

Report of Charter Review Committee September 23, 2019

The Committee held its first meeting in May 2019 and has, to date, held 8 meetings. The Committee contacted all Town boards, committees, commissions, and departments in writing and has considered all proposals. Two meetings for public input were advertised and held in June. All meetings had an agenda item for Open Discussion for public or staff input. All suggestions by letter and e-mail were documented and shared with the Committee.

Proposed changes to the Charter include gender-neutral language, grammatical changes and simplification of language as well as several more substantive changes as described below with the current and proposed language for each recommendation.

General Changes: The Committee is proposing to change all he/she references to gender neutral language. Where possible we restructured the sentence to make the pronoun unnecessary or reworded the sentence. Here are two samples:

Sample 1 Any person holding an appointive or elective office may resign ~~his or her~~ **their** office by giving a resignation in writing to the Town Clerk and such resignation shall be effective immediately, unless a time certain is specified when it shall take effect.

Sample 2 Keep complete records of the Town Manager's office and render a report ~~of his or her activities~~ **of the activities of that office** as often as may be required by the ~~Selectmen~~ Select Board but not less than once each quarter.

We also agreed to capitalize the "T" in "Town", and to add Oxford commas where necessary.

The following proposed amendments are in the Warrant and, if approved, will be on the ballot in March, 2020.

Article 2-Section 2-15

Current Text: At least one member of each elected or appointed board, commission and committee shall attend all Annual and Special Town Meetings. However, no Town Meeting power or action otherwise authorized under the Massachusetts General Laws or Bylaws of the Town shall be nullified if one or more said town officers or members do not comply with the requirement of this section.

Proposed Text: Every elected and appointed member of a board, commission, or committee shall consider it their responsibility to represent their board, commission, or committee at all Annual and Special Town Meetings. At a minimum, the chairperson or a designated member shall attend every Town Meeting session to provide information pertinent to their board, commission, and committee activities that relate to Town Meeting Articles. However, no Town Meeting power or action otherwise authorized under the Massachusetts General Laws, this Charter or the Town Bylaws shall be nullified if one or more said Town Officers or members does not comply with this section.

This amendment makes it clear that all board, commission and committee members are expected to attend Town Meeting. At the very minimum, at least one person from every Town board, commission or committee must attend Town Meeting to be available to answer questions that may relate to their board, commission or committee. The committee felt that the original text was not clear.

Article 3-Section 3-3

Current Text: In addition to appointments to temporary posts and committees they may create, the Selectmen shall make the following appointments for the terms specified:

Length of Term

<i>Office</i>	<i>No. of Members</i>	<i>Years</i>
Council on Aging	9	3
Conservation Commission	7	3
Constables	4	3
Historic District Commission	5	3
Historic District Commission Alternates	2	3
Historic Preservation Commission	7	3
MBTA Representative	1	3
Recreation Commission	5	3
Registrars of Voters	3	3
Special Police Officers	Any	1
Metropolitan Area Planning Council	1	3
Town Counsel	1	1
Town Historian	1	3
Veterans' Agent/Service Officer	1	1
Veterans' Graves Officer	1	1
Volunteer Coordinating Committee	3	5
Youth and Family Services	9	3
Zoning Board of Appeals	5	3
Zoning Board of Appeals-Associate	3	3

Proposed Text: In addition to appointments to temporary posts and committees they may create, the Selectmen shall make the following appointments for the terms specified:

~~Length of Term~~

<i>Office</i>	<i>Number of Members</i>	<i>Years</i>
Conservation Commission	7	3
Constables	4	3
Council on Aging	9	3
Historic District Commission	5	3
Historic District Commission Alternates	2	3
Historic Preservation Commission	7	3
MBTA Representative	1	3

Recreation Commission	5	3
Registrars of Voters	3	3
Special Police Officers	Any	4
Metropolitan Area Planning Council	1	3
Town Counsel	1	1
Town Historian	1	3
Veterans' Agent/Service Officer	1	1
Veterans' Graves Officer	1	1
Volunteer Coordinating Committee	5	3
Youth and Family Services	9	3
Zoning Board of Appeals	5	3
Zoning Board of Appeals-Associate	3	3

This amendment removes Special Police Officers as they are no longer appointed by Selectmen. The list has been placed in alphabetical order and the formatting has been improved.

