Filed: _____AM/PM No. Signatures Valid: _____

Municipality of Lisbon, Maine

Petition for **Citizen's Initiative to Change the Budget Process**

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

Amendment to Charter Article VI - Financial Provisions, Section 6.06 - Council Action on Budget

*Note: All signers must read the below proposed legislation before signing:

Reference: - TOWN Of LISBON, ME CHARTER (requires Election to Amend) ARTICLE VIII. - INITIATIVE, REFERENDUM, RECALL AND SPECIAL TOWN MEETING Part 2. Initiative and Referendum

Referendum Short Title: **Citizen Initiative to Change the Budget Process**

Article Requesting Change by Petitioners Committee: **ARTICLE VI, Section 6.04**

Language of proposed initiative ordinance, resolution, or other measure:

ARTICLE VI, Section 6.04
"Charter Article VI – Financial Provisions, Section 6.04 – Council Action on Budget"

REMOVE IN ENTIRETY

~~*(c)*~~
~~*Amendments Before Adoption. After the public hearing, the Town Council may adopt the Manager's budget with or without amendment. It may by amendment add or increase programs or amounts and delete or decrease programs or amounts except expenditures for debt service or otherwise required by law. The Council may adopt the School budget as proposed and may amend it, but such amendments shall be limited to adding to or decreasing the total amount of the budget.*~~

RESTRUCTURE

CURRENTLY
~~*(d)*~~
~~*Adoption.*~~
~~1.~~
~~Town Budget. The final vote on the Town Budget shall be taken on or before the last Tuesday of June. If Council fails to adopt a Budget for the Town by the last Tuesday in June, the Budget as presented by the Town Manager shall become the Budget to be implemented on a month to month basis until such time as a final Budget is approved.~~

PROPOSED
(c)
Adoption.
1.
Municipal Budget. A validation referendum on the Municipal Budget shall be held annually on the second Tuesday of June. If the budget should be defeated at the referendum, the interim spending until the adoption of a new municipal budget shall continue at the same level as the previous budget. A second validation referendum on the Municipal Budget shall be held on the second Tuesday of July. If the Municipal Budget is defeated at referendum a second time, the Town Council shall, after public hearing, adopt the prior fiscal year's Municipal Budget, reduced in totality by 33% for the ensuing fiscal year. There shall be only two referendums permitted hereunder for any one fiscal year's Municipal Budget.

PretiFlaherty

Portland, ME
Augusta, ME
Concord, NH
Boston, MA
Washington, DC

Kristin M. Collins
kcollins@preti.com
Direct Dial: 207.791.3292

M E M O R A N D U M

TO: Town of Lisbon Town Council

FROM: Kristin M. Collins

DATE: July 8, 2025

RE: **Proposed Charter Amendment**

Recently a citizen petition (the "Petition") was submitted to the Town of Lisbon (the "Town") seeking to modify a portion of the Town Charter. I have reviewed the Petition in accordance with 30-A M.R.S. § 2104(4) and (5).

I. The Petition Is Permitted Under State Law

Following Maine's adoption of "home rule" in 1969, Maine municipalities have the power to "alter or amend their charters on all matters, not prohibited by the Constitution or general law, which are local and municipal in character." Me. Const., Art. VII, pt 2, § 1. However, municipalities are not permitted to regulate in areas that have been preempted by the state legislature. *Perkins v. Town of Ogunquit*, 1998 ME 42, ¶ 7, 709 A.2d 106. The budget process is appropriately addressed by a municipal charter. I find nothing in the Constitution or general law which prohibits the budget validation process sought to be implemented by the petitioned amendment.

II. The Petition Requests a Charter Amendment

Charter modifications may be grouped into two categories, revisions and amendments. This classification is important as it determines the process through which the proposed modification is evaluated and, potentially, adopted. The distinction between a charter amendment and a charter revision is fundamentally one of scope, encompassing both the breadth of what would be affected and the depth of what would be altered. *Fair Elections Portland, Inc. v. City of Portland,* 2021 ME 32, ¶¶ 28-34, 252 A.3d 504. Essentially, an amendment does not make a profound or fundamental alteration to the essential character or core operations of a municipality. *Id*. In addition, because every municipality's charter is unique, whether a particular charter modification constitutes a revision or amendment is a highly fact-specific inquiry. *Id.* at ¶ 34.

The Petition seeks to modify the budget adoption process employed by the Town by adding a required budget validation referendum following adoption of the budget by the Council. The petitioned Charter change, if adopted, could have sweeping impacts on the Town's fiscal

operations by delaying finalization of the budget process, potentially impacting the ability of the Town to timely commit taxes, and, if a validation referendum fails, requiring the Town to function on 66% of the prior year's approved budget. While the proposed changes would be difficult to administer within the existing charter-prescribed budget process, they are not inherently in conflict with any existing Charter provision. Moreover, they relate only to one subject matter – budget adoption. For these reasons, I conclude that the petition seeks a charter amendment, and that there is no need to call for a charter commission pursuant to 30-A M.R.S. § 2104(4).



Kristin Collins, Town Attorney

PretiFlaherty

Portland, ME
Augusta, ME
Concord, NH
Boston, MA
Washington, DC

Kristin M. Collins
kcollins@preti.com
Direct Dial: 207.791.3292

M E M O R A N D U M

TO: Town Council, Town of Lisbon

FROM: Kristin M. Collins

DATE: July 10, 2025

RE: **Language for Ballot re: Petitioned Charter Amendments**

The petitioned charter amendment to be considered at the Town Council's July 15, 2025 meeting is presented in a series of stricken through text that is proposed for deletion, and proposed new text. The amendments cover two subsections of Article VI, Section 6.04 of the Charter.

The formatting and length of the petitioned amendments may prove confusing to voters if reprinted verbatim on the municipal ballot. Title 30-A M.R.S. § 2104, which governs charter amendments, provides as follows:

> **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 [Title 30-A] 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.

I would advise the Council to order that a summary of the petitioned amendments be placed on the ballot. A proposed Council order is attached:

ORDER

OF THE TOWN COUNCIL

TOWN OF LISBON, MAINE

July 15, 2025

Upon receipt of a duly certified citizens petition for a charter amendment, the Town Council hereby orders that the following question to consider a petitioned request for charter amendment, as summarized pursuant to 30-A M.R.S. § 2104(6), be placed on the ballot for a municipal referendum to be held on November 4, 2025:

"Shall the municipality approve the charter amendment summarized below?

- Article VI, Section 6.04(c) is repealed, removing current language authorizing the Town Council to adopt the Manager's proposed municipal budget and the School Committee's proposed school budget with or without amendment.

- Article VI, Section 6.04(d) is repealed, removing current language requiring the Town Council to take a final vote on the town budget on or before the last Thursday of June, and providing that if the Council fails to adopt a budget by that date, the budget as presented by the Town Manager is implemented on a month to month basis until such time as a final budget is adopted.

- Article VI, Section 6.04(c) is amended to add new provisions summarized as follows:

    - A validation referendum must be held on the municipal budget on the second Tuesday of June.

    - If the budget is defeated at a first referendum attempt, a second referendum is called. Interim spending continues at the same level as the previous year's budget until the second referendum can be held.

    - If the budget is defeated at the second referendum attempt, the Town Council shall adopt the prior fiscal year's municipal budget, reduced in total by 33%.

The Clerk is hereby authorized and directed to take all actions necessary in furtherance of this order and in accordance with state law and the Town of Lisbon Charter."

So ordered.

Order 2025-109-A for Charter Amendment:

ORDER

OF THE TOWN COUNCIL

TOWN OF LISBON, MAINE

July 15, 2025

Upon receipt of a duly certified citizens petition for a charter amendment, the Town Council hereby orders that the following question to consider a petitioned request for charter amendment, as summarized pursuant to 30-A M.R.S. § 2104(6), be placed on the ballot for a municipal referendum to be held on November 4, 2025:

"Shall the municipality approve the charter amendment summarized below?

- Article VI, Section 6.04(c) is repealed, removing current language authorizing the Town Council to adopt the Manager's proposed municipal budget and the School Committee's proposed school budget with or without amendment.

- Article VI, Section 6.04(d) is repealed, removing current language requiring the Town Council to take a final vote on the town budget on or before the last Thursday of June, and providing that if the Council fails to adopt a budget by that date, the budget as presented by the Town Manager is implemented on a month to month basis until such time as a final budget is adopted.

- Article VI, Section 6.04(c) is amended to add new provisions summarized as follows:

    - A validation referendum must be held on the municipal budget on the second Tuesday of June.

    - If the budget is defeated at a first referendum attempt, a second referendum is called. Interim spending continues at the same level as the previous year's budget until the second referendum can be held.

    - If the budget is defeated at the second referendum attempt, the Town Council shall adopt the prior fiscal year's municipal budget, reduced in total by 33%.

The Clerk is hereby authorized and directed to take all actions necessary in furtherance of this order and in accordance with state law and the Town of Lisbon Charter."

So ordered.

Order 2025-109-B for Charter Amendment:

ORDER

OF THE TOWN COUNCIL

TOWN OF LISBON, MAINE

July 22, 2025

Upon receipt and consideration of a duly certified citizens petition for a charter amendment, the Town Council hereby adopts the Findings of Fact that are incorporated into this order as Exhibit A, and orders that the following question, as summarized pursuant to 30-A M.R.S. § 2104(6), be placed on the ballot for a municipal referendum to be held on November 4, 2025:

"Shall the municipality approve the charter amendment summarized below?"

- "Article VI, Section 6.04(c) is repealed, removing current language authorizing the Town Council to adopt the Manager's proposed municipal budget and the School Committee's proposed school budget with or without amendment.

- "Article VI, Section 6.04(d) is repealed, removing current language requiring the Town Council to take a final vote on the town budget on or before the last Thursday of June, and providing that if the Council fails to adopt a budget by that date, the budget as presented by the Town Manager is implemented on a month to month basis until such time as a final budget is adopted.

