



**Charter Review Committee
Town Offices
50 Billerica Road
Chelmsford, MA 01824-2777**

To: The Chelmsford Board of Selectmen (Board)
From: Sam Chase
Re: Report of the Chelmsford MA Charter Review Committee
Date: September 20, 2017

The Charter Review Committee (CRC) is pleased to present its Report of Charter Change Recommendations based on its extensive review during the past 15 months. In addition to recommended Charter changes, the Report gives us an opportunity to make general observations by way of related Advisories that suggest administrative and process changes that the Board and other town officials may find useful.

The CRC has devoted considerable time and effort in attempting to understand Massachusetts municipal government operations from structural and local application standpoints. We consulted with representatives from the Massachusetts Municipal Association, the town's general legal counsel, and past and present local officials throughout the process to ensure that we had relevant, accurate and current information to consider. We believe that our methods together with the collective experience of CRC members and the professionals with whom we worked form a solid basis for our conclusions, and we hope that you will carefully review this Report, consider its findings and recommendations, and implement changes where appropriate.

Respectfully Submitted:

The Chelmsford MA Charter Review Committee:

Sam Chase, Chair
Mike McCall, Vice Chair
Valerie Diggs, Clerk
Doug Bruce
Dan Burke
Dave McLachlan
Sheila Pichette
Glenn Thoren

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Town of Chelmsford 2016/17 Charter Review Committee

FINAL REPORT

Introduction

Chelmsford's **Home Rule Charter** (Charter) defines the form, structure and organization of Chelmsford town government and the powers and duties of town officials. As such, the Charter may be considered the town's "Constitution."

Chelmsford's voters adopted the Charter in 1989. A Charter Review Committee (CRC) may be established by the board of selectmen (board) periodically to review and recommend changes to the Charter. The first Charter review in 2005/2006 resulted in changes to board appointment powers and defined the process for transfer of authority from the town manager in the event of his absence. The recommended review cycle is every ten years.

The board and town manager appointed the present CRC in June 2016 to determine whether or not changes are needed. CRC members represent broad-based citizen involvement with a variety of political views and diverse past and existing community experiences.

The committee consists of nine members:

Sam Chase, Chairman
Mike McCall, Vice Chair
Valerie Diggs, Clerk
Doug Bruce
Dan Burke
Dave McLachlan
Sheila Pichette
Glenn Thoren
Lou Marino (resigned 12/2016)

An appointed CRC is not the same as an elected Charter Commission. While a Charter Commission has broad authority under the Home Rule Procedure Act (MGL Ch. 43B) to revise an existing Charter, a Charter Review Committee's authority is limited to recommending Charter changes to its appointing authority. Thereafter, the appointing authority may act on CRC recommendations by (1) placing recommendations before town meeting in the form of warrant articles, which, if passed then must be approved by the town's voters; (2) petition to the Massachusetts Legislature by two-thirds vote of Town Meeting for special legislation that revises the existing Charter. The CRC recommends the use of both methods for enacting its recommendations, as outlined later in this Report.

Public Outreach and Input

Early on the CRC decided to stress the importance of public and municipal input as part of the review process. We created an Input/Recommendation Submittal Form to allow

residents to submit ideas and opinions on the existing charter and to propose changes. All CRC meetings opened with a “Public Input Session” where residents and town officials could present comments, ideas and requests for change. Public input summaries are included in this Report.

CRC Mission

At the beginning of our process, CRC members decided to articulate a Committee Mission to guide our process:

2016 CRC Mission Statement:

The CRC will scrutinize and evaluate the existing Town Charter to ensure an appropriate, effective and accountable organizational structure of Chelmsford government for its residents and constituents and, if necessary, recommend any change to the Board of Selectmen by August 2017.

In reviewing the Charter, the CRC will be Open, Transparent, and Respectful.

- Open: We welcome input from all constituencies - Residents, Businesses, Employees - including outreach where practical.
- Transparent: We will conduct open, televised meetings with opportunity for anyone to address the Committee.
- Respectful: We will consider all input as serious, regardless of the method of delivery.

Review Process

The CRC understood the need to establish a review process that, in addition to line-by-line textual scrutiny, would capture public and town officials’ views regarding potential changes, and would lead to consensus-building discussions as the basis for our recommendations.

We identified specific strategies to guide the review and recommendation process:

- Televised twice monthly meetings
- Adherence to Open Meeting Law requirements
- Public Input/Recommendation submittal forms
- Public input at each CRC meeting
- Invitations to public officials to participate
- Section-by-Section Review, Research, Analysis, Discussion, Debate and Action
- Town Counsel input
- Timely response to media interest
- No committee votes required where unanimous committee sentiment is expressed for No Change to a Section
- Votes required where discussion indicates sentiment for change, or unanimous sentiment for making no change is not clear
- Present summary recommendation to the board in August 2017
- Present formal report at a later date

In addition to the above, we reviewed Charters and governing documents from 54 towns having a government structure similar to Chelmsford's (5-person Board of Selectmen and town meeting form of government) for perspective and guidance in our review of Part IV, Town Manager. Summary results of that review are included in this Report.

CRC Major Recommendations

A list of all CRC recommendations with supporting narratives can be found in the Final Report Section entitled CRC Decisions/Recommendations by Charter Section. Specific committee thinking and rationale for recommendations are detailed as are various points of discussion, related issues, and recommendations for Charter change language.

The CRC reviewed issues relating to the town meeting and decided to recommend the following:

- Maintain a representative town meeting structure
- Keep existing 9-precinct alignment
- Keep town meeting membership at 162 (18 Reps per precinct)
- Add language describing town meeting representative qualification for re-election process
- Eliminate 10-vote minimum requirement for reserve list reps to qualify for office in the event of a vacancy
- Reinforce Town Meeting Member accountability (Advisory)

The CRC reviewed issues relating to elected vs. appointed Boards/Committees and decided to recommend the following:

- Retain a 7-member Finance Committee, appointed by the moderator
- Retain an elected Planning Board, Board of Health, Library Committee, and Cemetery Commission, with no change in membership numbers
- Change the current elected constable position to one appointed by the town manager based on candidates submitted for consideration by the chief of police
- Restrict the appointed constable's duties to service of defined categories of civil process (Advisory)

The CRC reviewed issues relating to the Board of Selectmen and decided to recommend the following:

- No changes altering the balance of power or scope of authority of the town manager and the board
- Improve communication between the town manager and board (Advisory)
- Affirm board responsibility to guide the town manager though policy directives and more direct communication and engagement to include the board's ability to schedule meetings and order agendas to address specific issues (Advisory).

The CRC reviewed issues relating to the Town Manger and decided to recommend the following:

- Require that a town manager screening committee include selectmen and resident membership
- Retain the current indefinite term provision
- Retain the 4/5 vote requirement to hire or terminate the town manager
- Retain the 3/5 vote to suspend the town manager
- Re-order specified Charter subsections for logical progression sequence

CRC Advisories

In addition to recommendations for Charter changes, the CRC offers the following Advisories for consideration (Advisories do not change Charter language):