Article 5 - Section 5-1b

Current Text: Appoint and remove, subject to the approval of the Selectmen, and supervise the heads of departments for which the Selectmen are responsible and all other town officers whose appointment is required to perform a necessary town function and who are not listed in Section 3 of Article 3. A department head is defined for this Charter as an official who, in the prolonged absence of the Town Manager, would normally report directly to the Selectmen. The Town Manager shall have the power of final review and approval of subordinates' appointments, removal and supervisions of personnel under the subordinates' jurisdiction.

Proposed Text: Specific Authority for Assessor Appointment. Appoint and remove, subject to the approval of the Selectmen, and supervise the heads of departments for which the Selectmen are responsible and all other town officers whose appointment is required to perform a necessary town function and who are not listed in Section 3 of Article 3. **The Town Manager shall also have the power to appoint and remove, subject to the approval of the Board of Assessors, and supervise the Town Assessor.** ~~A department head is defined for this Charter as an official who, in the prolonged absence of the Town Manager, would normally report directly to the Selectmen.~~ The Town Manager shall have the power of final review and approval of subordinates' appointments, removal and supervisions of personnel under the subordinates' jurisdiction.

This amendment provides for a shared appointing and removal process between the Town Manager and the Board of Assessors for the Town Assessor position and clarifies that the Town Manager is responsible for day-to-day supervision of the employee in that position.

NOTE: As part of the discussion related to the Town Assessor, the Committee also considered the appointment and reporting structure for the other independent boards, but saw no need for change. We did hear from members of the Board of Health and Library Board of Trustees and several current and former library employees.

Article 5-Section 5-1g

Current Text: Take an annual inventory of all property of the Town of Bedford.

Proposed Text: Maintain a list of fixed assets that are valued over \$5,000 as required by GASB Standards.

*This amendment defines the minimum value of a fixed asset and references **GASB**, the **Governmental Accounting Standards Board**.*

Article 5 Section 5-1h

Current Text: Be responsible for the negotiation of all contracts within the Selectmen's jurisdiction. For the purposes of collective bargaining under Chapter 150E of the Massachusetts General Laws, the Selectmen shall be the Chief Executive Officer and the Town Manager shall be the designated representative under Section 1 of said Chapter. Contracts negotiated by the Town Manager shall be subject to the policy of and final approval of the Selectmen. The Selectmen may authorize the use of additional persons to assist the Town in negotiation of collective bargaining contracts as they deem advisable.

Proposed Text: Be responsible for the negotiation of all contracts within the **Select Board's** ~~Selectmen's~~ jurisdiction. For the purposes of collective bargaining under Chapter 150E of the Massachusetts General Laws, the **Select Board** ~~Selectmen~~ shall be the Chief Executive Officer and the Town Manager shall be the designated representative under Section 1 of said Chapter. Contracts negotiated by the Town Manager shall be subject to the policy of and final approval of the **Select Board** ~~Selectmen~~. The **Select Board** ~~Selectmen~~ may authorize the use of additional persons to assist the Town in ~~negotiation of~~ negotiating collective bargaining contracts as they deem advisable.

This amendment corrects a grammatical construction.

Article 5-Section 5-li

Current Text: Search for economies that may accrue to the Town through joint purchasing of materials, property or services by two or more municipalities or two or more departments, offices, boards, commissions or committees of the Town.

Proposed Text:

Search for economies that may accrue to the Town through joint purchasing of materials, property or services by two or more municipalities or two or more Town departments, offices, boards, commissions or committees.

