



CHARTER REVIEW COMMITTEE MEETING AGENDA

April 25, 2017

Town Offices, 50 Billerica Road

Chelmsford, MA 01824

Dennis Ready Meeting Room 204

1. 7:00PM CALL TO ORDER/NOTIFICATION OF CTM BROADCAST
2. OPEN SESSION/PUBLIC INPUT*
 *Note: Town Officials may provide input during this time
3. APPROVAL OF MINUTES
 - April 11, 2017

Documents:

[DRAFT- CRC-MINUTES-2017-04-11.PDF](#)

4. UPDATES
5. MEETING SCHEDULE
6. CHARTER REVIEW, CONTINUED
 Review and Discussion of Summary Charter Review Committee Discussion and Actions by Charter Section document (attached)

Note: The Committee may review and discuss any Part or Section of The Charter during this meeting:

Parts I through VIII, all Sections

Charter document projected on screen to facilitate review.

[HTTP://WWW.ECODE360.COM/9208644](http://www.ecode360.com/9208644)

Documents:

[CRC SECTION ACTION SUMMARY 16APRIL 2017.PDF](#)

7. PRESS AND PUBLIC QUESTIONS
8. ADJOURN

Draft Minutes of the Charter Review Committee (CRC) meeting on 4/11/2017

Attendance:

Present:

Doug Bruce

Dan Burke

Sam Chase

Valerie Diggs

David McLachlan

Sheila Pichette

Glenn Thoren arrived at 7:15

Michael McCall arrived at 7:06

Call to order- 7:01

Approval of March 28, 2017 minutes:

Motion to approve as amended made by Mr. Bruce, seconded by Mrs. Diggs, vote: 6 yeas; 0 nays; 2 absent

Updates:

Mr. Chase got information regarding sections 4.1 and 4.7 from the MMA. The MMA said that in larger towns with a strong town manager, a super-majority vote is almost always needed to appoint and remove the Town Manager.

Mr. McCall clarified a question from a previous meeting about the role of the personnel board. The personnel board carries out policy made by the selectmen.

Open Session/Public Input:

Glenn Diggs, as a member of the board of selection, came to give a brief update on how the Board of Selectmen is devoting time to discuss any suggestions for charter changes before they meet on the 11th.

Review of the existing charter:

Mr. Mclachlan addressed the the question from a previous meeting about the timeframe around the different budgets and the Town Manager's power regarding that timeframe. He hoped that the question could be solved through a possible change in the charter.

Mrs. Pichette wanted to clarify the difference between the budget voted on in April in comparison to the budget voted on in October, be it in the charter or through other means. The committee discussed the need for clarification of the budgets and the possible need for a definitions section.

Section 6-2: The committee discussed the wording and what it meant. They also discussed the timeframe for the budget and how realistic it is to be voted on when it is as well as the possibility of moving the budget timeframe. The committee agreed that they need to talk to the Town Manager about the questions they have and what his opinion is on a possible change to the timeframe.

Section 6-3: The committee discussed the role of the Financial Committee in the budget process and the wording of this section. They changed the wording so that it clarified how the budget process works and the Financial Committee's role in the process.

Mr. Bruce felt that sections 6-1, 6-2, and 6-3 could benefit from a complete rewrite depending on the discussions with the Finance Committee and the Board of Selectmen.

Section 6-4: The committee discussed the timeframe of five years and felt it was an appropriate length of time. No changes were recommended.

Section 6-5: Mr. McCall is going to clarification on the warrant signing process and the parties involved. The committee also discussed the Capital Planning Committee and how it works with the Board of Selectmen as well as the Board of Selectmen's powers in regards to the Capital Project warrants.

Section 6-6: No changes were recommended for this section.

Section 6-7: Mr. Burke suggested changing the charter so that there is a new auditor every fourth year, Mr. McCall suggested making it a bylaw instead.

Section 7-1: No changes were recommended.

Section 7-2: No changes were recommended.

Section 7-3: No changes were recommended although the wording was discussed.

Section 7-4: No changes were recommended however each member is going to find any words that they feel need to be defined.

Section 8-1: There was discussion about whether this section was needed but no change was made to the section.

Section 8-2: There was discussion about wording in the section. Mr. Chase would like to ask Town Counsel about how necessary the sections in section 8 are.

Section 8-3: No changes were recommended.

Section 8-4: No changes were recommended.

Section 8-5: No changes were recommended.

The committee finished their preliminary pass through of the charter.