- "Article VI, Section 6.04(c) is amended to add new provisions summarized as follows:

    - "A validation referendum must be held on the municipal budget on the second Tuesday of June.

    - "If the budget is defeated at a first referendum attempt, a second referendum is called. Interim spending continues at the same level as the previous year's budget until the second referendum can be held.

    - "If the budget is defeated at the second referendum attempt, the Town Council shall adopt the prior fiscal year's municipal budget, reduced in total by 33%."

The Clerk is hereby authorized and directed to file a report containing the text of this order and the written opinion of Attorney Kristin Collins, dated July 8, 2025, that the proposed amendment does not contain any provision prohibited by the general laws, the United States Constitution or the Constitution of Maine; and to take all actions necessary in furtherance of this order and in accordance with state law and the Town of Lisbon Charter.

So ordered.

Order 2025-109-C for Charter Revision:

ORDER

OF THE TOWN COUNCIL

TOWN OF LISBON, MAINE

July 22, 2025

Upon receipt and consideration of a duly certified citizens petition for a charter amendment, the Town Council hereby adopts the Findings of Fact that are incorporated into this order as Exhibit A, determines that the proposed charter amendment would constitute a revision of the charter and that the petition shall be treated as a request for a charter commission and shall follow the procedures applicable to such a request, the Town Council hereby orders, pursuant to 30-A M.R.S. §§ 2104(4), 2102(5), that the following question be placed on the ballot for a municipal referendum to be held on November 4, 2025:

> "Shall a Charter Commission be established for the purpose of revising the Municipal Charter?"

The Clerk is hereby authorized and directed to take all actions necessary in furtherance of this order and in accordance with state law and the Town of Lisbon Charter."

So ordered.

Outlook

Fw: Submission of Findings: Proposed Charter Change July 2nd Workshop

From Glenn Michalowski <GMichalowski@lisbonme.org>
Date Thu 7/17/2025 3:04 PM
To Alice Richards <arichards@lisbonme.org>; Michael Carey <mcarey@brannlaw.com>

Book time to meet with me

From: Dean Willey <dean04252@gmail.com>
Sent: Thursday, July 17, 2025 2:59 PM
To: Fern Larochelle <FLarochelle@lisbonme.org>; Chris Camire <ccamire@lisbonme.org>; Jo-Jean Keller <JKeller@lisbonme.org>; Mark Lunt <MLunt@lisbonme.org>; Normand Albert <nalbert@lisbonme.org>; Nicholas Craig <NCraig@lisbonme.org>
Cc: Glenn Michalowski <GMichalowski@lisbonme.org>
Subject: Submission of Findings: Proposed Charter Change July 2nd Workshop

Members of the Council; Town Manager,

I respectfully request that these findings be included in the Town Council workshop agenda packet for July 22nd 2025, for consideration as a finding of fact.

I've been doing a lot of digging into our Town Charter, state laws, and learning from past court decisions that shed light on how these budget changes are to be handled. What I've found raises some very serious questions about whether this should be considered a simple amendment or a much more significant revision to our Charter. This distinction isn't just technical; it has huge implications for Lisbon.

My research suggests this proposed change is a major overhaul of how our town is run financially. It's being presented as a simple "amendment," but it fundamentally shifts how our government operates, especially concerning our budget.

The Maine Municipal Association (MMA) and even past Maine Superior Court decisions have made it clear that proposals "substantially altering the existing budget process" should be treated as a charter revision. The current proposal absolutely fits that description.

For example, a significant case from the Maine Superior Court, *Edward Karytko and Bruce Coyne, et al. v. Town of Kennebunkport, et al.* (from October 16, 2006), found that proposed changes which "**substantially altered the existing budget process**" constituted a **charter revision**, requiring the more involved process.

Right now, our Town Council is ultimately responsible for adopting our town's budget. They review the Town Manager's plan, hold public hearings, and make the tough final decisions. If they can't agree, the Manager's budget temporarily goes into effect, ensuring our services don't stop.

This new proposal completely flips that on its head. It takes the power to approve the budget away from our elected Council and gives it directly to us, the voters, through referendums. And here's the most

concerning part: if we vote down the budget twice, there's a drastic, automatic 33% cut to our town's entire budget.

This isn't a minor tweak. It's a fundamental shift in how our town is governed. It severely weakens the role of our Town Council, whom we elect to make informed decisions on behalf of all of Lisbon. Their job is to carefully consider all aspects of the budget, listen to public input, and then make difficult choices for everyone. If their work can be completely undone, and then punished with such a massive, automatic cut, it seriously undermines their entire purpose.

Maine law makes a very clear distinction between small "amendments" and big "revisions" to a town charter. A revision fundamentally changes how the government works. Maine courts have consistently ruled that changes to the budget process, even less severe than what's proposed for Lisbon, are considered "revisions" because they significantly alter how the town operates financially. This proposal goes even further with that automatic 33% cut.

Maine state law (specifically Section 2104(4) of Title 30-A of the Maine Revised Statutes) even has a rule for this: if the town's lawyer advises that a proposed "amendment" is truly a "revision," then it *must* go through a proper, more involved revision process. The Maine Supreme Judicial Court (in the *Fair Elections Portland v. City of Portland* case from 2021) has confirmed this distinction.

Given the strong precedent from the *Karytko* case, it's difficult to understand how this proposal could be classified as a mere amendment. The sheer scale and potential impact of this change make me feel that, as a town, we should seek a second or even a third opinion on whether this constitutes a revision or an amendment.

Regardless of whether it's called a revision or an amendment, this proposed change also appears legally insufficient due to inherent contradictions and serious legal problems. Its content directly conflicts with existing legal requirements, threatens our essential town services, creates ambiguity, and introduces numerous contradictions within our own Charter.

Here are specific contradictions and legal vulnerabilities I've identified:

- **Conflict with Section 6.03 "Budgets":**
    - Currently, 6.03 outlines that the Town Manager and School Committee "shall prepare and submit" budgets as financial plans. The proposed amendment drastically changes the adoption mechanism. While it doesn't directly contradict the preparation, the idea of a 33% automatic reduction could render the initial "financial plan" of 6.03(a) utterly meaningless. How can the Town Manager or School Committee create a realistic financial plan if it could be arbitrarily slashed by one-third due to voter rejections?
    - The "format" requirements of 6.03(b) (e.g., showing estimated income, proposed property tax levy, detailed expenditures) become problematic. If the budget is ultimately determined by a referendum that could result in a 33% cut, the figures presented in the initial budget (per 6.03(b)) might bear little resemblance to the adopted budget, potentially misleading the public.
- **Impact on Section 6.04(a) "Notice and Hearing":**
    - While the proposal mentions a public hearing before the Council adopts the prior fiscal year's budget reduced by 33% after two defeats, it doesn't explicitly modify the initial public hearing process for the Town Manager's budget. However, if the public understands that their vote, not the Council's deliberations, is the ultimate decider, and especially with the 33% penalty looming, the nature and effectiveness of those initial public hearings could change dramatically, becoming more about influencing referendum voters than informing Council decisions.
- **Absence of "Emergency" or "Contingency" Appropriations (Post-33% Cut):**

- Sections 6.06 ("Supplemental and Emergency Appropriations") and 6.07 ("Reduction of Appropriations") provide mechanisms for adjusting the budget *after* adoption. However, a pre-ordained 33% cut is not an "emergency appropriation" or a "reduction of appropriation" in the conventional sense; it's an automatic, potentially catastrophic, preemptive defunding.

- If the town operates under a 33% reduced budget due to a double referendum defeat, any subsequent "emergency" would be amplified. The town would have vastly fewer resources. This could create a legal and operational crisis if, for example, a natural disaster, a major infrastructure failure, or an unforeseen public health emergency occurred while operating under such a severely constrained budget. How would the town legally appropriate funds for such an emergency when the entire budget has been so drastically cut? It could necessitate entirely new, rapid-fire ordinances, potentially outside the normal process, creating further legal ambiguity.

- **Section 6.08 "Lapse of Appropriations":**

  - This section states appropriations lapse at the close of the fiscal year if unexpended, "except that an appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned." A 33% reduction across the board could force the abandonment of previously approved and funded capital projects, creating a conflict with this provision and potentially leading to wasted prior expenditures or contractual disputes.

Contradictions with Other Articles of the Charter:

- **Article II "Town Council":**

  - **Diminished Authority of the Council:** Section 2.09 ("Powers and Duties") outlines the Council's broad authority to "exercise all powers conferred on the Town by law," "enact, amend or repeal ordinances, orders, and resolves," and "raise and appropriate monies." The proposed amendment strips the Council of its ultimate authority to "raise and appropriate monies" for the municipal budget. Their role would become more akin to a "recommending body" whose recommendation can be rejected twice with severe penalties. This could lead to a demoralized Council or difficulties in attracting qualified candidates for office.

  - **Contradiction with "Administrative Code" (Section 2.12.1):** The Council is empowered to "Adopt or amend an Administrative Code, or establish, alter or abolish any department, office or agency." How can the Council effectively "establish, alter or abolish" departments if their primary tool for doing so – the budget – is subject to external control and automatic drastic cuts? A 33% cut would inevitably force departmental restructuring, potentially overriding the Council's deliberate planning.

  - **Relationship with Ordinances (Section 2.12):** Many ordinances require funding for their enforcement or implementation. If the budget is severely cut, the town may be unable to enforce existing ordinances, leading to a breakdown in public services or legal challenges from citizens expecting services the town can no longer provide.

- **Article III "Town Manager":**

  - **Feasibility of Duties:** Section 3.03 ("Powers and Duties") grants the Town Manager the responsibility to "execute the laws and ordinances of the Town" and "administer the affairs of the Town." How can the Town Manager "administer the affairs" or "execute the laws" if the budget, the lifeblood of administration, can be so drastically and automatically reduced? This sets the Town Manager up for failure.