*This amendment moves the word "Town" to make it clear that this applies to **Town** departments, offices, boards, commissions and committees.*

Article 5-Section 5-3

Current Text: The Town Manager shall prepare a warrant report and arrange for its distribution to all the Town's registered voters a minimum of seven days before each Annual Town Meeting and a minimum of fourteen days before a Special Town Meeting. The warrant report shall be constructed as follows: For each article in the warrant, a copy of the article or a summary that conveys its full contents; a statement by the submitter of the article of the reason or reasons why the provision set forth in the article should be adopted by Town Meeting, recommendations by the Selectmen and Finance Committee.

The Selectmen may also invite the Town officers, boards, commissions and committees affected by an article to submit recommendations for the report. The warrant report for a Special Town Meeting need not be prepared if the Selectmen and the Finance Committee agree that the time required for its preparation would delay the holding of such a meeting sufficiently to do harm to the town.

Proposed Text: The Town Manager shall prepare a warrant report and arrange for its distribution to all the Town's registered voters a minimum of seven days before each Annual Town Meeting and a minimum of fourteen days before a Special Town Meeting.

The warrant report shall be constructed as follows:

1. The text of the proposed article;
2. A non-partisan summary of the article and any related factual information;
3. For an article submitted by petition, a statement by the petitioners supporting the article;
4. Recommendations by Selectmen and Finance Committee; the Selectmen may request recommendations from other boards and committees;
5. The residential tax impact, if any, of the article.

The warrant report for a Special Town Meeting need not be prepared if the Selectmen and the Finance Committee agree that the time required for its preparation would delay the holding of such a meeting sufficiently to do harm to the Town."

This amendment clarifies and formats the requirements for the preparation of the warrant report. Items 1-4 were already in the article; item 5 was added to reflect current practice.

Article 8 - Section 8-5

Current Text: If the successor fails to qualify within five working days after receiving notification of his or her election, the office shall thereupon be deemed vacant.

Proposed Text: If the successor fails to take the oath of office within five ~~working~~ **business** days after receiving **official** notification from the Town Clerk of ~~his or her~~ **their** election, the office shall thereupon be deemed vacant.

This amendment clarifies how a successor "qualifies" and how they are to be notified.

Universal Charter Change

The Charter Committee is recommending that the terms Selectman/Selectmen be changed throughout the Charter to Select Board.

Sample

Appoint and remove, subject to the approval of the ~~Selectmen~~ Select Board, and supervise the heads of departments for which the ~~Selectmen~~ Select Board is ~~are~~ responsible.

This amendment proposes that the words "Selectman/Selectmen" be changed in every instance in the Charter to "Select Board".

While the Committee acknowledges that the term Selectman has historic significance it nevertheless is exclusionary language. Many towns in Massachusetts have already changed the designation to Select Board, and many others are considering it.

OTHER CONSIDERATIONS

The Committee discussed all proposals that were received from individuals and boards and committees. Here is a brief summary of those items that we are not proposing at this time:

Article 6 - Sections 6-1 and Section 6-2

The Finance Committee and the Capital Expenditure Committee

The current text calls for an appointing committee of 3 people and a unanimous vote of the committee in order to appoint.

Two amendments were proposed. One was to change the unanimous vote to a majority vote of the committee. The other was to change the makeup of the committee to a 5-member committee and a super majority vote of 4-5.

The issue that was being addressed is that two people who have served on this appointing authority have had issues with the process and with the need for unanimous vote. Several Committee members feel that the process should be difficult and that eventually a good candidate would be selected. Ms. Amick, a member of the original Charter Commission, researched why the original Commission chose to make it a unanimous decision. She could not find the original notes on the discussion by the original Charter Commission, but did find notes from the earlier bylaws that suggested it was done that way because that had been the traditional way of doing it.