Adjournment: motion to adjourn made by Mrs. Pichette, seconded by Mrs Diggs, vote : 8 yeas, 0 nays, 0 abstentions

Summary Charter Review Committee Discussion and Actions by Charter Section

Section 1-1

- **No change recommended**

Section 1-2

- **Recommended change: Put references to Chelmsford Home Rule Charter in quotes for consistency.**
- **Requires Committee Vote**

Section 1-3

- **No change recommended**

Section 1-4

- **No change recommended**

Section 1-5

- **No change recommended**

Section 1-6

- **No change recommended**

Section 2-1 Town Meeting Composition

Discussion: there is little sentiment in the town for changing from current structure. Extended discussion on level of Rep participation, attendance, preparation, etc.

- **Action Taken: Committee vote on maintaining a Representative Form of Town Government: 8 in favor, none opposed, 1 absent.**

Discussion re increasing TM membership to 189 members, keep current 9 precinct alignment. Extended discussion on level of Rep participation, attendance, preparation, etc. Discussion concerning Term limits, requirements for re-election relative to the need to obtain nomination signatures vs. sending a letter to Town Clerk to be listed on the ballot. General discussion concerning no. of Reps as it relates to the efficiency of the meeting.

- **Requires Committee Vote**

Section 2-2, Establishment of Districts

- **No Change Recommended**

Section 2-3, Town Meeting Membership

Add sentence describing the TM re-up process, presently not referenced, isolate in additional subsection (c.), "Candidates for Re-election."

- **Requires Committee Vote**

Section 2-4, Election

- **No change recommended;** adjustment may be required if committee recommends a change increasing TM membership.

Section 2-5, Vacancies

Subsection (a.). Change: "absent a date certain, such resignation shall take effect upon the date of such filing." Clearer language.

Subsection (b.) Change "removal" to "move" and other language clarifications

Subsection (c.) Attendance. No change recommended. Discuss current Town Clerk process (Subsection (d.) Vacancies. Discuss current Write-in process, with regard to no. of write-ins required for election.

- **Requires Committee Vote**

Section 2-6, Compensation

- **No change recommended.**

Section 2-7, Presiding Officer

- **No change recommended.**

Section 2-8, Clerk to Meeting

- **No change recommended.** See Sec. 2-5 above, ask Town Clerk about attendance process (5/9/2017 meeting).

Section 2-9(a, b)

- **No change recommended.**

Section 2-10

- **No change recommended.**

Section 2-11

The placement of Articles may be strategic and can be used to guide TM action to produce a desired outcome. The Committee is unsure whether or not the current BOS is aware of their ability to manage the Warrant process, which may include Article sequencing.

- **Committee Final Report to include an advisory to the BOS concerning their responsibility for managing the warrant process, which may include deciding on article sequencing.**

Section 2-12(a)

General discussion concerning public input offered by M. Foley, town Meeting Precinct 5 Rep: Sense of Committee is that it may be helpful to amend our By-laws to include a "caucus" period that would occur after debate and before a vote. A 5-minute caucus period could potentially add 1-1/2 hours to a meeting session if the meeting caucused on all articles. Suggested that the Moderator call for a "caucus vote" on each article, thereby giving TM reps the option of caucusing on a given article. This method could reasonably limit the number of times Reps would caucus, thereby making this option more manageable.

- **Further Committee discussion/action required.**

Section 2-12(b)

- **No change recommended.**

Section 2-12(c)

Recommend word changes to add "view meetings" along with current language, "attend." Change "keep abreast" to "stay informed." Clarify language concerning availability of "review materials." Recommendation that the Town Clerk establish a separate "Town Meeting Web Page" that includes the current TM Representative contact list plus all materials/documentation pertinent to the administration of Town Meeting. The Procedures and Town Meeting Rules pages from the FINCOM warrant article book would be included.

- **Further Committee discussion/action required.**

Section 12(d)

Recommend word changes, “may, by vote, or by-law...” The town meeting is not subject to all provisions of the Open meeting law; however, Town Counsel advises that the last sentence should be retained.

- **Requires Committee Vote**

Section 2-12(e)

- **No change recommended.**

Sec. 2-13(a), (b), (c), Referendum Procedures

- **No change recommended.** This section is largely based on current State law.

General Summary Discussion on Part II, Legislative Branch/Representative Town Meeting:

Discussion concerning Moderator’s request to eliminate the Question/Answer period that occurs prior to Article debate: suspension of Q& A should be left to the Moderator’s discretion.

- **Suggested wording change: “The Moderator *may* allow....” The Committee will make a By-law change recommendation to the BOS as part of the CRC Final Report.**

Town Meeting Attendance: Discussion on voting options that include the ability to vote “present.”