- Section 2-11. Warrant Articles
The placement of articles may be strategic and can be used to guide town meeting action to improve the efficiency of its process. The CRC is unsure whether or not the current board is aware of its ability to manage the warrant process, which may include article sequencing. The CRC recommends that the board consider its responsibility for managing warrant article sequencing when approving the final content and order of a town meeting warrant.
- Section 2-12. Procedures
Currently, a town meeting member can effectively vote “present” by recording an abstention vote, thereby noting his presence but expressing non committal on the outcome of an article. We observe, however, that many votes are taken where members simply do not vote on a particular article. The CRC recommends that, at the beginning of each session, the moderator should encourage active participation by all Reps on every article when they are present by voting on all articles, even if only voting “present” by abstention.
- Section 3-2. Board of Selectmen
The subject of “strong town manager (manager)” vs. “strong board of selectmen” management of town operations was a constant recurring theme throughout our review. Our research into the practices of area towns confirms that the choice of one form over another is largely one of philosophy and is not an indication that one or the other structure is superior. We are unsure concerning the board’s understanding of the “separation of power” process that is articulated in the Charter. Current Charter language prohibits the manager from establishing and setting policy and restricts board members from participating directly in the management of town operations. However, Charter language does not imply that selectmen have no oversight or management role with regard to administrative issues. Section 3.2(b) states, in relevant part: “...the executive authority of the town shall be vested in the board of selectmen which shall be deemed to be the chief executive office in the town. The board of selectmen shall be the chief policy making agency of the town and shall have all the powers and duties given to boards of selectmen as may be authorized by the laws of the commonwealth, the charter, bylaw or other town meeting vote, except those powers granted to the town manager under this charter....It is the intention of this provision that the board of selectmen shall act only through the adoption of policy directives and guidelines which are to be implemented by the officers and employees appointed by or under its authority. The town manager shall be the

primary officer responsible for the implementation of policy directives and guidelines adopted by the board of selectmen.” (Emphasis added by CRC)

The CRC reminds the board that in order to fulfill the intent of this section it should proactively give guidance and direction to the manager concerning the implementation of and adherence to policies that it establishes from time to time, and that such policies may express certain preferences for management approach. Guidance should include frequent timely and direct communication with the manager through the Chair and/or from individual members. Understanding and transparency is achieved through continuous and substantive discussion; frequent and open communication is imperative to ensure that the parties are “on the same page” and not working at cross-purposes. Performance standards for the manager should be consistent with and fully reflect board policies, and periodic reviews and feedback should be a matter of routine, not just a perfunctory exercise resulting from the annual performance review/appraisal requirement. It is worth noting that nothing in the Charter specifically prohibits selectman from establishing policies that guide the administration of the town. As an example, we note that a few towns provide for selectmen observer status during specified contract negotiations, and others have provisions for selectmen to participate in limited ways in certain operational activities. While the CRC offers no opinion on the wisdom of such measures, we encourage the board to engage the manager openly, frequently, respectfully, and substantively on any area of concern it may have relative to the operational management of the town, with a view toward promoting cohesion and unity of purpose.

- Section 4-2 Powers of Appointment
The CRC recommends that, pursuant to a change in constable status from elected to appointed, that the constable’s general powers and scope of authority be limited to certain specified types of civil process service. Further, that the constable activities be subject to supervision by the chief of police.
- Section 6-7 Annual Audit
The CRC recommends that the board require a periodic change in external auditors. We suggest that an auditor serve no more than 3 consecutive years (auditor changes in year 4); provided that previous auditors can be re-engaged after a period of non-engagement. We recommend that this requirement be implemented via a by-law change.

Implementation of CRC Recommendations

It is proposed that separate articles for “substantive” and “housekeeping” changes be drafted. The substantive change articles if passed by town meeting should then go the general ballot for voter approval or rejection. The “housekeeping” (minor wording and grammatical changes) items should be grouped into one separate article and if passed, will be sent to the Legislature for action. The following are the substantive Section changes that should be presented separately for town meeting and subsequent voter action: Sections 2-3(c) (town meeting Rep incumbency), 2-5 (d) (elimination of 10 vote minimum to qualify), 3-10 (constable), 4-1 (screening committee composition

requirement), 4-5 (acting town manager term extension). The balance should be grouped in the referenced “housekeeping” article.

CRC Decisions/Recommendations by Charter Section

- ❖ **Note:** Recommendations for change were presented to the Board of Selectmen at its August 21, 2017 meeting. See recommended change excerpts from the PowerPoint presentation at the end of this Report.

Section 1-1

- **No change recommended**

Section 1-2

Change: Put references to Chelmsford Home Rule Charter in quotes for consistency.

Vote Definitions Section, change to “Chelmsford Home Rule Charter.” Vote: 8 for, 0 opposed.

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: During its review, the CRC neither heard nor found any sentiment for changing from current structure. Extended discussion on level of Rep participation, attendance, preparation, etc.

Vote to maintain a representative form of town government: Vote 8 in favor, none opposed, 1 absent.

Discussion re increasing town meeting 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 the town clerk to be listed on the ballot. General discussion concerning number of Reps as it relates to the efficiency of the meeting.

Vote to keep current precinct alignment and membership at 162: Vote 7 in favor, 1 opposed.

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.”

Vote to add Section 2-3, (c.), Vote: 8 in favor, 0 opposed.

Section 2-4, Election

O. Maloney, town clerk requested a change (5/9/2017) to require a minimum of 5 votes for “write-in” candidates.

- **No change recommended**

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 number of write-ins required for election. Town clerk O. Maloney recommends a change to 5 vote minimum to validate a write-in vote (see Public Input section, 5/9/2017)

Vote to accept wording changes to Sec. 2-5(a), (b): 8 in favor, 0 opposed.

Vote to add separate section (b2) to subdivide current “Removal from Town/Removal from Precinct” combination describing the “Moving from Precinct” process; 8 in favor, 0 opposed.

Vote to delete second sentence of Section 2-5(d) to eliminate the 10-vote qualification for Reserve List Reps to fill a vacancy: 8 in favor, 0 opposed.

Section 2-6, Compensation

- **No change recommended**

Section 2-7, Presiding Officer

- **No change recommended**

Section 2-8, Clerk to Meeting

- **No change recommended**

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 board is aware of their ability to manage the warrant process, which may include article sequencing.

Committee Final Report to include an advisory to the board concerning its 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 town meeting 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.

- **No change recommended**

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.

Vote to accept wording changes: Vote 8 in favor, 0 opposed

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.

Vote to accept wording changes: Delete MGL reference (statute repealed) and add current MGL Open Meeting Statute reference, MGL CH30A, Sec. 18-25. Vote: 8 in favor, 0 opposed.

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. This is now moot, as the last town meeting addressed this issue.

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 town meeting 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.

Change: Elective Offices: Remove “constable” from elected officers list, pursuant to a change making the constable an appointed position. Action to be taken under Sec. 3-10, Constable.

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

- **No change recommended**

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

(a) No change recommended

(b) BOS Powers & Duties: General review of previous discussions concerning strong town manager vs. strong board form of government and request by Selectman G. Diggs that a selectman be included in the union negotiations process with observer status. Consensus that communication between the town manager and board could be improved mitigating a desire for the board to be more formally involved in the operational management of the town by way of a Charter change. D. Burke addressed the union negotiations issue, expressing his belief that the current process does not work well and could be improved by a stronger board presence. M. McCall advised that there may be limitations (legally) on who can attend and/or participate in the negotiating process; may require town counsel opinion to address.

Sec. 3-2 (b) should stand as written (no changes) but CRC should include an advisory to the board in its final report concerning board responsibility to effectively guide the town manager through policy directives and more direct communication and engagement. Advisory should include detail relative to the board’s ability to schedule meetings and order agendas, with a view toward increasing frequency of interaction with the town manager.

Vote: 7 for, 0 opposed, 1 absent.

(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 board relative to hiring/firing, budget formulation and administration. Charter cannot specify school department budgeting process.

