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

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**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