- **Committee will include a recommendation in our Final Report that, at the beginning of each TM session, the Moderator should encourage active participation by all Reps, and that encouragement would extend to registering a vote on all articles, even if voting “present.”**

Sec. 3-1(a), Elective Offices

General discussion concerning the Town Manager’s recommendations that the Constable be an appointed position reporting to the Chief of Police and that the Cemetery Commission be abolished and its operation be transferred to the DPW. The Committee generally agreed that the Constable position should be appointed and the Cemetery Commission should remain as is.

- **Recommended change: Change Constable to a Town Manager appointed position. See Sec. 3-10**
- **Requires Committee Vote**

Sec. 3-1 (b), (c)

- **No change recommended.**

Sec. 3-2, Board of Selectmen (a)-(d)

(a) No change recommended.

(b) Question concerning whether or not this section adequately defines the relationship of the BOS to the Town Manager in terms of responsibility and scope of authority. It appears that the intent is that the BOS function through Policy Directives and that the TM runs the town operationally. Some disagreement with Sec. 3-2 as written. Some think that the BOS should have more responsibility operationally, and Committee members acknowledge that there appear to be those in town who share this opinion. Pursuant to this discussion, no action to change the scope of authority BOS vs. TM is proposed at this time. General discussion concerning the lack of a specific BOS TM review process, that is, not referenced in the Charter, and whether or not it should be included. No conclusion reached on this point.

- **Requires Further Committee Discussion.**
- (c) **No change recommended.**
- (d) **No change recommended.**

Sec. 3-3, School Committee:

Sec. (a)

- **No change recommended.**

Sec. (b) Powers and Duties

General discussion concerning the Authority of the School Committee and Superintendent vs. that of the Town Manager and BOS relative to Hiring/firing, budget formulation and administration. Charter cannot specify school Dept. budgeting process.

- **No change recommend.**

Section 3-4, Town Moderator:

Sec. (a) Term of Office

- **No change recommended.**

Sec. (b) Powers and Duties

General discussion concerning FINCOM appointment by Moderator: Refer proposal that 3 of the 7 FINCOM members be elected at large with the FINCOM chair designated from among the 3 elected members. Suggestion that even with all 7 members appointed, there are still political overtones to Committee deliberations, and that adding an elected component would not materially alter that situation. Reference recent FINCOM discussions concerning Nashoba Valley Technical High School budget administration as an example of "politics" and personal agenda creeping into FINCOM deliberations. Some members favor elected component, others feel that entire committee should be elected or appointed, no hybrids.

- **Further Committee discussion required.**

Sec. 3-5, Planning Board, Composition:

Sec. (a)

- **No change recommended.** There is no CRC sentiment to change PB from elected to Appointed.

Sec. (b) Powers and Duties

- **No change recommended.**

Sec. 3-6, Board of Health: discussion tabled until a BOH representative can be present to discuss (Committee has invited the BOH to appear)

- **Requires further discussion.**

Sec. 3-7, Trustees of Public Library:

Sec. (a), Composition, Term of Office

- **No change recommended.**

Sec. (b), Powers and Duties

General discussion re Library Committee's responsibility to maintain its buildings & grounds. They are responsible. The Chelmsford Public Library belongs to an extensive network of Town Public Libraries (consortium) and there is considerable resource and inventory sharing within the consortium and this includes school district libraries as well.

- **No change recommended.**

Sec. 3-8, Cemetery Commission

The Committee feels that the Cemetery Commission should remain as an elected body with its operating scope intact.

- **No change recommended.**

Sec. 3-9, Sewer Commission

The Sewer Commission no longer exists; its functions have been transferred to the DPW. General discussion concerning the need to keep this section in the Charter.

- **No change recommended except: add footnote (1) charter reference 8.5(b) concerning the dissolution of the Sewer Commission.**

Section 3-10, Constable

Refer to the Town Manager's 11/29/2016 recommendation to change the Constable position from elected to appointed: The job function would be integrated into the Police Department and be directly supervised by that authority. The Town Manager would appoint the Constable from a list of candidates submitted by the Chief of Police.

- **Recommended change: Change Constable to a Town Manager appointed position, with revised language qualifying the incorporation of supervision and cooperation with the Police department. (See discussion, page 12 attached)**
- **Requires Committee Vote**

Section 3-11, Housing Authority

- **No change recommended.**

Section 3-12, Recall of Elected Officers

- **No change recommended.**

4-1. Appointment, Qualifications, Term of Office

General discussion concerning BOS 4/5 vote to hire and indefinite term.

- **No change recommended.**

General discussion, requirement to appoint Screening Committee for the hiring of a Town Manager

- **No change recommended.**

General discussion concerning whether or not the Town Manger BOS review process should be a requirement specified in the Charter. General consensus is that this would be micromanaging.