- **Budget Preparation vs. Reality:** The Manager's duty to "prepare and submit the annual budget" becomes a very tenuous exercise if it's almost guaranteed to be altered and faces a high risk of a punitive 33% cut. This could lead to managers proposing minimalist budgets to try to "pass" the referendum, rather than budgets based on actual town needs, creating a self-fulfilling prophecy of underfunding.

- **Article IV "School Department":**
  - **Ambiguity and Potential Conflict for School Budget:** The proposed language specifically states "Municipal Budget" for the referendums. However, in Lisbon's current charter (and generally in Maine), the Town's contribution to the School Budget is part of the overall "Town Budget" or "Municipal Budget" for tax purposes. Section 6.04(c) currently differentiates, allowing the Council to amend the total amount of the School budget.
    - **CRITICAL AMBIGUITY:** Does "Municipal Budget" in the new 6.04(c) include the town's portion of the school budget? If so, then the school budget, currently approved through a separate validation referendum (as per Section 6.05), could be double-jeopardized. If the overall "Municipal Budget" (including schools) fails twice, would the 33% reduction apply to the entire municipal budget, thereby cutting the town's contribution to the school budget by 33% even if the school-specific referendum passed? This would create an enormous, legally contentious conflict between the proposed new 6.04(c) and the existing 6.05.
    - If the intent is *only* the general government budget, the wording needs to be extremely precise to avoid inadvertently subjecting the school budget to a 33% cut if the town's portion is considered part of the "municipal budget" in practice. This is a very likely serious issue.

- **Capital Improvement Plan (Section 6.09):**
  - The requirement for a five-year capital program becomes nearly impossible to maintain under the threat of a 33% budget reduction. How can the town plan for long-term infrastructure, equipment, and facility needs if its funding for those plans can be so drastically cut annually? This could lead to deferred maintenance, deteriorating infrastructure, and a reactive, rather than proactive, approach to capital planning.

- **Debt Service and Legal Requirements (General):**
  - The current 6.04(c) explicitly states the Council cannot amend "debt service or legally required expenditures." The proposed amendment for the 33% reduction simply states, "reduced in totality by 33%." This is a **massive potential legal conflict.** Can a citizen-initiated referendum, even one codified in the charter, legally compel the town to default on its debt obligations or violate state/federal mandates by cutting legally required expenditures by 33%? This is highly unlikely and could lead to lawsuits, bond rating downgrades, and state intervention. Maine law typically protects essential services and financial commitments from arbitrary cuts.

Operational and practical issues leading to further contradictions):

- **Employee Contracts and Compensation:** A 33% budget cut would inevitably impact existing collective bargaining agreements or individual employee contracts. It would likely necessitate layoffs, renegotiations, or breaches of contract, leading to significant legal and financial consequences for the town. This would contradict any provisions related to employee rights or fair labor practices that might exist in ordinances or town policies.

- **Essential Services:** A 33% reduction would inevitably force cuts to essential services like public safety (police, fire, EMS), public works (road maintenance, sanitation), and general

administration. This could directly contradict the implied purpose of the town charter and ordinances, which is to provide for the "health, safety, and welfare" of the residents.

- **Revenue Generation:** If revenues are stagnant or declining, a 33% reduction based on the prior year's budget could be even more devastating. The charter and ordinances outline various revenue streams (e.g., property taxes, fees, licenses). Drastic budget cuts could lead to increased fees or taxes in subsequent years to try and recover, creating a cycle of instability and citizen frustration.

- **State Mandates:** Maine municipalities are often subject to state mandates for services (e.g., education, general assistance, environmental regulations). A 33% budget cut could make it impossible for Lisbon to meet these mandates, potentially leading to fines, loss of state aid, or other penalties. This would put the town in direct conflict with state law.

This entire proposal represents nothing but a **recipe for chaos and legal challenges, ultimately costing taxpayers more.** The proposed charter amendment, particularly the 33% automatic reduction, appears to be a blunt instrument designed to force fiscal austerity without regard for the intricate legal and operational framework of a municipal government. It introduces:

1. Direct contradictions with existing provisions regarding the Council's authority, budget preparation, and the handling of emergency funds.

2. Severe ambiguity regarding the treatment of the school budget, which could lead to significant legal disputes.

3. Potential for violating state law regarding debt service, legally required expenditures, and state mandates.

4. Operational paralysis and potential financial ruin for the town, making it incredibly difficult to deliver essential services, maintain infrastructure, or plan for the future.

In simple terms, while the proposed changes to Lisbon's budget process are presented as an "amendment," they are so significant—shifting power away from our elected Council and introducing an automatic 33% budget cut—that they likely qualify as a "revision" under Maine law. This distinction is critical because revisions require a more thorough process involving a citizen-led Charter Commission and ignoring it could create serious contradictions within our Town Charter and lead to significant legal problems for Lisbon, potentially invalidating the change even if approved by voters.

Respectfully,

Dean Willey - Lisbon Falls

Findings of Fact

1. **Scope of the Proposed Modification:**
    - The proposed modification affects Article VI, Section 6.04 of the Lisbon Town Charter, specifically repealing subsections (c) and (d) and amending subsection (c) to establish a referendum process for municipal budget adoption.
    - The changes focus solely on the process of budget adoption, a single subject matter within the charter, and do not explicitly alter other major charter provisions, such as those governing the Town Council's legislative authority, municipal structure, or other operational functions.
2. **Breadth Analysis:**
    - The proposed modification does not materially affect major charter provisions not mentioned in the amendment. The Lisbon Town Charter assigns the Town Council broad fiscal and legislative responsibilities, but the budget adoption process is a discrete function within those responsibilities.
    - The shift to a referendum-based budget approval process modifies only the mechanism for final budget approval, leaving intact other Council powers, such as setting policies, appointing officials, or managing non-budgetary municipal operations.
    - No evidence presented during the July 15, 2025, public hearing or Council deliberations indicates that the proposal conflicts with or materially alters unmentioned charter provisions, such as those related to taxation, borrowing, or general governance.
3. **Depth Analysis:**
    - The proposed modification does not fundamentally alter the essential character or core operations of municipal government. The Town Council retains significant authority over budget preparation, as the

proposal requires the Town Manager's budget to be submitted to voters for approval.

- The referendum process, including provisions for a second referendum and a fallback to the prior year's budget (reduced by 33% if both referenda fail), introduces a new procedural step but does not change the Council's role in developing the budget or managing municipal services.
- The 33% budget reduction provision, while significant, is a contingency mechanism that applies only in the rare case of two failed referenda. Historical data from Lisbon's budget adoption process (2015–2024) shows consistent budget approval by the Council, suggesting that the contingency is unlikely to be triggered, thus minimizing its practical impact on core operations.
- The essential character of Lisbon's municipal government, as a council-manager system under the Maine Home Rule statute, remains unchanged, as the Council continues to oversee budget preparation and municipal administration.

4. **Consistency with Prior Legal Opinion:**

- On July 8, 2025, prior Town Attorney Kristin M. Collins opined that the proposed modification is a charter amendment, as it does not conflict with existing charter provisions, general laws, the United States Constitution, or the Constitution of Maine, and pertains to a single subject matter (budget adoption).
- I find this opinion persuasive, as the proposal's focus on budget adoption aligns with the characteristics of an amendment, which typically addresses specific procedural or operational changes without necessitating a comprehensive review of the entire charter.

5. **Public Input and Evidence:**

- During the public hearing on July 15, 2025, residents expressed support for increased voter participation in

budget decisions, indicating that the proposal aligns with the community's interest in enhancing democratic processes without fundamentally altering municipal governance.

- No testimony or written submissions to the Town Clerk identified specific charter provisions or municipal operations that would be disrupted beyond the budget adoption process.

6. **Practical Effect on Municipal Operations:**

   - The proposed referendum process is consistent with existing practices in other Maine municipalities that use budget validation referenda (e.g., school budgets under 20-A M.R.S. § 1486), suggesting that the change is a procedural adjustment rather than a profound restructuring.
   - The Council's analysis of municipal operations indicates that core services, such as public safety, education, and infrastructure, will continue to be funded through the budget process, with the referendum serving as an additional layer of voter oversight rather than a replacement of Council authority.

7. **Conclusion:**

   - Based on the limited breadth and depth of the proposed modification, the Council finds that it does not require a comprehensive inquiry into all aspects of the municipality's government, as would be necessary for a charter revision.
   - The proposal is appropriately classified as a charter amendment, as it makes specific, targeted changes to the budget adoption process without materially affecting other charter provisions or fundamentally altering the core operations of Lisbon's municipal government.

Rebuttal to Dean Willey's Submission of Findings

Dean Willey's letter argues that the "Citizen Initiative to Change the Budget Process" is a charter revision due to its

substantial impact on the Lisbon Town Charter and municipal operations, citing legal precedents, alleged contradictions with existing charter provisions, and operational concerns. While Willey's concerns are noted, his arguments overstate the proposal's scope, misinterpret legal standards, and rely on speculative impacts rather than concrete evidence. Below, we address his key points and highlight flaws in his reasoning to support the determination that the proposal is a charter amendment.

1. Misapplication of Legal Precedent

Willey's Claim: Willey cites *Edward Karytko and Bruce Coyne, et al. v. Town of Kennebunkport* (Maine Superior Court, Oct. 16, 2006) and *Fair Elections Portland v. City of Portland* (2021 ME 32) to argue that changes "substantially altering the existing budget process" constitute a charter revision. He asserts that the proposal's shift to referendum-based budget approval and the 33% reduction provision meet this threshold.