- **No change recommend**

Section 3-4, Town Moderator:

Sec. (a) Term of Office

- **No change recommended**

Sec. (b) Powers and Duties

Sec. 3-4 (b): Review discussion concerning request by Sel. Diggs to change composition of FINCOM to 3 elected and 4 moderator-appointed positions, with a requirement that the Chair be appointed from the 3 elected members; it is thought that this will help create more diversity on the FINCOM. General CRC feeling is that moderators historically have done a good job with FINCOM appointments re diversity of

viewpoint and general background qualification. General feeling is that the FINCOM's current status as an appointed non-political body lends credibility to its process, and that the current method of membership selection should not be changed. **Vote: No Change to Sec. 3-4 (b): Vote: 7 for, 0 opposed, 1 absent.**

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: No input from BOH as of 5/23/2017. Committee consensus 5/23/2017:

- **No change recommended**

Sec. 3-7, Trustees of Public Library:

Sec. (a), Composition, Term of Office

- **No change recommended**

Sec. (b), Powers and Duties

General discussion re the 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

Sec. 3-8: Request from the town manager to abolish the cemetery commission and transfer cemetery operations to the DPW or alternatively to make the commission an appointed body with policy oversight of DPW-manager cemetery operations: Currently, cemetery operations cooperate well with DPW by supplying manpower when available to assist with snow removal and other extraordinary situations. General concern that eliminating the policy and operational oversight of an independently-elected cemetery commission, especially with regard to fund management and budgetary issues could contribute to a deterioration of adequate financial and operations support for proper cemetery maintenance.

- **No change recommended**

Sec. 3-9: No change. Add footnote (1) to Charter reference 8.5(b) advising dissolution of the Sewer Commission. Vote: 6 for, 0 opposed, 2 absent

Sec. 3-10: Request from the town manager and chief of police that **the constable position be changed from elected to appointed:** Review discussion concerning the scope of constable authority under state law, and the concern that there is little control/supervision over an elected constable's activities.

Vote to delete this Section, and add the constable as an appointed position under Sec. 4-2, Town Manager powers of appointment. **Vote 6 for, 1 abstention, 1 absent.**

Vote to **include an Advisory recommending that the constable's scope of authority and powers be limited to certain specified types of civil process service and that**

constable activities be subject to supervision by the chief of police. Vote: 6 for, 1 abstention, 1 absent.

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 the 4/5 vote to hire and indefinite term (6/6/2017).

Indefinite Term: Currently the Charter specifies an indefinite term for the town manager. The contract term is independent of a term specified by Charter. If the town manager's contract expires and the board fails to take action to extend or renew, that act in and of itself does not terminate the manager. Under a Charter "indefinite term," the town manager continues in the town's employ, presumably under the basic terms of the current (expired) contract, much the same way that police, fire, and school department personnel continue to work when their contract negotiations extend beyond the expiration dates of their current employment contracts.

Indefinite Term, 4/5 board vote to hire, composition of screening committee, town manager residency: **No change**, except **add the following language to the last sentence of the first paragraph:** **"The board of selectmen shall appoint a screening committee that shall include selectmen and town residents to assist in the recruitment and selection of the town manager."**

Vote: 6 for, 0 opposed, 1 recused, 1 absent.

4-2. Powers of Appointment

Add constable to the list of those appointed by the town manager. Add sentence, "the town manager shall appoint the constable from a list of candidates provided to him by the chief of police. The duties and responsibilities of the constable shall be established by the town manager and chief of police, subject to any state law or Chelmsford by-law and/or regulation." **Vote: 6 for, 0 opposed, 1 recused, 1 absent. See Sec. 3-10, supplemental advisory.**

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, i, 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 board of selectmen..." to establish clarity of meaning.**
- (e) **Through (r) No change recommended.**

Section 4-3 Administrative Powers and Duties, subsections (a) through (r.): General reordering of Section, as follows:

Section 4-3. Supervisory, Administrative Powers and Duties

The town manager shall be the chief administrative officer of the town and shall be responsible to the board of selectmen for the proper operation of town affairs for which the town manager is given responsibility under this charter. The powers, duties and responsibilities of the town manager shall include, but are not intended to be limited to, the following:

Supervisory

(a) to **supervise**, direct and be responsible for the efficient administration of all officers appointed by the town manager and their respective departments and of all functions for which the town manager is given responsibility, authority or control by this charter, by bylaw, by town meeting vote, or by vote of the board of selectmen.

(b) to **coordinate** all activities of town departments under the direction of the town manager and the board of selectmen with the activities of departments under the control of officers, boards or commissions elected directly by the voters of the town.

(c) to **delegate**, authorize or direct any subordinate or employee of the town to exercise any power, duty or responsibility which the office of town manager is authorized to exercise, provided, that all acts that are performed under such delegation shall be deemed to be the acts of the town manager.

Administrative Powers

(d) to **administer** either directly or through a person or persons supervised by the town manager, in accordance with this charter, all provisions of general or special laws applicable to the town, all bylaws, and all policies established by the board of selectmen.

(e) to **administer**, in cooperation with the personnel board, if any, personnel policies, practices, or rules and regulations, any compensation plan and any related matters for all municipal employees and administer all collective bargaining agreements, except for school department agreements, entered into by the town.

(f) to be **responsible** for the negotiation of all contracts with town employees over wages, and other terms and conditions of employment, except employees of the school department. The town manager may, subject to the approval of the board of selectmen, employ special counsel to assist in the performance of these duties. Contracts shall be subject to the approval of the board of selectmen.

(g) to **develop** and maintain a full and complete inventory of all town owned real and personal property.

(h) to **fix** the compensation of all town employees and officers appointed by the town manager within the limits established by appropriation and any applicable compensation plan.

(i) to **prepare** and submit an annual operating budget and capital improvement program as provided in Part VI.

(j) to **investigate** or inquire into the affairs of any town departments or office under the supervision of the town manager or the job-related conduct of any officer or employee thereof.

Administrative Duties

(k) to **attend** all regular and special meetings of the board of selectmen, unless excused by the board of selectmen.

(l) to **attend** all sessions of the town meeting and answer all questions addressed to the town manager which are related to the warrant articles and matters under the general supervision of the town manager.

(m) to **keep** the board of selectmen fully informed as to the needs of the town, and recommend to the selectmen for adoption such measures requiring action by them or by the town as the town manager deems necessary or expedient.

(n) to **keep** the board of selectmen and the finance committee fully informed as to the financial condition of the town and make recommendations to the board of selectmen and other elected and appointed officials as the town manager deems necessary or expedient.

(o) to **ensure** that complete and full records of the financial and administrative activity of the town are maintained and render reports to the board of selectmen as may be required.

(p) to be **responsible** for the maintenance and repair of all town facilities, except for the custodial services in the school facilities. The Town Manager shall be responsible for the rental of all town facilities.

[Amended 10-16-2006 ATM by Art. 36, ratified 4-3-2007]

(q) to be **responsible** for the purchase of all supplies, materials and equipment, except books and other educational materials for schools and books and other media materials for libraries, and approve the award of all contracts for all town departments with the exception of the school department, subject to the approval of the board of selectmen.

(r) to **perform** such other duties as necessary or as may be assigned by this charter, by bylaw, by town meeting vote, or by vote of the board of selectmen.

Vote 6 for, 0 opposed, 1 absent, 1 abstention

Section 4-4. Compensation

- **No change recommended**

Section 4-5. Vacancy in Office

Change wording of last sentence: "The appointment of the acting town manager shall be for a term not to exceed six months; a renewal not to exceed an additional six months may be provided."

Vote 6 for, 0 opposed, 1 recused, 1 absent.

Section 4-6. Temporary Absence

- **No change recommended**

Sec. 4-5 and 4-6, Reorder sequence: Reorder Temporary Absence and Vacancy in Office Sections as Section 4-5 and 4-6 respectively. Vote to change wording for Vacancy in Office Section (ref Sec. 4-5 above) and reorder sequence:

Vote 6 for, 0 opposed, 1 recused, 1 absent.