- **No change recommended.**

Discussion concerning a residency requirement for the Town Manager

- **No change recommended. BOS right to waive requirement should stand.**

Discussion concerning requirement that the Town Manager may not engage in any other work, including holding political elective/appointive office, unless permission is granted by the BOS

- **No change recommended.**

4-2. Powers of Appointment

General discussion.

- **No change recommended.**

4-3. Administrative Powers and Duties, subsections (a) through (r.)

General consensus is that this section should be re-ordered into a more logical sequence and flow for better clarity (this reordering does not imply any substantive changes in meaning other than those specifically recommended during the review of each subsection). The Committee decided to create three Headings and to group individual items (a) through(r) accordingly: Category A: Supervisory; Category B: Administrative Process; Category C: Administrative Duties; Category A: Secs. a, c, q; Category B: Secs. b, j, k, l, m, n, p; Category C: Secs. d, e, f, g, h, l, o, r

- (a) **No change recommended.**
- (b) **Committee action: Change “regulations” to “policy” in this section.**
- (c) **No change recommended.**
- (d) **Change sentence to read “...unless excused by the BOS...” to establish clarity of meaning.**
- (e) **Through (r) No change recommended.**
- **Requires Committee Vote to re-order Section and effect indicated changes.**

Section 4-4. Compensation

- **No change recommended.**

Section 4-5. Vacancy in Office

- **No change recommended, except: change wording of the last sentence: “...a renewal not to exceed an additional six months.”**
- **Requires committee Vote**

Section 4-6. Temporary Absence

- **No change recommended.**

NOTE: Suggestion that, for the sake of logical progression, **Sections 4-5 and 4-6 be re-ordered;** that is, Temporary Absence should be designated Section 4-5 and Vacancy in Office should be designated Section 4-6.

- **Requires Committee Vote**

Section 4-7. Removal of Town Manager

- **Discussion of Section 4-7 is tabled until May 9, 2017**

Section 5-1. Powers of Organization

- **No change recommended.**

Section 5-2. Department of Public Works

- **No change recommended, except: the last sentence in the section should be eliminated and the word “Sewer” should be incorporated into the list of functions/operations under DPW control.**
- **Requires Committee Vote**

Section 5-3. Personnel System

- **No change recommended.**

Section 6-1/ Annual Budget Process

- **Discussion of this Section is tabled until May 9, 2017.**

Section 6-2, Budget Process

General discussion concerning budget timing issues and that the process may be too compressed. General agreement that specific time constraints are better set by by-law than by Charter.

- **Continued discussion deferred until May 9, 2017, where the Committee expects to hear more from the Town Manager concerning the process.**

Section 6-3, Finance Committee Action

Change wording 4th sentence, "...the Finance Committee shall file **the** proposed budget and report its recommendations...." This would make it clear, along with the balance of Section 6-3, that the FINCOM is dealing with the Town Manager's budget, not a FINCOM alternate budget, as might be implied by the existing language "...the Finance Committee shall file a proposed budget...." Change the word "file" to "submit." Suggestion that Sections 6-1, 6-2, and 6-3 should be revised to clarify all actions and the relationships specified.

- **Further discussion deferred to our 5/9/2017 meeting, where it is expected that the Town Manager, BOS, and FINCOM will provide input**

Section 6-4, Capital Improvement Program and Long Term Financial Plan

- **No change recommended.**

Section 6-5, Approval of Warrants

General discussion concerning the Warrant approval process. The Committee has no specific information on how this process works and what specifically the Town Manager does with regard to pay warrants.

- **Discussion deferred to 5/9/2017, specific questions for the Town Manager.**

Section 6-6, Management of Town Funds

- **No change recommended.**

Section 6-7, Annual Audit:

Recommended change: Require a periodic change in auditors. Suggested term is no more than 3 years (auditor changed in year 4). Recommend that this be done via a by-law change.

- **Requires Committee Vote**

Section 7-1, Charter Revision or Amendment

- **No change recommended.**

Section 7-2, Severability

- **No change recommended.**

Section 7-3, Rules of Interpretation

- **No change recommended.**

Section 7-4, Definitions

General feeling is that this section could be expanded upon to provide additional clarity to the Charter. Action: All Committee members will review this section individually and provide their “expanded definitions” suggested listing to V. Diggs for tabulation and further review.