Rebuttal:

- **Misinterpretation of Precedent**: Willey's reliance on *Karytko* is flawed because the case is not binding precedent from the Maine Supreme Judicial Court (Law Court) and is factually distinguishable. In *Karytko*, the proposed changes involved multiple structural alterations to the town's governance, including budget processes and other municipal functions, justifying a revision. The Lisbon proposal is narrower, focusing solely on the budget adoption process within Article VI, Section 6.04, without altering other governance structures (e.g., Council composition or powers beyond budgeting).
- **Narrow Scope in *Fair Elections Portland***: The Law Court in *Fair Elections Portland* (¶ 32) defined a revision as requiring a "years-long inquiry into all aspects of the municipality's government." The Lisbon proposal does not necessitate such a comprehensive review, as it modifies a single procedural aspect (budget adoption) and leaves the council-manager system intact. Willey's claim that the proposal "fundamentally shifts how our government operates"

exaggerates its impact, as the Council retains authority over budget preparation and other governance functions.

- **Lack of Specificity**: Willey does not provide specific details from *Karytko* showing how the Lisbon proposal is analogous, nor does he address the *Fair Elections Portland* criteria of breadth and depth explicitly. His assertion that the proposal is a revision is conclusory and lacks evidence tying it to a broader restructuring of municipal government.

Hole: Willey's legal analysis is incomplete, relying on a non-binding Superior Court case and failing to engage with the full scope of *Fair Elections Portland*, which emphasizes that amendments can include significant procedural changes without constituting revisions.

---

2. Overstatement of Breadth

Willey's Claim: The proposal affects multiple charter provisions (e.g., Sections 6.03, 6.04(a), 6.06, 6.07, 6.08, and Articles II, III, IV) by shifting budget approval to referenda and introducing a 33% reduction, creating contradictions and diminishing Council authority.

Rebuttal:

- **Single Subject Matter**: The proposal modifies only Article VI, Section 6.04, focusing on budget adoption. Willey's claim that it affects other provisions (e.g., Section 6.03 on budget preparation) is speculative. Section 6.03 requires the Town Manager and School Committee to prepare budgets, which remains unchanged, as the proposal only alters the approval mechanism. The 33% reduction is a contingency, not a direct amendment to budget preparation rules.
- **No Material Impact on Unmentioned Provisions**: *Fair Elections Portland* (¶ 32) defines breadth as whether the proposal materially affects unmentioned charter provisions. Willey identifies potential conflicts (e.g., with Section 6.08 on appropriation lapses), but these are hypothetical and not supported by evidence of direct contradiction. For

example, capital projects under Section 6.08 could continue if funded in prior years, and the 33% reduction would only apply to the current budget, not past appropriations.

- **Council Authority Intact:** Willey claims the proposal diminishes the Council's authority under Article II (Section 2.09) by making it a "recommending body." This overstates the impact, as the Council retains full authority to prepare and propose the budget, hold hearings, and manage other municipal functions. The referendum process adds voter oversight, a common feature in Maine municipalities (e.g., school budget referenda under 20-A M.R.S. § 1486), without stripping the Council of its core legislative role.
- **Administrative Code (Section 2.12.1):** Willey's concern that a 33% reduction could override Council planning for departments is speculative. The Council can adjust department structures within the budget constraints, and no evidence suggests the referendum process would prevent such adjustments.

Hole: Willey's breadth arguments rely on hypothetical conflicts without demonstrating specific, unavoidable contradictions with other charter provisions. The proposal's focus on budget adoption limits its scope, aligning with the characteristics of an amendment.

---

3. Exaggeration of Depth

Willey's Claim: The shift to referendum-based budgeting and the 33% reduction provision fundamentally alter the "essential character" of municipal governance, justifying a revision. He argues this undermines the Council's role and threatens essential services.

Rebuttal:

- **Not a Fundamental Alteration:** *Fair Elections Portland* (¶ 32) defines depth as a "profound and fundamental alteration in the essential character or core operations of municipal government." The Lisbon proposal modifies the budget approval process but does not change the council-manager

structure, the Council's legislative powers, or the Town Manager's administrative duties. Budget referenda are a standard practice in Maine (e.g., school budgets), indicating the change is procedural, not structural.

- **Unlikely Contingency**: The 33% reduction applies only if two referenda fail, an unlikely scenario given Lisbon's history of consistent budget approvals (2015–2024, as noted in the findings of fact). Willey's portrayal of this as a "catastrophic" outcome is speculative, as no evidence suggests voters would repeatedly reject budgets. The provision serves as a safeguard to ensure fiscal continuity, not a routine mechanism.
- **Council's Role Preserved**: The Council retains significant control over budget preparation, public hearings, and municipal governance. The referendum process enhances democratic participation, aligning with the home rule principles in 30-A M.R.S. § 2101, rather than undermining the Council's purpose.
- **Comparison to Other Municipalities**: Many Maine towns use referendum-based budget validation without requiring charter revisions. Willey's claim that this shift is unprecedented ignores established practices that maintain municipal stability.

Hole: Willey exaggerates the proposal's depth by assuming worst-case scenarios (e.g., double referendum failure) without evidence of their likelihood. The change aligns with existing municipal practices and does not fundamentally alter Lisbon's governance structure.

---

4. Alleged Legal Contradictions

Willey's Claim: The proposal creates contradictions with Sections 6.03, 6.04(a), 6.06, 6.07, 6.08, and Articles II, III, and IV, particularly regarding the 33% reduction, school budget ambiguity, and debt service obligations. He argues these conflicts render the proposal legally insufficient.

Rebuttal:

- **Section 6.03 (Budgets):** Willey claims the 33% reduction undermines the budget as a "financial plan." However, the plan prepared under Section 6.03 remains valid for presentation to voters, and the reduction is a fallback mechanism, not a routine alteration. The budget's format (Section 6.03(b)) is unaffected, as it still includes estimated income and expenditures, even if subject to referendum approval.
- **Section 6.04(a) (Notice and Hearing):** Willey's concern that referenda diminish the effectiveness of public hearings is speculative. Hearings remain a critical step for informing voters and the Council, and the proposal does not alter their legal requirements. The public's role in referenda enhances, rather than undermines, democratic engagement.
- **Sections 6.06 and 6.07 (Supplemental/Emergency Appropriations):** Willey argues a 33% reduction could create a crisis for emergency appropriations. However, these sections allow post-adoption adjustments, which could address emergencies even under a reduced budget. Willey provides no evidence that a reduced budget would prevent compliance with state or federal mandates.
- **Section 6.08 (Lapse of Appropriations):** The claim that a 33% reduction would force abandonment of capital projects is speculative. Capital appropriations continue until completed or abandoned, and the Council could prioritize funding to avoid conflicts. No specific projects are cited as at risk.
- **School Budget Ambiguity (Section 6.05):** Willey's concern about the "municipal budget" including the school budget is valid but overstated. The proposal specifies the "municipal budget," and Lisbon's charter (Section 6.05) separates school budget validation. If clarification is needed, the Council can address this in the ballot summary, as suggested by Kristin Collins' memorandum, without necessitating a revision.
- **Debt Service and Legal Requirements:** Willey's assertion that a 33% reduction could violate debt service obligations is speculative and ignores the charter's existing

protection (Section 6.04(c)) that prohibits amending debt service or legally required expenditures. The proposal's language can be interpreted to respect these constraints, and any ambiguity can be resolved through legal review, as required by 30-A M.R.S. § 2104(4).

- **Articles II, III, IV**: Willey's claims about diminished Council and Town Manager authority are exaggerated. The Council retains legislative and budgetary preparation powers, and the Town Manager's duties (e.g., executing ordinances) are unaffected by the approval mechanism. The school department's operations under Article IV remain governed by separate validation processes.

Hole: Willey's contradictions are largely hypothetical, assuming extreme outcomes (e.g., 33% reduction triggering widespread conflicts) without evidence of their inevitability. The proposal's targeted changes can coexist with existing charter provisions, and any ambiguities can be clarified without requiring a revision.

---

5. Operational and Practical Concerns

Willey's Claim: The 33% reduction threatens essential services, employee contracts, and state mandates, risking legal challenges, financial ruin, and operational paralysis.

Rebuttal:

- **Essential Services**: Willey's claim that a 33% reduction would cut essential services (e.g., public safety, public works) assumes a double referendum failure, which is unlikely based on Lisbon's budget approval history. The Council can prioritize essential services in budget preparation to mitigate risks.
- **Employee Contracts**: Impacts on collective bargaining agreements are speculative. Budget reductions may require negotiations, but this is a standard municipal practice and does not inherently violate contracts or charter provisions.

- **State Mandates**: Willey provides no specific mandates that would be violated by a reduced budget. Maine law allows municipalities flexibility in meeting mandates within available resources, and the Council can ensure compliance through budget prioritization.
- **Revenue and Stability**: The claim that budget cuts would lead to increased taxes or fees is hypothetical and not unique to this proposal. All budgets face revenue constraints, and the referendum process encourages voter accountability, not instability.
- **Legal Challenges**: Willey's assertion that the proposal invites lawsuits is unsupported. The prior Town Attorney's opinion (July 8, 2025) found no conflicts with state or federal law, and the Council's review process ensures compliance with 30-A M.R.S. § 2104.

Hole: Willey's operational concerns rely on worst-case scenarios without evidence of their likelihood or specific legal violations. The proposal's structure aligns with existing municipal practices and can be implemented without causing chaos.

---

6. Call for Additional Legal Opinions

Willey's Claim: The proposal's significance warrants seeking second or third legal opinions to confirm whether it is a revision.

Rebuttal:

- **Existing Legal Review Sufficient**: The prior Town Attorney (Kristin Collins) provided an opinion on July 8, 2025, concluding the proposal is an amendment compliant with state and federal law. The current Town Attorney (Michael Carey) has advised the Council to evaluate breadth and depth, which it has done through public hearings and findings of fact. *Fair Elections Portland* (¶ 36) does not require multiple opinions, only that the Council make an informed determination supported by findings.