Section 4-7. Removal of Town Manager (discussion 6/6/2017)

Sec. 4-7, Removal of Town Manager: Review discussion concerning strong town manager vs. strong board management form of government. The CRC heard from 4 board members who favor a change to a 3/5 removal vote as a way to ensure that the town manager adequately considers board input concerning the flavor of general town management process. Some CRC members feel that a change to a 3/5 vote to remove

makes the process too political. Alternatively others feel that a change to a 3/5 vote to remove ensures a more democratic process. Opposing views represent philosophy differences, strong town manager vs. strong board management control of town operations. Both structures are valid, and the choice of one vs. another represents how a particular town wishes to structure its governance, and is no reflection on the legitimacy of one form vs. another. Suspension process: 3/5 vote required to suspend, no change. **Vote: On motion to keep Section 4-7 as currently written: Vote 4 for, 2 opposed (favoring a change to a 3/5 removal board vote, but retaining current 3/5 vote to suspend), 1 recused, 1 absent.**

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.

Vote: 6 for, 0 opposed. 2 absent.

Section 5-3. Personnel System

S. Pichette revisited OPEB issue. General consensus is that OPEB administration and accounting requirements are outside the scope of the personnel administrative system.

- **No change recommended**

Section 6-1/ Annual Budget Process

General discussion 5/23/2017 concerning board of selectmen and school dept. taking a more participative approach in the annual budget process. The board currently has the ability to do this under the current language through the board chairman’s ability to schedule meetings and agendas. Committee consensus is that the section should remain as is, except add “as necessary” after the word “confer” in the first sentence of the Section.

Vote: 6 for, 0 opposed, 2 absent.

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. 5/23/2017 discussion update: Under current conditions, town meeting Reps and other interested parties have ample time to prepare for the spring town meeting.

- **No change recommended**

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.”

Vote 6 for, 0 opposed, 2 absent.

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.

- **No change recommended**

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.

Vote 5 for, 1 opposed, 1 abstention, 1 absent.

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

Add "(g) Officer-The word "officer" shall mean a position or board: (1) whose duties are public in nature; (2) that has entrusted to it some portion of the sovereign authority of the state; (3) whose duties are not merely clerical, but involve the exercise of power and authority bestowed by the law; (4) that holds a position established by law," **Vote 7 for, 0 opposed, 1 abstention.**

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. 5/23/2017 update: Town Counsel advised that the Committee should review this section and make any revisions it may think appropriate. Town Counsel will review and advise upon completion of CRC activity. The Committee feels that this section should remain as is (for historical purposes) with updates via added paragraphs (c.) forward, as appropriate, along with explanatory footnotes.

- **No change recommended**

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.

Paul Cohen, Town Manager: 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. 3-8, 3-10 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."

Jim Spinney, Chief of Police: Re Sec. 3-10, Constable: The Chief 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 the position would 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.

Public Input, 5/9/2017: Onorina Maloney, Pat Wojtas, John Sousa, George Dixon, Glenn Diggs, Laura Merrill, Ken Lefebvre, Jay Lang, Al Thomas, Paul Cohen:

Onorina Maloney, Town Clerk: Re Charter Sections 2-4 and 3-1: O. Maloney would like the CRC to consider revising Charter language to require a minimum of 5 "write-in" votes to qualify a write-in Town Meeting Representative Candidate for election. Currently a person can be elected to office with one write-in vote. The 5-minimum vote requirement is consistent with state ballot requirements and O. Maloney feels that a 5-vote minimum would contribute to a smoother election and the credibility of the election process. D. Burke noted that it is difficult to fill all TM Rep positions and thinks that the requirement for a first-time candidate to obtain 25 signatures from precinct voters to get a place on the ballot may discourage some from running. Would it be possible to change this process, either by lowering the signature requirement (make it less than 25) or possibly allowing a prospective candidate to complete an application form instead of having to get signatures? O. Maloney is unsure if state law allows for those possibilities; she will check and advise. D. Burke noted that Town Meeting Rep attendance at Town Meetings

has declined and wondered if anything can be done to encourage/motivate regular attendance by all Reps. O. Maloney said there is really nothing that can be done to “require” regular attendance other than the current provision requiring a Rep to attend at least 51% of the Town Meeting Sessions within a year in order to continue in office. D. Bruce asked about “name accuracy” with regard to ballot write-ins: How close does the write-in name have to be to a person’s legal name/signature? Answer: Based on pre-election feedback, the Town Clerk reaches out to people who have indicated they may mount a write-in candidacy and asks them to indicate variations of their legal name that may appear as a write-in. She does this to make it easier to qualify those signatures. The law says that the Clerk must do everything reasonable to determine the “intent of the voter,” and ultimately that is the standard that is used.

Pat Wojtas, BOS: P. Wojtas stressed that she is speaking for herself, and her comments should not be construed as an expression of an official Board of Selectmen position. Re Charter Section 6-1, Budgets: P. Wojtas feels that the current language implies that the Budget preparation process should be a more collaborative effort with meetings between the School Committee and the Board of Selectmen. She feels that the current language should be changed to reflect the current practice. Re Charter Section 4-7, Removal of Town Manager: P. Wojtas feels that the Charter requirement for a supermajority vote (4/5) to terminate a Town Manager should be retained. She offered examples of other Town Boards where a supermajority is required to affect outcomes that are far less impactful than the removal of the Town’s Chief Administrative Officer, and that the seriousness of that action should require more than a simple majority vote. P. Wojtas feels that the supermajority requirement to terminate militates against transitory political situations, contributes to the stability of town governance, and encourages a Town Manager to make difficult decisions for the long-term benefit of the town without having to be overly concerned about short-term political effects. Town Meeting and Election Warrants: Currently, these are combined into one warrant. P. Wojtas feels that Notification of Election and Notification of Town meeting are two separate actions, and require separate Warrants, and offers that for CRC consideration. S. Pichette indicated that the interaction indicated by Sec. 6-1 does not currently take place, and wanted a clearer expression from P. Wojtas on her feelings in this regard. P. Wojtas said that the Charter should be changed to reflect current practice, which works well and is consistent with the Town Manager’s budget authority. S. Pichette asked if the current timing of the Governor/state legislature gives the town enough time to complete a satisfactory budget; is the current budget process too condensed, and should Town Meeting be held later? P. Wojtas said that the town has no control over state budget process timing, and questions relating to current budget process/Town meeting timing are more properly directed to the Town Manager. S. Pichette asked if P. Wojtas thinks that the Charter should clarify the nature of the Budget that is presented at the Spring Town meeting session. The annual budget is not technically “final” until the fall, and S. Pichette feels that the general population does not understand this. P. Wojtas acknowledged that the Town Meeting often makes adjustments to the annual budget in the fall, but she feels that the current process is adequate.

John Sousa, Finance Director: J. Sousa stressed that he is speaking for himself; his comments do not represent any official Town Administration position. Re Section 4-7: J. Sousa provided some history on the development and implementation of the current Charter, which was enacted in 1989. The 1989 Charter Commission spent a lot of time on the issue of simple majority vs. supermajority Town Manager hiring/termination. The 1989 Commission felt that Chelmsford’s size and the accompanying complexity of

managing a large town requires professional full-time management that is not overly subject to changing politics. J. Sousa gave examples of area towns that have experienced a high rate of Town Manager turn-over, attributing that to volatile town politics. By contrast, Chelmsford has had only two Managers since 1989, and this has contributed to the town's relative operational and financial stability. J. Sousa feels that the 4/5 hire/terminate provisions should be retained in order to lend more credibility to the hiring process and in the case of termination to militate against a Town Manager making decisions based on fleeting political considerations. J. Sousa feels that the 4/5 termination requirement contributes to the recruitment of qualified competent professional management and general town operational stability. Re Section 6-1, Budgets: D. Bruce asked what the impact on the budget process would be if the Town Meeting occurred at a later date? J. Sousa outlined the time line for the current budget process and said he felt that it is adequate. S. Pichette asked if other Committees/Boards realistically have enough time to complete budget preparation/review activities within current time constraints? S. Pichette feels that the current budget process is too condensed and does not provide sufficient time for all parties to adequately prepare. J. Sousa said that, absent any crisis situations, in other words, in a normal budget year, the current process and timing are adequate. History shows that when the town does face unusual/extraordinary budget situations, the relevant committees/boards expand meeting schedules and are able to devote the extra time necessary to address such situations. J. Sousa feels that the current practice of scheduled "TriBoard" (BOS/School/FINCOM) meetings facilitates the process and reflects the intent of Section 6-1. Relative to the question concerning the "finality" of the spring budget document, J. Sousa acknowledged that technically the budget is finalized in the fall, but under state law, the town must have an operating budget plan in place prior to July 1 (start of municipal fiscal year). M. McCall stated that the budget process is driven by Statute (state law) and Town By-laws mandate the current budget/timing schedule.