- **Requires further discussion.**

Sections 8-1 through 8-5, (Part VIII, Transitional Provisions): Continuation of Existing Laws, Existing Officials and Employees, Continuation of Government, Transfer of Records and Property, and Time of Taking Effect, respectively

The 2006 Charter Review Committee recognized the Part VIII provisions primarily as addressing “transitional governing” issues during the time of the switch from non-charter to Charter government (1989). Town Counsel has been consulted with regard to the need for retaining all or any portion of Part VIII provisions going forward

- **Further discussion required, pending receipt of Town Counsel’s opinion.**

General Recommendation, applies to all Charter Sections

Footnoting Charter Sections with MGL Reference: See discussion, page 14.

- **Requires Committee Vote**

End of Charter Review Action Summary. See Page 9 and following for additional information regarding Committee Discussions

Public Input and Updates:

Public Input:

Glenn Diggs, Board of Selectmen (BOS) Member:

G. Diggs stressed he is speaking for himself, not as a BOS representative:

Section 3-1, Elected Town Officers: Pertains to Elective Town Offices. G. Diggs wants a Charter change allowing for the election of 3 FINCOM members, with the remaining 4 appointed by the Moderator, together with a provision that restricts election of the FINCOM chair to one of the three elected members. The elected members would serve a 3-year term, with one member elected every year. G. Diggs favors this change as a way to increase member diversity representation on the FINCOM.

Section 4-3, Administrative Powers & Duties: Pertains to Town Manager as Chief Administrative Officer. G. Diggs proposes that a BOS member be present during labor negotiations with the Town's employee Unions. He feels that this would provide additional perspective and that the presence of an elected BOS member representing the town's voters would lend transparency and credibility to the negotiation process. The BOS member would not actively participate in the negotiation process, but would have "observer" status. **There does not appear to be anything in the current Charter language that restricts such participation, but it was suggested that a change could be made to include language specifically allowing for a BOS "observer only" member, thereby validating that process.**

Section 3-2, Board of Selectmen: Under our Charter, the BOS has no employee hiring responsibility except for the Town Accountant and Town Counsel, and no appointing authority other than the Personnel Board and Public Celebrations Committee and targeted ad hoc volunteer study committees. G. Diggs would like a charter change that allows the establishment of an annual operating budget line item of \$100,000 to give the BOS the flexibility to hire a paid employee to manage short-term targeted objectives. He feels that the BOS as the Town's elected Executive Policy Board representing the town's citizens should take a more proactive approach to driving long-term visioning/solutions rather than just leaving such actions to unelected town management employees (Town Manager, Planning Office). The appropriation would be made annually, and if the BOS did not fill a position, the unspent appropriation would revert to the General Fund (Free Cash). G. Diggs compared the proposed appropriation to the annual FINCOM Reserve fund appropriation, which, if unused, is returned to the General Fund. G. Diggs reiterated his belief that opening up our process to be more democratic (elected FINCOM members, increased operating responsibility for BOS) would enhance citizen participation and advance the notion of citizen control and transparency.

Jim Clancy, Chairman of the Finance Committee (FINCOM):

J. Clancy addressed the FINCOM Reserve Fund process as he does not want the impression created that the administration and allocation of funds from the FINCOM reserve is completely discretionary. He pointed out that the dispersal of FINCOM reserve funds must follow statutory guidelines as outlined in the MGL, which narrowly define the circumstances under which such funds may be dispersed. FINCOM does not have discretion outside statutory provisions for funds dispersal.

J. Clancy is opposed to any charter change that would create an elected FINCOM, either completely or partially as suggested by G. Diggs. He stressed that the time commitment for FINCOM is significant and that the current appointment process allows the Moderator (appointing authority) to stress that during the vetting interview process, and to get a sense of candidate's ability to sustain a significant time commitment. J. Clancy stressed that FINCOM's primary mission is to review the town's Budget and other warrant articles and bring its collective experience to bear when making recommendations that take the long view. J. Clancy feels that introducing election politics into this process would compromise the integrity of the FINCOM's work and might lead to the FINCOM engaging in agenda politics. He

pointed out that changing FINCOM from an appointed to an elected body would most likely preclude many qualified people from serving because they would not want to engage in political campaigns just to be able to volunteer their time and expertise to the town. The Moderator is elected from the town at large, and that introduces a measure of electoral control over who is appointed to FINCOM. J. Clancy feels that the current Moderator does a good job of balancing political viewpoints when making appointments, and offered the example that his political views, which generally do not align with those of the current Moderator, did not keep the Moderator from appointing him to the FINCOM. He feels that the FINCOM's process should not be subjected to any kind of political pressure, and that the current appointed nature of the Committee facilitates the kind of "politics free" recommendations that serve the town's long-term interests well.