- **Council's Authority**: The Council is not bound by any attorney's opinion (Carey Memorandum, p. 3) and has the authority to decide based on evidence. Willey's call for additional opinions is unnecessary, as the Council's process complies with statutory and judicial requirements.

Hole: Willey's request for additional opinions lacks a legal basis and ignores the robust review process already undertaken, including public input and legal advice.

Conclusion

Dean Willey's letter raises valid concerns about the proposal's potential impacts but overstates its scope and legal implications. His reliance on *Karytko* is misplaced, as it is not binding and factually distinct, and his interpretation of *Fair Elections Portland* exaggerates the proposal's breadth and depth. The alleged contradictions with charter provisions are speculative and can be addressed through clarification or prioritization without necessitating a revision. The 33% reduction, while significant, is a contingency unlikely to occur, and the shift to referendum-based budgeting aligns with established Maine practices.

The Town Council's findings of fact (adopted July 18, 2025) demonstrate that the proposal is a charter amendment, as it targets a single process (budget adoption), does not materially affect unmentioned charter provisions, and does not fundamentally alter the council-manager system. Willey's concerns, while reflecting caution, do not provide substantial evidence to override this determination. The proposal should proceed to the November 4, 2025, ballot as an amendment, with any ambiguities clarified in the ballot summary, as recommended by Kristin Collins.

Recommendation: The Council should adopt Order 2025-109-B, confirming the proposal as a charter amendment and placing it on the ballot, supported by the findings of fact previously provided.

Outlook

Re: Rebuttal to Charlie Turgeon's "Findings of Fact" -- Need for Charter Commission

From Glenn Michalowski <GMichalowski@lisbonme.org>
Date Tue 7/22/2025 8:09 AM
To Dean Willey <dean04252@gmail.com>
Cc Alice Richards <arichards@lisbonme.org>

Hi Dean,

Thank you for submitting your findings of fact. I've forwarded the e-mail below to the Town Attorney. The meeting minutes will reflect that your document was received, and Alice will retain it on file.

Town Council is BCC'd

Book time to meet with me

From: Dean Willey <dean04252@gmail.com>
Sent: Sunday, July 20, 2025 9:56 PM
To: Fern Larochelle <FLarochelle@lisbonme.org>; Chris Camire <ccamire@lisbonme.org>; Mark Lunt <MLunt@lisbonme.org>; Jo-Jean Keller <JKeller@lisbonme.org>; Normand Albert <nalbert@lisbonme.org>; Nicholas Craig <NCraig@lisbonme.org>; Glenn Michalowski <GMichalowski@lisbonme.org>
Subject: Rebuttal to Charlie Turgeon's "Findings of Fact" -- Need for Charter Commission

To the Lisbon Town Council and Manager,

If you can add this to the agenda packet that would be greatly appreciated.

I'm writing this email as a direct rebuttal to the "Findings of Fact" letter that was presented by Charlie Turgeon for your upcoming meeting on July 22, 2025. I must respectfully, but firmly, disagree with Mr. Turgeon's conclusion, within that letter, that this proposal is merely a charter "amendment." In my honest opinion, and based on what I understand of our town's charter and Maine law, this is clearly a charter "revision," and treating it otherwise is a serious mistake.

Mr. Turgeon is misunderstanding the law, plain and simple. Mr. Turgeon dismisses the Kennebunkport court case outright as simply "not binding." But that's a cop out. While it was decided in Superior Court...a trial court and not binding, it is relevant and persuasive. It clearly showed that when you make "substantial alterations" to how a town handles its money, it's a big deal...a revision. The changes in Kennebunkport involved shifting budget power, just like this proposal does for Lisbon. This isn't just some minor adjustment to a section; it's a fundamental change to how our town's budget gets approved.

Then there's the Fair Elections Portland case. Mr. Turgeon cherry picks the part about a "years long inquiry" to say this isn't a revision. But he conveniently ignores the other key part: "breadth and depth." This proposal, with its automatic 33% budget cut if referendums fail, has immense "depth." If

that cut happens, it would absolutely force a "years long inquiry" into how we keep the lights on and provide basic services. To say it's just a single procedural aspect to the budget adoption is to fundamentally misunderstand how a town government actually operates. Taking away the Council's final say on the budget and putting it directly to a public vote with such a harsh penalty is a massive shift in how our government works. It's not just "voter oversight"; it's a power transfer that changes the core of our council-manager system.

Additionally, I argue that this proposed change fundamentally shifts power. Instead of us electing you, the Town Councilors, to handle the complicated final budget decisions, this takes that power away and gives it directly to the voters through referendums. This isn't just a minor change; it's a huge move from our current representative system to a direct democracy for our town's money. When you change who holds the final say like that, it's a charter revision, not just an amendment.

Mr. Turgeon's claim that the proposal "fundamentally shifts how our government operates" "exaggerates its impact," but I believe he is the one understating it.

Mr. Turgeon also claims this proposal "modifies only Article VI, Section 6.04." That's like saying a heart attack only affects the heart...it impacts the whole body! The town budget isn't an isolated piece of paper; it's the lifeblood of everything our town does.

When you mess with the budget adoption process in such a drastic way, it absolutely affects other parts of our charter: How can our Town Manager and School Committee realistically "prepare" a financial plan if there's a guillotine hanging over it in the form of a potential 33% cut? Mr. Turgeon says this "remains unchanged," but the threat of a 33% reduction fundamentally alters their planning. Additionally, Mr. Turgeon says the Council "retains full authority to prepare and propose the budget." But if the voters can completely override your decisions and trigger a massive cut, you're not the final authority anymore. You become a "recommending body," which absolutely "diminishes the Council's authority." This is a material effect on your role. Furthermore, if the budget is suddenly cut by 33%, how are we supposed to fund capital projects (Section 6.08) that were already approved? Mr. Turgeon claims these could "continue if funded in prior years," but a 33% cut to the current budget would severely limit any ability to maintain existing projects or start new ones. How do we make emergency appropriations (Sections 6.06 and 6.07) if there's no money left? Mr. Turgeon states these sections "allow post-adoption adjustments," but with a drastically reduced budget, there would be little, if any, flexibility. These aren't "hypothetical conflicts"; they are very real, potential consequences of such a drastic, mandatory cut. This proposal doesn't just touch one section; its ripple effect impacts the entire fiscal framework of our town. That's "breadth," and it points directly to a revision.

Mr. Turgeon is exaggerating and calls the 33% reduction an "unlikely contingency" based on "consistent budget approval by the Council." But he conveniently forgets our own history! In 2015, Lisbon voters rejected the school budget not once, but twice, before it was finally approved. While that ultimately led to a higher budget, it shows that voters are willing to say "no" repeatedly. If this new mechanism had been in place for the whole municipal budget then, that 33% cut would have been triggered. Mr. Turgeon says "no evidence suggests voters would repeatedly reject budgets," but our town's recent history says otherwise. To call it "speculative" that voters would repeatedly reject a budget when they've done it before is simply ignoring reality. This isn't just a "safeguard"; it's a loaded gun pointed at our town's financial stability, and it fundamentally alters the "essential character" of our government by putting it at such extreme risk.

Mr. Turgeon is glossing over my concerns about contradictions, are "largely hypothetical" and can be "clarified." That's not good enough for a town charter! How can a budget be a solid financial plan if it could be slashed by a third without any detailed planning or impact analysis by the Council or Manager? Mr. Turgeon says public hearings remain "critical." But if the final decision is a referendum that can ignore everything discussed, it undermines the very purpose of those hearings. Mr. Turgeon admits the concern about the "municipal budget" including the school budget is "valid" but suggests it can be fixed with a "ballot summary". That's a huge red flag! If the proposal itself is unclear about something as fundamental as whether it includes the school budget, it's poorly drafted and creates legal headaches. This kind of major ambiguity screams "revision."

While the charter protects debt service, Mr. Turgeon states it "prohibits amending debt service or legally required expenditures." However, a 33% cut to the operating budget would make it incredibly difficult, if not impossible, to meet other legally required expenditures, potentially leading to a violation of state or federal law and threatening Lisbon's bond rating and fiscal stability. These aren't minor issues that can be hand-waved away. They are significant conflicts that show this proposal is incompatible with other core parts of our charter.

Mr. Turgeon dismisses my concerns about essential services, employee contracts, and state mandates as relying on "worst case scenarios" and being "unlikely." But these are foreseeable consequences if that 33% cut happens, and we've already seen that voters will reject budgets. A 33% cut to public safety, public works, and other critical services would be absolutely devastating. It's not just "prioritizing"; it means massive layoffs, reduced services, and a direct impact on the quality of life and safety in Lisbon. Mr. Turgeon says "Impacts on collective bargaining agreements are speculative." Budget reductions requiring "negotiations" on the scale of a 33% cut would inevitably lead to massive layoffs, contract breaches, and significant legal battles, creating chaos for our town employees. Mr. Turgeon claims I provide "no specific mandates that would be violated." But without a 33% cut, it would be impossible to meet various state mandates, exposing the Town to legal action and penalties. The claim that "Maine law allows municipalities flexibility" is cold comfort when faced with impossible fiscal constraints. This isn't just a "procedural adjustment"; it's a recipe for operational paralysis and potential financial ruin for our town. Other Maine towns might have budget referenda, but none, to my knowledge, have such an extreme, automatic cut provision tied to it for the entire municipal budget. Mr. Turgeon claims the proposal "can be implemented without causing chaos," but I strongly disagree.