George Dixon, BOS: G. Dixon stressed that he is speaking for himself, and his comments should not be construed as an expression of an official Board of Selectmen position. G. Dixon thanked the CRC and all town volunteers serving on boards and committees for contributing their unpaid time and efforts, and acknowledged the sacrifices that many make to serve the town. G. Dixon is a life-long resident with a deep affection for the town, its history, and inhabitants. He stressed that his remarks are not directed at anyone personally, and acknowledged his respect for the current Town Manager's abilities and performance. G. Dixon feels that the Charter should be changed to require simple majority BOS vote to hire and terminate the Town Manager. He feels that this approach is fairer and reflects a majority opinion democratic process. G. Dixon does not see anything on the horizon that would occasion an effort to remove the current Town Manager if the termination threshold were reduced. Rather, the simple majority vote reflects his personal philosophy of Majority Rule, and is consistent with the practice of many area communities. G. Thoren asked if recent events in town, whereby the concerted and sustained efforts by some in town resulted in a special election to recall 4 members of the BOS *<August 2011 recall election>* where G. Dixon himself was one of those targeted, is an example of where a "supermajority" situation may be warranted to militate against misdirected political passion? G. Dixon said that regrettable as that action was, it is just a by-product of the democratic elective process, and those in office have to weather such storms and "work harder" at their jobs to mitigate such actions that may be based on political passion rather than facts. G. Dixon does not think that efforts designed to overcome a "simple majority" democratic process should be instituted to

“insulate” politicians or employees subject to political process appointment from the political process, no matter how flawed the politics may be in the opinion of some. D. McLachlan asked what the typical employment term for a Town Manager is, either by Charter specification or employment contract? G. Dixon is unsure, but believes that a 3-year term is common. D. McLachlan asked about the voting requirement to renew a Town Manager’s contract? G. Dixon believes a contract renewal/extension would require a 3/5 vote. M. McCall said that under current conditions, the Town Manager’s employment contract is in reality a severance agreement; the Town Manager’s term is governed by Charter language, currently an “indefinite term” is specified. D. McLachlan asked if the current contract requires a pay-out in the event of termination? Answer: Yes.

Glenn Diggs, BOS: G. Diggs stressed that he is speaking for himself, and his comments should not be construed as an expression of an official Board of Selectmen position. Sec. 6-1, Budget: G. Diggs said that current Charter language does not reflect the current practice. The BOS does not engage the School Committee jointly in a budget review and development process. Section 6-1 is not currently complied with, and this is a problem. Does the BOS need to be included in budget development activities, especially as the process may relate to the development of the School Department budget <subsection of the Town Budget>? G. Diggs thinks probably not, but in any case, the Charter ought to reflect the current practice, whatever it is, and the language should be changed. Section 4-7, Town Manager Removal: G. Diggs reviewed the Charters/Operating Documents of three nearby Towns: Andover, N. Andover, and Billerica. His choices were not based on any specific determination, but rather were selected at random. G. Diggs understands that the CRC has done a more comprehensive and inclusive study of area town governing documents. The 3 towns G. Diggs reviewed all specify simple majority vote for hiring/terminating the Town Manager, and he could find no indication that that process has not worked well for them. G. Diggs offered his opinion on why 3/5 termination may be preferred over 4/5. He feels that under a 4/5 requirement, a Town Manager only has to keep 2 BOS members happy to avoid the possibility of a termination vote. Selectmen who are elected at large represent a democratic majority opinion, and G. Diggs feels that ought to carry over to Board votes. If a majority (3) of the Board is continually dissatisfied with a Town Manager’s performance, a 4/5 supermajority requirement to terminate represents an almost insurmountable obstacle to correcting that situation, and is at odds with basic democratic principles of Majority Rule. G. Diggs feels that a BOS needs to be responsive and representative of current thinking within the town. A 4/5 termination requirement supports a dynamic where the Town Manager may be disinclined to listen to/take guidance from the BOS because he feels that his termination is almost impossible, except for egregious conduct. G. Diggs feels that the BOS needs more latitude to bring citizen opinion to bear on administrative decisions, especially as it may relate to a long-term vision for the town, and a democratic principle of 3/5 majority control reflects that. G. Diggs suggested that a 3/5 simple majority to terminate could be tempered with a requirement that one of the 3 votes must be from the Board Chair. G. Diggs feels that the Chair could be a stabilizing force mitigating misplaced political passion driving a vote to terminate. G. Diggs stated that, in conjunction with a change to a 3/5 vote for termination, a change also ought to be made to reduce the hiring vote threshold to 3/5. The 3/5 vote to suspend should be retained. Rationalizing the hiring/suspend/terminate vote to 3/5 simple majority ensures consistency of democratic majority control throughout the process. G. Thoren asked if G. Diggs feels that BOS members generally, taking into consideration the background and tenure of members, are capable/qualified

to judge Town Manager performance with regard to the town's long-term benefit? Answer: Yes, by virtue of their election, the voters have democratically determined the qualifications of BOS members, and have by their vote, determined that those elected are qualified. S. Pichette asked why G. Diggs feels that a 3/5 termination/hiring vote is better than 4/5? Answer: the 4/5 process may be too lengthy and difficult to attain, thereby making it almost impossible for a BOS to institute a change in direction that may be warranted by circumstances or the wishes of the electorate generally. There are times when a change in management may be required to reflect a different direction, and that option should be available to the BOS without having to go through an almost impossible change process. D. McLachlan asked if G. Diggs' opinion is based on his perception of what the Board needs in order to manage the activities of a Town Manager? G. Diggs reiterated his belief that the Board should not be hamstrung by a significant hurdle to making vision changes. G. Diggs stressed the BOS role in setting policy, which should include strategic visioning, and simple majority control over the Town Manager's status would facilitate that, because the Town Manager would be more responsive to BOS input. S. Chase said that he wanted to have the record reflect that, in addition to the 3 towns that G. Diggs reviewed, the CRC reviewed a total of 54 towns, all having a 5+ member BOS and Town Meeting form of government. There are 46 Home Rule Charter towns in Massachusetts that meet this criterion, and CRC reviewed all 46 Charters to determine how these towns managed the hiring termination process. CRC also reviewed 8 other "area" towns that do not have home rule charters. Area towns are defined as Chelmsford (base) plus contiguous towns and those towns that abut the contiguous towns, 15 in all, 7 having HR charters (included in the 46 reviewed) and 8 that do not. CRC has data showing the various and differing hiring/termination vote requirements for those 54 towns, and S. Chase feels that is a good sample of how towns address the hiring/termination process. G. Diggs said that he acknowledged the CRC's work in that regard during his remarks. S. Chase agreed, but said that G. Diggs did not provide information regarding the extent of CRC's efforts, and he feels it is important to have the record reflect what the CRC did to get accurate and representative information.