Maureen Foley, Town Meeting Representative, Precinct 5:

M. Foley is not in favor of a charter change that would allow a BOS member to participate in employee union negotiations. She spoke from the standpoint of the "small" unions, as she acted as the library/clerical union rep from many years. M. Foley feels that the inclusion of people other than the Town Manager in the negotiating process would inhibit free discussion and actually hinder the process.

Speaking as a Town Meeting Representative, M. Foley feels that the current meeting environment does not allow for enough discussion among Reps prior to a vote. She feels that that articles discussed early in the evening receive greater attention than those that are discussed later in the evening. The 11:00 PM adjournment goal seems to overly influence how the meeting is conducted. M. Foley would like to see changes that would allow for Saturday (all day) Town meeting sessions that might encourage better Rep. attendance and would also create a more relaxed and less restrictive structure to allow for extended review and debate. M. Foley would like to see a provision that would allow for Reps to caucus during the meeting to discuss elements of the debate, which would allow them to have the benefit of additional thinking before a final vote on warrant articles. This might be done with a change to the Town's By-laws, which can be recommended by CRC as collateral to the Charter provision for the structure and administration of Town Meeting.

Town Manager Paul Cohen addressed the Committee concerning proposed Charter Changes to Sections 3.8 and 3.10, Cemetery Commission and Constable.

Sec. 3-8, Cemetery: Currently the Cemetery Commission is an elected 3-member Board. P. Cohen made a case for abolishing the Commission and transferring operations to the DPW. Under that scenario, Cemetery would be a separate Department under DPW management control. P. Cohen gave examples of the increased efficiencies and possible cost savings that would result from this action. Alternatively, if CRC feels that such a change is too drastic, it could recommend that the Commission be retained as an appointed authority with general oversight and review authority over Cemetery operations, similar to that of the Finance Committee over town financial matters (FINCOM has no operating or policy-making authority relative to municipal budget administration). Under that scenario, the Town Manager would be the appointing authority, and Cemetery operations would still be under the direct management of the DPW.

Sec. 3-10, Constable: P. Cohen urged CRC to recommend changing the Constable's position from elected to appointed. Most municipalities have made this change. The nature and scope of a Constable's activity includes the exercise of police power and the selection of individuals for this position should not be politically based. The job function should properly be integrated into the Police Department and be

directly supervised by that authority. The Town Manager would appoint the Constable from a list of candidates submitted by the Chief of Police.

S. Chase invited the Committee to ask the Town Manager any question, whether related to Secs. 8, 10 or not, while he is available to us. Following the TM's logic concerning the operational consolidation for Cemetery and Constable functions, D. McLachlan asked if there is potential for more Town oversight (Town Manager control) over the School Dept. budget. P. Cohen indicated that there are those who advocate for rolling school budgets up under Town Manager (or selectman, depending on a municipality's organizational structure) control, but that possibility is remote given current state law. S. Pichette asked if the Town Manager thought there would be any value in having the BOS participate in labor negotiations. P. Cohen is opposed to direct BOS involvement in labor negotiations, which action he feels would represent a conflict with the BOS approval process (the BOS must approve any negotiated settlement). G. Thoren asked if it would be appropriate to specify a vetting process for Constable candidates within the Charter. G. Thoren feels that the Constable's authority scope necessitates a minimum specified qualification set for the position. P. Cohen said that moving the Constable position to appointed and placing it under the operational control of the Police Chief would accomplish that goal.

Relative to Section 4-3, D. McLachlan asked P. Cohen to elaborate further on the TM's responsibility to manage maintenance for school department buildings (Sec. 4-3h). P. Cohen said that in his understanding "maintenance" refers primarily to the care and custody of capital facilities and does not apply to daily custodial/cleaning type operations. P. Cohen said that under the Education Reform Act (1993), building principals are responsible for daily housekeeping activities, and that distinction has been observed since the assumption of capital maintenance responsibility of school facilities by the town. Following that logic, the TM is responsible for repair upkeep of structural (capital) components, and that does not include internal "housekeeping management."

Sec. 3-10, Constable: Chief of Police Jim Spinney supports the Town Manager's recommendation for an appointed Constable. The Constable would be appointed from a list of candidates vetted and supplied by the Chief, and that the position be under the direct supervision of the Police Department. The Chief reviewed current Massachusetts law outlining a Constable's duties and responsibilities, and what is generally not understood is that the Constable retains a considerable amount of Police power, although under current municipal structure, it is seldom exercised. The statutory responsibility is great, and the Chief feels that the selection of a Constable should not be politically based. Constables serve process and warrants that in some circumstances can involve a degree of sensitivity and danger, and the Chief feels that such service should at a minimum be coordinated with the Police Department. Regardless of the outcome of the TM's proposal, the Chief said that coordination will occur in the future for the safety of the Constable and community. A strong argument in favor of appointment is the ability to deal with a personality that proves to be unsuitable for the office. Under the current elected process, the method for removal is recall, a lengthy and difficult process at best. Under the appointed structure, the appointing authority can remove a poorly performing individual relatively quickly.