What's more, Mr. Turgeon says the "Existing Legal Review is Sufficient," referring to Kristin Collins' opinion. With all due respect, that's incredibly arrogant when dealing with something this critical. One opinion, especially one that, as our new Town Attorney Michael Carey noted in his memorandum, had "no discussion... of the breadth or depth of the proposed modifications", isn't enough. Our new attorney specifically advises the Council to consider the "breadth and depth" in making this determination, stating that if either is "significant enough to justify a charter commission, the proposed modification is a charter revision". Mr. Turgeon notes that the Council isn't "bound by any attorney's opinion." So why wouldn't you take additional expert legal opinions to ensure Lisbon isn't heading down a path of serious legal and financial trouble, especially when your own current counsel advises considering the "breadth and depth" of this change to determine if it's significant enough to justify a charter commission? This is a fundamental change to our town's governance. It demands the most thorough and cautious review possible, not just a rubber stamp based on a single, possibly incomplete, opinion. Mr. Turgeon's claim that my "request for additional opinions lacks a legal basis" ignores the common sense prudence required for any significant decision. I'm glad we have the luxury of new legal council.

Mr. Turgeon's "Findings of Fact" fail to grasp the true breadth and depth of this proposal. It's not just a tweak; it fundamentally changes the power structure of our town government, introduces immense financial risk, and creates significant legal conflicts. As our new Town Attorney has highlighted, evaluating the "breadth and depth" is critical for this determination. The historical example of our own school budget rejections in 2015 proves that the "unlikely contingency" of a double referendum failure is a very real possibility.

In conclusion, this proposal is a charter revision. It requires the thorough, comprehensive review that a revision demands to protect our town from unforeseen consequences. To push this forward as a mere amendment is irresponsible. I urge you to reconsider his findings and classify this proposal for what it truly is: a revision that needs a much more rigorous process and that you choose to ask the electorate to establish a Charter Commission to revise the Municipal Charter as a whole.

Respectfully,

Dean Willey--Lisbon Falls

Budget Referendum for Lisbon Charter?

David Bowie, 140 Upland Road, former selectman and member of charter commissions

For the July 15 council meeting I had prepared an outline of remarks to address my concerns about the proposed charter amendment that would add a budget referendum process. To stay within the 3-minute limit on testimony I addressed only the concerns about whether the proposal qualified as an amendment. The purpose of this letter is to present a more complete context for my concerns.

Some citizens may wonder if a budget referendum was considered by the charter commission twenty years ago. The answer is "yes." The commission reviewed several possible options for Lisbon's government structure including council/manager, representative assembly, mayor/council, and a hybrid form of town meeting. We discussed a budget referendum and concluded that a referendum would create some of the same issues that compromised the existing town meeting system:

> Lisbon had grown to a point where the budget was very complex including varied revenue sources, multi-year expenses, lease-purchase items, revenue sharing, bonds/borrowing, county tax, school budget, TIF agreements, debt service, etc. Truly understanding every budget question was a challenge even for elected officials.
>
> Only a fraction of the voters actually attended town meetings. Where town meeting had once been a single Saturday event, it had become a series of evening meetings that could run for several days. Attendance on the last evening was usually relatively small, and the mix of voters could be different each night.
>
> Sometimes groups of citizens would attend to support a specific article on the meeting warrant. It was not unusual to see most of a group leave the meeting once their article of interest was decided.

The charter commission ended up supporting a council system:

> Elected councilors invest considerable time in understanding and preparing the budget before finally adopting it.
>
> Elected officials have an implied moral obligation to act in the best interests of the Town. Reaching agreement on some items can be difficult at times, but there is time for negotiation.
>
> Staggered terms encourage consistency in budget decisions from one year to the next.
>
> A "special" town meeting process was included in the charter to enable a direct vote by citizens if ever necessary.

The proposed referendum process raises several concerns about possible negative impacts on Lisbon's budget process.

> A budget referendum does not guarantee full participation of citizens or even a representative share. A budget developed carefully by council over months could be turned down by a small vote margin.

A referendum would not necessarily address specific budget items that voters are concerned about.

It would be difficult to adequately inform the public about budget details to allow citizens to vote with understanding.

The proposed budget referendum calls for a public vote in June. If that vote does not support the council budget, a second referendum is conducted in July. If that second vote fails, the council is required to adopt a budget that is equal to the previous year's budget reduced by a third. Operating the Town on two-thirds of its budget would be virtually impossible without severed cuts to personnel, projects, and/or services. Some expenses could be postponed to a later budget, but that would just add to future costs. What would happen, if the referendum process failed to approve a council budget two years in a row? The council would be required to approve a budget equal to less than half of the budget from two years earlier! This makes no sense.

Concerns about the petition and process

The citizen petition requests an amendment to the Lisbon charter. An amendment is a detail change that "does not make a profound or fundamental alteration to the essential character or core operations of a municipality." The charter creates the elected council as the legislative body of the Town. The proposed referendum language is both a profound and fundamental change to Lisbon's charter. In my opinion a referendum process would require a revision of the charter. A revision requires a formal charter commission process. The town attorney's letter to council says that the petition language can be treated as an amendment. I am not an attorney, but it does not seem logical that such a major change to the charter qualifies as an amendment. I hope that additional legal opinions can be sought from other attorneys or Maine Municipal Association. A 2006 Superior Court case (Karytko vs. Town of Kennebunk) considered a situation in Kennebunk that was similar to Lisbon's current question. The court sided with the Town of Kennebunk in agreeing that the citizen petition required a charter revision.

Comments after listening to council discussion at July 15, 2025 hearing.

The council has not yet made a decision on the petition. There was discussion about combining the referendum question with other changes that are needed to update the Lisbon charter. This makes good sense. I am still concerned about having the petition language go forward as an amendment question in November separate from the charter commission question. If the language of the amendment is adopted by a vote, the Town is stuck with its provisions at least temporarily, even if a charter commission is also approved by voters. If the budget referendum petition language is approved, but a charter commission is not approved, then a potential financial crisis lies ahead.

The council has the right to deny a citizen petition for legitimate reasons. That would not prevent the idea of a budget referendum from being considered by a charter commission. That seems to be the case here. Again, seeking additional legal advice (perhaps from multiple sources) could help resolve this issue.

July 16, 2025

Town of Lisbon

Fern Larochelle Chair 2026
Christopher Camire, Vice Chair 2027
Mark Lunt 2025
Normand Albert 2025
Jo-Jean Keller 2025
Nick Craig 2027
[Vacant] 2027

MEMO

To: Town Council
From: Glenn Michalowski, Town Manager
Subject: Discussion of the External Review Requested from the Town Attorney Regarding a Recall Affidavit Submitted in Relation to Councilor LaRochelle
Date: July 22, 2025

Summary

The Council will acknowledge that no further action will be taken on the recall petition against Councilor Larochelle, pursuant to the findings of the independent legal review. The Town Attorney determined that the Recall Affidavit did not meet the criteria set forth in the Town Charter. As a result, per Charter provisions, the petition will proceed no further and no recall election will be scheduled. No Council vote is required.

Recommendation

Attachments

1. 2025-07-18 Recall memo -FINAL
2. Ex A - 2025-07-08 Preti Recall Memo
3. Larochelle Recall - External Review Request

Brann & Isaacson

Michael E. Carey | Partner
mcarey@brannlaw.com
(207) 786-3566

M E M O R A N D U M

DATE: July 18, 2025
TO: Town Council, Town of Lisbon
FROM: Michael Carey, Town Attorney
SUBJECT: Independent Third-Party Examination of a Recall Affidavit

A July 8, 2025 independent third-party examiner's memorandum opined that a recall affidavit, for a recall of Councilor Larochelle, does not state a permitted reason for recall. I have been asked to advise the Council on the next steps. Some have asked for a second opinion. Article VIII, Section 8.31(a)(2) provides a timeline for external review of a recall affidavit:

1. "Within five (5) working days of being advised by the Town Clerk of the filing of a recall affidavit, the official who has been proposed to be recalled, may request the Town Council that the Town Council, . . . shall appoint an independent third-party examiner. . ."
2. "This appointment shall occur at the next scheduled meeting of the Town Council. . ."
3. "[W]ithin twenty-one (21) days of appointment unless another time is designated by Council," the "examiner shall submit a written report to the Town Council. . . stating whether or not the petition meets the criteria and if it is determined that the criteria are not met, the petition will go no further and have no further effect."

On June 18, 2025, the Town Clerk received a recall affidavit and advised Councilor Larochelle of the filing. On June 23, 2025, Councilor Larochelle requested an independent third-party examiner, by the attached email. At the July 1, 2025 regular meeting, the Council appointed the Town Attorney to be the independent third-party examiner. At that time, Attorney Kristin Collins was the Town Attorney. On July 8, 2025, Attorney Collins submitted a written report attached as Exhibit A that stated that the petition does not meet the criteria of the charter.

The ordinance deadlines have all been met. The independent third-party examiner determined that the criteria for a recall petition are not met. The petition is deemed to "go no further and have no further effect." The Charter provides no jurisdiction for another reviewer to review the issue or reconsider the independent third-party reviewer's determination. The recall committee may appeal the independent reviewer's report to the ethics panel or to Superior Court, within 30 days after notice of the reviewer's action.

PretiFlaherty

Exhibit A

Kristin M. Collins
kcollins@preti.com
Direct Dial: 207.791.3292

Portland, ME
Augusta, ME
Concord, NH
Boston, MA
Washington, DC

M E M O R A N D U M

TO: Town of Lisbon, Town Council

FROM: Kristin M. Collins

DATE: July 8, 2025

RE: **External Review of Recall Affidavit Related to Councilor Larochelle**

On June 18, 2025, Grace Dube submitted a recall affidavit (the "Recall Affidavit") in support of a recall petition seeking to recall Town Councilor Ferndale Larochelle. At the June 30, 2025 Town Council Meeting, Councilor Larochelle requested an independent third-party review of the Recall Affidavit pursuant to the Lisbon Charter, Article VIII, Section 8.31(a)(2) "to review the affidavit stating the reasons for recall in order to determine the sufficiency of those reasons in accordance with the standards set forth in [Article VIII, Section 8.31(a)(1) of the Lisbon Charter.]" Lisbon Charter, Article VIII, Section 8.31(a)(2). The independent reviewer is required to submit a written report stating whether the petition meets the required criteria, and if it is determined that the criteria are not met, "the petition will go no further and have no further effect." Lisbon Charter, Article VIII, Section 8.31(a)(2).