Laura Merrill, BOS: L. Merrill stressed that she is speaking for herself, and her comments should not be construed as an expression of an official Board of Selectmen position. Re Sec. 4-7: L. Merrill largely agrees with G. Diggs' and G. Dixons comments. L. Merrill stressed that her desire to have a 3/5 simple vote majority to hire/terminate does not reflect in any way on the current Town Manager's abilities, skill, or performance. Rather, during her term, she has developed an appreciation and respect for the Town Manager's abilities, and has learned a lot about town operations from him. L. Merrill feels that a Town Manager must be responsive to "what people want," and ultimately town governance under a democratic process is all about checks and balances, and she feels that the current 4/5 termination provision does not serve as an adequate check on a Town Manager's response with regard to an articulated BOS vision. A 4/5 vote to terminate potentially "handcuffs" a town to a Town Manager who may not be responsive to a town's changing needs and attitudes over time, and L. Merrill feels that a change to 3/5 would make it easier for the town to change strategic direction more in line with the will of the electorate. D. McLachlan asked why L. Merrill would recommend a change in hiring vote to 3/5? Answer: It may be too difficult to get a 4/5 agreement on a candidate when the need to fill the Town Manager position is pressing. Re Sec 6-1: L. Merrill would like to see the budget process extended (time-wise). She feels that the final budget is presented too late in the cycle for Town Meeting to fully digest, and that may contribute to confusion on Town Meeting floor. G. Thoren asked if

the budget process is too short generally, should it be extended? M. McCall said that any change to the timing of the process would require a By-Law change. D. McLachlan asked who, in L. Merrill's opinion, orchestrates the current budget process? L. Merrill is not entirely sure, but believes that the Finance Committee plays a major role in managing the process. S. Chase said that the Charter is clear, and affixes budget preparation and development/presentation responsibilities squarely on the Town Manager.

Ken Lefebvre, BOS: K. Lefebvre stressed that he is speaking for himself, and his comments should not be construed as an expression of an official Board of Selectmen position. K. Lefebvre generally agrees with the opinions expressed by G. Diggs, G. Dixon, and L. Merrill. The Charter should be changed to reflect simple BOS majority vote for hire/suspend/termination processes for the reasons they articulated. K. Lefebvre would support G. Digg's recommendation that the BOS Chair must be one of the 3 votes required for termination. He feels that the Chair, as a position of authority and respect, can serve to mitigate any fleeting political passions that may drive a vote to terminate. S. Pichette asked what is the basis for K. Lefebvre's opinion that a 3/5 termination/hire vote is better than 4/5? Answer: the 3/5 vote, for the reasons stated, ensures a greater degree of control with regard to the BOS's ability to have their advice and wishes taken seriously by the Town Manager.

Jay Lang, Superintendent of Schools: J. Lang sated that he is speaking for himself, and his comments should not be construed as an expression of an official School Committee position. J. Lang said he will not contribute to the discussion concerning Sec. 4-7. Re Sec. 6-1: The School Department has different budgeting/time constraints/requirements than those faced by Town Administration. J. Lang does not support extending the time for budget preparation, presentation, or adoption by Town Meeting. Currently, the School Dept. works directly with the Town Manager, Finance Director, and Town accountant when developing its budget. They follow the established timelines for presentation to the Finance and School Committees. This year, that process was derailed due to weather conditions affecting meeting times, but J. Lang feels that the established timelines work under normal circumstances. G. Thoren said that currently, Sec. 6-1 does not reflect the current budget preparation/development process. D. Bruce said that under Sec. 6-2, the School budget must be submitted to the Town Manager 90 days before Town Meeting. D. Bruce asked if this is current practice? J. Lang said that this year, that was not done, and that 90 days generally may be too tight a constraint under current budget development requirements. D. Bruce said that if the current practice does not reflect the stated requirement, we should look at a revision. G. Thoren said that we need to discuss further, and have the Charter language reflect current practices. S. Pichette asked if there currently is enough time for the School Dept. to develop an adequate budget that avoids discrepancies? J. Lang feels that the current process allows for enough time for the School Dept. to "recover" if discrepancies are noted during FINCOM/Town Administration review. D. Bruce asked if there is any performance metric related to achieving accuracy with regard to a final budget amount? J. Lang is not aware of any such metric. M. McCall reiterated the By-law requirement that the Budget must be presented (to FINCOM) 90 days before the start of Town Meeting.

Al Thomas, School Committee: Re: Sec. 6-1: A. Thomas sated that he is speaking for himself, and his comments should not be construed as an expression of an official School Committee position. A. Thomas said that the TriBoard process currently

employed is effective and he supports continuing that process. He noted that communications between School and Town operations have improved markedly over the years, and he attributes that to the professionalism and commitment of School and Town officials. A. Thomas said that J. Lang brings a good finance/operational background to his position, and that he cooperates fully with Town Administration (J. Sousa/D. Lucier, Town Accountant) during the budget process. A. Thomas would like to see a Charter change requiring a more expansive "Pre Town Meeting" session. He feels this benefits Town meeting representatives, and that a requirement with specific objectives for structuring that activity may contribute to a better process.

Paul Cohen, Town Manager: Sec. 4-7, and related Sections: P. Cohen provided some perspective generally on the relationship of a Town Manager to a Board of Selectmen, and specifically, on that relationship as it applies to Chelmsford, based on current Charter language. P. Cohen quoted from the various Sections of the Charter that define BOS and Town Manager responsibilities, and the general operational relationship between the BOS and Town Manager (Sections 3-2 and 4-3). P. Cohen said that under our Charter, the BOS is responsible for setting policy and the Town Manager is responsible for daily operations management. The Town Manager is prohibited from setting any policy, and P. Cohen believes this is appropriate and observes that requirement. There is clear definition within the Charter as to the roles of the BOS and Town Manager, and there should be no confusion concerning the requirements. P. Cohen said that we should measure ourselves based on the results of the Town Manager's efforts over the approximate 27 years that Chelmsford has had the "strong manager" form of government. We have had only two managers in that time, and this indicates a consistent and stable management aspect that has contributed greatly to Chelmsford's overall positive financial condition, of which the town can justifiably be proud. P. Cohen said that the town's complexity of operations sometimes requires a Manager to make tough decisions that may not always reflect the current short-term political thinking. A Town Manager has to think long-term, and should not be overly concerned with short-term political concerns. That approach has proven to serve the town better over time. The difficult decisions that a Town Manager makes may anger some, and may serve to inflame passion temporarily against a Town Manager who is trying to look out for the long term welfare of the town. P. Cohen advocates for the retention of a 4/5 termination majority vote because that provides for some insulation against a move to terminate based on a passionate reaction to a decision that is not politically expedient. P. Cohen notes that the current Charter does not specify any "for cause" termination criteria. Currently, if 4/5 of the BOS decides to dismiss the Town Manager, it can be for any stated reason, the basis does not have to be egregious acts ("for cause"). Going to a 3/5 without a "for cause" set of criteria would serve to diminish the qualified candidate pool during a Town Manager hiring process, and might contribute to continuing turnover and resulting turmoil with regard to the management of the Town. P. Cohen feels that administrative decisions should be based on fact and consider long-term effects, and not be based on what may happen to a Town Manager based on the next election cycle. P. Cohen feels that a 3/5 vote to remove would contribute to a situation where local elections would make the Town Manager an issue, rather than focusing on long term visions and objectives. P. Cohen said that a change to 3/5 termination vote may affect the relationship that Department heads have with the town. A more uncertain employment status (3/5 vote) for the Town Manager may create the desire for department heads to want employment contracts, where presently they are employees at will (Police and Fire Chiefs are not under Civil Service in Chelmsford). A 3/5 termination vote may cascade down to employees who would want protection and