The Committee reviewed the Massachusetts Moderators Association document showing the appointing authorities in 118 towns. In 63 towns, the Finance Committees are appointed by the Town Moderator. There are 11 towns that have an appointing committee similar to ours. And there are a handful of various other constructions and, finally, a few towns that have elected Finance Committees.

We polled the Mass. Moderators Association and asked if their town required a unanimous vote. We also reviewed the Charters and Bylaws of towns that have an appointing committee similar to ours. We found no evidence of any that required a unanimous vote by the appointing committee.

The Committee also discussed changing the makeup of the appointing authority to 5 members and discussed who the additional 2 members might be.

In the end, the Charter Committee could not agree on a recommendation. Here were the motions that were made and the outcomes:

Ms. Amick moved to retain the current language for the Finance Committee and Capital Expenditure Committee. Mr. Brosgol seconded the motion. **The motion failed 4-0-5.**

Ms. Shepard moved to change the unanimous vote to a majority vote in Section 6-1 Finance Committee and Section 6-2 Capital Expenditure Committee. Ms. Anderson seconded the motion. **The motion failed 4-5-0**

Ms. Barbehenn moved to make the Finance Committee and Capital Expenditure Committee Appointing Authority consist of the five members, the Chair of the Selectmen, Chair of the Finance Committee, Chair of the School Committee, Town Moderator and Chair of the Board of Assessors with a super majority vote required. Mr. Murphy seconded the motion.
The motion failed 2-0-7

Changing the Name of the Special Town Meeting to Fall Annual Town Meeting.

Discussion was that there is some confusion about why it is called a "special" town meeting when it is held every fall and it requires more signatures of voters to add an article to the warrant. [100 vs. the 10 signatures that are required to add an article in the spring at Annual Town Meeting.]

Ms. Amick added that in her research of Chapter 39, Section 9, which related to Annual Meeting and other meetings, other meetings may be held at such times as the Selectmen may order or the charter or by-law prescribe. It does not however, define whether those other meetings are considered Annual or Special Town Meetings. Mr. Murphy added that it would be pointless to change the name if the Town still must follow the requirements of the Special Town Meeting. The committee also recognized that it would be hard to pick a specific date for a Fall Town Meeting because of elections, religious holidays and the setting of the tax rate.

New Standing Committees

Arbor Resources would like to be a standing committee instead of an ad hoc committee and submitted materials to support the concept. Ed Pierce also stated that the Selectmen would like to add Energy Task Force as a standing committee. Both of these will be considered when we review the Bylaws. It is the general consensus of the Committee that we not add committees to the Charter but only to the Bylaws, as it is much easier to make adjustments, if the need arises, to the Bylaws.

Public Comment

Richard Daugherty sent a letter to request the Committee consider term limits for committees and for the chair of committees.

Rebecca G. Neale wrote to support the use of a gender-neutral term in place of Selectmen in the Charter and Bylaws.

A similar note supporting Select Board in place of Selectmen was received by Sandra Hackman.

Additional Discussion

Ms. Amick mentioned that there is proposed legislation that would allow resident aliens to serve on local boards and committees. This is something that she would like to see happen in the Town but it cannot be accomplished by just amending the Charter or Bylaws. Similarly, Ms. Barbehenn said there is interest in allowing 16 or 17 year olds to attend Town Meeting and vote in local elections. Several communities have requested Home Rule petitions to allow this to happen. None have been successful to date.

The Committee appreciates the opportunity we have had to serve the Town in this capacity and we look forward to continuing as we review the Bylaws.

Respectfully submitted,

Cathy Cordes, Town Moderator and Chair

Committee Members:

Betsey Anderson, Deputy Town Moderator and Clerk

Carol Amick, at large

Jacinda Barbehenn, Planning Board

Maria Borino, at large

Dan Brosgol, School Committee

Bruce Murphy, Board of Assessors

Ed Pierce, Selectman

Jan Shepard, at large