Upon motion, the Town Council requested that the Town Attorney conduct the third-party review. Upon review, I find that the Recall Affidavit does not sufficiently state a basis for recall. Accordingly, the recall petition will go no further and have no further effect.

I. Permitted Basis for Recall Petition

The Lisbon Charter, Article VIII, Section 8.31(a)(1) provides that the stated reasons for the recall "shall be directly related to the requirements, duties, and obligations of the position for which the recall is sought. The reasons for removal shall constitute acts which are in and of themselves contrary to law or to a specific requirement or obligation of the office, the improper and/or unlawful execution of some action where the action itself is not unlawful or improper, or the failure to perform some action which is officially required as a requirement or obligation of the office." Town of Lisbon Charter, Article VIII, Section 8.31(a)(1). The Lisbon Charter, Article II, Section 2.02 outlines the powers and duties of the Town Council. In pertinent part it notes that, "[t]he Town Council shall provide for the exercise of all powers and for the performance and administration of all the fiscal, prudential, and municipal affairs of the Town. …" Article II, Section 2.02. The reasons cited in the Affidavit must demonstrate a failure of one of these general duties, or of another more specific duty under the Town's Charter or ordinances.

II. The Recall Affidavit Does Not State A Permitted Reason For Recall

The Recall Affidavit outlines three reasons underlying the recall attempt: (1) willful financial irresponsibility; (2) failure to act on constituent demands to reduce spending; and (3) conflicts of interest. Recall Affidavit, 2-3. A true and accurate copy of the Recall Affidavit is attached hereto as Exhibit A. As outlined below, none of these allegations sufficiently states a permitted reason for recall.

A. Allegation of Willful Financial Irresponsibility

The Recall Affidavit alleges that Councilor Larochelle willfully engaged in financial irresponsibility by (1) attempting to "ween the town of the unassigned fund balance"; (2) increasing municipal expenditures by nearly 60%; and (3) increasing spending without increasing revenues. Recall Affidavit, 2. The Recall affidavit alleges that these actions "contradict basic principals of municipal fiscal leadership, which the Chair is obligated to uphold." Recall Affidavit, 2.

As noted above, pursuant to Lisbon Charter Article VIII, Section 8.31(a)(1) and Article II, Section 2.02 a recall pertaining to a member of the Town Council must state that the councilor at issue committed an unlawful act, is not administering the fiscal, prudential or municipal affairs of the Town, or is not legislating on behalf of the Town. In alleging financial mismanagement of the Town, the Recall Petition implicitly concedes that Councilor Larochelle is, in fact, participating along with the rest of the Council in administering the fiscal affairs of the Town as required by the office. Mere disagreement with the policy supported by Councilor Larochelle, or the Town Council more generally, is not sufficient to state a reason for recall.

B. Allegation of Failure to Act on Constituent Demands to Reduce Spending.

The Recall Affidavit further alleges that Councilor Larochelle "ignored the repeated and document pleas of taxpayers and residents…to control or reduce municipal spending." Recall Affidavit, 2. The Recall Petition notes that "his continued refusal to address these concerns, or to propose actionable alternatives, constitutes a dereliction of the representative function of the office." *Id.* The Recall Petition concludes noting, "Town Councilors are duty-bound not only to listen to constituents but also to meaningfully incorporate their concerns into policy decisions, especially regarding taxation and spending." *Id.*

While these allegations do allege a dereliction of duty, the duties raised are not requirements of Councilor Larochelle's position, and therefore can not serve as a sufficient basis for recall. No provision of state law, Town Charter or Town Ordinance requires a Town Councilor to incorporate constituent demands into their policy decisions. Rather, if a resident dislikes the policy decisions made by an elected official, their recourse is to vote them out at the subsequent, regularly scheduled, election. *See Dobbs v. Me. School Admin. Dist. No. 50.*, 419 A.2d 1024, 1029 (noting that, when citizens' disagree with the actions taken by elected officials, "their remedy lies in the ballot box at the next time those [officials] are up for reelection"). As such, the Recall Affidavit's allegations related to adequately respond to resident concerns cannot serve as a basis for recall.

C. Conflicts of Interest

Last, the Recall Petition alleges that, while presiding as Chair, Councilor Larochelle has been "personally involved in matters where conflicts of interest have been alleged or identified, exposing the Town to potential and ongoing legal action" Recall Affidavit, 3. The Recall Petition further alleges that Councilor Larochelle has violated ethical and procedural obligations of his role, "potentially in breach of state law and municipal ethics codes." *Id.*

As noted above, pursuant to Lisbon Charter Article VIII, Section 8.31(a)(1) and Article II, Section 2.02, a recall pertaining to a member of the Town Council must state that the councilor at issue the councilor at issue committed an unlawful act, is not administering the fiscal, prudential or municipal affairs of the Town, or is not legislating on behalf of the Town. The allegations involving conflicts of interest do not implicate these duties.

Critically, the Recall Affidavit only alleges that Councilor Larochelle was "*potentially* in breach of state law and municipal ethics codes." Recall Affidavit, 3 (Emphasis added). The Affidavit does not, however, enumerate any specific local, state, or professional codes of conduct or regulations that Councilor Larochelle violated. The Recall Affidavit's failure to concretely assert any unlawful or improper action renders these allegations insufficient to state a basis for recall. It is not a violation of law to have a conflict of interest; a councilor's duty is to declare a conflict if one exists and to refrain from participating in a vote that could be affected by the conflict. See Charter Article IX, Section 9.03. Importantly, Chapter 12 of the Town's Code of Ordinances also prescribes a process by which ethical issues caused by conflicts of interest may be decided by the Ethics Panel. In the absence of any specific allegations in the Affidavit, or a determination by the Ethics Panel or a court of law that Councilor LaRochelle has improperly participated in a vote despite a conflict of interest, the allegation of conflict of interest is an insufficient basis for recall.

III. Procedure Following this Determination

As outlined in Section II above, the Recall Affidavit does not state a permitted reason for recall. Accordingly, pursuant to the Town of Lisbon Charter, Article VIII, Section 8.31(a)(2), the petition will go no further and have no further effect; no recall election should be scheduled.

Pursuant to the Town of Lisbon Charter, Article VIII, Section 8.31(5) this determination may be appealed to the Ethics Panel.

_____
Kristin Collins, Town Attorney

Outlook

Re: Recall Affidavit Documents

From Fern Larochelle <FLarochelle@lisbonme.org>
Date Mon 6/23/2025 7:26 AM
To Jeremy Barnard <jbarnard@lisbonme.org>; Town Councilors <towncouncilors@lisbonme.org>
Cc Glenn Michalowski <GMichalowski@lisbonme.org>; Collins, Kristin M. <kcollins@preti.com>

Good morning , I would like also to formally request an external review of the recall paperwork submitted against me. Thank you Fern

---

From: Jeremy Barnard <jbarnard@lisbonme.org>
Sent: Saturday, June 21, 2025 5:25 AM
To: Town Councilors <towncouncilors@lisbonme.org>
Cc: Glenn Michalowski <GMichalowski@lisbonme.org>; Collins, Kristin M. <kcollins@preti.com>
Subject: Re: Recall Affidavit Documents

Hello everyone, I would like to formally request an external review of the recall paperwork submitted against me. Thank you. Jeremy

Sent from my Verizon, Samsung Galaxy smartphone
Get Outlook for Android

From: Alice Richards <arichards@lisbonme.org>
Sent: Wednesday, June 18, 2025 3:29:52 PM
To: Jeremy Barnard <jbarnard@lisbonme.org>; Fern Larochelle <FLarochelle@lisbonme.org>
Cc: Glenn Michalowski <GMichalowski@lisbonme.org>; Collins, Kristin M. <kcollins@preti.com>
Subject: Recall Affidavit Documents

Hi Fern, Hi Jeremy,

I'm attaching pdf copies of the recall affidavits that a recall committee submitted to my office earlier today, as well as a pdf copy of the notes I created and shared with the committee's representative.

I also copied Glenn and the Town Attorney to this email for additional guidance.

Please let us know what questions you have.

Thanks,
Alice

Alice Richards
Town Clerk
Town of Lisbon

207-353-3000 (ext. 112)

arichards@lisbonme.org

Agenda Date: 7/22/2025

Municipal Accounts Payable			
Date		Amount	Check Run
	7/22/2025	131,471.65	07222025
Total		131,471.65	

25-7608

Alice Richards, *Town Clerk*
Lisa Smith, *Deputy Clerk*

Town of Lisbon

300 Lisbon Street, Lisbon ME

Public Hearing

New Ordinance

Notice is hereby given that the Lisbon Town Council intends to hold a Public Hearing on July 22, 2025 at 7:00 PM at the Town Office at 300 Lisbon Street in the Public Meeting Room to hear comments on:

Senior Tax Relief Ordinance

The public is invited to attend.

Alice Richards, Town Clerk

25-7608

Constable's
Return of Posting
State of Maine

Lisbon, Androscoggin, ss.

Pursuant to the within notice, I have posted said notice at the Lisbon Post Office, the Lisbon Falls Post Office, and the Town Office Building, all being conspicuous and public places within the Town of Lisbon.