severance provisions to attract more qualified candidates to key positions. Re Sec. 6-1: P. Cohen thinks that the current process is too long. P. Cohen feels that the current "TriBoard review process" is at least reflective of the spirit of current Charter language. P. Cohen clarified the perception between a preliminary spring budget and the "Final" budget that is signed off by the state Dept. of Revenue in the fall. It may be technically true that the budget is not finalized until the fall, but state law requires that a reasonably accurate budget plan be approved by Town Meeting and be in place prior to the start of the Town's fiscal year (July 1). P. Cohen feels that the current budget process is sufficiently collaborative among the Town and School Administrations, with general oversight from the Finance Committee. He is comfortable with the current process, including the current specified timing requirements. D. McLachlan asked if P. Cohen thinks he has enough authority to manage town operations under the current Charter? Answer: Yes. D. McLachlan asked if the Town Manager's current contract specifies salary requirements? P. Cohen said that his contract is essentially a severance agreement that does contain salary parameters. The contract does not serve as a term limit or an indication of tenure; these are specified in the Charter. S. Pichette asked if the town election that occurs in the first week of April, with a potential change in Board membership, creates any difficulties with the Town Meeting process that follows only 2/3 weeks later (with newly elected BOS members, they are coming in at the last minute). P. Cohen feels that this is not a problem because he finds that generally BOS first-time candidates have taken the time to learn the process and issues, and often times request time with the Town Manager during their campaigns to help them gain this knowledge. Generally he finds that new BOS members are up to speed on the important issues by the time Town Meeting convenes. G. Thoren reiterated his belief that we have to address Sec 6-1 because it does not reflect current practice. G. Thoren asked for P. Cohen's opinion on the "effectiveness" of the Town Manager's pre-town meeting. P. Cohen said that attendance has declined over the years, and he feels that Town Meeting Reps and other interested citizens would be better served by attending Finance Committee meetings that are designed specifically for the purpose of reviewing/vetting proposed budgets. Attending these meetings gives a Town Meeting Rep far more insight than can be gained by attending a single Town Manager pre-town meeting session. G. Thoren asked what the town's attrition rate has been during P. Cohen's tenure? Answer: We have a very low attrition rate. Many of the Management Town employees are long time residents with some being natives. Our retention rate is very high with low turnover. Whenever possible, P. Cohen tries to hire qualified town residents for positions. D. Burke made a general comment that the pre-town meetings should be streamlined with more substantive presentation and less discussion/debate. That should be reserved for the Town Meeting.

G. Diggs, BOS: Final comment: G. Diggs appreciates the Town Manager's comments on the hiring/termination issue. However, it should be noted that 4 out of 5 BOS members have said that they support a Charter change to a 3/5 simple majority hire/suspend/terminate vote, and that cohesion in and of itself should carry some weight when considering a potential recommendation to change the requirement.

Public Input, 5/23/2017:

Regina Jackson, 9 Essex Place, Chelmsford: R. Jackson is a Town employee <Veterans' Agent> who has served under Chelmsford's two town Managers <B. Lynch/P. Cohen>. R. Jackson does not support a recommended change to Sec. 4-7 to allow for a 3/5 vote to remove the Town Manager from office. During her tenure with the

town, R. Jackson has worked closely with B. Lynch and P. Cohen and has not always agreed with their decisions/approaches but nonetheless developed a great respect for their professionalism and ability to make tough decisions that sometimes buck a current political trend. R. Jackson supports keeping a 4/5 termination majority vote as she feels that this promotes stability in the Town Manager's office and mitigates the prospect of current hot political issues unduly influencing the Town Manager's decision making process. She feels that the Manager must be a strong competent professional who can stand up to politics, and the current 4/5's vote to terminate requirement supports that. R. Jackson feels that a change to a 3/5 removal vote would contribute to political turmoil within the town. R. Jackson described the recent election cycles that have resulted in a high Board of Selectmen (BOS) turnover that in her opinion has resulted in a relatively inexperienced Board <members with less than 1 term tenure>, and she feels that the current charter requirement helps to ensure that new inexperienced members do not act on fleeting political agendas and considerations. D. McLachlan reminded R. Jackson that the Charter Review Committee (CRC) is still in the exploratory/discussion stages of its process, and no recommendation has been made to change anything. S. Chase asked R. Jackson if she wished to comment on the current requirement of a supermajority (4/5) vote to hire the Town Manager. R. Jackson supports keeping the supermajority requirement for both hiring and termination.

Areas requiring research and/or outside assistance

- 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 hiring and removal processes 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.
- Part VIII, Transitional Provisions, Request for Town Counsel Review: Town Counsel advises 5/2/2017 that CRC should review and revise this section pursuant to its normal deliberative process. Those sections that are proposed for revision (including Part VIII) will then be forwarded to Counsel for review.
- M. McCall took an action item from 5/23/2017 to research Mass. General Law with regard to the existence of any statutory language governing a minimum requirement for write-in vote qualification as it applies to the election of Town Meeting Representatives. MGL CH41 Sec. 11 appears to be the only area where a "minimum number of vote" requirement is addressed, but this pertains only to ballots cast in state primary elections. M. McCall could find no language that directly addresses the issue of a minimum number of qualification votes for a municipal election, specifically, Town Meeting membership. It appears that any change in this area as requested by the Town Clerk will have to be via the normal Charter change process, and perhaps accompanied by a by-law change.

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.

Appendix B: CRC Presentation to BOS, Changes Only, August 21, 2017



Charter Review Committee
Charter Change Recommendations

Board of Selectmen
August 21, 2017

SPC Revision 22 August 2017

Chelmsford Charter Review Committee

CRC-1



Recommended Changes
By Charter Section

Add *italicized text*, delete ~~stricken text~~

SPC Revision 22 August 2017

Chelmsford Charter Review Committee

CRC-7



Section 1-2. Short Title.

This instrument may be cited and shall be known as the Chelmsford Home Rule Charter "*Chelmsford Home Rule Charter.*"

SPC Revision 22 August 2017

Chelmsford Charter Review Committee

CRC-8



Section 2-3. Town Meeting Membership

- (a) Eligibility. Any voter shall be eligible to be a candidate, to be elected, and to serve as a town meeting member.
- (b) Nomination Procedures. Nomination of candidates for town meeting member shall be made by nomination papers signed by not less than twenty-five voters of the precinct in which the candidate resides and from which the candidate seeks election. Nomination papers shall be filed with the town clerk at least thirty-five days preceding the date of the town election. Every nomination paper shall be submitted to the registrars of voters for certification of names thereon on or before five o'clock in the afternoon of the fourteenth day preceding the day on which it shall be filed with the town clerk. The written acceptance of the candidate shall be on or attached to the nomination papers when filed in order for it to be valid.

ADD NEW SECTION (c):

- (c) Candidates for Re-election. Incumbent town meeting members may seek re-election within their current precincts by notifying the Town Clerk's office of their intent to do so by using the appropriate forms supplied by the Town Clerk.*

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Chelmsford Charter Review Committee

CRC-9



Section 2-5. Vacancies

- (a) Resignation. A town meeting member may resign by filing a written resignation with the town clerk; *absent a date certain*, such resignation shall take effect upon the date of such filing. ~~unless a date certain is specified therein when it shall take effect.~~
- (b) ~~Removal from~~ *Moving from* Town or Precinct. A town meeting member who ~~removes~~ *moves* from the town shall forthwith cease to be a town meeting member. A town meeting member who *moves* from one precinct to another, or who is so removed by a revision of precinct lines, may continue to serve as a town meeting member from the precinct from which the member was elected until the next annual town election at which the remainder of the member's term, if any, shall be filled by ballot. Any person so removed from office may be elected at the same election as a town meeting member from the precinct to which the member has *moved*.