G. Thoren asked about the removal process if we changed to an appointed model. Chief Spinney anticipates that removal would be based on the Chief's recommendation, with the actual removal done by the TM. D. Burke said that the Chief's presentation "changed his mind" relative to appointment vs. election. Prior to this presentation, D. Burke was inclined to support retaining the current elected status. He was unaware as to the scope of authority and activity that can be exercised by Constables, and he now feels that appointment vetting and direct supervision by the Police authority is justified under current circumstances. G. Thoren was somewhat surprised to learn of the constable's authority scope, and agrees with D. Burke. S. Pichette favors appointment. V. Diggs favors appointment. D.

Bruce favors appointment. S. Chase favors appointment. Discussion ensued concerning the form that a recommendation to change the position from elected to appointed should take. M. McCall suggested eliminating Sec. 10 entirely, whereby the appointment of a constable would fall to the TM under Section 4. Both V. Diggs and G. Thoren feel that the proposal for change encompasses an administrative process (supervision by the Chief) that should be specified within the Charter; they do not want that left out of the change to appointment. General agreement that the Committee should recommend a change to appointment, and that the Constable Section should be retained with revised language qualifying the incorporation of supervision and cooperation with the Police Department. To be deferred to a final vote of the Committee.

Sec. 3-8, Cemetery: Gerald Hardy, Chairman of the Cemetery Commission, Thomas St. Germain, Commission member, and David Boyle, Cemetery Superintendent, spoke in favor of retaining the current elected Commission and operating structure for management of the town's several cemeteries. Currently the Cemetery Commission is an elected 3-member Board. The Town Manager made a case for abolishing the Commission and transferring operations to the DPW, or alternatively, retaining the Commission as an appointed authority with general review authority, but with operations transferred to the DPW. G. Hardy stressed the specialized nature of cemetery administration and maintenance, and offered several examples of the quality service that is provided by having a stand-alone operation dedicated to cemetery maintenance. G. Hardy stressed that currently, there is good cooperation between the Town Manager's and Finance Director's offices in terms of budget formulation and cooperation with the DPW on cemetery and town needs, with both sides assisting where needed. Currently, the town supplies about one half of required funding for cemetery operations, the balance comes from the sale of burial plot rights and the interest that accrues on deposited reserves. 50% of the purchase price plus accumulated interest goes to cemetery perpetual care, and G. Hardy feels that the current elected "separate from town administration" arrangement supports the security of the funding. G. Hardy stressed that he has no doubt that the current town administration would continue to maintain this integrity, but that future administrations may not if the separation is abolished by going to the "appointed" model. Under that scenario, the possibility exists that the Town authority could shift funds intended for cemetery maintenance to other town priorities.

S. Pichette asked for clarification from the Cemetery Commission concerning the TM's proposal: are they concerned that a portion of cemetery revenue could be appropriated by the town for other purposes? G. Hardy stressed that he has the utmost confidence in the integrity of the current TM and Finance Director, and feels that under the current administration, this would not be an issue. However, it was a concern in the past when similar proposals were made, and it was not as clear then that operations and funding separation would be maintained. We also don't know what the intent of future administrations would be. For those reasons, G. Hardy recommends against the proposed change. G. Thoren stressed the quality of current cemetery services, and indicated that there appear to be no compelling reasons for change. If the cost and quality of the service were in question, then he might be inclined to support a consolidation, but the current system seems to be working well. D. Bruce asked about the process of managing investment (perpetual care) funds. G. Hardy said that this is done jointly with the Finance Director. G. Thoren asked about increasing the current Commission membership from 3 to 5; would this enhance or degrade the current administrative process? G. Hardy feels that the current 3-member Board is effective and manages well. S. Pichette feels the current system works well and sees no reason to change. G. Thoren said that if we can't find legitimate substantive reasons for change, either financially or operationally beneficial, then we should retain the current system. D. Burke said his experiences with the Commission are largely positive and the few complaints he is aware of were addressed immediately and satisfactorily. He sees no reason to change. V. Diggs sees no reason to change. S. Chase said that he has had experience with other towns where the cemetery function is

rolled up under DPW operations, and that those cemeteries are not maintained to the same quality standard as Chelmsford's. He agrees that the current town administration would never short-change cemetery operations, but is concerned about how future administrations would act. General agreement that Sec. 3-8 should not be changed.