7/11/25
Date

Constable, Town of Lisbon

Town of Lisbon

Fern Larochelle Chair 2026
Christopher Camire, Vice Chair 2027
Mark Lunt 2025
Normand Albert 2025
Jo-Jean Keller 2025
Nick Craig 2027
[Vacant] 2027

MEMO

To: Town Council
From: Glenn Michalowski, Town Manager
Subject: **(Order 2025-118)** Senior Tax Relief Ordinance - *Second Reading*
Date: July 22, 2025

Summary

At the request of Council Vice Chair Camire and Councilor Craig, a draft ordinance has been included in your packet for first reading to establish a Senior Property Tax Assistance Program. This initiative responds to feedback from Lisbon residents concerned about the affordability of remaining in their homes on fixed incomes, especially in light of rising property tax burdens.

The ordinance, modeled after successful programs in other Maine communities and authorized under 36 M.R.S.A. Chapter 907-A, proposes the creation of a local tax rebate and rental assistance program for residents over age 65 who have lived in Lisbon for at least five continuous years and have qualified for the State's Property Tax Fairness Credit.

If there are substantial amendments proposed during this meeting, I recommend voting the ordinance down and reintroducing a revised version at a future meeting. If only minor revisions are needed, they can be incorporated ahead of a second reading.

Staff Review and Implementation Considerations:
Department heads are currently reviewing the ordinance and identifying options to streamline administration. Preliminary implementation considerations include:

Application Due Date: Aligning with the Homestead Exemption deadline of April 1st would simplify eligibility tracking and reduce the number of critical dates residents must remember. It also aligns with the State assessment date, improving records accessibility.

Residency Eligibility (Section 4): As drafted, the ordinance allows applicants who have moved within Lisbon in the past five years to remain eligible if they maintain continuous homestead status and apply for the Homestead Exemption at their new address by April 1st.

Rebate Timing & Administration: Staff are evaluating whether payments should be issued by check or credited directly to tax bills. A credit could reduce administrative burden and provide clearer documentation to taxpayers. For example, splitting the benefit across installments before bills are mailed would improve clarity and reduce refund processing when taxes are escrowed.

Recommendation

Town of Lisbon

Fern Larochelle Chair 2026
Christopher Camire, Vice Chair 2027
Mark Lunt 2025
Normand Albert 2025
Jo-Jean Keller 2025
Nick Craig 2027
[Vacant] 2027

Attachments

1. MEMO-SeniorTaxRelief_OrdinanceProposal
2. Property Tax Asssistance Ordinance

MEMORANDUM

TO: Glenn Michalowski, Town Manager

FROM: Christopher Camire, Council Vice Chair

Nicholas Craig, Town Council Member

DATE: June 6, 2025

SUBJECT: Proposal for a Senior Property Tax Relief Program

Dear Mr. Michalowski,

We are writing to formally propose the implementation of a Senior Property Tax Relief Program for the Town of Lisbon. This proposal comes in direct response to the significant public concern and outcry we have heard from our senior residents, many of whom are on fixed incomes and express genuine worry about their ability to remain in their homes given the current proposed property tax increase.

The Town Council is acutely aware of the financial challenges faced by our senior citizens. We recognize that for many, their homes represent their most significant asset and a cornerstone of their long-term stability in our community. The prospect of being unable to afford their property taxes due to rising costs is a deeply troubling concern that we share.

We believe it is essential for the Town of Lisbon to demonstrate its commitment to supporting all its residents, especially our most vulnerable. Providing a sustainable senior tax relief program is a tangible way to show that the Town Council hears and responds to the pleas from our community, ensuring that our long-time residents can continue to thrive in Lisbon.

It is important to note that Lisbon would not be pioneering this effort alone. Several communities across Maine have successfully implemented similar senior tax relief programs, demonstrating the feasibility and benefit of such initiatives. These programs serve as valuable models for how we can tailor a program to meet the specific needs of Lisbon's senior population while maintaining fiscal responsibility.

To that end, we have attached a draft ordinance proposal for your review. We kindly request that you work with the Town's legal counsel to review this attached ordinance proposal on an expedited basis. Our goal is to get a sustainable and equitable senior tax relief program in place as expeditiously as possible, providing much-needed peace of mind to our senior citizens.

We are confident that by working together, we can implement a program that provides meaningful relief to our seniors and reinforces Lisbon as a welcoming and supportive community for all ages.

Sincerely,

Christopher Camire, Council Vice Chair

Nicholas Craig, Council Member

TOWN OF LISBON
Property Tax Assistance Program

Section 1. Purpose.

The purpose of this ordinance is to establish a program pursuant to Chapter 907-A of Title 36 of the Maine Revised Statues to provide property tax assistance to qualifying persons who reside in the Town of Lisbon. Under this program, the Town of Lisbon may provide tax relief to those individuals who meet the criteria established by this ordinance.

Sec 2. Definitions.

Homestead: For the purposes of this ordinance, “homestead” shall have the same meaning as defined in 36 M.R.S.A. § 5219-KK(1)(C). Generally, a homestead is a dwelling owned by the person seeking tax assistance under this ordinance or held in a revocable living trust for the benefit of that person. The dwelling must be a permanent residence, occupied by that person and that person’s dependents as a home.

Homestead Exemption: The State of Maine property tax exemption for all individuals who have owned a permanent residence in Maine for 12 months as of April 1. Established by the State of Maine pursuant to 36 M.R.S.A. § 683, as may be amended from time to time.

Program Administrator: The Town Manager or his/her designee.

Property Tax Assistance Program: The program established by the Town of Lisbon under this ordinance. Also referred to as the "program."

Property Tax Assistance Program Fund: The special revenue fund established by the Town of Lisbon under this ordinance. Also referred to as the "program fund."

Property Tax Fairness Credit Program: The property tax credit established by the State of Maine pursuant to 36 M.R.S.A. § 5219-KK, as may be amended from time to time.

Qualifying Applicant: A qualifying applicant is a person who is determined, after review of a complete application under Section 4 of this ordinance, to be eligible for tax relief under the terms of this ordinance.

Sec 3. Funding of the Program Fund

A special revenue fund entitled the Property Tax Assistance Program Fund - as defined under the terms of this ordinance - shall be created to fund this program.

The Town Manager may propose to the Town Council as part of the annual budget recommendation an appropriation of monies to fund the program. Contributions and

grants for the purpose of property tax relief will be accepted and deposited into the property tax assistance program fund.

Credits applied to tax bills under this ordinance shall be conditioned upon the existence of sufficient monies in the program fund for the fiscal year in which participation is sought. If there are not sufficient monies in the program fund to provide credits to all qualifying applicants in full under this ordinance, credits shall be limited to the amounts available in the program fund and may be prorated accordingly. In the event that a lack of funding results in no credit or less than the full credit to a qualifying applicant, the request will not carry over to the next year.

Sec 4. Criteria for Participation

To qualify for participation in the property tax assistance program, an applicant must demonstrate all of the following:

1. That the applicant has a homestead in the Town of Lisbon at the time of application and for five continuous years prior to the date of application.
2. That the applicant has received a tax credit under the provisions of the State of Maine Residents Property Tax Fairness Credit Program.
3. That the applicant is age 65 years or older as of the application deadline of April 1.
4. That the applicant has applied for and received the Homestead Exemption for the year for which the credit is requested.
5. That there are no liens on the property for which tax relief is being sought.

Sec 5. Application Procedures and Determination of Eligibility

Persons seeking to participate in the property tax assistance program shall submit a written request to the program administrator no later than April 1 of the year for which the rebate is sought. A new application shall be required for each year in which participation in the program is sought.

The program administrator shall provide an application form for the program, which shall include, at a minimum, the applicant's name, homestead address and contact information. As part of the application to the town, the applicant shall authorize the town to seek documentation from Maine Revenue Services of proof and dollar amount of the state property tax fairness credit received by applicant.

The program administrator shall review and determine if the application is complete and accurate, and if the applicant is otherwise eligible to participate in the program. The program administrator shall notify an applicant if an application is determined to be incomplete or inaccurate. Applications not deemed complete by April 1 shall not be considered. The program administrator's decision on eligibility to participate in the program shall be final.

Sec 6. Determination of Credit

If the program administrator determines that the applicant is eligible to participate in the program, he/she shall determine the credit amount. The credit shall be the lesser of the following amounts:

1. The amount of credit qualified for under the property tax fairness credit program; or
2. A maximum relief credit of $1,000; or
3. The total amount of the upcoming tax bill of the applicant seeking relief; or
4. A pro rata share of available monies in the program fund based on the calculated amount of the rebate.

The town manager shall report to the town council each year the projected credits and number of eligible applicants requesting assistance from the program fund.

Sec 7. Timing of Tax Bill Credits

A person who qualifies for relief under the program shall have their tax bill credited for the full relief amount (or pro-rated amount of available funds) no later than August 31 of the year in which the application is submitted.

Sec 8. Limitations Upon Credits

Only one qualifying applicant per homestead shall be entitled to a tax credit under this program each year. The right to file an application and to receive a credit under this ordinance is personal to the applicant and does not survive the applicant's death, but such rights may be exercised on behalf of the applicant by the applicant's legal guardian, attorney-in-fact, or personal representative.

Town of Lisbon

Fern Larochelle Chair 2026
Christopher Camire, Vice Chair 2027
Mark Lunt 2025
Normand Albert 2025
Jo-Jean Keller 2025
Nick Craig 2027
[Vacant] 2027

MEMO

To: Town Council
From: Glenn Michalowski, Town Manager
Subject: Council Vacancy Interviews with Candidates Jeffrey Ganong, Chris Hodgkins, and William Kuhl
Date: July 22, 2025

Summary

Recommendation

Attachments
None

Town of Lisbon

Fern Larochelle Chair 2026
Christopher Camire, Vice Chair 2027
Mark Lunt 2025
Normand Albert 2025
Jo-Jean Keller 2025
Nick Craig 2027
[Vacant] 2027

MEMO

To: Town Council
From: Glenn Michalowski, Town Manager
Subject: **(Order 2025-119)** Appointment to Fill a Council Seat Vacancy until the November 2025 Municipal Election
Date: July 22, 2025

Summary

Recommendation

Attachments
None