Section 2-5. Vacancies

- (d) Filling vacancies. Any vacancy in the full number of town meeting members from any precinct shall be filled by the person receiving the highest number of votes among the defeated candidates at the last election. ~~In order to be eligible to fill a vacancy as a defeated candidate a write-in candidate shall have received at least ten (10) votes in the most recent election.~~ In the absence of such candidate, the vacancy shall be filled until the next annual town election by the remaining town meeting members from the precinct, from among the voters in said precinct.

[Amended 5-8-1995 ATM by Art. 17, ratified 4-2-1996]



Section 2-12. Procedures

- (c) Duty of Town Meeting Member. It shall be the duty of town meeting members to ~~keep abreast~~ *stay informed* of town business and review materials ~~forwarded~~ *made available* to members by the board of selectmen and the town manager. It is expected that town meeting members will attend *or view* selected meetings of multiple member bodies, attend *or view* hearings held by the finance committee and actively prepare for each session of the town meeting.

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Chelmsford Charter Review Committee

CRC-12



Section 2-12. Procedures

- (d) Establishment of Committees. The representative town meeting may by vote or bylaw establish committees for the review of warrant articles, consideration and study of any subjects of concern to the town meeting, and the discussion of town business. The representative town meeting members in any precinct may organize, meet, and confer on town business, subject to provisions of the open meeting law.^[1]

^[1] ~~Editor's Note: See MGL c. 30, § 23B.~~

^[1] *See MGL C. 30A, Sec. 18-25*

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Chelmsford Charter Review Committee

CRC-13



Section 3-1. Elected Town Officers, in General

(a) Elective Offices. The offices to be filled by the voters shall be a board of selectmen, a school committee, a town moderator, a planning board, a board of health, a board of trustees of the public library, a cemetery commission, ~~a sewer commission,~~⁴¹ ~~a constable~~ and a housing authority. Such other regional authorities, districts, or committees as may be established by law or interlocal agreement may also be filled by the voters.

⁴¹ *Editor's Note: See also Charter Section 8-5(b) regarding the dissolution of the Sewer Commission.*



Section 3-10. Constable

Remove this section from Section 3, Elected Officers, pursuant to a change from elected to appointed as recommended. Add Constable appointment process and Powers and Duties to Section 4-2 as applicable

- (a) Term of Office. There shall be one constable elected for a term of three years, provided, however, additional constables shall be appointed by the elected constable subject to approval of the board of selectmen.
- (b) Powers and Duties. The constable may serve such civil writs and processes as are authorized by law. The constable shall serve all warrants and other processes of the town.



Section 4–2. Powers of Appointment

[Amended 10-16-2006 ATM by Art. 35, ratified 4-3-2007]

Except as otherwise provided by this charter, the town manager shall appoint, based upon merit and fitness alone, all department heads, officers, subordinates, employees and all appointed multiple member bodies for whom no other method of selection is provided in this charter except employees of the school department and persons serving under officers and multiple member bodies elected directly by the voters of Chelmsford.

Provided that, the town manager shall appoint a Constable from a list of candidates submitted to him by the chief of police. The duties and responsibilities of the Constable shall be established by the town manager and chief of police subject to any state law or town of Chelmsford bylaw or regulation. It is the intention of this provision that the appointed constable shall report directly to the Chief of Police

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Chelmsford Charter Review Committee

CRC-18



Section 4–3. Administrative Powers and Duties (continued)

(h) to be responsible for the maintenance and repair of all town facilities ~~except for the custodial services in the school facilities. except with respect to town facilities in active use as school facilities, the~~ **The** town manager shall be responsible for the rental of all town facilities.

[Amended 10-16-2006 ATM by Art. 36, ratified 4-3-2007]

(i) to be responsible for the purchase of all supplies, materials and equipment, except books and other educational materials for schools and books and other media materials for libraries, and approve the award of all contracts for all town departments with the exception of the school department, subject to the approval of the board of selectmen.

(j-r) No wording changes recommended

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Chelmsford Charter Review Committee

CRC-23

Section 4–3. Administrative Powers and Duties (continued)

For logical sequencing, the CRC recommends a general re-ordering of Section 4-3 Administrative Powers and Duties, subsections (a) through (r)



Section 4-5. Vacancy in Office

Amended 10-16-2006 ATM by Art. 37, ratified 4-3-2007]

Any vacancy in the office of town manager shall be filled as soon as possible by the board of selectmen. Pending appointment of the town manager or the filling of any vacancy, the board of selectmen shall forthwith appoint some other qualified person to perform the duties of the town manager. The appointment of the acting town manager shall be for a term not to exceed six months; *a renewal not to exceed an additional six months may be provided.*

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Chelmsford Charter Review Committee

CRC-28



Sections 4-5 and 4-6, Reorder sequence:

Reorder Temporary Absence and Vacancy in Office
Sections as Section 4-5 and 4-6 respectively for logical
sequence: Section 4-5 becomes Temporary Absence;
Section 4-6 becomes Vacancy in Office.

SPC Revision 22 August 2017

Chelmsford Charter Review Committee

CRC-30



Section 6-1. Annual Budget Policy

The board of selectmen and school committee shall meet and confer *as necessary* prior to and during the budget process to review the financial condition of the town, revenue and expenditure forecasts and other relevant information in order to develop a coordinated and balanced budget. The finance committee shall participate in the discussions with the board of selectmen and the school committee in an advisory capacity. The school superintendent and the town manager shall jointly develop guidelines consistent with policies developed by the board of selectmen and school committee.

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Chelmsford Charter Review Committee

CRC-32



Section 6-3. Finance Committee Action

The finance committee shall, upon receipt of the budget and capital improvement program, consider in public meetings the detailed expenditures for each town agency proposed by the town manager. The finance committee may confer with representatives from any town agency in connection with its deliberations. The finance committee may request the town manager or any town agency to provide additional information. The finance committee shall ~~file~~ *submit the* proposed budget and report its recommendations for action prior to the date on which the town meeting is to act on the proposed budget. The budget to be acted upon by the town meeting shall be the budget proposed by the town manager with the accompanying recommendations of the finance committee.

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Chelmsford Charter Review Committee

CRC-33



Section 6-7. Annual Audit

The board of selectmen shall provide for an annual audit of the books and accounts of the town to be made by a certified public accountant, or firm of accountants, who have no personal interest, direct or indirect, in fiscal affairs of the town government or any of its offices.

Recommended change: The CRC recommends that the BOS require a periodic change in Auditors. Suggested term is no more than 3 consecutive years (change Auditor in year 4). This can be done by changing this Section, or via a by-law change.



Section 7-4. Definitions

Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in the charter shall have the following meanings:

- (a) Charter - The word "charter" shall mean this charter and any amendments to it made through any methods provided under Article LXXXIX(89) of the Amendments to the Constitution of the Commonwealth
- (b) Town - The word "town" shall mean the town of Chelmsford.
- (c) Voters - The word "voters" shall mean registered voters of the town.
- (d) Majority Vote - The words "majority vote" shall mean a majority of those present and voting, provided a quorum is present when a vote is taken, unless a higher number is required by law, this charter, or by the town meeting's own rules.
- (e) Town agency or agency - The words "town agency" or the word "agency" shall mean any board, commission, committee, department or office of town government, whether elected, appointed or otherwise constituted.
- (f) Multiple member body - The words "multiple member body" shall mean any board, commission or committee
- (g) Officer - The word "officer" shall mean a position or board: (1) whose duties are public in nature; (2) that has entrusted to it some portion of the sovereign authority of the state; (3) whose duties are not merely clerical, but involve the exercise of power and authority bestowed by the law; (4) that holds a position established by law.**