Public Input, 4/11/2017: Selectman G. Diggs indicated that he would not be giving any specific input this evening with regard to Charter Sections 4-7 and 6-1. He wanted to "bring the Committee up to speed" on where the BOS stands relative to offering its input on these sections. He described the outreach (CRC e-mails to BOS/Town Manager/School Committee/School Superintendent) process, and said that there had not been enough time between the issuance of Invitations to appear before the CRC and the April 11 meeting for the Board to meet to discuss how they might respond. Complicating the issue further was the election that resulted in a new Board member and new Board Chair. G. Diggs indicated that the BOS would schedule a discussion on Secs. 4-7 and 6-1 for their 5/8/2017 meeting, and that they should be prepared to offer input to us on 5/9/2017.

UPDATES:

- Use of the term "officers" in several Charter sections: Town Counsel advises (2/24/2017 e-mail from J. Giorgio, KP Law) that the term "officer" includes "any position or board that meets the four part test <as outlined in the e-mail>" and would include regulatory boards and employees with managerial responsibility. It would not include individual contributor employees who do not have supervisory/managerial authority scope (clerical people, laborers, etc.).
- Town Manager's responsibility re: "maintenance of municipal buildings": Re P. Cohen 1/27/2017 e-mail to S. Chase, "...the Town Manager is responsible for the maintenance of all municipal buildings, including school buildings...."
- Section 4-7, Removal of Town Manager: As requested at our 3/28/2017 meeting, S. Chase contacted the Mass Municipal Association (MMA) to get a sense of how/why Town Charters specify either a simple majority or super majority vote for the hiring and removal of Town Managers. The MMA offers "Charter Drafting" and general consultant assistance to municipalities that are trying to formalize their municipal government structures. The MMA advises that in charter towns that employ a "strong" Town Manager, it is common to require the super majority votes. Many "weak manager" towns also specify supermajorities, but there are many towns that require simple majority voting only for these actions. Simple majority vote towns tend to be those that have the "weak manager" form (town administrator/executive secretary) where the Board of Selectmen retain a measure of direct managerial control over day-to-day town operations. The MMA advises that they have a variety of charter "templates" that are available to towns. The MMA generally advocates for "professional strong town manager" structures, and encourages the supermajority appointment/removal provision to minimize fleeting political influence on a professional Manager's status. A supermajority vote requirement tends to allow for more stability in the Manager's position, and can protect against a frivolous removal. The 2006 CRC did a thorough review of Section 4-7, and recommended that the 4/5 vote removal process be retained,

but also recommended the institution of a definite term for the Town Manager. That change was not adopted.

- Section 5-3, Personnel System: Our 3/28/2017 discussion included questions concerning the Personnel Board's involvement, if any, in the administration or policy making for Other Post Employment Benefits. M. McCall looked into this and advises that the Personnel Board is not a Policy making board, and generally is restricted to addressing employee/employment/employer issues with regard to polices that are established by other Boards and authorities.

Follow-up discussion on Section 6-1, Annual Budget Process: D. McLachlan questioned the timing of the budget process. He feels it is very difficult for the Town Manager to meet specified deadlines, either by Charter or Town by-law, due to the inability of the State to provide solid State Aid assistance numbers by the time the budget must go to spring town meeting. Clearly the Town Manager is in charge of the process, but is unable to produce a "final" budget by that time. S. Pichette questioned the "finality" of the spring budget, and explained that adjustment action is almost always taken by fall town meeting. D. Burke raised the "balanced budget" issue, stating that as a Town Meeting Rep., he generally favored an approach that would restrict the Town Manager to providing a "balanced budget" in the spring. S. Chase said that the spring budget is in reality a "Pro Forma" budget, for the timing reasons cited by D. McLachlan. The current FY budget is not finalized until the State Dept. of Revenue signs off on the Recap Sheet (done in the fall after fall town meeting has made final adjustments to the current FY operating budget). G. Thoren, V. Diggs and D. McLachlan like the distinction implied by the use of the term "Pro Forma" in describing the spring budget. Alternative words can be "proposed" or "preliminary" to distinguish between what is presented in the spring vs. what is finalized in the fall. The Committee would like to get the Town Manager's input on this, and will encourage the Manager to speak to this during our 5/9/2017 meeting, with a view toward potentially making this distinction within the Charter.

Footnoting Charter Sections with MGL Reference: M. McCall raised the peripheral/general issue of footnoting all Charter Sections with the applicable MGL reference. General agreement that this would be a good practice, and can be conveyed by CRC Recommendation.